


**PUBLIC MEETING**

**FRANCHISE AND CONCESSION REVIEW COMMITTEE**

**WEDNESDAY JULY 10<sup>th</sup>, 2024 @ 2:30 P.M.**

**Location:**  
**2 Lafayette Street**  
**Room 1412**  
**New York, NY 10007**

NOTE: 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](mailto:DisabilityAffairs@mocs.nyc.gov) or via phone at (212) 298-0800. Any person requiring reasonable accommodation for the public meeting should contact MOCS at least five (5) business days in advance of the meeting to ensure availability. 

*Franchise and Concession Review Committee Public Meeting  
Wednesday July 10<sup>th</sup>, 2024 @ 2:30 P.M.*

**NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION**

**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, to negotiate a significant sole source concession agreement with the Times Square District Management Association, Inc. ("the Alliance") for the maintenance and operation of Father Duffy Square in Times Square, Manhattan, including the collection of special event concession fees.

**NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION**

**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, to negotiate a significant sole source concession agreement with The Battery Conservancy, Inc. ("TBC") for the operation and maintenance of a food and beverage concession in the Pavilion at Peter Minuit Plaza at the Battery, Manhattan.



NYC Parks

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**City of New York  
Parks & Recreation**

The Arsenal  
Central Park  
New York, NY 10065  
[www.nyc.gov/parks](http://www.nyc.gov/parks)

# MEMORANDUM

**To:** Hon. Mark Levine, Manhattan Borough President  
Marisa Maack, District Manager, Manhattan Community Board 5

**From:** Phil Abramson, Director of Revenue Communications, NYC Parks *PA*

**Subject:** Notice of Intent to Seek Franchise & Concession Review Committee  
Approval to Utilize a Different Procedure to Negotiate a Sole Source License  
Agreement with the Times Square District Management Association, Inc.  
("the Alliance") for the Maintenance and Operation of Father Duffy Square in  
Times Square, Manhattan, Including the Collection of Special Event  
Concession Fees.

**Date:** 5/30/2024

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In accordance with Section 1-16 of the Concession Rules of the City of New York, the New York City Department of Parks & Recreation is seeking Franchise and Concession Review Committee approval to utilize a different procedure to negotiate a significant sole source concession agreement with the Times Square District Management Association, Inc. ("the Alliance") for the maintenance and operation of Father Duffy Square in Times Square, Manhattan, including the collection of special event concession fees.

This 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 feel free to contact Phil Abramson, Director of Revenue Communications at NYC Parks at 212-360-3426 or [phil.abramson@parks.nyc.gov](mailto:phil.abramson@parks.nyc.gov).

Thank you.

# Rule 1-16: Different Procedure

## Concession Agreement Pre-Solicitation Review Memorandum Cover Sheet

**Concession Title** Times Square District Management Association, Inc. License Agreement **Concession ID** M93-O

**Description** The maintenance and operation of Father Duffy Square in Times Square, Manhattan, including the collection of special event concession fees. **Agency** NYC Department of Parks & Recreation

☒ **Additional information has been attached to this document (please use the "Additional Information Form" available on BuyWise)**

### Proposed Concession Justification

The Agency has determined it is practicable or advantageous to use a Different Procedure over other methods because:  
see additional information form

#### Indicate the Different Procedure utilized

☒ Sole Source ☐ Amendment  
☐ Not-for-Profit Agreement  
☐ Other \_\_\_\_\_

### Proposed Concession Details

**Concessionaire** Times Square District Management Association, Inc.  
☐ Not yet determined  
**EIN/TIN** 13-3627527  
**Initial Term** To be negotiated  
**Renewal Option(s)** To be negotiated  
**Total Potential Term** To be negotiated  
**Concession Site(s)** ☒ Yes ☐ No  
**Address** Intersection of Broadway, 7th Avenue,  
West 46th Street, West 47th Street  
**Borough** Manhattan **Community Board** 5  
**Block#** 1018 **Lot#** 65

#### Proposed Concession Revenue

(Check all that apply)

☐ Annual Minimum Fee \$ \_\_\_\_\_  
☐ Gross Receipts \_\_\_\_\_ %  
☐ The Greater of Annual Minimum Fee(s) of  
\$ \_\_\_\_\_ vs \_\_\_\_\_ % of Gross Receipts  
☒ Other Formula

### Prior Concession Details

☐ **N/A** (No Prior Concession)

**Concessionaire** Times Square District Management Association, Inc.  
☒ EIN or ☐ SSN # 13-3627527  
**Initial Term** 01/01/2016 to 01/06/2025  
**Address** Intersection of Broadway, 7th Avenue,  
West 46th Street, West 47th Street  
**Renewal Option(s)** / / to / /  
**Total Potential Term** 01/01/2016 to 01/06/2025  
**Concession Site(s)** ☒ Yes ☐ No  
**Borough** Manhattan **Community Board** 5  
**Block#** 1018 **Lot#** 65

#### Prior Concession Revenue

(Check all that apply)

☐ Annual Minimum Fee \$ \_\_\_\_\_  
☐ Gross Receipts \_\_\_\_\_ %  
☐ The Greater of Annual Minimum Fee(s) of  
\$ \_\_\_\_\_ vs \_\_\_\_\_ % of Gross Receipts  
☒ Other Formula

### Community Board / Borough President Notice Requirements (Check all that apply)

**This is a Significant Concession** ☒ Yes ☐ No

(if yes, please select all applicable boxes below)

☒ Total potential term =/ > 10 years  
☐ Projected annual income/value to City > \$100,000  
☐ Major Concession

**This is a Major Concession** ☐ Yes ☒ No

(if yes, please be aware the award will be subject to review and approval pursuant to Sections 197-c and 197-d of NYC Charter)

☒ Agency notified affected Community Boards and Borough Presidents on 5/30/2024

#### Intent to Seek a Different Procedure

☒ Agency notified affected Community Boards and Borough Presidents on 05/30/2024 (at least 40 days prior to bringing the item to an FCRC meeting) that it intends to seek Committee approval of a Different Procedure. A copy of this notice has been provided to the Mayor's Office of Contract Services for distribution to the committee

### Authorized Signatures

#### Agency Staff

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

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_ 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

## For Agency Use With Concession Forms

<b>Concession Title</b>	Times Square District Management Association, Inc. License Agreement	<b>Concession ID</b>	M93-O
<b>Description</b>	The maintenance and operation of Father Duffy Square in Times Square, Manhattan, including the collection of special event concession fees.	<b>Agency</b>	NYC Department of Parks & Recreation ("Parks")

### Proposed Concession Justification

The Times Square District Management Association, Inc. ("the Alliance"), founded in 1992, works to improve and promote Times Square. It cultivates the creativity, energy and edge that have made the area an icon of entertainment, culture and urban life for more than a century. The Alliance is a 501(c)3 not-for-profit organization, accepts tax-deductible contributions, and is governed by a large, voluntary Board of Directors.

In addition to providing core neighborhood services with its Public Safety Officers and Sanitation Associates, the Alliance promotes local businesses; encourages economic development and public improvements; co-coordinates numerous major events in Times Square; and advocates on behalf of its constituents with respect to a host of public policy, planning and quality-of-life issues. The Alliance's district covers most of the territory from 40th Street to 53rd Street between 6th and 8th Avenues, as well as Restaurant Row (46th Street between 8th and 9th Avenue).

The Alliance entered into Maintenance and Operations Agreements with Parks in 2006 and again in 2016 for Father Duffy Square, a Parks property located between West 46th Street, West 47th Street, 7th Avenue and Broadway ("the Agreement"). The Agreement includes provisions for the Alliance to perform maintenance of the Public Stairs, the Statuary, and the Plaza, for the accommodation, enjoyment and convenience of the public.

The Agreement also contains a revenue sharing provision regarding Special Events that take place at Father Duffy Square. Such events, operated or sponsored by third parties, generate special event concession fees ("fees") for the use of this public space. The Agreement stipulates that the Alliance may collect sixty (60) percent of the fees. The fees are used to offset a portion of the Alliance's costs for providing maintenance and operation services at Father Duffy Square. This Agreement expires on January 6, 2025.

It is anticipated that a new Sole Source License Agreement with the Alliance will continue to allow the Alliance to collect special event concession fees, the proceeds of which will be used to offset a portion of the Alliance's costs contemplated under such agreement, including the maintenance and operation of Father Duffy Square.

Given that the Alliance has demonstrated a steadfast commitment to maintaining and improving Father Duffy Square as an integral part of the Times Square district, Parks believes that it is in the best interest of the City to negotiate a Sole Source License Agreement with the Alliance, rather than proceed with a competitive solicitation process.

### Proposed Concession Revenue

Other Formula  
To be negotiated

### Prior Concession Revenue

Other Formula  
Times Square District Management Association, Inc. ("the Alliance") provides services for the maintenance and operation of the Licensed Premises including the Statuary, Plaza, and the Public Stairs to the reasonable satisfaction of the Commissioner. Such services include keeping and maintaining the Licensed Premises in good condition and repair, in accordance with the provisions of the Agreement. As set forth in the agreement, the Alliance collects sixty percent (60%) of the Special Event concession fees (Fees) from third parties under Section 2-10 of Parks' Rules and Regulations. The Alliance uses all Fees it collects to offset the Alliance's costs of providing maintenance and operation services under the Agreement.

# FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. 1)

RESOLVED, that the Franchise and Concession Review Committee ("FCRC") authorizes the New York City Department of Parks & Recreation (Parks) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a significant sole source concession agreement with the Times Square District Management Association, Inc. ("the Alliance") for the maintenance and operation of Father Duffy Square in Times Square, Manhattan, including the collection of special event concession fees.

BE IT FURTHER RESOLVED, that Parks shall submit the sole source agreement it proposes to enter into with the Alliance to the FCRC for approval.

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

***7/10/2024***

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

**Title:** Chief City Procurement Officer

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



NYC Parks

**David Cerron**  
Assistant Commissioner  
Business Development &  
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# MEMORANDUM

**To:** Hon. Mark Levine, Manhattan Borough President  
Zach Bommer, District Manager, Manhattan Community Board 1

**From:** Phil Abramson, Director of Revenue Communications, NYC Parks *PA*

**Subject:** Notice of Intent to Seek Franchise & Concession Review Committee  
Approval to Utilize a Different Procedure to Negotiate a Sole Source License  
Agreement with The Battery Conservancy, Inc. for the Operation and  
Maintenance of a Food and Beverage Concession in the Pavilion at Peter  
Minuit Plaza, at the Battery, Manhattan

**Date:** 5/30/2024

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In accordance with Section 1-16 of the Concession Rules of the City of New York, the New York City Department of Parks & Recreation is seeking Franchise and Concession Review Committee approval to utilize a different procedure to negotiate a significant sole source concession agreement with The Battery Conservancy, Inc. for the operation and maintenance of a food and beverage concession in the Pavilion at Peter Minuit Plaza at the Battery, Manhattan.

This 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 feel free to contact Phil Abramson, Director of Revenue Communications at NYC Parks at 212-360-3426 or [phil.abramson@parks.nyc.gov](mailto:phil.abramson@parks.nyc.gov).

Thank you.

# Rule 1-16: Different Procedure

## Concession Agreement Pre-Solicitation Review Memorandum Cover Sheet

**Concession Title** Peter Minuit Plaza at the Battery Concession Agreement **Concession ID** M5-PM-SB

**Description** The operation and maintenance of a food and beverage concession in the Pavilion at Peter Minuit Plaza at the Battery, Manhattan **Agency** NYC Department of Parks & Recreation

☒ **Additional information has been attached to this document (please use the "Additional Information Form" available on BuyWise)**

### Proposed Concession Justification

The Agency has determined it is practicable or advantageous to use a Different Procedure over other methods because:  
see additional information form

#### Indicate the Different Procedure utilized

☒ Sole Source ☐ Amendment  
☐ Not-for-Profit Agreement  
☐ Other \_\_\_\_\_

### Proposed Concession Details

Concessionaire The Battery Conservancy, Inc. ☐ Not yet determined  
EIN/TIN 13-3769101  
Initial Term To be negotiated  
Renewal Option(s) To be negotiated  
Total Potential Term To be negotiated  
Concession Site(s) ☒ Yes ☐ No  
Address Peter Minuit Plaza at  
State Street & Whitehall Street  
Borough Manhattan Community Board 1  
Block# 3 Lot# 1

#### Proposed Concession Revenue

(Check all that apply)

☐ Annual Minimum Fee \$ \_\_\_\_\_  
☐ Gross Receipts \_\_\_\_\_ %  
☐ The Greater of Annual Minimum Fee(s) of  
\$ \_\_\_\_\_ vs \_\_\_\_\_ % of Gross Receipts  
☒ Other Formula

### Prior Concession Details

☐ **N/A** (No Prior Concession)

Concessionaire The Battery Conservancy Inc. ☒ EIN or ☐ SSN # 13-3769101  
Initial Term 02/24/2011 to 02/25/2017  
Renewal Option(s) 02/25/2017 to 02/25/2025  
Total Potential Term 02/24/2011 to 02/25/2025  
Concession Site(s) ☒ Yes ☐ No  
Address Peter Minuit Plaza at  
State Street & Whitehall Street  
Borough Manhattan Community Board 1  
Block# 3 Lot# 1

#### Prior Concession Revenue

(Check all that apply)

☐ Annual Minimum Fee \$ \_\_\_\_\_  
☐ Gross Receipts \_\_\_\_\_ %  
☐ The Greater of Annual Minimum Fee(s) of  
\$ \_\_\_\_\_ vs \_\_\_\_\_ % of Gross Receipts  
☒ Other Formula

### Community Board / Borough President Notice Requirements (Check all that apply)

**This is a Significant Concession** ☒ Yes ☐ No

(if yes, please select all applicable boxes below)

☒ Total potential term  $\geq$  10 years  
☐ Projected annual income/value to City  $>$  \$100,000  
☐ Major Concession

**This is a Major Concession** ☐ Yes ☒ No

(if yes, please be aware the award will be subject to review and approval pursuant to Sections 197-c and 197-d of NYC Charter)

☒ Agency notified affected Community Boards and Borough Presidents on 5/30/2024

#### Intent to Seek a Different Procedure

☒ Agency notified affected Community Boards and Borough Presidents on 05/30/2024 (at least 40 days prior to bringing the item to an FCRC meeting) that it intends to seek Committee approval of a Different Procedure. A copy of this notice has been provided to the Mayor's Office of Contract Services for distribution to the committee

### Authorized Signatures

#### Agency Staff

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

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_ 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

Peter Minuit Plaza at the Battery Concession Agreement

M5-PM-SB

<b>Concession Title</b>		<b>Concession ID</b>	
<b>Description</b>	The operation and maintenance of a food and beverage concession in the Pavilion at Peter Minuit Plaza at the Battery, Manhattan	<b>Agency</b>	NYC Department of Parks & Recreation ("Parks")

### Proposed Concession Justification

The Battery Conservancy ("TBC"), a not-for-profit organization, was formed in 1994 to promote and assist in the restoration, preservation, maintenance, programming, and operations of The Battery, as well as portions of Pier A's Harbor Park Visitor Center, and the Peter Minuit Plaza, which is adjacent to The Battery.

The positive transformation of The Battery over the past two decades is in large part a result of the successful partnership between Parks and TBC. TBC has been an effective advocate for The Battery and, through its fundraising efforts, has secured over \$55 million dollars of privately raised funds, leveraging \$109 million dollars in public funds for the benefit of The Battery. As the landscape of the park has been transformed, the horticulture improved and new recreation amenities, including SeaGlass Carousel, a renovated public restroom, the Battery Oval, the Battery Bikeway, the Battery Woodland, the Battery Urban Farm and Forest Farm, and several garden beds have been created, the maintenance needs of the park have increased significantly. TBC has assumed a growing role in the maintenance and operations of The Battery, funding additional gardeners, maintenance workers and seasonal staff to care for The Battery. Thanks, in large part, to the transformation of The Battery's spaces and amenities and its unique location connecting to all five boroughs, Liberty and Ellis Islands, The Battery has never been more popular. While limited to 25 acres, visitorship to the park has exploded over the past several years, with annual visitation reaching nearly 45 million people, roughly equivalent to Central Park. This level of foot traffic creates additional maintenance challenges for park management.

The partnership between TBC and Parks was memorialized in 2007, when TBC and Parks signed a License Agreement for the maintenance and operation of The Battery. A new agreement was then signed in 2024. Additionally, in 2006 and again in 2017, TBC and Parks entered into a Sole Source License Agreement to provide for the operation and maintenance of two (2) food service kiosks within the Bosque Gardens, and to provide for the operation and maintenance of the Bosque Gardens. Further, in 2013, TBC and Parks entered into a Sole Source License Agreement for the operation, maintenance, repair and improvement of SeaGlass at The Battery with ancillary food, beverage and merchandise concessions.

At the New Amsterdam Plein and Pavilion located at Peter Minuit Plaza ("Licensed Premises"), TBC and Parks commenced a Sole Source License Agreement in 2011 for the operation and maintenance of a food and beverage concession and to provide for the maintenance of the Licensed Premises. That agreement had an expiration date of February 25, 2017 with eight one-year renewal options, the last of which expires on February 25, 2025.

The Licensed Premises enhances the economic activity of Lower Manhattan and the maintenance obligations through this Agreement have added to the overall beautification of the area. Parks anticipates that TBC will continue entering into sublicense agreements with third parties for the operation and maintenance of the food and beverage concession, as well as the maintenance of the Licensed Premises. Any sublicense agreements shall be subject to Parks' written approval.

It is anticipated that all gross receipts received by TBC will be used exclusively to provide for the maintenance and operation at the Licensed Premises in performing TBC's obligations and providing services required or permitted by this License.

TBC has extensive experience providing valuable public amenities and has been an excellent steward of The Battery including at the New Amsterdam Plein and Pavilion at Peter Minuit Plaza. Given TBC's demonstrated and firm commitment to maintaining and improving The Battery, and their increase in responsibilities and expenditures, Parks believes that it is in the best interest of the City to enter into a Sole Source License Agreement with TBC.

### Proposed Concession Revenue

Other Formula  
To be negotiated

### Prior Concession Revenue

Other Formula

In lieu of a license fee, TBC provides, or causes to be provided, services for the maintenance and/or improvement of the Licensed Premises to the reasonable satisfaction of the Commissioner. Such services include keeping and maintaining the Licensed Premises in good condition and repair, in accordance with the provisions of the Agreement. Any proceeds that TBC receives from the operation of the concession are used by TBC for services at the Licensed Premises. If the proceeds from the sublicensing of the concession exceed the lesser of (x) annual eligible service costs as defined in the Agreement or (y) \$468,000, escalated as provided in Section 12 of the Agreement, such funds will be paid by TBC directly to Parks for the City's General Fund.



# FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. 2)

RESOLVED, that the Franchise and Concession Review Committee ("FCRC") authorizes the New York City Department of Parks & Recreation (Parks) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a significant sole source concession agreement with The Battery Conservancy, Inc. ("TBC") for the operation and maintenance of a food and beverage concession in the Pavilion at Peter Minuit Plaza at the Battery, Manhattan.

BE IT FURTHER RESOLVED, that Parks shall submit the sole source agreement it proposes to enter into with TBC to the FCRC for approval.

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

***7/10/2024***

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

**Title:** City Chief Procurement Officer

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