



Department of Transportation

Henry B. Gutman, Commissioner

October 26, 2021

The Honorable Eric Adams
Brooklyn Borough President
209 Joralemon Street
Brooklyn, NY 11201

Carol-Ann C. Church, Assistant District Manager
Community Board 2
350 Jay Street, 8th Floor
Brooklyn, NY 11201

Re: Pedestrian Plaza Concession

Dear Borough President Adams and Ms. ChurchCarol-Ann C. Church
:

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 and management of a pedestrian plaza on Willoughby Street between Pearl Street and Adams Street, in the borough of Brooklyn (“Licensed Plaza”); and maintenance and/or repair of certain amenities within the Licensed Plaza, including through City-approved plaza events, sponsorships, gifts and sub-concessions, including but not limited to providing for the sale of any of the following: prepared food, beverages, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts), and other similar merchandise within the Licensed Plaza. DOT has identified the MetroTech Area District Management Association, Inc. d/b/a MetroTech Business Improvement District 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 Mr. Brandon Budelman, Project Manager at 212-839-9625.

Sincerely,

Keith Bray
Brooklyn Borough Commissioner

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: <u>New York City Department of Transportation ("DOT")</u>	CONCESSION TITLE/DESCRIPTION: <u>Concession to operate, manage and maintain pedestrian plaza located on Willoughby Street between Pearl Street and Adams Street</u>
# VOTES required for proposed action = <u>4</u> <input type="checkbox"/> N/A	CONCESSION IDENTIFICATION # <u>2021Con4</u>

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

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

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

☐ Negotiated Concession*

Recommended Concessionaire: MetroTech Area District Management Association, Inc. d/b/a MetroTech Business Improvement District ☒ EIN ☐ SSN # 13-3601854

Attach Memo(s) *

<p align="center">CONCESSION AGREEMENT TERM</p> <p>Initial Term: <u>To be negotiated</u></p> <p>Renewal Option(s) Term: <u>To be negotiated</u></p> <p>Total Potential Term: <u>To be negotiated</u></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: <u>Maintenance costs</u></p>
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<p>LOCATION OF CONCESSION SITE(S)* <input type="checkbox"/> N/A</p> <p>Address: <u>Willoughby Street between Pearl Street and Adams Street</u></p> <p>Borough: <u>Brooklyn</u> C.B. <u>2</u></p> <p>Block # <u>N/A</u> Lot # <u>N/A</u></p> <p><small>*Attach additional sheet</small></p>	
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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, Cityscape & Franchises

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 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 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.***

Subject to Franchise and Concession Review Committee ("FCRC") Step 1 authorization, DOT intends to negotiate the Agreement with the MetroTech Area District Management Association, Inc. d/b/a MetroTech Business Improvement District ("MetroTech BID") for the operation and management of a pedestrian plaza located on Willoughby Street between Pearl Street and Adams Street, in the borough of Brooklyn ("Licensed Plaza") ; and maintenance and/or repair of certain amenities within the Licensed Plaza.

MetroTech 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 City-approved plaza events, sponsorships and subconcessions including but not limited to providing for the sale of any of the following: prepared food, beverages, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts), and other similar merchandise within the Licensed Plaza. Subconcessions would be awarded based on solicitations issued by MetroTech 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.

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 MetroTech 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 MetroTech BID, a determination was made not to solicit Competitive Sealed Proposals.

DOT has identified MetroTech BID 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.

It is in the City's best interest to enter into the Agreement using a different procedure with MetroTech BID because this organization's mission is to enhance the neighborhood in which the Licensed Plaza is located. MetroTech BID 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 December 8, 2021 DOT intends to seek FCRC authorization to negotiate the Agreement with MetroTech 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 MetroTech BID.

Once negotiated and if determined by DOT to be a significant concession, DOT 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 MetroTech 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**

CITY OF NEW YORK
FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. 1)

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 MetroTech Area District Management Association, Inc. d/b/a MetroTech Business Improvement District (“MetroTech BID”), to provide for the operation and management of a pedestrian plaza located on Willoughby Street between Pearl Street and Adams Street, in the borough of Brooklyn, (“Licensed Plaza”); and maintenance and/or repair of certain amenities within the Licensed Plaza, including through City-approved plaza events, sponsorships, gifts, and subconcessions, including but not limited to providing for the sale of any of the following: prepared food, beverages, locally grown produce or locally manufactured products, merchandise (such as souvenirs or T-shirts), and other similar merchandise within the Licensed Plaza. Subconcessions would be awarded based on solicitations issued by MetroTech 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 MetroTech BID to the FCRC 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