

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)

AGENCY: New York City Department of Parks & Recreation ("Parks")	CONCESSION TITLE/DESCRIPTION: Amendment to the existing license agreement with City Ice Sports, Inc. For the operation, and management of the Abe Stark Ice Rink in Coney Island, Brooklyn.
# VOTES required for proposed action = 4 <input type="checkbox"/> N/A	CONCESSION IDENTIFICATION # B336-A-IS

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

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

☒ Different Procedure * (☐ Sole Source Agreement ☒ Other: Intent to negotiate an amendment to the existing concession agreement)

☐ Negotiated Concession*

Recommended Concessionaire: City Ice Sports Inc.
 ☒ EIN ☐ SSN # 13-3546028

Attach Memo(s) *

<p align="center">CONCESSION AGREEMENT TERM</p> <p> Initial Term: To Be Negotiated Renewal Option(s) Term: To Be Negotiated Total Potential Term: To Be Negotiated </p>	<p align="center">ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS (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>LOCATION OF CONCESSION SITE(S)* <input type="checkbox"/> N/A</p> <p>Borough: <u>Brooklyn</u> C.B. <u>13</u></p> <p><u>Abe Stark Rink Brooklyn, NY; Block # 707 Lot # 14</u></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

☐ 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.

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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 Alexander Han

Title Chief of Concessions

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)

The Department of Parks & Recreation ("Parks") is seeking 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 negotiate an amendment to the existing License agreement between Parks and City Ice Sports Inc. ("Licensee"), for the operation and maintenance of Abe Stark Rink, Brooklyn ("License"), for the reasons listed in section (B)(2).

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.*

Terms and conditions would be determined when/if the Franchise and Concession Review Committee ("FCRC") approves the use of a different procedure to negotiate an amendment to the existing License. The term of the amendment, is to be negotiated.

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

The Abe Stark Rink ("Abe Stark") is currently operated and managed by City Ice Sports Inc. pursuant to an existing License agreement with Parks. The current License agreement expires in September 2022. An extension to the existing License agreement is being pursued because of a delay on a rezoning by the Department of City Planning ("DCP") & the New York City Economic Development Corporation ("EDC"). In 2009, the DCP, in partnership with EDC, the Department of Housing Preservation and Development ("HPD"), and Parks, developed a comprehensive rezoning plan to establish a framework for the revitalization of the Coney Island amusement area and the surrounding blocks. The plan builds upon the remaining amusements to create a new 27-acre amusement and entertainment district that will reestablish Coney Island as a year-round, open, and accessible amusement destination. As part of the rezoning plan, the rink would be demolished & rebuilt.

Recently the expected completion date of the rezoning action has changed, and the completion date is now uncertain. For continuity of service Parks would like to keep the Abe Stark open for the public to use. Especially given the pandemic related closures of the rink during 2020, it's important that the rink remain in operation for the community in Coney Island. Parks believes that it is in the best interests of the City of New York ("City") to amend the existing License to extend the term on a short-term basis rather than to proceed with a competitive solicitation process. Given the uncertainty around the rezoning action and the limited duration of potential operations, Parks believes that competitive solicitation would not yield a viable bid from any entity other than the existing concessionaire, and that any such bid would be on terms less beneficial to the City than the current License.

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

Parks is requesting FCRC authorization to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate an amendment to its existing License Agreement with City Ice Sports Inc., which will go before the FCRC on December 6, 2021 (Step 1). Once negotiated and if determined by Parks to be a significant concession, the agency and the FCRC will hold a joint Public Hearing on the proposed amendment to its existing Permit Agreement before presenting it to the FCRC for "Step 2" approval at a second meeting. If Parks determines the concession to be non-significant, the agency will present the fully negotiated amendment with City Ice Sports to the FCRC and request the required FCRC authorization to enter into the amendment directly (without the need for an initial 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**

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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.*

Terms and conditions would be determined when/if the Franchise and Concession Review Committee ("FCRC") approves the use of a different procedure to negotiate an amendment to the existing License. The term of the Such amendment, is to be negotiated. -would include the extension of the existing term of the Permit by one (1) year, with an additional one year (1 year) renewal option, exercisable by Parks in its sole discretion.

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

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- ☐ An existing concessionaire has been terminated, has defaulted, has withdrawn from, or has repudiated a concession agreement, or has become otherwise unavailable; [Explain]
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Approved by CCPO: _____ **on** __/__/__.

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CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. __)

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 negotiate an amendment to the existing agreement (“Agreement”) with City Ice Sports, Inc for the operation and, and management of the Abe Stark Ice Rink in Coney Island, Brooklyn.

BE IT FURTHER RESOLVED, that Parks shall submit the Agreement it proposes to enter into with. City Ice Sports, Inc to the Franchise and Concession Review Committee for approval.

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

December 8, 2021

Date: _____

Signed: _____

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

CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. __)

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 negotiate an amendment to the existing Sole Source License aAgreement (“Agreement”) with City Ice Sports, Inc for the operation and, and management of the Abe Stark Ice Rink in Coney Island, Brooklyn.

BE IT FURTHER RESOLVED, that Parks shall submit the Agreement it proposes to enter into with. City Ice Sports, Inc to the Franchise and Concession Review Committee for approval.

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FRANCHISE AND CONCESSION REVIEW COMMITTEE ON**

December 8, 2021

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Signed: _____

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