

**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 a Sole Source License Agreement (Agreement) with City Parks Foundation (CPF) for the operation and management of a food, beverage, and merchandise concession at SummerStage, Central Park, Manhattan.

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

**February 11<sup>TH</sup>, 2015**

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)

<b>AGENCY:</b> New York City Department of Parks and Recreation (Parks)	<b>CONCESSION TITLE/DESCRIPTION:</b> Sole Source License Agreement with the City Parks Foundation (CPF) for the Operation and Management of a Food, Beverage, and Merchandise Concession at SummerStage, Central Park.
<b># VOTES required for proposed action =</b> 4 <input type="checkbox"/> N/A	<b>CONCESSION IDENTIFICATION #</b> M10-1-O

**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 City Parks Foundation  EIN  SSN #13-3561657  
 Attach Memo(s) \*

<p align="center"><b>CONCESSION AGREEMENT TERM</b></p> <p>Initial Term: <u>TBD</u>                  Renewal Option(s) Term: <u>TBD</u></p> <p>Total Potential Term: <u>TBD</u></p> <p><b>LOCATION OF CONCESSION SITE(S)*</b> <input type="checkbox"/> N/A                  Address <u>Rumsey Playing Field, Central Park Borough Manhattan C.B. 5, 7, 8, 10, 11</u>                  Block # <u>111</u> Lot # <u>1</u>                  *Attach additional sheet</p>	<p align="center"><b>ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS</b>                  (Check all that apply)</p> <p><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>TBD</u></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.

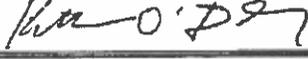
The Agency certifies that based on exigent circumstances it has requested/will request unanimous approval of the FCRC to waive advance written notice to each affected CB/BP.

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 Kathleen O'Daly Title Director of Concessions

Signature 

Date 12/19/14

**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 1/6/15

# 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 New York City Department of Parks and Recreation (Parks) will be pursuing a Sole Source License Agreement (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 a Sole Source License Agreement with City Parks Foundation (CPF) for the operation and management of a food, beverage, and merchandise concession related to the presentation of events at SummerStage, Central Park (the "Site").

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

CPF is the only independent, nonprofit organization to offer park programs throughout the five boroughs of New York City. CPF supports New York City neighborhood parks that lack access to private resources, presenting free arts, sports, educational, and community-building programs and making parks a focal point for community development. Founded in 1989, CPF works in hundreds of parks citywide, reaching hundreds of thousands of New Yorkers each year and contributing to the revitalization of communities across the five boroughs.

One of CPF's most popular arts programs is SummerStage, which will celebrate its 30th anniversary in 2015. SummerStage is one of the world's largest and most acclaimed outdoor music festivals. Each year, the festival brings more than 100 free performances to parks throughout the five boroughs reaching more than 280,000 audiences annually. With performances ranging from American pop, Latin and World music to dance, opera, comedy and theater, the festival reflects the dynamic and diverse cultures of New York City, presenting performances by emerging and established musicians, dancers, and literary figures from around the globe. Since its inception, more than six million people from New York City and around the world have enjoyed SummerStage.

In August 2009, Parks entered into a License Agreement with CPF for the operation of SummerStage. This agreement was renewed in June 2013. The total cost of the free events, maintenance and operation of the Site, and administrative expenses directly related to SummerStage at Central Park is approximately \$3.5 million annually. The revenue produced by SummerStage through its License Agreement with Parks does not cover these costs. The revenue generated from the sale of food, beverages and merchandise at

SummerStage through this concession will help CPF offset the high costs of maintenance and operations of the Site, free public programming, as well as the administrative expenses associated with this very popular series. Parks anticipates that any revenues in excess of the amount attributable to covering the cost of the free events, for maintenance and operation of the Site, and administrative expenses directly related to the operation of SummerStage will be strictly used for additional free public programming at the Site.

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

Parks is requesting FCRC authorization to utilize different procedures, pursuant to Section 1-16 of the Concession Rules, to negotiate a License Agreement with CPF, which will go before the FCRC on February 11<sup>th</sup>, 2015 ("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 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 License Agreement with CPF to the FCRC and request the required FCRC authorization to enter into the License 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 each affected CB/BP that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances.  N/A



NYC Parks

**Robert Garafola**  
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**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  
Mr. Wally Rubin, District Manager, Manhattan Community Board 5  
Ms. Penny Ryan, District Manager, Manhattan Community Board 7  
Ms. Latha Thompson, District Manager, Manhattan Community Board 8  
Mr. Andrew Lassalle, District Manager, Manhattan Community Board 10  
Mr. George Sarkissian, District Manager, Manhattan Community Board 11

**FROM:** Santiago Zindel, Project Manager 

**SUBJECT:** Notice of Intent to Seek FCRC Authorization to Utilize a Different Procedure to Negotiate a Sole Source License Agreement with City Parks Foundation for the Operation and Management of a Food, Beverage, and Merchandise Concession at SummerStage, Central Park

**DATE:** December 19<sup>th</sup>, 2014

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In accordance with Section 1-16 of the Concession Rules of the City of New York, the New York City Department of Parks and Recreation is seeking Franchise and Concession Review Committee approval to utilize a different procedure to negotiate a sole source license agreement with City Parks Foundation for the operation and management of a food, beverage, and merchandise concession at SummerStage, Central Park.

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 Santiago Zindel, Project Manager by phone at 212-360-1397 or via email at [santiago.zindel@parks.nyc.gov](mailto:santiago.zindel@parks.nyc.gov). Thank you.