



MEMORANDUM

TO: Hon. Gale Brewer, Manhattan Borough President
Lucian Reynolds, Chair, Manhattan Community Board #1

FROM: Andrew Coppola, Senior Project Manager, Revenue

SUBJECT: Notice of Joint Public Hearing, September 27, 2021: Intent to enter into a Sole Source License Agreement with Statue Cruises, LLC for the operation of a commercial ferry service to the Statue of Liberty National Monument and Ellis Island from The Battery, Manhattan.

DATE: September 10, 2021

NOTICE OF A JOINT PUBLIC HEARING of the Franchise and Concession Review Committee and the New York City Department of Parks & Recreation ("NYC Parks") to be held remotely via a Microsoft Teams dial-in on Monday, September 27, 2021 at 2:30 p.m. relative to:

Intent to Award a sole source agreement between NYC Parks and Statue Cruises, LLC ("Licensee") for the operation and maintenance of passenger ferries for the purpose of embarking and discharging passengers on a regular schedule between The Battery, Liberty Island, and Ellis Island, and for the purpose of embarking and discharging passengers of vessels on sightseeing cruises and other ferry operations, which may include but are not limited to day and night charters of vessels, owned, operated or chartered by Statue Cruises, LLC at landing slips and adjacent walkways located in The Battery, Manhattan. The sole source agreement will extend the previous term by three (3) years so that it expires February 29, 2024, conterminously with the agreement between the National Parks Service and Statue Cruises.

Compensation to the City will be as follows: Licensee shall pay to the City license fees consisting of the greater of a guaranteed minimum annual fee versus a percentage of gross receipts. (October 1, 2021 – September 30, 2022): \$2,500,000 vs. 10%; (October 1, 2022 – September 30, 2023) \$2,500,000 vs. 10%; (October 1, 2023 – February 29, 2024): \$1,041,666.65 vs. 10%.

The public may participate in the public hearing by calling the dial-in number below. Written testimony may be submitted in advance of the hearing electronically to frc@mocs.nyc.gov. All written testimony must be received by September 24th, 2021. In addition, the public may also testify during the hearing by calling the dial-in number.
The dial-in information is below:

Dial-in #: +1 646-893-7101
Access Code: 888623857#
Press # on further prompts


A draft copy of the agreement may be obtained at no cost by any of the following ways:

1) Submit a written request by email to NYC Parks at concessions@parks.nyc.gov through **September 27, 2021.**

2) Download through **September 27, 2021** on NYC Parks' website. To download a draft copy of the agreement, visit <https://www.nycgovparks.org/opportunities/concessions/rfps-rfbs-rfeis>

3) Submit a written request by mail to NYC Department of Parks and Recreation, Revenue Division, 830 Fifth Avenue, Room 407, New York, NY 10065. Written requests must be received by **September 14, 2021**. For mail-in request, please include your name, return address, and License # M5-E-M

A transcript of the hearing will be posted on the FCRC website at <https://www1.nyc.gov/site/mocs/reporting/agendas.page>

For further information on accessibility or to make a request for accommodations, such as sign language interpretation services, please contact the Mayor's Office of Contract Services (MOCS) via e-mail at DisabilityAffairs@mocs.nyc.gov or via phone at (646) 872-0231. Any person requiring reasonable accommodation for the public hearing should contact MOCS at least five (5) business days in advance of the hearing to ensure availability. 

CONCESSION AGREEMENT RECOMMENDATION FOR AWARD MEMORANDUM COVER SHEET

(Attach, in the following order, applicable CRFA Memo, Responsibility Determination Form, approved CPSR Cover Sheet and, if the selection procedure was not CSB, the CPSR Memo and CCPO Memo (if applicable))

AGENCY: <u>New York City Department of Parks and Recreation ("Parks")</u>	RECOMMENDED CONCESSIONAIRE Name: <u>Statue Cruises, LLC</u> Address: <u>1 Audrey Zapp Drive, Room 108B, Jersey City, NJ 07305</u> Telephone # (201) 432-6321 <input checked="" type="checkbox"/> EIN <input type="checkbox"/> SSN # <u>20-8877253</u> Not-for-Profit Organization <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Certified by DSBS as M/WBE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	CONCESSION TITLE/ DESCRIPTION: <u>The operation and maintenance of a commercial ferry service to the Statue of Liberty National Monument and Ellis Island from The Battery, Manhattan</u> CONCESSION I.D.# <u>M5-E-M</u>
# VOTES required for proposed action = <u>4</u> <input type="checkbox"/> N/A		

LOCATION OF CONCESSION SITE(S*)

Address Landing Slips, Battery Park ☐ **N/A**

*Attach additional sheet

Borough Manhattan **C.B.** 1 **Block #** 3 **Lot #** 1

SELECTION PROCEDURE

(*CCPO approval of CRFA required)

- ☐ Competitive Sealed Bids
☐ Competitive Sealed Proposals* (☐ FCRC approved Agency request to deviate from final recommendation of the Selection Committee on __/__/__)
☒ Different Selection Procedure: * (☒ Sole Source Agreement ☐ Other: Amendment to existing license agreement)
> FCRC approved different selection procedure on June 18, 2021.
☐ Negotiated Concession*

CONCESSION AGREEMENT TERM

Initial Term: Three (3) years

Renewal Option(s) Term: N/A

Total Potential Term: Three (3) years

☐ * >20 years – FCRC unanimously approved term on __/__/__

ANNUAL REVENUE

(Check all that apply)

☐ Additional sheet (☐s) attached

☐ **Annual Fee(s)** \$ _____

☐ **% Gross Receipts** _____%

☒ **The Greater of Annual Minimum Fee(s) vs. % of Gross receipts:**

October 1, 2021 – September 30, 2022: \$2,500,000 vs. 10%;
October 1, 2022– September 30, 2023 \$2,500,000 vs. 10%;
October 1, 2023 – February 29, 2024: \$1,041,666.65 vs. 10%.

☐ **Other:**

NOTIFICATION REQUIREMENTS

Subject concession was 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 completed its consultations with each affected CB/BP regarding the scope of the solicitation by __/__/__, which was at least 30 days prior to its issuance.
- ☐ The subject concession is a Significant Concession and the Agency included this concession in the Agency's Plan and completed consultations with each affected CB/BP pursuant to §1-10 of the Concession Rules.
- ☐ The subject concession was determined not to be a Major Concession and the Agency sent notification of such determination to each affected CB/BP by __/__/__, which was at least 40 days prior to issuance of the solicitation.

If NO, check the applicable box below:

- ☒ The Agency certifies that each affected CB/BP received written notice by 04/30/2021, which was at least 40 days

in advance of the FCRC meeting on 06/09/2021 at which the agency sought and received approval to use a different selection procedure.

- ☐ The Agency certifies that each affected CB/BP received written notice on __/__/__, at the time that a notice of intent to enter into negotiations was published for the subject concession, and provided a copy of such notification to the members of the Committee within five days on __/__/__.
- ☐ The Agency certifies that based on exigent circumstances the FCRC unanimously approved waiver of advance written notice to each affected CB/BP on __/__/__.

Law Department approved concession agreement on _____

Award is a major concession.

☐ YES ☒ NO

If YES, award was approved pursuant to Sections 197-c and 197-d of the NYC Charter as follows:

☐ CPC approved on __/__/__ ☐ City Council approved on __/__/__ or ☐ N/A

AUTHORIZED AGENCY STAFF

This is to certify that the information presented herein is accurate and that I find the proposed concessionaire to be responsible and approve of the award of the subject concession agreement.

If the concession was awarded by other than CSB or CSP, additionally check the applicable box below:

- ☒ The concession was approved by the FCRC on _____
- ☐ The concession was not subject to the approval of the FCRC because it has a term of <30 days and is not subject to renewal.

Name Alexander Han

Title Acting Chief of Concessions

Signature _____ **Date** __/__/__

CERTIFICATE OF PROCEDURAL REQUISITES

This is to certify that the agency has complied with the prescribed procedural requisites for award of the subject concession agreement.

Signature _____ **Date** __/__/__

City Chief Procurement Officer

RECOMMENDATION FOR AWARD OF CONCESSION AGREEMENT MEMORANDUM:
CONCESSION AGREEMENT AWARDED BY OTHER THAN CSB OR CSP

SUMMARY OF PROPOSED CONCESSION USE (Attach Proposed Agreement)

The New York City Department of Parks and Recreation ("Parks") intends to seek Franchise and Concession Review Committee ("FCRC") approval to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to enter into a Sole Source License Agreement with Statue Cruises, LLC for the operation of a commercial ferry service to the Statue of Liberty National Monument and Ellis Island from The Battery, Manhattan.

Instructions: Provide all information requested below; check all applicable boxes.

A. SELECTION PROCEDURE

☒ Sole Source

☐ Other *Describe:*

B. NEGOTIATIONS

Instructions: Describe the nature of negotiations conducted, including negotiations with respect to the amount of revenue offered.

The sole source license agreement ("Agreement") with Statue Cruises, LLC for the operation and maintenance of passenger ferries for the purpose of embarking and discharging passengers on a regular schedule between The Battery, Liberty Island, and Ellis Island, and for the purpose of embarking and discharging passengers of vessels on sightseeing cruises and other ferry operations, which may include but are not limited to day and night charters of vessels, owned, operated or chartered by Statue Cruises, LLC at landing slips and adjacent walkways located in The Battery, Manhattan. The sole source license agreement will extend the previous term by three (3) years so that it expires February 29, 2024, conterminously with the agreement between the National Parks Service and Statue Cruises.

Compensation to the City will be as follows: Licensee shall pay to the City license fees consisting of the greater of a guaranteed minimum annual fee versus a percentage of gross receipts. (October 1, 2021 – September 30, 2022): \$2,500,000 vs. 10%; (October 1, 2022– September 30, 2023) \$2,500,000 vs. 10%; (October 1, 2023 – February 29, 2024): \$1,041,666.65 vs. 10%.

C. BASIS FOR AWARD (If sole source award, attach the offer; if other than a sole source award, attach the three highest rated offers, if applicable.)

The agency determined that award of the concession is in the best interest of the City because:

The National Park Service ("NPS") and Statue Cruises, LLC ("Statue Cruises") are parties to an agreement by which Statue Cruises provides ferry services to the Statue of Liberty National Monument ("Statue of Liberty") and Ellis Island from The Battery, Manhattan. In 2021, the parties entered into a new agreement effective from March 01, 2021 through February 29, 2024. Statue Cruises is the only ferry operator licensed by NPS to operate at the Statue of Liberty and Ellis Island. The justification for this agreement was mitigation of the effects of the citywide shutdown due to the Covid-19 pandemic.

The current license agreement between Parks and Statue Cruises to operate and maintain a commercial ferry service to the Statue of Liberty and Ellis Island from The Battery, Manhattan expires on September 30, 2021.

Parks believes that it is in the City's best interest to negotiate an amendment to the current sole source agreement to extend the previous term by three (3) years so that it expires on February 29, 2024, conterminously with the agreement between NPS and Statue Cruises.

Since NPS is the only entity with power to grant access to the Statue of Liberty and Ellis Island, and Statue Cruises is the sole ferry service with an agreement with NPS to provide said service, Parks has determined that a competitive solicitation process for this concession is not warranted. Parks is committed to offering this service to the public. Due to Statue Cruises' relationship with NPS, Parks is requesting sole source approval to negotiate an extension of the term of the current agreement to make it coterminous with the agreement between NPS and Statue Cruises. Parks anticipates that, as part of the new License Agreement between Parks and Statue Cruises, ticket sales locations in The Battery may be included.

For the reasons set forth above, Parks believes that it is in the City's best interest to negotiate an amendment to the current sole source license agreement with Statue Cruises, LLC. for the operation and maintenance of passenger ferries for the purpose of embarking and discharging passengers on a regular schedule between The Battery, Liberty Island, and Ellis Island, and for the purpose of embarking and discharging passengers of vessels on sightseeing cruises and other ferry operations, which may include but are not limited to day and night charters of vessels, owned, operated or chartered by Statue Cruises, LLC at landing slips and adjacent walkways located in The Battery, Manhattan

D. PUBLIC HEARING [☐ N/A – Subject award NOT a significant concession]

1. Publication & Distribution of Public Hearing Notice

☐ Subject concession is a **Citywide** concession and Agency hereby certifies that a notice containing a summary of the terms and conditions of the proposed concession and stating the time, date and location of the public hearing was published once in the City Record on __/__/__, which was not less than 15 days prior to the hearing date or a shorter period approved by the CCPO and was given to each affected CB-BP and the Committee Members on __/__/__, which was not less than 15 days prior to the hearing date. Agency also published a public hearing notice twice in the two newspapers indicated below. A copy of each such notice was sent to each affected CB-BP by __/__/__.

☐ _____, a NYC citywide newspaper on __/__/__ and __/__/__
☐ _____, a NYC citywide newspaper on __/__/__ and __/__/__

OR

☒ Subject concession is **NOT a Citywide** concession and Agency hereby certifies that a notice containing a summary of the terms and conditions of the proposed concession and stating the time, date and location of the public hearing was published once in the City Record on **September 10, 2021**, which was not less than 15 days prior to the hearing date or a shorter period approved by the CCPO and was given to each affected CB-BP and the Committee Members on **September 10, 2021**, which was not less than 15 days prior to the hearing date. Agency additionally published a public hearing notice and summary of the terms and conditions of the proposed agreement in the newspapers indicated below. A copy of each such notice and amended notice containing a summary of the terms and conditions of the proposed agreement was sent to each affected CB-BP by **September 10, 2021**,

☒ Villager Express, a NYC local newspaper published in the affected borough(s) on **9/23/21**

☒ Downtown Express, a NYC local newspaper published in the affected borough(s) on **9/16/21**

☒ Our Town Downtown, a NYC local newspaper published in the affected borough(s) on **9/16/21 & 9/23/21**

2. Public Hearing Date, Exception to Public Hearing Requirement

☒ A Public Hearing was conducted on 09/27/2021

OR

☐ The Agency certifies that the total annual revenue to the City from the subject concession does not exceed one million dollars and a Public Hearing was not conducted because, pursuant to §1-13(q)(2) of the Concession Rules, the Agency gave notice of the hearing and did not receive any written requests to speak at such hearing or requests from the Committee that the Agency appear at the hearing. Furthermore, the Agency certifies that it published a notice in the City Record canceling such hearing on ___/___/___ and sent a copy of that notice to all Committee Members.

CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. 1)

RESOLVED, that the Franchise and Concession Review Committee authorizes the New York City Department of Parks and Recreation (“Parks”) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to enter into a Sole Source License Agreement (“Agreement”) with Statue Cruises, LLC for the operation and maintenance of passenger ferries for the purpose of embarking and discharging passengers on a regular schedule between The Battery, Liberty Island, and Ellis Island, and for the purpose of embarking and discharging passengers of vessels on sightseeing cruises and other ferry operations, which may include but are not limited to day and night charters of vessels, owned, operated or chartered by Statue Cruises, LLC at landing slips and adjacent walkways located in The Battery, Manhattan. The sole source agreement will extend the previous term by three (3) years so that it expires February 29, 2024, conterminously with the agreement between the National Parks Service and Statue Cruises.

Compensation to the City under the License Agreement will be as follows: Licensee shall pay to the City license fees consisting of the greater of a guaranteed minimum annual fee versus a percentage of gross receipts. (October 1, 2021 – September 30, 2022): \$2,500,000 vs. 10%; (October 1, 2022– September 30, 2023) \$2,500,000 vs. 10%; (October 1, 2023 – February 29, 2024): \$1,041,666.65 vs. 10%.

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

**September 30,
2021**

Date: _____

Signed: _____

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

SECOND AMENDMENT TO LICENSE AGREEMENT

BETWEEN

STATUE CRUISES, LLC

AND

**CITY OF NEW YORK
PARKS & RECREATION**

THE OPERATION AND MAINTENANCE OF A COMMERCIAL FERRY SERVICE AT THE
BATTERY.

MANHATTAN, NEW YORK

M5-E-M

DATED: _____, 2021

SECOND AMENDMENT TO LICENSE AGREEMENT (“Second Amendment”) made this ____ day of _____, 2021, between the City of New York (the “City”) acting by and through the Department of Parks & Recreation (“Parks”), whose address is The Arsenal, Central Park, 830 Fifth Avenue, New York, New York 10065 and Statue Cruises, LLC (“Licensee”), a limited liability company organized under the laws of the State of Delaware, whose address is 1 Audrey Zapp Drive, Jersey City, NJ, 07303

WHEREAS, the parties to this Second Amendment are parties to that certain License Agreement dated December 12, 2007 (the “License” or “License Agreement”) and the First Amendment dated June 8, 2018 (“Amendment”); and

WHEREAS, the expiration date of Licensee’s National Park Services (“NPS”) Agreement has been extended to February 29, 2024; and

WHEREAS, the parties desire to extend the Term of the License to make the Termination Date of the License coterminous with Licensee’s NPS Agreement;

WHEREAS, the parties desire to amend the terms of the License Agreement subject to and in accordance with the terms of this Second Amendment.

NOW THEREFORE, in consideration of the premises and covenants contained herein, the parties hereby do agree as follows:

1.1 Unless otherwise noted in this Second Amendment, all capitalized terms in this Second Amendment shall have the meaning ascribed to them in the License Agreement.

1.2 Section 2.1(i) of the License Agreement is hereby amended by deleting Section 2.1(i) in its entirety and inserting the following new Section 2.1(i):

(i) “Year” or “Operating Year” shall both refer to the period between the Commencement Date in any calendar year and the day before the anniversary of the Commencement Date in the following calendar year, except for Years 13, 14, 15, 16, & 17. Operating Year 13 shall refer to the period between October 1, 2019 to September 30, 2020. Operating Year 14 shall refer to the period between October 1, 2020 to September 30, 2021. Operating Year 15 shall refer to the period between October 1, 2021 to September 30, 2022.

Operating Year 16 shall refer to the period between October 1, 2022 to September 30, 2023.
Operating Year 17 shall refer to period between October 1, 2023 to February 29, 2024.

1.3 Section 3.1 of the License Agreement is amended by deleting Section 3.1(a) in its entirety and inserting the following new Section 3.1(a):

(a) February 29, 2024;

1.4 Section 3.1 of the License Agreement is amended by inserting the following at the end of Section 3.1:

This License may be renewed for up to five (5) additional one (1) year terms, exercisable at Parks' discretion provided that the expiration date of the NPS Agreement has been extended for at least the same term. Two (2) of the five (5) additional one year terms were exercised through the prior NPS Agreement and First Amendment dated June 8, 2018. The two (2) one year terms were dated October 1, 2019 through September 30, 2020 and October 1, 2020 through September 30, 2021. The NPS Extension Agreement, dated January 30, 2021 extends the term of the prior NPS Agreement to February 29, 2024, providing three (3) additional one year terms. In the event the NPS Agreement is terminated during the renewal term, the renewal shall terminate on the same date as the NPS Agreement.

1.5 Section 4.1(a) of the License Agreement is amended by deleting Section 4.1(a) in its entirety and inserting the following new Section 4.1:

Licensee shall make the License fee payments listed below to the City for each Operating Year. Due to Executive Order Number 202 issued by Governor Andrew M. Cuomo on March 7, 2020 and Executive Order Number 98 issued by Mayor Bill de Blasio on March 12, 2020, the License was paused from March 22, 2020 through June 16, 2020 ("Pause Period"). The Term of the License was reinstated as of June 17, 2020. During the Pause Period, the License fees were not due. Upon reinstatement of the Term on June 17, 2020, the License's minimum annual fees were removed and the License fees were 10% of Licensee's Gross Receipts. Upon

commencement of Operating Year 15, starting October 1, 2021, the License fees will consist of the higher of the minimum annual fee or 10% of Licensee's Gross Receipts. The increase from the 8.5% to 10% of Gross Receipts is retroactive from June 17, 2020 through February 29, 2024.

Operating Year	Minimum Annual Fee	VS. Percentage of Gross Receipts
Operating Year 12: January-September 30, 2019.	\$1,875,000.00	8.5%
Operating Year 13: October 1, 2019-September 30, 2020	\$2,500,000.00 *Due to the Covid-19 Pandemic: the April-June 2020 fees and percentages were waived. Upon reinstatement of the Term, the minimum fees continued to be waived and the Licensee paid only on a percentage of its Gross Receipts, which was increased from 8.5% to 10%.	8.5%
Operating Year 14: October 1, 2020-September 30, 2021	\$2,500,000.00 *Due to the Covid-19 Pandemic: the minimum fees were waived and the Licensee paid only on a percentage of its Gross Receipts, which was increased from 8.5% to 10%.	10%
Operating Year 15: October 1 2021-September 30, 2022	\$2,500,000.00	10%
Operating Year 16: October 1, 2022-September 30, 2023	\$2,500,000.00	10%

Operating Year 17: October 1, 2023-February 29, 2024	\$1,041,666.65	10%
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1.6 Section 9.2 of the License Agreement is amended by deleting the third sentence in Section 9.2 in its entirety and replacing it with the following:

Annexed hereto and made a part hereof as Exhibit B1 is the Schedule of Approved Hours and Fees, including the schedule of sailings for Operating Year 15.

1.7 Section 9 of the License Agreement is amended by inserting the following new Section 9.19:

Should Commissioner, in Commissioner's sole judgment, determine that an unsafe or emergency condition exists on the Licensed Premises, after written notification, Licensee shall have twenty-four (24) hours to correct such unsafe or emergency condition. During any period where the Commissioner determines that an unsafe or emergency condition exists on the Licensed Premises then the Commissioner may require a partial or complete suspension of operation in the area affected by the unsafe or emergency condition. If Licensee believes that such unsafe or emergency condition cannot be corrected within said period of time, the Licensee shall notify the Commissioner in writing and indicate the period within which such condition shall be corrected. Commissioner, in Commissioner's sole discretion, may then extend such period of time in order to permit Licensee to cure, under such terms and conditions as appropriate.

1.8 Section 12.8 of the License Agreement is amended by deleting Section 12.8 in its entirety and inserting the following new Section 12.8:

12.8 At its sole cost and expense, Licensee shall maintain the landing slips available to them as assigned by Parks (Slips 3, 4 and 5), and the adjacent walkways as denoted in Exhibit C, at all times. Such maintenance shall include snow removal, batter piling repairs, curb repairs, and removal of all graffiti, litter, debris, and garbage.

1.9 Section 16 of the License Agreement is amended by inserting the following new sections 16.1, 16.2, 16.3 and 16.4:

16.1 Parks reserves the right to perform safety, maintenance or construction work deemed necessary by Commissioner in the Commissioner's sole discretion at or throughout the Licensed Premises at any time during the Term. The U.S. Army Corps of Engineers ("Army Corps"), or other federal or state entity, may also perform work which requires closure of portions of The Battery, including the Licensed Premises. Licensee agrees to cooperate with Parks to accommodate any such work by a City, Army Corps, state, or federal entity and provide public and construction access through the Licensed Premises as deemed necessary by the Commissioner. Parks shall use its reasonable efforts to give Licensee at least one (1) week notice of any such work. Parks may temporarily close a part or all of the Licensed Premises to facilitate the completion of a City, Army Corps, state or federal project, as determined by the Commissioner. In the event that Licensee must close the Licensed Premises because of such Parks, Army Corps, state, or federal work, then Licensee may propose and submit for the Commissioner's approval a plan to equitably address the impact of the closure. Parks, the City, and their officials, employees, and agents shall not be liable for damages to Licensee in the event of full or partial closure of the Licensed Premises or suspension of Licensee's operations at the Licensed Premises, as provided for herein.

16.2 This License may be suspended in full or in part for any reason with written notice from Parks. Such suspension shall be immediately effective upon the mailing, facsimile or hand delivery thereof. In the event of such notice, Licensee shall cease operations to the extent required by the notice. Licensee may propose and submit for the Commissioner's approval a plan to equitably address the impact of the closure. Parks, the City, and their officials, employees, and agents shall not be liable for damages to Licensee in the event that operations under this License are fully or partially suspended.

16.3 Licensee acknowledges that the City has planned multiple capital construction projects ("Capital Projects") in the vicinity of the Licensed Premises during the Term, including, but not limited to, the renovation of existing slips, north of the Licensed Premises and the reconstruction of the entire length of the pedestrian promenade/wharf south and west of the

Licensed Premises, which includes a portion of the Licensed Premises, which will impact the operation of the concession. Subject to Section 16.1 above, Licensee assumes the risk and sole cost and expense of conducting business at the Licensed Premises during any Capital Project.

16.4 Licensee shall be responsible for security of all Licensee's property on the Licensed Premises at all times. Parks shall be solely responsible for claims, damages, or injury resulting from its work, except to the extent such claims, damages and injury are caused by the negligence or intentional tortious acts of Licensee.

1.10 Section 20.1(b) of the License Agreement is amended by deleting Section 20.1(b) in its entirety and inserting the following new Section 20.1(b):

20.1 (b) Licensee may alter the Licensed Premises only with the written approval of Parks. Alterations shall become property of City, at its option, upon their attachment, installation, or affixing.

1.11 Section 26 of the License Agreement is hereby amended by deleting Section 26.1 in its entirety and inserting the following new Section 26.1:

26.1 Licensee's Obligation to Insure

A. From the date the Second Amendment to the License Agreement is executed through the date of expiration or termination of the Agreement, the Licensee shall ensure that the types of insurance indicated in this Section are obtained and remain in force, and that such insurance adheres to all requirements herein.

B. The Licensee is authorized to undertake or maintain operations under this License only during the effective period of all required coverage.

1.12 **Exhibit A** to the License Agreement and **Exhibit A1** to the First Amendment are amended by deleting **Exhibit A and Exhibit A1** in their entirety and replacing them with

Exhibit A2 attached to this Second Amendment. All references to **Exhibit A** in the License Agreement and **Exhibit A1** in the First Amendment are hereby deleted and replaced with **Exhibit A2**.

1.13 Exhibit B to the License Agreement and **Exhibit B1** in the First Amendment are amended by deleting **Exhibit B and Exhibit B1** in their entirety and replacing them with **Exhibit B2** attached to this Second Amendment. All references to **Exhibit B** in the License Agreement and **Exhibit B1** in the First Amendment are hereby deleted and replaced with **Exhibit B2**.

1.14 Except as amended by this Second Amendment, the License Agreement shall remain in full force and effect. In the event of any inconsistency between the terms of this Amendment and the License Agreement, the terms of this Second Amendment shall govern and prevail in all instances.

1.15 This Second Amendment may be executed in several counterparts, which shall constitute one and the same instrument. The License granted as set forth in Paragraph 1.2 of this Second Amendment shall become effective upon the date the Second Amendment is fully executed by the parties. The concession shall become effective upon registration with the Comptroller and commence on October 1, 2021 or such other date as set forth in a written notice to proceed issued by Parks to Licensee.

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to License to be signed and sealed on the day and year first above written.

CITY OF NEW YORK
PARKS & RECREATION

STATUE CRUISES, LLC

By: _____

By: _____

Name:

Name:

Title:

Title:

Dated: _____

Dated: _____

APPROVED AS TO FORM
CERTIFIED AS TO LEGAL AUTHORITY

Acting Corporation Counsel

STATE OF NEW YORK)

)ss:

COUNTY OF NEW YORK)

On this __ day of _____, 2021 before me personally came _____ to me known, and known to be the _____ of the City of New York Department of Parks & Recreation, and the said person described in and who executed the forgoing instrument and (s)he acknowledged that (s)he executed the same in her/his official capacity and for the purpose mentioned therein.

Notary Public

STATE OF NEW YORK)

)ss:

COUNTY OF NEW YORK)

On this __ day of _____, 2021 before me personally came _____ to me known, and known to be the _____ of Statue Cruises, LLC, and the said person described in and who executed the forgoing instrument and (s)he acknowledged that (s)he executed the same in her/his official capacity and for the purpose mentioned therein.

Notary Public

EXHIBIT A2

Year 12

<u>DUE DATE</u>	<u>AMOUNT</u>	<u>% FEE</u>
01/01/19	\$208,333.33	VS 8.5% OF GROSS
02/01/19	\$208,333.33	VS 8.5% OF GROSS
03/01/19	\$208,333.33	VS 8.5% OF GROSS
04/01/19	\$208,333.33	VS 8.5% OF GROSS
05/01/19	\$208,333.33	VS 8.5% OF GROSS
06/01/19	\$208,333.33	VS 8.5% OF GROSS
07/01/19	\$208,333.33	VS 8.5% OF GROSS
08/01/19	\$208,333.33	VS 8.5% OF GROSS
09/01/19	\$208,333.33	VS 8.5% OF GROSS
Total:	\$1,875,000.00	

Year 13, Option Year 1

<u>DUE DATE</u>	<u>AMOUNT</u>	<u>% FEE</u>
10/01/19	\$208,333.33	VS 8.5% OF GROSS
11/01/19	\$208,333.33	VS 8.5% OF GROSS
12/01/19	\$208,333.33	VS 8.5% OF GROSS
01/01/20	\$208,333.33	VS 8.5% OF GROSS
02/01/20	\$208,333.33	VS 8.5% OF GROSS
03/01/20	\$208,333.33	VS 8.5% OF GROSS
04/01/20	\$0 – waived due to Covid-19 Pandemic shutdown	Waived due to Covid-19 Pandemic Shutdown
05/01/20	\$0 – waived due to Covid-19 Pandemic shutdown	Waived due to Covid-19 Pandemic Shutdown
06/01/20	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
07/01/20	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*

08/01/20	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
09/01/20	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*

*Due to the Covid-19 Pandemic, the Licensee was only required to pay on a percentage of its Gross Receipts.

Year 14, Option Year 2

<u>DUE DATE</u>	<u>AMOUNT</u>	<u>% FEE</u>
10/01/20	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
11/01/20	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
12/01/20	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
01/01/21	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
02/01/21	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
03/01/21	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
04/01/21	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
05/01/21	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
06/01/21	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
07/01/21	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
08/01/21	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*
09/01/21	\$0 – waived due to Covid-19 Pandemic	10% OF GROSS ONLY*

*Due to the Covid-19 Pandemic, the Licensee was only required to pay on a percentage of its Gross Receipts.

Year 15, Option Year 3

<u>DUE DATE</u>	<u>AMOUNT</u>	<u>% FEE</u>
10/01/21	\$208,333.33	VS 10% OF GROSS
11/01/21	\$208,333.33	VS 10% OF GROSS
12/01/21	\$208,333.33	VS 10% OF GROSS
01/01/22	\$208,333.33	VS 10% OF GROSS
02/01/22	\$208,333.33	VS 10% OF GROSS
03/01/22	\$208,333.33	VS 10% OF GROSS
04/01/22	\$208,333.33	VS 10% OF GROSS

05/01/22	\$208,333.33	VS 10% OF GROSS
06/01/22	\$208,333.33	VS 10% OF GROSS
07/01/22	\$208,333.33	VS 10% OF GROSS
08/01/22	\$208,333.33	VS 10% OF GROSS
09/01/22	\$208,333.37	VS 10% OF GROSS
Total:	\$2,500,000.00	

Year 16, Option Year 4

<u>DUE DATE</u>	<u>AMOUNT</u>	<u>% FEE</u>
10/01/22	\$208,333.33	VS 10% OF GROSS
11/01/22	\$208,333.33	VS 10% OF GROSS
12/01/22	\$208,333.33	VS 10% OF GROSS
01/01/23	\$208,333.33	VS 10% OF GROSS
02/01/23	\$208,333.33	VS 10% OF GROSS
03/01/23	\$208,333.33	VS 10% OF GROSS
04/01/23	\$208,333.33	VS 10% OF GROSS
05/01/23	\$208,333.33	VS 10% OF GROSS
06/01/23	\$208,333.33	VS 10% OF GROSS
07/01/23	\$208,333.33	VS 10% OF GROSS
08/01/23	\$208,333.33	VS 10% OF GROSS
09/01/23	\$208,333.37	VS 10% OF GROSS
Total:	\$2,500,000.00	

Year 17, Option Year 5

<u>DUE DATE</u>	<u>AMOUNT</u>	<u>% FEE</u>
10/01/23	\$208,333.33	VS 10% OF GROSS
11/01/23	\$208,333.33	VS 10% OF GROSS
12/01/23	\$208,333.33	VS 10% OF GROSS
01/01/24	\$208,333.33	VS 10% OF GROSS
02/01/24	\$208,333.33	VS 10% OF GROSS
Total:	\$1,041,666.65	

EXHIBIT B2

Schedule of Operating Hours

Operating Hours year round shall be as required by the National Parks Service in connection with the Liberty and Ellis Island Ferry Service, as required by regularly scheduled cruises, as requested by vessel charters, or as required for other ferry services, subject to Parks written approval.

Schedule of Approved Fees

Adult - \$23.50
Child - \$12.00
Senior - \$18.00