

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 negotiate an amendment to the existing license agreement between Parks and Prospect Park Alliance, Inc. for the operation, maintenance and management of a year-round tennis facility at the Parade Ground, Prospect Park, Brooklyn. Parks anticipates that the amendment would extend the agreement for one (1) year, with an additional one (1)-year renewal option to be exercised at the sole discretion of Parks.

BE IT FURTHER RESOLVED, that Parks shall submit the amendment it proposes to enter into with Prospect Park Alliance, 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

July 11, 2018

Date: _____

Signed: _____

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

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: Operation, maintenance and management of a year-round tennis facility at the Parade Ground, Prospect Park, Brooklyn. |
| # VOTES required for proposed action = 4 <input type="checkbox"/> N/A | CONCESSION IDENTIFICATION # B68-IT |
| SELECTION PROCEDURE (* City Chief Procurement Officer approval of CPSR required) | |
| <input type="checkbox"/> Competitive Sealed Bids (CSB) <input type="checkbox"/> Competitive Sealed Proposals (CSP)* | |
| <input checked="" type="checkbox"/> Different Procedure * (<input type="checkbox"/> Sole Source Agreement <input checked="" type="checkbox"/> Other: Intent to negotiate an amendment to the existing license agreement) | |
| <input type="checkbox"/> Negotiated Concession* | |
| Recommended Concessionaire: Prospect Park Alliance Inc. <input checked="" type="checkbox"/> EIN <input type="checkbox"/> SSN # 11-2843763 Attach Memo(s) * | |
| CONCESSION AGREEMENT TERM Initial Term: To be negotiated Renewal Option(s) Term: To be negotiated Total Potential Term: To be negotiated | ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS (Check all that apply) <input type="checkbox"/> Additional description attached <input type="checkbox"/> Annual Minimum Fee(s) \$ _____ <input type="checkbox"/> % Gross Receipts _____ % <input type="checkbox"/> The Greater of Annual Minimum Fee(s of \$_____ v. _____ % of Gross Receipts <input checked="" type="checkbox"/> Other formula To be negotiated |
| LOCATION OF CONCESSION SITE(S)* <input type="checkbox"/> N/A Address: <u>50 Parkside Avenue, Brooklyn, NY 11226</u> Borough: <u>Brooklyn</u> C.B. <u>14</u> Block # <u>5051</u> Lot # <u>1</u> <small>*Attach additional sheet</small> | |
| CONCESSION TYPE (Check all that apply) | |
| > Significant Concession: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES Basis: <input type="checkbox"/> Total potential term =>10 years <input checked="" type="checkbox"/> Projected annual income/value to City >\$100,000 <input type="checkbox"/> Major Concession | |
| > Major Concession: <input checked="" type="checkbox"/> NO <input type="checkbox"/> 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. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | |
| If YES, check the applicable box(es) below: | |
| <input type="checkbox"/> 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. | |
| <input type="checkbox"/> 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. | |
| <input type="checkbox"/> 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. | |
| <input type="checkbox"/> 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: | |
| <input checked="" type="checkbox"/> 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. | |
| <input type="checkbox"/> 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 Director of Concessions

Signature 

Date 6/12/2018

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 
City Chief Procurement Officer

Date 6/23/2018

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 and Recreation ("Parks") will be pursuing an amendment to its existing license agreement 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).

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 amendment to Parks' existing license agreement with Prospect Park Alliance, Inc. for the operation, maintenance and management of a year-round tennis facility at the Parade Ground, Prospect Park, Brooklyn.

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

Prospect Park Alliance Inc. ("PPA") currently operates a year-round tennis concession at the Parade Ground, Prospect Park in Brooklyn under a license agreement with Parks. Their current agreement commenced on October 13, 2003 for a fifteen-year term, expiring on October 12, 2018.

Upon commencement of their license, PPA initiated plans to construct the current clubhouse building that was in operation by spring 2006. PPA also met with the community to better understand their concerns, and as a result PPA formed stronger programs and operations based on their input. The clubhouse, the reconfiguration of the courts – which included the addition of an extra court – and PPA's operation of the concession have been met with approval from the Brooklyn tennis community.

As the tennis concession operator, PPA has been offering affordable tennis instruction, youth programming and junior development since its operation commenced. Additionally, PPA offers summer camps, scholarships to youth and the Special Aces program for children with cognitive and physical disabilities. There are no membership fees and they provide opportunities for New Yorkers to reserve courts on an hourly basis while providing opportunities for lessons with trained instructors. Junior development programs are also available with classes for pee-wee tennis, pre-juniors and juniors.

Further, for the operating year 2016 - 2017, PPA paid the City of New York approximately \$230,000 in license fees. The calculation is based on the greater of a minimum fee vs. 10% of gross receipts.

As the current license agreement nears its expiration, Parks had issued a Request for Proposals ("RFP") for a new operation in November 27, 2017. Proposals were received from multiple entities, however, an award was not made. The RFP was cancelled by Parks on May 24, 2018 due to changes

that are needed to the scope of the RFP. Parks had notified all proposers and intends to reissue a new RFP sometime in the summer 2018.

While Parks drafts, solicits a new RFP and ultimately negotiates an agreement for a new operation, Parks does not want to see this site close to the public or experience any gap in service. Therefore, Parks would like to amend its existing agreement with PPA to allow for an extension of one (1) year, with an additional one (1)-year renewal option, to be exercised at the sole discretion of Parks. This will ensure that the facility's users can continue enjoying the recreation opportunities provided by the concession, while Parks works on a new solicitation.

For the reasons set forth above, Parks believes that it is in the City's best interest to amend PPA's existing agreement to extend the term on a short-term basis rather than proceed with a competitive solicitation process.

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 Prospect Park Alliance, Inc. which will go before the FCRC on July 11, 2018 (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 License 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 Prospect Park Alliance, Inc. 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



NYC Parks

Mitchell J. Silver, FAICP
Commissioner

T 212.360.1305
F 212.360.1345


E mitchell.silver@parks.nyc.gov

City of New York
Parks & Recreation

The Arsenal
Central Park
New York, NY 10065
www.nyc.gov/parks

MEMORANDUM

To: Hon. Eric L. Adams, President of the Borough of Brooklyn
Ms. Shawn Campbell, District Manager, Brooklyn Community Board 14

FROM: Eric Weiss, Senior Project Manager 

SUBJECT: Notice of intent to seek Franchise and Concession Review Committee approval to utilize a different procedure to negotiate an amendment to the existing license agreement between the New York City Department of Parks and Recreation and Prospect Park Alliance, Inc. for the operation, maintenance and management of a year-round tennis facility at the Parade Ground, Prospect Park, Brooklyn.

DATE: May 31, 2018

In accordance with Section 1-16 of the Concession Rules of the City of New York, this is to notify the Brooklyn Borough President and Brooklyn Community Board 14 that the New York City Department of Parks and Recreation ("Parks") is seeking Franchise and Concession Review Committee ("FCRC") approval to negotiate an amendment to the existing license agreement with Prospect Park Alliance, Inc. for the operation, maintenance and management of a year-round tennis facility at the Parade Ground, Prospect Park, Brooklyn. It is anticipated that the amendment would extend the agreement for one (1) year with an additional one (1)-year renewal option to be exercised at the sole discretion of Parks.

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

Please feel free to contact me at 212-360-3483 with any questions or comments you may have.

Thank you.

CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. 2)

BE IT RESOLVED that the Franchise and Concession Review Committee (FCRC) hereby authorizes the New York City Department of Transportation (DOT) 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 License Agreement (Agreement) with the Fashion Center District Management Association, Inc., doing business as the Garment District Alliance (“GDA”), to provide for the operation, management and maintenance of a pedestrian plaza located at Broadway between West 36th Street and West 41st Street in Manhattan (“Licensed Plaza”), including through DOT-approved events, sponsorships, and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that promotes the neighborhood or GDA, and other similar merchandise within the Licensed Plaza. Subconcessions would be awarded based on solicitations issued by GDA in the basic form of Request for Proposals or Request for Bids, subject to DOT’s prior written approval of both solicitation and award.

BE IT FURTHER RESOLVED that DOT shall submit the Agreement it proposes to enter into with GDA to the FCRC for approval.

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

July 11, 2018

Date: _____

Signed: _____

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

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 Transportation (DOT) # VOTES required for proposed action = <u>4</u> <input type="checkbox"/> N/A | CONCESSION TITLE/DESCRIPTION: <u>Operation, management and maintenance of a pedestrian plaza located at Broadway between West 36th Street and West 41st Street in the Borough of Manhattan</u> CONCESSION IDENTIFICATION # <u>2018Con6</u> |
| SELECTION PROCEDURE (* City Chief Procurement Officer approval of CPSR required) <input type="checkbox"/> Competitive Sealed Bids (CSB) <input type="checkbox"/> Competitive Sealed Proposals (CSP)* <input checked="" type="checkbox"/> Different Procedure * (<input checked="" type="checkbox"/> Sole Source Agreement <input type="checkbox"/> Other _____) <input type="checkbox"/> Negotiated Concession* | |
| Recommended Concessionaire: <u>Fashion Center District Management Association, Inc., doing business as the Garment District Alliance ("GDA")</u> <input checked="" type="checkbox"/> EIN <input type="checkbox"/> SSN # <u>13-3718607</u> | |
| Attach Memo(s) * | |
| CONCESSION AGREEMENT TERM Initial Term: <u>To be negotiated</u> Renewal Option(s) Term: <u>To be negotiated</u> Total Potential Term: <u>To be negotiated</u> | ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS (Check all that apply) <input type="checkbox"/> Additional description attached <input type="checkbox"/> Annual Minimum Fee(s) \$ _____ <input type="checkbox"/> % Gross Receipts _____ % <input type="checkbox"/> The Greater of Annual Minimum Fee(s of \$ _____ v. _____ % of Gross Receipts <input checked="" type="checkbox"/> Other formula: <u>Maintenance costs</u> |
| LOCATION OF CONCESSION SITE(S) <input type="checkbox"/> N/A Address: <u>At Broadway between West 36th Street and West 41st Street, Borough of Manhattan (see attached map)</u> Borough: <u>Manhattan C.B. 5 Block # N/A Lot # N/A</u> | |
| CONCESSION TYPE (Check all that apply) | |
| > Significant Concession: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES Basis: <input type="checkbox"/> Total potential term =>10 years <input checked="" type="checkbox"/> Projected annual income/value to City >\$100,000 <input type="checkbox"/> Major Concession | |
| > Major Concession: <input checked="" type="checkbox"/> NO <input type="checkbox"/> 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. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | |
| If YES, check the applicable box(es) below: <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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 Michelle Craven Title Assistant Commissioner for Cityscape and Franchises

Signature [Signature] Date 6/19/18

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 [Signature] Date 6/21/18

City Chief Procurement Officer

CONCESSION 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 New York City Department of Transportation ("DOT") will be pursuing a Sole Source License Agreement ("Agreement") pursuant to Section 1-16 of the Concession Rules ("different procedures") 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.***

Subject to Franchise and Concession Review Committee ("FCRC") Step 1 authorization, DOT intends to negotiate the Agreement with the Fashion Center District Management Association, Inc., doing business as the Garment District Alliance ("GDA") for the operation, management and maintenance of a pedestrian plaza located at Broadway between West 36th Street and West 41st Street, in the borough of Manhattan (Licensed Plaza).

GDA would have the right to provide for the operation and management of the Licensed Plaza in exchange for ongoing maintenance of the Licensed Plaza, including through DOT-approved events, sponsorships and subconcessions providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that promotes the neighborhood or the GDA, and other similar merchandise within the Licensed Plaza. Subconcessions would be awarded based on solicitations issued by GDA in the basic form of Request for Proposals or Request for Bids, and subject to DOT's prior written approval of both solicitation and award.

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

The intent of the Agreement is that all revenue received by GDA from the operation and management of the concession will go toward maintaining the Licensed Plaza. Since the concession will not yield a profit to GDA, a determination was made to not solicit Competitive Sealed Proposals.

It is in the City's best interest to enter into the Agreement using a different procedure with the GDA because this not-for-profit organization's mission is to improve and enhance the neighborhood in which the Licensed Plaza is located. GDA was created and is funded by the property owners surrounding the Licensed Plaza. This organization directly represents the neighborhood that it will serve and has a specific interest in the Licensed Plaza.

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

On July 11, 2018, DOT intends to seek FCRC authorization to negotiate the Agreement with GDA for the operation, management and maintenance of the Licensed Plaza ("Step 1"). Pending FCRC Step 1 approval, DOT intends to negotiate the terms of the Agreement with GDA.

Once negotiated and if determined by DOT to be a significant concession, the agency and the FCRC will hold a joint Public Hearing on the proposed Agreement before presenting the proposed concession to the FCRC for "Step 2" approval at a second Meeting. If DOT determines the concession to be non-significant, DOT will present the fully negotiated Agreement with GDA to the FCRC and request the required FCRC authorization to enter into the Agreement 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 to affected CB(s) that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances. ☒ **N/A**



Department of Transportation

POLLY TROTTEMBERG, Commissioner

May 30, 2018

The Honorable Gale Brewer
Manhattan Borough President
1 Centre Street, 19th Floor
New York, NY 10007

Mr. Wally Rubin, District Manager
Manhattan Community Board 5
450 7th Avenue, Rm. 2109
New York, NY 10123

Re: Pedestrian Plaza Concession

Dear Ms. Brewer and Mr. Rubin,

Pursuant to Section 1-16 of the Concession Rules of the City of New York, the New York City Department of Transportation ("DOT") intends to seek approval from the Franchise and Concession Review Committee ("FCRC") to utilize a different procedure to negotiate a Sole Source Concession Agreement ("Agreement") with an organization (the "Concessionaire") for the operation, management and maintenance of a pedestrian plaza located at Broadway between West 36th Street and West 41st Street, in the borough of Manhattan ("Licensed Plaza"), including through DOT-approved events, sponsorships and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that promotes the neighborhood or the Concessionaire, and other similar merchandise within the Licensed Plaza.

DOT has identified the Fashion Center District Management Association, Inc., doing business as the Garment District Alliance ("GDA") as a potential Concessionaire, but DOT will consider additional expressions of interest from other qualified and experienced organizations. As such, a public notice is being placed in the City Record to inform other qualified organizations of this opportunity.

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, please feel free to contact me at 212-839-6210.

Sincerely,

A handwritten signature in black ink that reads "Luis Sanchez".

Luis Sanchez
Manhattan Borough Commissioner



Department of Transportation

POLLY TROTTERBERG, Commissioner

May 30, 2018

The Honorable Gale Brewer
Manhattan Borough President
1 Centre Street, 19th Floor
New York, NY 10007

Mr. Wally Rubin, District Manager
Manhattan Community Board 5
450 7th Avenue, Rm. 2109
New York, NY 10123

Re: Pedestrian Plaza Concession

Dear Ms. Brewer and Mr. Rubin,

Pursuant to Section 1-16 of the Concession Rules of the City of New York, the New York City Department of Transportation ("DOT") intends to seek approval from the Franchise and Concession Review Committee ("FCRC") to utilize a different procedure to negotiate a Sole Source Concession Agreement ("Agreement") with an organization (the "Concessionaire") for the operation, management and maintenance of a pedestrian plaza located at Broadway between West 36th Street and West 41st Street, in the borough of Manhattan ("Licensed Plaza"), including through DOT-approved events, sponsorships and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that promotes the neighborhood or the Concessionaire, and other similar merchandise within the Licensed Plaza.

DOT has identified the Fashion Center District Management Association, Inc., doing business as the Garment District Alliance ("GDA") as a potential Concessionaire, but DOT will consider additional expressions of interest from other qualified and experienced organizations. As such, a public notice is being placed in the City Record to inform other qualified organizations of this opportunity.

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, please feel free to contact me at 212-839-6210.

Sincerely,

A handwritten signature in dark ink that reads "Luis Sanchez". The signature is fluid and cursive, with the first name "Luis" and last name "Sanchez" clearly distinguishable.

Luis Sanchez
Manhattan Borough Commissioner

PUBLIC NOTICE OF A CONCESSION OPPORTUNITY FOR THE OPERATION, MANAGEMENT AND MAINTENANCE OF A PEDESTRIAN PLAZA LOCATED AT BROADWAY BETWEEN WEST 36TH STREET AND WEST 41ST STREET, IN THE BOROUGH OF MANHATTAN

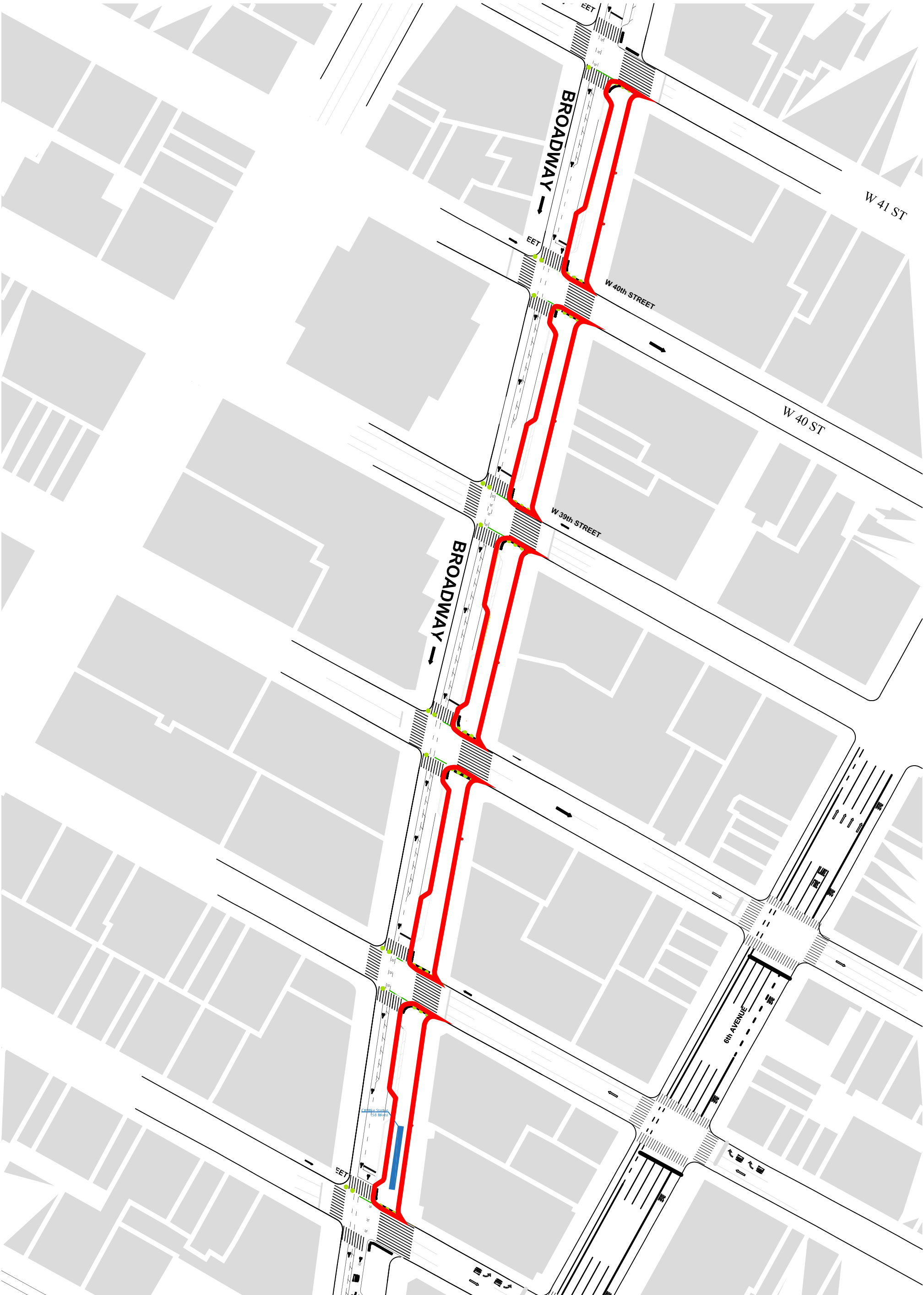
Pursuant to the Concession Rules of the City of New York, the Department of Transportation (“DOT”) intends to enter into a concession for the operation, management, and maintenance of a pedestrian plaza located at Broadway between West 36th Street and West 41st Street, in the borough of Manhattan (“Licensed Plaza”), including through DOT-approved events, sponsorships, and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that promotes the neighborhood or the concessionaire, or other similar merchandise within the Licensed Plaza.

Subconcessions would be awarded based on solicitations issued by the concessionaire in the basic form of Request for Proposals or Request for Bids, subject to DOT’s prior written approval of both solicitation and award.

DOT has identified the Fashion Center District Management Association, Inc., doing business as the Garment District Alliance (“GDA”) as a potential concessionaire, but DOT will consider additional expressions of interest from other potential concessionaires for the operation, management, and maintenance of the Licensed Plaza. In order to qualify, interested organizations should be active in the neighborhood of the Licensed Plaza and have demonstrated experience in the management, operation and maintenance of publicly-accessible facilities, including but not limited to programming/events management and concession or retail operation/management.

Organizations may express interest in the proposed concession by contacting Emily Weidenhof, Director of Public Space by email at plazas@dot.nyc.gov or in writing at 55 Water Street, 6th Floor, New York, NY 10041 by July 9, 2018. Ms. Weidenhof may also be contacted with any questions relating to the proposed concession by email or by telephone at (212) 839-4325.

Please note that the New York City Comptroller is charged with the audit of concession agreements in New York City. Any person or entity that believes that there has been unfairness, favoritism or impropriety in the concession process should inform the Comptroller, Office of Contract Administration, 1 Centre Street, New York, New York 10007, telephone number (212) 669-2323.



Broadway Boulevard

 Site Area Approx. 27800SF



CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. 3)

BE IT RESOLVED that the Franchise and Concession Review Committee (FCRC) hereby authorizes the New York City Department of Transportation (DOT) 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 License Agreement (Agreement) with the Flatiron/23rd Street Partnership Business Improvement District, ("Flatiron BID"), to provide for the operation, management and maintenance of a pedestrian plaza located at 5th Avenue and Broadway between 21st and 26th Streets in Manhattan ("Licensed Plaza"), including through DOT-approved events, sponsorships, and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that promotes the neighborhood or Flatiron BID, and other similar merchandise within the Licensed Plaza. Subconcessions would be awarded based on solicitations issued by Flatiron BID in the basic form of Request for Proposals or Request for Bids, subject to DOT's prior written approval of both solicitation and award.

BE IT FURTHER RESOLVED that DOT shall submit the Agreement it proposes to enter into with Flatiron BID to the FCRC for approval.

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

July 11, 2018

Date: _____

Signed: _____

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

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
Transportation (DOT)

VOTES required for
proposed action = 4 ☐ N/A

CONCESSION TITLE/DESCRIPTION:

Operation, management and maintenance of a pedestrian plaza
located at 5th Avenue and Broadway between 21st and 26th Streets
in the Borough of Manhattan

CONCESSION IDENTIFICATION # 2018Con7

SELECTION PROCEDURE

(* City Chief Procurement Officer approval of CPSR required)

☐ Competitive Sealed Bids (CSB)

☐ Competitive Sealed Proposals (CSP)*

☒ Different Procedure * (☒ Sole Source Agreement ☐ Other _____)

☐ Negotiated Concession*

Recommended Concessionaire: Flatiron/23rd Street Partnership Business Improvement District ☒ EIN ☐ SSN # 20-4850064

Attach Memo(s) *

CONCESSION AGREEMENT TERM

Initial Term: To be negotiated

Renewal Option(s) Term: To be negotiated

Total Potential Term: To be negotiated

LOCATION OF CONCESSION SITE(S) ☐ N/A

Address: At 5th Avenue and Broadway between 21st and 26th Streets (see attached map)

Borough: Manhattan C.B. 5 Block # N/A Lot # N/A

**ESTIMATED REVENUE/ANTICIPATED BUSINESS
TERMS**

(Check all that apply)

☐ Additional description attached)

☐ Annual Minimum Fee(s) \$ _____

☐ % Gross Receipts _____%

☐ The Greater of Annual Minimum Fee(s of \$ _____ v.
_____ % of Gross Receipts

☒ Other formula: Maintenance costs

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 Michelle Craven Title Assistant Commissioner for Cityscape and Franchises

Signature



Date 6/19/18

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


City Chief Procurement Officer

Date 6/21/18

CONCESSION 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 New York City Department of Transportation ("DOT") will be pursuing a Sole Source License Agreement ("Agreement") pursuant to Section 1-16 of the Concession Rules ("different procedures") 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.***

Subject to Franchise and Concession Review Committee ("FCRC") Step 1 authorization, DOT intends to negotiate the Agreement with the Flatiron/23rd Street Partnership Business Improvement District ("Flatiron BID") for the operation, management and maintenance of a pedestrian plaza located at 5th Avenue and Broadway between 21st and 26th Streets, in the borough of Manhattan ("Licensed Plaza").

Flatiron BID would have the right to provide for the operation and management of the Licensed Plaza in exchange for ongoing maintenance of the Licensed Plaza, including through DOT-approved events, sponsorships and subconcessions providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that promotes the neighborhood or Flatiron BID, and other similar merchandise within the Licensed Plaza. Subconcessions would be awarded based on solicitations issued by Flatiron BID in the basic form of Request for Proposals or Request for Bids, and subject to DOT's prior written approval of both solicitation and award.

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

The intent of the Agreement is that all revenue received by Flatiron BID from the operation, and management of the concession will go toward maintaining the Licensed Plaza. Since the concession will not yield a profit to Flatiron BID, a determination was made to not solicit Competitive Sealed Proposals.

It is in the City's best interest to enter into the Agreement using a different procedure with the Flatiron BID because this not-for-profit organization's mission is to improve and enhance the neighborhood in which the Licensed Plaza is located. Flatiron BID was created and is funded by the property owners surrounding the Licensed Plaza. This organization directly represents the neighborhood that it will serve and has a specific interest in the Licensed Plaza.

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

On July 11, 2018, DOT intends to seek FCRC authorization to negotiate the Agreement with Flatiron BID for the operation, management and maintenance of the Licensed Plaza ("Step 1"). Pending FCRC Step 1 approval, DOT intends to negotiate the terms of the Agreement with Flatiron BID.

Once negotiated and if determined by DOT to be a significant concession, the agency and the FCRC will hold a joint Public Hearing on the proposed Agreement before presenting the proposed concession to the FCRC for "Step 2" approval at a second Meeting. If DOT determines the concession to be non-significant, DOT will present the fully negotiated Agreement with Flatiron BID to the FCRC and request the required FCRC authorization to enter into the Agreement 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 to affected CB(s) that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances. ☒ **N/A**



Department of Transportation

POLLY TROTTEBERG, Commissioner

June 1, 2018

The Honorable Gale Brewer
Manhattan Borough President
1 Centre Street, 19th Floor
New York, NY 10007

Mr. Wally Rubin, District Manager
Community Board 5
450 7th Avenue, Rm. 2109
New York, NY 10123

Re: Pedestrian Plaza Concession

Dear Ms. Brewer and Mr. Rubin,

Pursuant to Section 1-16 of the Concession Rules of the City of New York, the New York City Department of Transportation ("DOT") intends to seek approval from the Franchise and Concession Review Committee ("FCRC") to utilize a different procedure to negotiate a Sole Source Concession Agreement ("Agreement") with an organization (the "Concessionaire") for the operation, management and maintenance of a pedestrian plaza located at 5th Avenue and Broadway between 21st and 26th Streets, in the borough of Manhattan ("Licensed Plaza"), including through DOT-approved events, sponsorships and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that promotes the neighborhood or the Concessionaire, and other similar merchandise within the Licensed Plaza.

DOT has identified the Flatiron/23rd Street Partnership District Management Association, Inc. as a potential Concessionaire, but DOT will consider additional expressions of interest from other qualified and experienced organizations. As such, a public notice is being placed in the City Record to inform other qualified organizations of this opportunity.

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, please feel free to contact me at 212-839-6210.

Sincerely,

A handwritten signature in dark ink, appearing to read "Luis Sanchez", is written over a light blue horizontal line.

Luis Sanchez, P.E.
Borough Commissioner

PUBLIC NOTICE OF A CONCESSION OPPORTUNITY FOR THE OPERATION, MANAGEMENT AND MAINTENANCE OF A PEDESTRIAN PLAZA LOCATED AT 5TH AVENUE AND BROADWAY BETWEEN 21ST AND 26TH STREETS, IN THE BOROUGH OF MANHATTAN

Pursuant to the Concession Rules of the City of New York, the Department of Transportation (“DOT”) intends to enter into a concession for the operation, management, and maintenance of a pedestrian plaza located at 5th Avenue and Broadway between 21st and 26th Streets, in the borough of Manhattan (“Licensed Plaza”), including through DOT-approved events, sponsorships, and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, flowers, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts) that promotes the neighborhood or the concessionaire, or other similar merchandise within the Licensed Plaza.

Subconcessions would be awarded based on solicitations issued by the concessionaire in the basic form of Request for Proposals or Request for Bids, subject to DOT’s prior written approval of both solicitation and award.

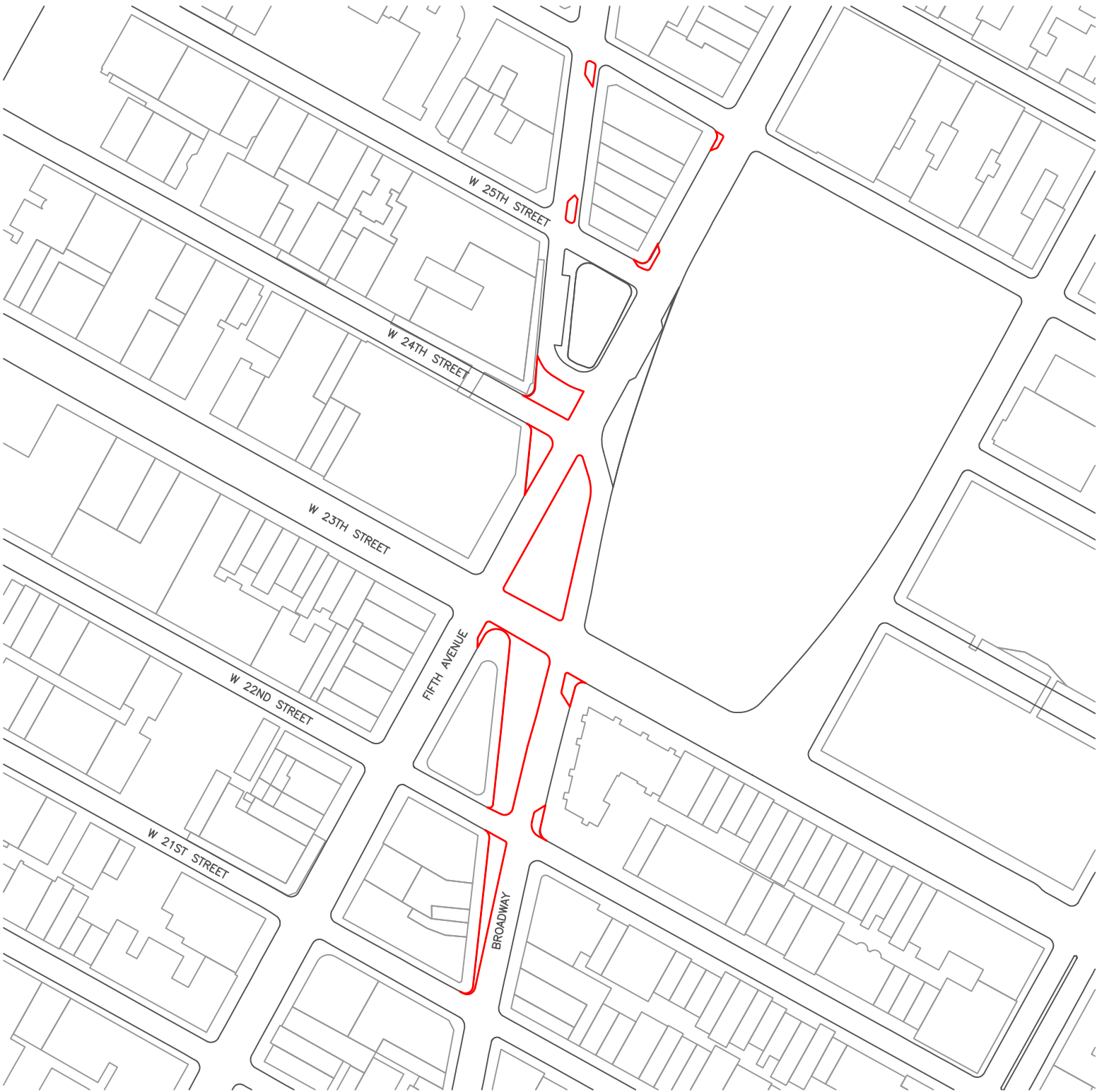
DOT has identified the Flatiron/23rd Street Partnership Business Improvement District as a potential concessionaire, but DOT will consider additional expressions of interest from other potential concessionaires for the operation, management, and maintenance of the Licensed Plaza. In order to qualify, interested organizations should be active in the neighborhood of the Licensed Plaza and have demonstrated experience in the management, operation and maintenance of publicly-accessible facilities, including but not limited to programming/events management and concession or retail operation/management.

Organizations may express interest in the proposed concession by contacting Emily Weidenhof, Director of Public Space by email at plazas@dot.nyc.gov or in writing at 55 Water Street, 6th Floor, New York, NY 10041 by July 9, 2018. Ms. Weidenhof may also be contacted with any questions relating to the proposed concession by email or by telephone at (212) 839-4325.

Please note that the New York City Comptroller is charged with the audit of concession agreements in New York City. Any person or entity that believes that there has been unfairness, favoritism or impropriety in the concession process should inform the Comptroller, Office of Contract Administration, 1 Centre Street, New York, New York 10007, telephone number (212) 669-2323.

FLATIRON PLAZA, MANHATTAN

Plaza Partner: Flatiron BID



 Licensed Area is Approx. 38,500 SF



CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. 4)

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 a Sole Source License Agreement (“Agreement”) with The Battery Conservancy, Inc. (“TBC”) to provide for the operation and maintenance of The Battery in Manhattan, including a share of a portion of concession revenue in The Battery, to help offset TBC’s required expenditures under the Agreement.

BE IT FURTHER RESOLVED, that Parks shall submit the Agreement it proposes to enter into with The Battery Conservancy, 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**

July 11, 2018

Date: _____

Signed: _____

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

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: Sole Source License Agreement with The Battery Conservancy, Inc. to provide for the operation and maintenance of The Battery in Manhattan. |
| # VOTES required for proposed action = 4 <input type="checkbox"/> N/A | CONCESSION IDENTIFICATION # M5-O |
| SELECTION PROCEDURE (* City Chief Procurement Officer approval of CPSR required) | |
| <input type="checkbox"/> Competitive Sealed Bids (CSB) <input type="checkbox"/> Competitive Sealed Proposals (CSP)* | |
| <input checked="" type="checkbox"/> Different Procedure * (<input checked="" type="checkbox"/> Sole Source Agreement <input type="checkbox"/> Other _____) | |
| <input type="checkbox"/> Negotiated Concession* | |
| Recommended Concessionaire: The Battery Conservancy, Inc. <input checked="" type="checkbox"/> EIN <input type="checkbox"/> SSN # 13-3769101 Attach Memo(s) * | |
| CONCESSION AGREEMENT TERM Initial Term: To be negotiated Renewal Option(s) Term: To be negotiated Total Potential Term: To be negotiated | ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS (Check all that apply) <input type="checkbox"/> Additional description attached <input type="checkbox"/> Annual Minimum Fee(s) \$ _____ <input type="checkbox"/> % Gross Receipts _____ % <input type="checkbox"/> The Greater of Annual Minimum Fee(s) of \$ _____ v. _____ % of Gross Receipts <input checked="" type="checkbox"/> Other formula To be negotiated |
| LOCATION OF CONCESSION SITE(S)* <input type="checkbox"/> N/A Address: Intersection of State Street, Battery Place, Peter Minuit Plaza, South Street; New York, NY Borough: Manhattan C.B. 1 Block # 3, Lot # 1 *Attach additional sheet | |
| CONCESSION TYPE (Check all that apply) | |
| > Significant Concession: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES Basis: <input checked="" type="checkbox"/> Total potential term =>10 years <input type="checkbox"/> Projected annual income/value to City >\$100,000 <input type="checkbox"/> Major Concession | |
| > Major Concession: <input checked="" type="checkbox"/> NO <input type="checkbox"/> 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. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | |
| If YES, check the applicable box(es) below: <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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: <input checked="" type="checkbox"/> 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. <input type="checkbox"/> 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 **Director of Concessions**

Signature 

Date 6/20/2018

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 
City Chief Procurement Officer

Date 6/21/2018

CONCESSION 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 New York City Department of Parks and Recreation ("Parks") will be pursuing a Sole Source License Agreement ("Agreement") pursuant to Section 1-16 of the Concession Rules of the City of New York ("different procedure") 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.***

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 a Sole Source License Agreement ("Agreement") with The Battery Conservancy, Inc. ("TBC"), to provide for the operation and maintenance of The Battery in Manhattan, including a share of a portion of concession revenue in The Battery, to help offset TBC's required expenditures under the Agreement.

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

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 partnership between TBC and Parks was memorialized in 2007, when TBC and Parks signed a License Agreement for the maintenance and operations of The Battery with a term of ten years and an option for renewals, the most recent of which expires on February 26, 2019. 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. In 2010, TBC and Parks entered into a Sole Source License Agreement for the operation and maintenance of a food and beverage concession at Peter Minuit Plaza and to provide for the maintenance of Peter Minuit Plaza. 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.

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. Since its creation, TBC has brought a growing sum of private funds to The Battery, investing nearly \$14 million to complete major capital renovations of the park and an additional \$36 million for maintenance and operations.

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, without any corresponding increase in maintenance resources from the city. Instead, 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. With new park amenities, including an expanded playground, coming online in the next several years, the maintenance needs of the Battery will continue to grow.

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.

A new Sole Source License Agreement for the maintenance and operations of The Battery between Parks and TBC is anticipated to provide a new revenue share to help offset TBC's required expenditures. It is anticipated that all revenues received by TBC will continue to solely go toward the operation and maintenance of The Battery.

TBC has extensive experience providing valuable public amenities and has been an excellent steward of The Battery. 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.

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

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 a Sole Source License Agreement with TBC, which will go before the FCRC on July 11, 2018 ("Step 1"). Once negotiated and if determined by Parks to be a significant concession, Parks 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 Parks determines the concession to be non-significant, Parks will present the fully negotiated Agreement with TBC to the FCRC and request the required FCRC authorization to enter into the Agreement directly (without the 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 to affected CB(s) that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances. ☒ N/A



NYC Parks

Alyssa Cobb Konon
Assistant Commissioner
Planning and Development

T 212.360.3402

E alyssa.cobb@parks.nyc.gov

City of New York
Parks & Recreation

The Arsenal
Central Park
New York, NY 10065
www.nyc.gov/parks

MEMORANDUM

TO: Hon. Gale Brewer, President of the Borough of Manhattan
Lucian Reynolds, District Manager, Manhattan Community Board #1

FROM: Philip Abramson, NYC Parks Director of Revenue Communications *PA*

SUBJECT: Notice of Intent to Seek Franchise and Concession Review Committee
Approval to Utilize a Different Procedure to Negotiate a Sole Source
License Agreement with The Battery Conservancy, Inc. regarding the
Operation and Maintenance of The Battery in Manhattan.

DATE: June 1, 2018

Pursuant to Section 1-16 of the Concession Rules of the City of New York, this is to notify the Manhattan Borough President and Manhattan Community Board 1 that the New York City Department of Parks and Recreation is seeking Franchise and Concession Review Committee ("FCRC") approval to utilize a different procedure to negotiate a Sole Source License Agreement ("Agreement") with The Battery Conservancy, Inc. ("TBC") regarding the operation and maintenance of The Battery in Manhattan, including a share of a portion of concession revenue in The Battery, to help offset TBC's required expenditures under the Agreement.

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 Philip Abramson, NYC Parks Director of Revenue Communications, by phone at (212) 360-3426 or via email at philip.abramson@parks.nyc.gov.

Thank you.