

**SOLICITATION# M71 (70)-SB**

## **REQUEST FOR PROPOSALS**

**FOR THE CONSTRUCTION AND OPERATION OF  
A HIGH QUALITY OUTDOOR CAFÉ AND RESTROOMS AT  
HUDSON RIVER AT WEST 70<sup>TH</sup> STREET  
RIVERSIDE PARK SOUTH  
MANHATTAN**



**ISSUE DATE:**

**NOVEMBER 22, 2004**

**MICHAEL R. BLOOMBERG  
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JOANNE G. IMOHIOSEN  
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**MAYOR OF THE CITY OF NEW YORK  
COMMISSIONER OF PARKS & RECREATION  
ASSISTANT COMMISSIONER FOR REVENUE  
BOROUGH COMMISSIONER FOR MANHATTAN PARKS**

## **REQUEST FOR PROPOSALS (RFP)**

### **FOR THE CONSTRUCTION AND OPERATION OF A HIGH QUALITY OUTDOOR CAFÉ AND RESTROOMS IN RIVERSIDE PARK SOUTH, MANHATTAN**

City of New York Parks & Recreation requests proposals for the construction, operation and management of a high quality outdoor café and related restrooms at approximately West 70<sup>th</sup> Street, east of Pier I, Riverside Park South, Manhattan. NYC Parks & Recreation envisions a unique café that would serve park users and neighborhood residents. The café will offer food and drinks for consumption at tables, in the park, or on the pier. Concessionaire may also operate two (2) satellite specialty carts of a design consistent with the kiosk within. The period of operation will be year round, weather permitting. Parks is seeking proposers with a solid background in the restaurant or food service business to design, construct, operate, maintain and manage the facility. The food and service offered must be of the highest quality.

Parks is seeking a concessionaire for a fifteen (15) year term. No longer term will be considered. This concession will be operated pursuant to a license issued by Parks; no leasehold or other proprietary right is offered.

#### **PROJECT MANAGERS**

The City of New York Parks and Recreation Project Manager for this is Gabrielle Ohayon. All questions with regard to this Request for Proposals ("RFP") or any other inquiries related to this project should be directed to her. She may be reached at the Arsenal in Central Park at (212) 360-1397. You may also fax your questions to her at (212) 360-3434 or e-mail her at [gabrielle.ohayon@parks.nyc.gov](mailto:gabrielle.ohayon@parks.nyc.gov)



**If you have a hearing impairment, please call the following toll-free number and leave a message on the Telecommunication Device for the Deaf (TDD). The TDD number is 1-800-281-5722.**

#### **REQUEST FOR PROPOSALS TIMETABLE**

The following schedule has been established for the Request for Proposals for the construction and operation of a high quality outdoor café and restrooms in Riverside Park South, Manhattan.

**RFP Release Date: November 22, 2004**

**Site Tour: December 13, 2004 @ 11:00 AM**

**The meeting will take place at the entrance to Riverside Park South at West 70<sup>th</sup> Street.**

**Proposals Due: January 28, 2005 @ 3:00 PM**

***PLEASE NOTE: THIS SCHEDULE IS SUBJECT TO CHANGE AS CIRCUMSTANCES WARRANT.***



*If you have a physical disability and cannot deliver your proposal to the Arsenal, please contact the Project Managers at least 48 hours prior to the deadline and special arrangements will be made for you.*

### **PROJECT BACKGROUND: RIVERSIDE PARK SOUTH**

Riverside Park is one of only eight officially designated scenic landmarks in the City of New York. Rugged bluffs and rocky outcroppings created through prehistoric glacial deposits once descended directly to the Hudson River shore. They were densely wooded until 1846, when the Hudson River Railroad cut through the forested hillside. Acknowledging the city's expansion northward, Central Park Commissioner William R. Martin proposed in 1865 that a scenic drive and park be built on Manhattan's Upper West Side. The land between the heights and the railroad was bought by the City over the next two years.

Frederick Law Olmsted (1822–1903), renowned co-designer of Central and Prospect Parks, was commissioned in 1873 and submitted a plan two years later combining park and parkway into a synthesized landscape which adhered to the general topographical contours of hill and dale. Over the next twenty-five years, park designs were developed under a succession of landscape architects. The result, stretching from West 72nd to 125th Streets, was a park with grand, tree-lined boulevards, combined with an English-style rustic park with informally arranged trees and shrubs, contrasting natural enclosures and open vistas. In 2000, seven acres of land stretching from 68th to 72nd Streets was added to Riverside Park, called Riverside Park South. This section of the park, part of a proposed 25-acre, \$16 million project yet to be completed, was made possible by the construction of new portions of the West Side Highway, now known as the Joe DiMaggio Highway, and Trump/New World (the site's developers). Riverside Park South includes a soccer field, three basketball courts, and a public pier extending 750 feet into the Hudson River. In the spring of 2005, the opening of Riverside Park South phase III will extend the waterfront portion of the park to 61<sup>st</sup> Street.

### **OPERATIONS AND MAINTENANCE**

The proposed concession site is at the western edge of the elevated viaduct, east of the pier at West 70<sup>th</sup> Street. In addition, a 12-foot corridor between the structure and the temporary haul road face must be adhered to. The comfort station will be located in the vicinity of the café. Parks is seeking proposers with a solid background in the restaurant business to design, construct, maintain, and operate a café of the highest caliber. The café should make a significant improvement to the ambience of the park and the surrounding community while providing a convenient service to the public.

### **MENU**

The concessionaire should submit a menu with the proposal. Items and prices will be subject to Parks' approval. The food and service provided must be of the highest quality, yet affordable. Proposers should include some low-cost food items on their menus.

Parks envision a facility that will serve primarily as a take-away café. Dinner and dessert service may be provided in the upper terrace area as long as take-away service is an option for the lower terrace at all times.

The menu for the walk up/take-away service should include diverse and eclectic items that can be eaten without utensils and easily carried off premises. Parks will look favorably upon proposers who are able to

offer daylong service. We also encourage fresh ingredients and seasonal fare. If the operator chooses to offer evening dinner and dessert service, then this menu may include additional items such as fresh salads, grilled meats and desserts.

Suggested food items include the following:

- Morning coffee
- Light breakfast, e.g., fresh bagels, muffins
- Sandwiches/paninis
- Ice cream sundaes and hand dipped cones
- Fresh lemonade, iced tea
- Salads- fresh, made to order
- French fries
- Fresh baked goods
- Seasonal Fare

Alcoholic Beverages: Alcoholic beverages may be served, provided that the concessionaire obtains the appropriate license from the State Liquor Authority (SLA). **Alcoholic beverages may only be served in the restaurant area and must be consumed on the premises.** All efforts will be made to keep alcohol consumption discrete. The operator must keep in mind that this is a public park and the consumption of alcohol should be encouraged only as an accompaniment to the cuisine.

Additional Non-Food Items: The concessionaire may sell fresh flowers and other non-food items that are complimentary to the food kiosk and/or park experience, subject to Parks' approval.

All food and beverage items, as well as prices, are subject to approval by NYC Parks & Recreation.

### **ON-SITE INSPECTION MEETING**

**There will be an on-site inspection meeting on December 13, 2004 at 11 A.M. We will be meeting at the proposed concession site, located at West 70<sup>th</sup> Street, Riverside Park South, Manhattan. If you are considering responding to this RFP, please make every effort to attend this meeting.**

### **CAPITAL IMPROVEMENTS & INVESTMENTS**

The café/kiosk will be located at the western edge of the elevated viaduct, east of the pier at West 70<sup>th</sup> Street. In addition, a 12-foot corridor between the structure and the temporary haul road face must be adhered to. The comfort station will be located in the vicinity of the restaurant/kiosk. Storage space for tables and chairs should be provided for by the operator.

Parks makes no guarantee that any of the existing utilities are adequate for the intended new use. The concessionaire will be responsible for any and all utility costs connected to the operation of this concession. This may include, but is not limited to, supplying and installing any necessary feeder cables, meters, wiring, gas lines, water, sewer lines, pumps, etc.

## **A. CAPITAL IMPROVEMENTS & INVESTMENTS**

NYC Parks & Recreation is seeking imaginative permanent structures and lighting designed to complement the existing park structures and landscapes. Parks is looking for a thoughtfully designed building and comfort station with creative lighting. Parks will weigh the factors of design and capital expenditures strongly in evaluating proposals.

The concessionaire will be responsible for the design, approval, construction and maintenance of the kitchen service building and comfort station. The operator will also be responsible for furnishing tables, chairs and umbrellas and/or shade structure. The concessionaire may also operate two satellite specialty carts of a design that is consistent with the kiosk. These carts may be located within the boundaries of Riverside Park South- specific locations must be approved by Parks. All designs are subject to Parks' approval. If the concessionaire intends to serve customers within the kiosk's interior, the structure must be small enough to allow for a seating area on the existing paved plaza. The design of the kiosk should be sympathetic to the Park and its surrounding areas in size, placement, style and materials selected. Proposers should note that any lighting or signage would require approvals from Parks and all other agencies having jurisdiction. The expected capital improvements include, but are not limited to the following:

### **Kitchen & Service Structure:**

The kiosk should be of contemporary design, complementing the contemporary park elements in the area, (e.g., metal and glass) with a canopied service bar for walk-up service. The structure should include areas for inventory storage. The garbage storage area must be enclosed, and will be located at an agreed upon location outside of the view of the café. All cooking exhaust must be filtered.

The concessionaire will be responsible for providing all utility connections, including but not limited to, electric, gas (or alternative), water and sanitary sewer. (There are no sewer lines in the park. Concessionaire may utilize a holding tank or invest in a sewer line). The concessionaire will also purchase and maintain all kitchen equipment, including fire suppression and detection systems, as well as lighting. Installation of equipment and materials must be done by licensed and insured professionals.

### **Public & Employee Restroom:**

The restrooms should be of contemporary design, complementing the contemporary park elements in the area, (e.g., metal and glass). The men's portion will contain two urinals and one stall, while the women's portion will contain two stalls. The men's portion will contain one sink, and the women's portion will contain two sinks. Since no sewer is currently available, the concessionaire may provide a holding tank and clean out service. The holding tank will be located east of the haul road adjacent to other utilities. The concessionaire will be responsible for cleaning the restrooms on a regularly scheduled basis and for keeping the facility stocked with soap, paper towels and toilet paper. Restrooms are required to be ADA (Americans with Disabilities Act) compliant.

The operator is responsible for keeping the comfort station open and clean at all times throughout the period that the café is in operation, regardless of weather. Parks may choose to operate the comfort station when the café is not in operation.

### **Café Terrace**

The terrace area will contain approximately 25 tables. The furniture and lighting will be of contemporary design to complement the café. An artistic sunshade may be built over the café terrace table area and is

encouraged. Thorough lighting will need to be provided. The exact size, layout and design of the kiosk, tables and other design elements are subject to Parks and Art Commission approval. This area will be used for take-away service.

The lower terrace area (on the plaza) will contain approximately 20 tables. The furniture and lighting will be of contemporary design to complement the café. The exact size, layout and design are subject to Parks' approval. This area will be used for take-away service. The concessionaire is not obligated to provide the 20 tables in the lower plaza throughout the day or the season if take away service only is offered.

**Security:**

Security is the sole responsibility of the concessionaire.

**Parking:**

There are no provisions for parking or services in Riverside Park for either the concessionaire or customers. Deliveries should be made early in the morning and garbage should be removed on a nightly basis. Under no circumstances will vehicles, other than delivery vehicles, be allowed in Riverside Park.

**Cleaning:**

The concessionaire is responsible for keeping the entire plaza area and 50 feet around the kiosk and restroom areas clean and graffiti free at all times during café operation. The concessionaire will be responsible for maintaining a regular cleaning schedule, which must be submitted to Parks for its approval.

**UTILITIES:**

The concessionaire will be required to provide utilities, including but not limited to the following:

**Electric:**

Installation of an approximately 200' (100 AMP circuit) electric conduit and cable (100' paved, 100' unpaved) and all related equipment and meters to code.

**Water:**

Provide an approximately 50-foot water line to the new kiosk and install a new water meter.

**Sewage:**

Install sewage holding tank/s to code. Sewage shall be removed by a certified disposal service. Alternately, the operator may choose to invest in a sewer connection.

**Codes:**

All city, state and federal building codes and standards must be complied with. The concessionaire is responsible for obtaining all permits and approvals from the appropriate agencies.

All capital improvements and equipment applied towards the proposer's capital investment become the property of Parks upon installation, at Parks' option. The successful proposer will also be required to supply all additional equipment and materials necessary for the successful operation of the café, including but not limited to personal kitchen equipment, and tables and chairs. **Proposers should differentiate between equipment to be applied towards the minimum required capital expenditure and personal expendable items in their proposals.** Personal equipment not applied toward the required capital expenditure will

remain the property of the concessionaire. These personal expendable items should be listed separately in your proposal under the category of additional investment.

*\* **Note:** All necessary permits and approvals for capital work and design must be obtained from the Department of Buildings. Additionally, all designs and works to be performed on the structure should be prepared by licensed architects or engineers and will require prior approval from Parks & Recreation, the New York City Art Commission, the New York City Department of Buildings and any other agencies having jurisdiction.*

Please note that Parks will weigh capital investment and design heavily in its evaluation process. Therefore, please describe all intended capital work and provide cost estimates for this capital work in your proposal submission. In addition, please include a detailed capital/design timetable which clearly outlines proposed improvements and the anticipated commencement and completion dates for these improvements (i.e., the expected duration of each improvement). **In putting together your capital submission, please be aware that in the successful proposer's license agreement, the cost estimates provided in its proposal will become a minimum required capital expenditure, and the time frame proposed will become a mandatory capital schedule. In the event the successful proposer performs all capital improvements for less than the minimum required capital expenditure, any excess monies will be remitted to the City as additional license fees. Therefore, please be realistic or even conservative in the investment and time frame you offer.**

**To make an appointment with Parks' Blueprint/Document Services Center, please contact Steve Rizick, Director of Document Services, at (718) 760-6798.**

### **THE TERM AND REQUIREMENTS**

The term for this concession will be fifteen (15) years. No longer term will be considered. This concession will be operated pursuant to a license issued by Parks; no leasehold or other proprietary right is offered.

### **REQUIREMENTS DURING THE TERM OF THE LICENSE**

1. Personnel operating this concession will be required to wear attire that has been approved by Parks.
2. The concessionaire must submit monthly statements of gross revenue by the tenth day of each month for the prior month's operations.
3. The concessionaire must cooperate with Parks for special events or other eventualities, such as work related to a capital project.
4. The concessionaire will be responsible for obtaining all necessary permits and licenses for the lawful operation of this concession.
5. The concessionaire will be required to install all utilities, service lines, sewage holding tanks, sewage lift pump, conduits, meters, pipes, etc. The concessionaire will be required to remove any unsuitable existing materials as required, and to make any necessary or appropriate repairs, as determined by Parks, on a timely basis and in a workmanlike manner with quality materials.

6. The concessionaire will be required to pay all utility costs.
7. The concessionaire will be obligated to supply all equipment necessary to operate the concession. All fixed equipment becomes the property of Parks upon installation, at Parks' option. Should Parks choose not to exercise this option, it will be the responsibility of the concessionaire to remove fixed equipment and return the licensed premises to Parks in a condition as good as or better than that at the commencement of the license term.
8. The concessionaire will be required to maintain the entire facility in a safe and stable condition and repair, as needed, all components and systems related to the facility.
9. The concessionaire will be required to meet all applicable Fire Department codes and to provide supplemental equipment for fire protection, such as alarms, extinguishers, hoses and hose reels.
10. The concessionaire will be responsible for providing security for the café at all times, including overnight security.
11. The successful proposer will be required to retain a professional engineer or registered architect for design and filings of proposed capital work and to oversee the entire construction or renovation of the facility. This supervising architect or engineer will be responsible for ensuring that all construction conforms to the plans approved by Parks. Proposers must submit engineer or architect's qualifications to Parks for approval.
12. The concessionaire must provide Parks with as-built drawings upon completion of the construction project.
13. The concessionaire will be required to post a construction security bond in an amount acceptable to Parks before any work begins.
14. Trees may not be removed from the licensed premises. Removal of any trees can only be done with the explicit written approval of NYC Parks & Recreation.
15. Operating schedules and all prices, including those for private events, are subject to Parks' approval.
16. The concessionaire will comply with all city, state and federal laws relating to access for people with disabilities.
17. The advertising or sale of cigarettes, cigars, or any tobacco products is strictly prohibited.
18. The use of polystyrene packaging or food containers is prohibited in the operation of this concession. Parks will retain the right during the term to require all beverages be decanted into paper cups before being served. **NOTE: The sale of beverages from glass bottles and the use of straws and Styrofoam are not permitted.**
19. The concessionaire will be required to carry liability insurance in the amount of \$1,000,000 in general liability insurance coverage with a food and beverage rider, \$1,000,000 in property damage liability insurance coverage, and replacement value in fire and casualty coverage with the City of New York, 1 Centre Street, New York, NY 10007, AND NYC Parks & Recreation named as an additional insured.



20. A security deposit of at least 25% of the highest year's guaranteed minimum license fee must be posted upon signing.
21. The concessionaire will be responsible for the payment of all taxes applicable to the operation of the concession. With the exception of the Combined State and New York City Sales Tax, no such applicable taxes, including, but not limited to the Commercial Rent Tax, may be deducted from gross receipts or license fees.
22. The concessionaire will be responsible for the removal, by private carter, of all refuse generated by the concession, as well as removal of any and all graffiti from the premises during the license term. The concessionaire will therefore be obligated to maintain a regular cleaning schedule. The concessionaire will also be responsible for complying with all local laws regarding recycling.
23. The concessionaire is responsible for finding off-site parking. No trucks or storage containers may be stationed in Riverside Park.
24. The concessionaire is expected to comply with all terms of their license agreements. Inspectors from Parks will visit the concession site unannounced to inspect your operations and determine whether or not you are complying with the terms of your permit. If inspectors find violations, you may be fined for each violation. If you do not pay such fines, they will be deducted from the security deposit held by Parks.
25. Proposers should be aware that the City is developing "marketing partnership" agreements identifying specific brands as the "designated" products of the City of New York. As this occurs, the concessionaire will be required to sell the specific products so identified if the concessionaire sells goods in that product category. If directed by the City, the concessionaire will be required to purchase the products from designated distributors, provided the said distributors provide the products at a competitive price. If the product is in the form of a service, the concessionaire will be required to use the service identified. (For example, if the City enters into a marketing partnership with a financial institution that provides credit card service, the concessionaire will be required to accept payment by means of that credit card). The concessionaire, working with the City's marketing representative, may be required to give the City's marketing representative priority in the placement and scheduling of advertising. Marketing partners will be required to pay the market rate for any such advertising. In addition, the City reserves the right to place vending machines on and around the licensed premises and to preclude licensee from selling products in those categories for which the City has entered into a "marketing partnership" with a marketing partner. Preclusion of any such product will not change the amount of payments to the City. The City's marketing partners may also be authorized to install, operate, maintain and repair vending machines within the licensed premises that compete with licensee's products. Licensees should also be aware that the City has entered into a marketing partnership agreement with the Snapple Beverage Group, Inc., pursuant to which, Snapple has been granted the exclusive right to sell iced teas, bottled water and chocolate drink in vending machines on city owned or controlled property. Licensee may be precluded from selling those products if Snapple vending machines are placed on or around the licensed premises.

## **THE REQUEST FOR PROPOSALS PROCESS/PROPOSAL PROCEDURE**

### **A. PROPOSAL SUBMISSION INSTRUCTIONS**

All proposals **must** meet the requirements listed below in the “Proposal Submission Requirements” section, and should comply with the guidelines listed in the “Proposal Submission Guidelines” section.

Proposals should be printed or typed on 8 ½” x 11” paper. There is no page limit for proposals. The proposal submission and the proposal deposit should be submitted in a sealed envelope with the following information written on the outside:

- **Your name and address**
- **Solicitation # M71 (70)-SB**
- **“Riverside South Café”**
- **Return Date: January 28, 2005 @ 3pm**

No proposals should be submitted in plastic sleeves or spiral binders. Illustrations may be included. All plans are subject to Parks’ approval. Oversized drawings may be submitted, but must be accompanied by 8½ “ x 11” sectionals or reductions to 8 ½“ x 11”. No telegraphic or facsimile proposals will be accepted.

### **B. PROPOSAL SUBMISSION REQUIREMENTS**

**Each proposal submitted must meet the following requirements. Failure to comply will result in the automatic disqualification of a submission from further consideration.**

1. All proposers **MUST** submit a proposal that includes a fee offer.
2. All proposers are required to submit as a proposal deposit a **certified check, official bank check, or cashier’s check in the amount of \$5,000.00 with the proposal payable to NYC Parks & Recreation**. The check will be retained as liquidated damages in the event the successful proposer fails to enter into an agreement with Parks. Proposal deposits will be returned to unsuccessful proposers after the contract is signed with the successful proposer.
3. All proposals should be submitted in a sealed envelope to the Assistant Commissioner for Revenue, City of New York Parks & Recreation, The Arsenal, 830 Fifth Avenue, Room 407, Central Park, New York, New York 10021, **no later than January 28, 2005 @ 3pm**. No proposals will be accepted after that time. Hand delivery to Room 407 before the deadline is recommended to ensure consideration of your proposals. (Parks **strongly suggests** that proposals be delivered by hand a day or two early.)

All proposals must be submitted in sealed envelopes. Proposals received after the time and date listed above will be returned unopened and will not be considered for award.

### **C. PROPOSAL SUBMISSION GUIDELINES**

Each proposal is expected to include the following information:

1. Proposers should state the highest sum they are prepared to pay as a license fee for each year of operation, expressed as a guaranteed annual payment versus a percentage of gross revenue, whichever is greater.
2. All proposers must submit completed copies of: a)business/personal questionnaires; b)VENDEX questionnaires for business entities; and c)VENDEX questionnaires for principal entities. All of these forms can be obtained from the Revenue Office. Please submit four (4) copies of each form.
3. All proposals should be submitted on **one side only** of 8 ½ x 11 paper. No proposals should be submitted in plastic sleeves or spiral binders. Oversized drawings may be submitted but must be accompanied by sectionals and/or reductions to 8 ½ x 11. **Please submit four (4) copies of your proposal.**
4. The proposal should include a resume or detailed description of the proposer's professional qualifications, demonstrating extensive experience in the industry, including work with City agencies, or access to individuals and/or firms with such expertise. Include the names and addresses of all corporate officers of the entity submitting the proposal.
5. Proposers should submit a detailed timetable describing all design and capital work. This timetable should clearly outline all intended improvements, the projected cost of these improvements, and the anticipated commencement and completion dates of these improvements.
6. Proposers should submit drawings or photographs illustrating the proposed kitchen and service building, restrooms, sunshade and terrace furniture. All final designs of the successful proposers must be approved by Parks and other pertinent agencies before construction can commence.
7. Proposers should submit a detailed operational plan for the facility, including but not limited to hours of operation, proposed menu, prices, plans for deliveries and rubbish removal, and a cleaning schedule. All prices, menu items, plans for deliveries and rubbish removal, cleaning schedule and hours of operation are subject to Parks' approval.
8. Proposers should include a detailed, well thought out pro-forma income and expense projection for each year of operation. This pro-forma projection should include explanations for all the assumptions used in its formulation.
9. All proposers should include a copy of their most recent income statement and balance sheet, as well as a detailed pro-forma income and expense projection for each year of operation. All proposers are urged to include a description of their assumptions, including but not limited to percentages of gross income from private events.
10. Proposers should submit an estimated number of full-time and seasonal employees respectively, the positions these employees will fill, and the percentage of these employees that they expect to hire from the community.
11. Parks & Recreation is charged with improving customer satisfaction with the services provided at facilities on parkland. Therefore, Parks would like proposers to explain in their submissions the

mechanisms they would use to measure customer satisfaction with the services offered by this concession. Such mechanisms might include customer evaluations or survey forms. Further, Parks & Recreation would like proposers to explain how they would improve the quality of services offered if the above mechanisms indicate a need to do so.

12. Proposers should also indicate whether they have had previous experience working for a city agency, or with city regulatory agencies, and the extent to which they can accommodate city procedures.

## **D. EVALUATION AND SELECTION PROCEDURES**

Proposals will be evaluated by a selection committee composed of Parks & Recreation employees, in accordance with procedures established by the Franchise and Concession Review Committee, based on the criteria listed below. The concession will be awarded to the proposer whose submission the selection committee judges best overall based on these criteria.

### **1. PROPOSAL EVALUATION CRITERIA**

In evaluating proposals, Parks & Recreation will use the following criteria:

- Proposed capital investment and designs submitted
- Planned operations, including maintenance, menu quality, variety and affordability
- Operating experience in the field, including experience as a City concessionaire, if applicable
- Fee offer
- Financial capability

### **2. EVALUATION PROCEDURES**

Parks & Recreation will only consider proposals that meet satisfactory levels of the above criteria. The City is not required to accept the proposal that includes the highest fee offer. Parks' acceptance of a proposal does not imply that every element of that proposal has been accepted.

Parks & Recreation cannot consider any proposal that does not comply with the Submission Requirements' section of this RFP. Proposals that do not meet these requirements will not be evaluated. When feasible, employees of Parks & Recreation will visit facilities operated by proposers.

## **E. OTHER GENERAL RFP REQUIREMENTS AND CONDITIONS**

NYC Parks & Recreation reserves the right to postpone or cancel this RFP or reject all proposals, if in its judgement it deems it to be in the best interest of the City of New York to do so.

Proposers are advised that Parks & Recreation has the option of selecting the proposer without conducting negotiations. Therefore, proposers should submit their best proposals initially, since negotiations may not take place.

All Requests for Proposals submission materials become the property of the City of New York and Parks & Recreation. Proposal submission material will generally be made available for inspection and copying by interested parties upon written request, except when exempted from disclosure under the New York State Freedom of Information Law.

NYC Parks & Recreation is subject to the New York State Freedom of Information Law, which governs the process for the public disclosure of certain records maintained by Parks. (*See Public Officers Law, Sections 87 and 89.*) Individuals or firms that submit proposals to Parks may request that Parks except all or part of such a proposal from public disclosure, on the grounds that the proposal contains trade secrets, proprietary information, or that the information, if disclosed, would cause substantial injury to the competitive position of the individual or firm submitting the information. Such exception may extend to information contained in the request itself, if public disclosure would defeat the purpose for which the exception is sought. The request for such an exception must be in writing and state, in detail, the specific reasons for the requested exception. It must also specify the proposal or portions thereof for which the exception is requested.

If Parks grants the request for exception from disclosure, Parks shall keep such proposal or portions thereof in secure facilities.

NYC Parks & Recreation shall not be liable for any costs incurred by proposers in the preparation of proposals or for any work performed in connection therein.

Proposers should be aware that this concession will be developed and operated pursuant to a license agreement issued by Parks. In the event this agreement is terminated, Parks will not consider proposals for reimbursement of licensee's unamortized capital improvement costs as of the date of termination.

A proposer may submit a modified proposal to replace all or any portion of a proposal submitted up until the proposal submission deadline. The Project Managers will only consider the latest version of the proposal. Late proposals and late modifications will not be considered for evaluation. Proposers may withdraw their proposals from consideration at any time before the proposal deadline. To withdraw a proposal, the proposer must provide Parks with written notification.

Technical addenda issued by NYC Parks & Recreation will be the only authorized method for communicating clarificatory information to all potential proposers. Proposers should contact the agency before submitting a proposal to verify that they have received any addenda issued. Proposers are required to acknowledge the receipt of any addenda in their proposal submissions.

The Office of the Comptroller of the City of New York is charged with the audit of concession agreements. Any person or entity that believes that there has been unfairness, favoritism or impropriety in the proposal process should inform the Comptroller's Office of Contract Administration, 1 Centre Street, Room 835, New York, New York 10007. This office may be reached at (212) 669-2323.

Adrian Benepe,  
Commissioner