

Franchise & Concession Review Committee Public Hearing
March 11, 2019

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PUBLIC HEARING

FRANCHISE AND CONCESSION REVIEW COMMITTEE

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22 Reade Street, Spector Hall

Monday, March 11, 2019

2:30 p.m.

1 APPEARANCES:

2 Mayor:
Peter Hatch

3 Clerk:
4 Gemayel Jean-Paul

5 Office of the Mayor:
Benjamin Furnas

6 Corporation Counsel:
7 Sharon Cantor

8 Office of Management and Budget:
Jane Bayer

9 Comptroller:
10 Jennifer Conovitz

11 Borough President of Manhattan:
Matthew Washington

12 Borough President of Brooklyn:
13 Tonya Cantlo-Cockfield

14 Borough President of Queens:
Allan Swisher

15 Borough President of Staten Island:
16 Lashay Young

17 Borough President of the Bronx:
Tom Lucania

18 Department of Parks and Recreations:
19 Phil Abramson

20 Department of Small Business Services
Andrew Schwartz

21 Economic Development Corporation
22 Bianca Sosa

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PROCEEDINGS

MR. HATCH: Good afternoon. The public hearing will now come to order.

Will the clerk please call the roll.

THE CLERK: Mayor.

MR. HATCH: Here.

THE CLERK: Office of the Mayor.

MR. FURNAS: Here.

THE CLERK: Comptroller.

MS. CONOVITZ: Here.

THE CLERK: Corporation Counsel.

MS. CANTOR: Here.

THE CLERK: Office of Management and Budget.

MS. BAYER: Here.

THE CLERK: President, Borough of the Bronx.

MR. LUCANIA: Here.

THE CLERK: President, Borough of Brooklyn.

MS. CANTLO-COCKFIELD: Here.

THE CLERK: President, Borough of Manhattan.

MR. WASHINGTON: Here.

THE CLERK: President, Borough of

1 Queens.

2 MR. SWISHER: Here.

3 THE CLERK: President, Borough of
4 Staten Island.

5 MS. YOUNG: Here.

6 MR. HATCH: Welcome to this Public
7 Hearing of the Franchise and Concession
8 Review Committee. The hearing being
9 conducted today has been publicly
10 advertised in accordance with the New
11 York City Charter and Concession Rules
12 of the City of New York.

13 We want to be sure that anyone
14 desiring to be heard has an opportunity
15 to do so. All persons wishing to speak
16 must fill out a request slip, which may
17 be obtained from the Clerk. Each
18 speaker will be allotted approximately
19 three minutes. When you testify, please
20 state your name and affiliation, if any.
21 You may also submit written testimony to
22 the clerk which will be made part of the
23 record. Any written submissions must be
24 given to the clerk before the close of
25 the public hearing.

1 Will the clerk please call the first
2 calendar item.

3 THE CLERK: New York Economic
4 Development Corporation on behalf of the
5 New York City Department of Small
6 Business Services, Calendar Item Number
7 One: In the matter of the intent to
8 award as a concession for the operation
9 of the East 34th Street heliport, New
10 York, for a five-year term with one five
11 year renewal option, to Macquarie
12 Aviation North American Inc., d/b/a
13 Atlantic Aviation.

14 MR. HATCH: Some changes have been
15 made to the concession documents that
16 will be distributed to the committee.
17 But at the moment, EDC on behalf of SBS
18 will read those changes into the record.

19 MR. SCHWARTZ: I'm Andrew Schwartz
20 from Small Business Services. I'm going
21 to bring up Bianca Sosa, from EDC, who
22 has those changes.

23 MS. SOSA: Good afternoon. The
24 changes to Exhibit D, the fee schedule,
25 a renewal option created to this

1 exercise has been added that designates
2 the years as option years, six through
3 ten to option year one, three, four, and
4 five.

5 The other change was to Exhibit C,
6 schedule operator finance improvements.
7 We added subject to approval by
8 agreement and administrator and the
9 City. We also added in bullet point
10 six, alternatives to the above list as
11 well as additional improvements, if any,
12 as may be initially agreed upon by the
13 administrators, the City, and the
14 operator.

15 And additionally, in the last
16 paragraph, we changed "in addition to
17 all the operator planned improvements
18 subject to operators," the word "and"
19 was deleted, agreement administrator,
20 and the City was added to the approvals.

21 MR. HATCH: Thank you.

22 We will take testimony from the
23 public. But first, I'd like to ask
24 members of the committee if they have
25 any statements or questions.

1 MS. CONOVITZ: Thank you.

2 The comptroller recognizes the
3 public process associated to review on
4 the granting of a special permit for the
5 continued operations of a heliport on
6 East 34th Street. This process involves
7 input from the public as well as the
8 City Planning Commission, the local
9 community boards, the Manhattan Borough
10 President and the City Council. I just
11 have a couple of questions.

12 Can EDC confirm that the
13 concessionaire is required to provide
14 EDC with all the information that it
15 will need in connection with the
16 heliport that EDC in turn is required to
17 provide entities such as the local
18 community board and the Manhattan
19 Borough President and City Council.

20 MS. SOSA: Yes, EDC confirms this
21 information was included in the
22 statements.

23 MS. CONOVITZ: It's a requirement
24 for it?

25 MS. SOSA: Yes.

1 MS. CONOVITZ: Great.

2 Can EDC also confirm that all the
3 relevant terms and conditions of the
4 special program have been incorporated
5 into the agreement before us today?

6 MS. SOSA: Yes, EDC consents to all
7 of those.

8 MS. CONOVITZ: Thank you.

9 MR. HATCH: Are there other members
10 who have statements or other questions
11 on this matter?

12 (No response.)

13 MR. HATCH: Are there any members of
14 the public who wish to make a statement?

15 (No response.)

16 MR. HATCH: If no one else wishes to
17 speak, that concludes the hearing on the
18 first calendar item.

19 Will the clerk please call the
20 second calendar item.

21 THE CLERK: New York Department of
22 Parks and Recreations Calendar Item
23 Number 2, in the matter of the intent to
24 seek Franchise and Concession review
25 Committee approval to utilize a

1 different procedure, to enter into a
2 Sole Source License Agreement with City
3 Parks Foundation, Inc. for the granting
4 of the right to enter into a naming
5 rights sponsorship agreement for the use
6 of City-owned intellectual property
7 related to the presentation of live
8 events at the SummerStage festival.

9 MR. HATCH: Are there any members
10 who wish to make statements or have
11 questions on this matter?

12 MR. SWISHER: I would. The Queens
13 Borough asked me to read the following
14 statement into the record regarding this
15 item.

16 "For the official record of today's
17 Franchise & Concession Review Committee
18 meeting, I am entering this statement
19 regarding the failure to provide timely
20 notice to the affected Queens Community
21 Board for today's on the proposed naming
22 rights agreement for the New York
23 SummerStage concert series.

24 Under the Concession Rules of New
25 York City, agencies must notify any

1 affected community boards at least
2 forty days prior to an FCRC where the
3 agency seeks approval of a sole source
4 license agreement. Unfortunately, none
5 of the affected community boards in
6 Queens were notified about today's item
7 in effect, until February 22nd, just
8 seventeen days ago.

9 The leadership effected Queens
10 Community Boards namely Community Boards
11 one, two, three, four, six, seven, eight
12 and thirteen graciously granted a one
13 time waiver of the City's procedural
14 mistake allowing this item to proceed to
15 a vote, despite their misgivings over
16 having not had an opportunity to discuss
17 the matter at a regularly scheduled
18 community board meeting.

19 The City Board owes the community
20 board a debt of gratitude. Without
21 their existence, an important funding
22 source for the citywide SummerStage
23 concert series, New York City's largest
24 free outdoor performing arts festival,
25 enjoyed by hundreds of thousands of

1 people in the public parks throughout
2 the five boroughs could have been
3 jeopardized for the upcoming 2019
4 season.

5 In the end, this unfortunate
6 incident reinforced the belief
7 understandably, held by New Yorkers,
8 particularly in the boroughs outside
9 Manhattan, that the local communities
10 are often overlooked or ignored when it
11 comes to important decisions affecting
12 their neighborhood.

13 This recent oversight, however
14 inadvertent, also affirmed the critical
15 necessary role that New York City's
16 community boards hold as our partners in
17 city governments.

18 Moving forward, city agencies
19 seeking approvals from this committee
20 must do a better job of respecting the
21 roles -- excuse me, the role of
22 community boards in considering the
23 award Franchises and Concessions in
24 their respective districts and
25 communities.

1 Sincerely, Melinda Katz, President
2 Borough of Queens."

3 I also have written testimony that
4 I'd like to enter into the record.

5 MR. HATCH: Thank you.

6 Are there any other members who have
7 statements or wish to ask questions?

8 MR. WASHINGTON: I have a question.

9 What happened? This isn't the first
10 year that SummerStage is outside of
11 Central Park and so it's known that
12 SummerStage is in another location.

13 So, what happened?

14 MR. ABRAMSON: So, this is a very
15 unique circumstance. I want to thank
16 all of the borough presidents. First of
17 all, I want thank all of the community
18 boards for working with us on the issue
19 of the waivers that we requested.

20 What happened was, we -- we sought
21 FCRC's permission to negotiate into an
22 agreement back in the fall. The only
23 parks where it was known that
24 SummerStage would be taking place was in
25 South Central Park. The schedule had

1 not been determined. It was not yet
2 known which other parks would be hosting
3 it or if other community boards would be
4 affected.

5 So, when this schedule did become
6 known, and we had to go before the
7 committee with the agreement in hand, we
8 realized, at that point, we had to seek
9 the waivers from the other community
10 boards. It was something -- it was very
11 unique in the timing. It's not
12 something that we want to do certainly
13 and replicate again in the future.

14 MR. WASHINGTON: Sure. But I
15 imagine at some point before February
16 22nd, it was known, the location.
17 That's the part that bewilders me. The
18 notification for Central Park went out
19 in October, which were received, and --
20 what was going between then and why did
21 it take so long to get notifications
22 out? I mean, it's hard with the
23 forty-day period, still difficult with
24 the periods for community boards to be
25 able to review and put before their full

1 board, but seventeen is just untenable
2 for the community boards.

3 MR. ABRAMSON: You're right. I
4 don't know -- I don't know when the
5 sites were selected and when that
6 schedule was determined. But when it
7 became time to work together, everything
8 for the agreement, that's when we
9 realized we needed to do that.

10 MR. HATCH: Thank you.

11 Any other statements or questions?

12 MR. SWISHER: I have a quick
13 question.

14 Was it ever contemplated at the time
15 the initial notice in October was
16 provided to just let every community
17 board know? I mean, it was known as of
18 last year, and every year that this has
19 been done, that these concerts are held
20 all over the city.

21 MR. ABRAMSON: In hindsight, that
22 could have been an option. But then you
23 may let a community board know and then
24 if there is no concert scheduled, then
25 that community board will -- that will

1 -- something we'd have to consider for
2 the future.

3 MR. HATCH: Is there any other
4 testimony?

5 (No response.)

6 MR. HATCH: If no one else wishes to
7 speak, that concludes today's hearing.

8 We ask that the reporter make the
9 entire public hearing agenda, which has
10 been publicly available and distributed
11 at this hearing, part of the final
12 record of the proceeding.

13 The hearing is now closed.

14 Thank you.

15 (Time noted: 2:50 p.m.)
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1 C E R T I F I C A T E

2 STATE OF NEW YORK)

3 : ss

4 COUNTY OF NASSAU)

5

6 I, JAMES A. TETTA, a Notary Public within
7 and for the State of New York, do hereby
8 certify:

9 That the witness whose examination is
10 hereinbefore set forth was duly sworn and that
11 such an examination is a true record of the
12 testimony given by such a witness.

13 I further certify that I am not related to
14 any of these parties to this action by blood or
15 marriage, and that I am not in any way
16 interested in the outcome of this matter.

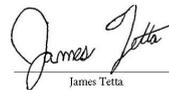
17 IN WITNESS WHEREOF, I have hereunto set my
18 hand this 11th day of March, 2019.

19

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21

22



James Tetta

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PUBLIC HEARING

FRANCHISE AND CONCESSION REVIEW COMMITTEE

MONDAY, MARCH 11, 2019 @ 2:30 P.M.

22 READE STREET, NEW YORK, NY

NOTE: This location is accessible to individuals using wheelchairs or other mobility devices. For further information on accessibility or to make a request for accommodations, such as sign language interpretation services, please contact the Mayor's Office of Contract Services (MOCS) via e-mail at DisabilityAffairs@mocs.nyc.gov or via phone at (212) 788-0010. Any person requiring reasonable accommodation for the public hearing should contact MOCS at least three (3) business days in advance of the hearing to ensure availability. ☒

*Franchise and Concession Review Committee Joint Public Hearing
Monday, March 11, 2019 @ 2:30 P.M.*

NEW YORK CITY DEPARTMENT OF SMALL BUSINESS SERVICES

No. 1: IN THE MATTER of the intent to award as a concession for the operation of the East 34th Street Heliport, New York, for a five (5) year term with one five (5) year renewal option, to Macquarie Aviation North America Inc., DBA Atlantic Aviation. Compensation to the City will be as follows: Concessionaire shall pay to the City concession fees of the greater of a minimum annual guarantee (MAG) versus a percentage of gross receipts. Operating year 1: \$1,000,000 (MAG) vs 33% of gross receipts; Operating year 2: \$1,075,000 (MAG) vs 34% of gross receipts; Operating year 3: \$1,155,625 (MAG) vs 35% of gross receipts; Operating year 4: \$1,242,297 (MAG) vs 36% of gross receipts; Operating year 5: \$1,335,469 (MAG) vs 37% of gross receipts; Option year 1: \$1,500,000 (MAG) vs 38% of gross receipts; Option year 2: \$1,612,500 (MAG) vs 38% of gross receipts; Option year 3: \$1,733,438 (MAG) vs 38% of gross receipts; Option year 4: \$1,863,445.31 (MAG) vs 38% of gross receipts; Option year 5: \$2,003,204 (MAG) vs 38% of gross receipts.

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 enter into a Sole Source License Agreement ("Agreement") with City Parks Foundation, Inc. ("CPF") for the granting of the right to enter into a naming rights sponsorship agreement for the use of City-owned intellectual property related to the presentation of live events at the SummerStage festival. In lieu of a license fee, CPF shall use any revenue it receives to offset the high costs of the maintenance and operations of the Playfield and other locations where SummerStage events take place, and programming free events as part of SummerStage, including but not limited to attracting a more diverse and higher profile slate of performers ("Operating Costs"). In no event shall the revenue received by CPF from this Agreement during any fiscal year exceed the difference between the Operating Costs and the

revenue received by CPF from sources other than this Agreement pursuant to separate agreements that is applied to the Operating Costs (the “Difference”). If at any time revenue received from the operation of the concession is projected by Parks to exceed the Difference, Parks shall direct CPF to implement a plan to provide additional SummerStage related services, including but not limited to additional free events, subject to the prior written approval of Parks. The term of the Agreement shall expire on June 27, 2023.