

**CITY OF NEW YORK**

**FRANCHISE AND CONCESSION REVIEW COMMITTEE**

**(Cal. No. 2)**

**RESOLVED**, that the Franchise and Concession Review Committee (“FCRC”) authorizes NYC & Company, Inc. on behalf of New York City Department of Small Business Services (“SBS”) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a non-exclusive, Sole Source License Agreement with Souvenir Avanti Inc. for the non-exclusive use of city-owned trademarks on merchandise.

**BE IT FURTHER RESOLVED**, that NYC & Company, Inc. on behalf of SBS shall submit the License Agreement SBS proposes to enter into with Souvenir Avanti Inc. to the FCRC for approval.

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

\_\_\_\_\_

Date: March 14<sup>th</sup>, 2018

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> NYC & Company, Inc. on behalf of NYC Department of Small Business Services	<b>CONCESSION TITLE/DESCRIPTION:</b> Non-Exclusive Use of City-Owned Trademarks on Merchandise  <b>CONCESSION IDENTIFICATION #</b> NYCCO-2017-003
<b># VOTES required for proposed action = 4</b> <input type="checkbox"/> N/A	

**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: Souvenir Avanti Inc.  EIN  SSN # 98-0150510  
 Attach Memo(s) \*

<p align="center"><b>CONCESSION AGREEMENT TERM</b></p> <p>Initial Term: To be negotiated                  Renewal Option(s) Term: To be negotiated                   Total Potential Term: To be negotiated</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: To be negotiated</p>
<p><b>LOCATION OF CONCESSION SITE(S)*</b> <input checked="" type="checkbox"/> N/A</p> <p>Address _____                  Borough _____ C.B. _____                  Block # _____ Lot # _____                  *Attach additional sheet</p>	

**CONCESSION TYPE (Check all that apply)**

> **Significant Concession:**  
 NO  
 YES Basis:  
 Total potential term =>10 years  Projected annual income/value to City >\$100,000  Major Concession

> **Major Concession:**  
 NO  
 YES - Award will be subject to review and approval pursuant to Sections 197-c and 197-d of NYC Charter.

**NOTIFICATION REQUIREMENTS**

**Subject concession will be awarded by CSB or CSP.**  YES  NO

If YES, check the applicable box(es) below:

The subject concession is a Significant Concession and the Agency has/will complete its consultations with each affected CB/BP regarding the scope of the solicitation at least 30 days prior to its issuance.

The subject concession is a Significant Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.

The subject concession has been determined not to be a Major Concession and the Agency has sent/will send written notification of such determination to each affected CB/BP at least 40 days prior to issuance of the solicitation.

The subject concession has been determined not to be a Major Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.

If NO, check the applicable box below:

The Agency certifies that each affected CB/BP has received/will receive written notice at least 40 days in 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

Andrew Schuyate

Title

Deputy Commissioner

Signature

[Handwritten Signature]

Date 2/27/18

**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

[Handwritten Signature]

Date 3/5/18

City Chief Procurement Officer

# CONCESSION AGREEMENT PRE-SOLICITATION REVIEW MEMORANDUM

## A. DETERMINATION TO UTILIZE OTHER THAN COMPETITIVE SEALED BIDS N/A

*Instructions: Attach copy of draft RFP or other solicitation document, and check all applicable box(es) below.*

**The Agency has determined that it is not practicable or advantageous to use Competitive Sealed Bids because:**

- Specifications cannot be made sufficiently definite and certain to permit selection based on revenue to the City alone.
- Judgment is required in evaluating competing proposals, and it is in the best interest of the City to require a balancing of revenue to the City, quality and other factors.
- The agency will be pursuing a negotiated concession for the reasons listed in section (B)(3)(b)
- Other (Describe)

NYC & Company Inc. on behalf of New York City Department of Small Business Services (SBS), intends to seek Franchise and Concession Review Committee approval to utilize a different procedure to negotiate a non-exclusive, sole source license agreement with Souvenir Avanti Inc. 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) below.

## 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 agreement with Souvenir Avanti Inc.

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

Souvenir Avanti Inc. is recognized for their craftsmanship through their high end, unique souvenir items consisting of iconic landmarks and places. Souvenir Avanti Inc. has a distinct metal manufacturing facility offering a diverse collection of high end and economical designs and are able to create new styles daily or upon request. Souvenir Avanti Inc.'s ability to create a successful line of high end keepsakes for the 9/11 Memorial Museum added great depth to the City's licensing program. For these reasons, it is in the City's best interest to negotiate a sole source agreement with Souvenir Avanti Inc. This proposed non-exclusive license agreement will not bar opportunities for other type of souvenir manufacturers.

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

NYC & Company Inc./SBS is requesting 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 agreement with Souvenir Avanti Inc. for the non-exclusive use of City-owned trademarks on souvenirs. Souvenir Avanti Inc. holds a non-concession agreement for the purpose of testing the product interest to its distribution channels and customers unique to Souvenir Avanti Inc. At the time of the non-concession agreement with Souvenir Avanti Inc. was executed the parties anticipated that the revenue would not exceed administrative costs which are estimated to be \$8,500, however the products released by Souvenir Avanti Inc. were such a success that, the royalties for these items exceeded \$7,263 in the first three quarters of the contractual term. With the current royalties and forward looking projections, the licensee will exceed \$8,500 in royalties under their current agreement. It is impossible to determine during negotiation of the non-concession agreement that the pilot program would have been so successful and based on the information available at the time there was no basis to justify bringing the matter before the FCRC for a concession agreement. Given that interest in the products has been successful and we now believe it is in the City's best interest to move to a concession agreement and as part of the forward looking concession, NYC & Company Inc./SBS seeks approval of the FCRC to negotiate a concession agreement with Souvenir Avanti Inc. We intend to bring this matter before

the FCRC on March 14th, 2018 ("Step 1"). Once negotiated and if determined by NYC & Company Inc./SBS to be a significant concession, NYC & Company Inc./SBS 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 NYC & Company Inc./SBS determines the concession to be non-significant, NYC & Company Inc./SBS will present the fully negotiated Agreement directly (without 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 each affected CB/BP that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances. *[Explain]*  **N/A**

# Memo

**To:** NYC Borough Presidents  
NYC Community Board Presidents

**From:** Courtney Kaadi *CK*  
NYC & Company Inc.

**CC:** Tia Pierce  
Department of Small Business Services

Stephanie Ruiz  
Mayor's Office of Contract Services

Bryan Grimaldi  
NYC & Company Inc.

**Date:** February 2<sup>nd</sup>, 2018

**Re:** Notice of Intent to Seek FCRC approval to utilize a different procedure to negotiate a Sole Source License Agreement with Souvenir Avanti Inc. for the non-exclusive use of city-owned trademarks on merchandise

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Dear NYC Borough Presidents and NYC Community Board Presidents:

Pursuant to §1-16 of the Concession Rules of the City of New York, this is to notify the Borough Presidents and Community Boards that NYC & Company Inc. on behalf of the NYC Department of Small Business Services, intends to seek Franchise and Concession Review Committee approval to utilize a different procedure to negotiate a sole source license agreement with Souvenir Avanti Inc. for the non-exclusive use of city-owned trademarks on merchandise. If you have any questions, please contact me by e-mail at [ckaadi@nycgo.com](mailto:ckaadi@nycgo.com).

Best,



Courtney Kaadi