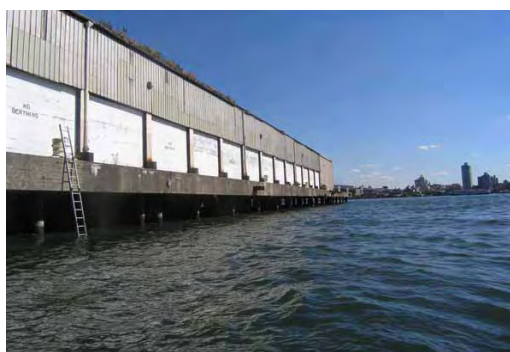


PROJECT CODE# 3375

REQUEST FOR PROPOSALS

For a Concession at Pier 42



ISSUE DATE:

June 3, 2008

**MICHAEL R. BLOOMBERG
SETH W. PINSKY
ROBERT W. WALSH**

**MAYOR OF THE CITY OF NEW YORK
PRESIDENT OF NYCEDC
COMMISSIONER OF SMALL BUSINESS SERVICES**

www.nycedc.com/RFP

REQUEST FOR PROPOSALS

The City of New York (the "City"), through the New York City Department of Small Business Services ("DSBS"), is requesting proposals (the "RFP") for a concession for a pier shed and a portion of the open space located at Pier 42, New York, New York (the "Site").

Each party submitting a proposal in response to the RFP is referred to herein as "Proposer" and Proposer, if any, that is ultimately selected for the Site through this RFP process is referred to herein as "Concessionaire".

TERM

Concessionaire will enter into a concession with the City for a one (1) year term, with two (2) one (1) year renewal options, at the City's sole discretion, pursuant to a concession agreement (the "Agreement"); no leasehold or other proprietary right is offered. The Agreement is terminable at will by the City upon twenty-five (25) days' notice. The Agreement shall be managed by the New York City Economic Development Corporation ("NYCEDC"), which shall act as the City's representative for all purposes with respect to the RFP and the Agreement.

PROJECT MANAGER

The project manager for the concession is Maria Goncalves. Please direct all RFP questions and/or inquiries to Ms. Goncalves at:

Phone: 212-312-3850
E-mail: pier42rfp@nycedc.com



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 212-504-4115.

REQUEST FOR PROPOSALS TIMETABLE

The following schedule has been established for this Request for Proposals.

RFP Release Date:	Tuesday, June 3, 2008
Meeting & Site Visit:	Monday, June 9 @ 10:00 AM
Proposals Due:	Tuesday, July 8 @ 4:00 PM



If you have a physical disability and cannot deliver your proposal to NYCEDC, please contact the Project Manager(s) at least 48 hours prior to the deadline and special arrangements will be made for you.

MEETING & SITE VISIT

There will be an on-Site question/answer session and Site visit on Monday, June 9, 2008 at 10:00 AM. We will meet at the entrance of the Site, which is located at the foot of Gouverneur Slip and South Street fronting the East River in Manhattan. If you are considering responding to this RFP, please make every attempt to attend this recommended meeting and Site tour.

Proposers may submit questions at the Pre-Proposal Meeting; otherwise they must submit questions in writing to the Project Manager either at the NYCEDC mailing address:

110 Williams Street

4th Floor

New York, NY 10038

Or via e-mail:

pier42rfp@nycedc.com

All questions from Proposers must be submitted by no later than Friday, June 13, 2008 at 4:00pm. Answers to all questions will be posted on NYCEDC's website (www.nycedc.com/RFP) on Wednesday, June 18, 2008. Proposers may request a printed copy by sending a written request to the Project Manager at the above address.

I. PROJECT BACKGROUND

A. BACKGROUND

The Site consists of approximately 166,000 square feet of combined pier shed and open space located on the Lower East Side of Manhattan, between the Williamsburg Bridge and Manhattan Bridge, at the foot of Montgomery Street. The Site extends along the East River and South Street between approximately Gouverneur Slip West and Jackson Street, Block 241, portions of Lots 18 and 22.

While the "pier" is technically a "wharf", the term "pier" has been retained as a link to the finger piers that formerly existed at the Site. The present wharf replaced the finger piers, Piers 41, 42 and 43. A wharf is a fixed platform, commonly on pilings, roughly parallel to and alongside navigable water, where ships are loaded and unloaded. They often serve as interim storage areas.

Prior Site Operations

The Site was originally designed in 1962 as a newsprint receiving terminal. Since its construction, it has been used for various purposes including receiving bananas, storing palletized coffee, and most recently, storing canned foods, with additional cold storage in a walk-in refrigerator. The Site has been vacant since 2003.

East River Esplanade Project

The East River Esplanade Project ("Esplanade Project"), encompasses two miles of waterfront between the Battery Maritime Building and the Site on the Lower East Side. The purpose of the Esplanade Project is to enhance connections, improve the function and appearance of the waterfront and provide amenities and open space as well as appropriate retail, cultural and community uses to facilitate access to and use of the waterfront by adjacent communities and neighborhoods. As directed by NYCEDC and/or the City, Concessionaire will be required to

provide the City with access across the Site for the development and operation of the Esplanade Project.

B. SITE LOCATION

The Site is located within Community Board District No. 3 and City Council District 1, in the Lower East Side section of Manhattan. This district is bounded on the north by East 14th Street, on the east by the East River, on the west by Fourth Avenue and on the south by the Brooklyn Bridge. Please see location map located in Appendix 1 for additional details.

Vehicles may access this location from the Franklin D. Roosevelt Drive ("FDR") and from the West Side Highway via South Street, the marginal street.

C. SITE SPECIFICATIONS

Existing Conditions

The Site is approximately 635 feet long (parallel to the river) and extends between 168 ft and 145 ft waterward of a concrete and granite block seawall. To the southwest of the Site is Pier 36 and to the east and north is East River Park. A steel framed storage warehouse covers the pier deck (the "Pier Shed"), except for a 16 foot apron along the East River.



Overall view of Pier 42 apron, looking south.



Pier 42 substructure, looking south.

It is anticipated that the deteriorated piles under the pier deck will be encased in concrete by Summer 2008, allowing for a live load capacity of up to 600 lbs per square foot. An area measuring approximately 120 feet by 100 feet, located at the southeast corner of the pier deck, will have a live load capacity of up to 50 lbs per square foot. The fendering system on the waterside of the Site is in need of rehabilitation. The fendering system on the waterside of the Site will not be rehabilitated by the City and/or NYCEDC. Water dependent operations are preferred, provided that a new fendering system is installed by Concessionaire.

The floor dimensions of the Pier Shed are approximately 550 feet by 160 feet. The ceiling height at the perimeter of the Pier Shed is approximately 30 feet, rising to a height of about 35 feet at its center. The sprinkler trunk line running along the Pier Shed's center line is about 10 feet

below the ceiling, thereby providing approximately 25 feet of clearance. The column spacing is approximately 36 feet.



Overall view of the Site from the open area, looking south.



Overall view of the interior of the Pier Shed.

There are 12 roll down doors measuring 9 feet by 9 feet for the loading docks on the South Street side of the Pier Shed. These roll down doors may or may not be in working order. Additionally, there are 18 sliding doors measuring 5 feet by 6 ½ feet which are in very poor condition and are unusable. Some of the sliding doors are welded shut. There is also one large working roll-down door to get into the Pier Shed from the South Street side, located close to Pier 36. There is another large roll-down door, but it has been sealed for many years. There are several garage-style doors along the water side of the Pier Shed, one of which may be functional.

Vehicle Access

Access to the Site is available by traveling either north or south on South Street and FDR Drive, a limited access north/south highway. Southbound FDR traffic may use Exit 3 (South Street), while northbound FDR traffic may use Exit 2 (Pearl Street) at the Brooklyn Bridge and then proceed north on South Street to the Site. Preference will be given to Proposers proposing operations that require limited vehicular traffic to and from the Site.

Zoning/Environmental

The land containing Pier 42 is zoned M1-4 districts, as defined by the New York City Zoning Resolution. M1-4 allows for a variety of light industrial areas.

Proposer Due Diligence

NYCEDC expects Proposers to conduct their own due diligence at the Site.

Site Information File

The site plan depicting the Site is attached as Appendix 1. A Site information file (the "File"), containing important public information regarding the Site, will be available to all prospective Proposers. Proposers are encouraged to review the File prior to submitting a response. The File may be purchased for \$100 or reviewed in NYCEDC's offices at no charge. To review or purchase the File, please contact Maria Goncalves at (212) 312-3850 or via e-mail at pier42rfp@nycedc.com.

The File will include a copy of:

- Sanborn Map
- Tax Map
- Zoning Map, including new zoning map
- Site Photos

Concession Schedule/Timetable

The earliest predicted date on which the Site shall be available for use by Concessionaire is 10/15/2008.

II. PROJECT COMPONENTS

A. OPERATIONS

Proposers should propose possible uses for the Site. Concessionaire shall, at its sole cost and expense, operate the Site in accordance with the proposed use and hours of operation schedule, as approved by NYCEDC in its sole discretion. Concessionaire shall be responsible for all costs associated with the concession, including staffing and ancillary equipment (e.g. refrigeration).

Prior to commencing operations, Concessionaire shall obtain, at its own expense, all applicable permits, licenses and approvals and provide copies to NYCEDC. Concessionaire shall comply with all local, New York State, and Federal laws, rules and regulations.

Regular Business Hours Preferred

Preference shall be given to Proposers proposing operations restricted to regular, weekday business hours of operation (approximately 8am to 6pm), as opposed to night and weekend hours. Concessionaire's hours of operation are subject to NYCEDC's prior approval.

Water Dependent Operations Preferred

Preference shall be given to proposed operations that require limited vehicular traffic to and from the Site. Water dependent operations are preferred, provided that a new fendering system is installed by Concessionaire.

B. MAINTENANCE

Concessionaire shall, at its sole cost and expense, maintain and operate the Site in a safe and orderly condition and in accordance with all applicable laws.

Concessionaire shall maintain and repair the Site (structurally and otherwise), including but not limited to, all paved areas, including all lights, markings and striping, grounds (including, without limitation, maintaining perimeter fences, grass cutting and planting and/or removing trees and shrubs where and when necessary) and all buildings, structures and fixtures located at the Site including, without limitation, all walkways, plumbing, electrical, sprinkler, heating and air conditioning systems, and other related apparatus and equipment. Concessionaire is not required to maintain the bulkhead or the piles under the pier deck at the Site. Concessionaire

shall make all repairs for damages resulting from its operations, during the term of the Agreement.

Concessionaire shall, at its sole cost and expense, clean and remove all waste, garbage, refuse, rubbish and litter from the Site and within fifty (50) feet of the Site. Concessionaire shall provide adequate waste and recycling receptacles. All waste and recycling materials shall be removed daily by a private carter. Concessionaire shall comply with all City, New York State and federal recycling regulations. Concessionaire's waste and recycling receptacles as well as rubbish removal schedules are subject to NYCEDC's approval.

Concessionaire shall keep all Site signs and structures in good condition and free of graffiti. Concessionaire is prohibited from placing advertisements or signs on the Site unless NYCEDC's prior approval is obtained. Concessionaire's use of any and all signage is subject to NYCEDC's prior approval.

Security

Concessionaire shall, at its sole cost and expense, maintain total security within the Site. Concessionaire shall provide a 24 hour-a-day security system at the Site. All security plans and systems are subject to NYCEDC's approval.

Environmental Considerations

NYCEDC views favorably the installation of energy efficient appliances. Energy Star products can be found at: http://www.energystar.gov/index.cfm?c=guidelines.guidelines_index

Inspections

To ensure NYCEDC's satisfaction that Concessionaire is in compliance with the requirements of this paragraph, Concessionaire will be required to provide NYCEDC with full and free access to the Site. Inspectors from NYCEDC and the City may visit the Site unannounced to inspect operations and ensure proper maintenance of the Site. Based on their inspections, NYCEDC may issue directives regarding deficiencies which shall be rectified in a timely manner.

The East River Esplanade Project

Concessionaire shall also assist NYCEDC and City agencies in implementing the East River Esplanade Project

B. CAPITAL IMPROVEMENTS

Concessionaire shall enter into a concession for the Site "as is", which may require certain capital improvements to support Concessionaire's proposed operations. Concessionaire may further improve the pier shed and open space as part of its fit-out for its operations at the Site and to meet any requirements of the Fire Department of New York and the New York City Department of Buildings. Concessionaire shall take the Site subject to all existing easements, covenants, restrictions, agreements, and other matters of record. NYCEDC will not consider Proposals which propose capital improvements or operations at the Premises that cause any threshold of the major concession rules promulgated by the City Planning Commission, codified in 62 RCNY Chapter 7, to be exceeded, or require the preparation of an Environmental Impact Statement (EIS).

It is anticipated that the improvements may include, but are not limited to, the following:

- Fendering System (if water dependent operations)

- Roof;
- Heating and Air Conditioning;
- Upgraded Electrical System;
- Plumbing (including drainage, etc);
- Sprinkler and fire alarm system;
- Doors;
- Resurfacing the open area; and
- Landscaping.

All costs associated with the renovation, operation and maintenance of the Site will be paid by Concessionaire. NYCEDC makes no guarantee that any of the existing utilities are adequate for the intended use and/or operation of the facility. Concessionaire shall also assist NYCEDC and City agencies in implementing the Esplanade Project. At the direction of NYCEDC and/or the City, Concessionaire shall be required to provide access across the Site for the development and operation of the Esplanade Project.

If Concessionaire performs any construction work at the Site, NYCEDC may request that Concessionaire provide a security deposit during the period of construction (the "Construction Security Deposit"), in an amount to be approved by NYCEDC, which may be in the form of a certified bank check, official bank check, or cashier's check, in order to ensure that all construction or renovation work is completed to the satisfaction of NYCEDC. Upon NYCEDC's request, the Construction Security Deposit shall be submitted before the commencement of any construction or renovation work and returned promptly to Concessionaire at the completion of such work.

NYCEDC and the City make no representations regarding the adequacy of current Site utilities. Concessionaire shall connect to and/or upgrade any existing utility service or create a new utility system, and obtain the appropriate permits and approvals for same. Concessionaire shall pay for any and all utility costs during the term of the concession, including all water and sewer charges that the DEP may assess.

NYCEDC will weigh the capital improvement investment, design and construction timetable in its evaluation process (for more information, please see the Proposal Content Guidelines). Therefore, please describe all intended capital improvements and provide cost estimates for same in the Proposal. 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).

Cost estimates provided in your proposal will become a minimum required capital expenditure under the concession agreement and the time frame proposed will become a mandatory capital schedule. In the event the selected concessionaire performs capital improvements for less than the minimum required capital expenditure, any excess monies will be remitted to the City as additional fees under the concession agreement. Therefore, please be realistic or even conservative in the investment and time frame you propose. All capital improvements and fixed equipment provided thereunder shall become the property of the City upon installation at the City's sole option. The selected concessionaire will also be required to supply all additional equipment and materials necessary for the successful operation of the concession. 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.

All capital improvements and fixed equipment provided thereunder shall become the property of the City upon installation at City's sole option. In the event the concession is terminated, the City and NYCEDC will not reimburse Concessionaire's unamortized capital improvement cost as of the date of termination.

Note: All necessary permits and approvals for capital improvement work, operation and design shall be obtained from the City Department of Buildings and all other agencies having jurisdiction. Additionally, all designs and work to be performed at the Site shall be prepared by licensed architects or engineers and will require prior approval from NYCEDC and any other agencies having jurisdiction. To the extent that work is required to be compliant with the requirements of the Fire Department of New York and the City Department of Buildings. Concessionaire will be required to provide NYCEDC with all plans and specifications upon completion of the construction documents ("As-Builts").

Concessionaire shall comply with all City, State and Federal requirements in order to provide safe and accessible facilities, including for persons with disabilities. Concessionaire is encouraged to exceed accessibility requirements whenever possible.

Site plans may be obtained from NYCEDC. Please contact Maria Goncalves, at (212) 312-3850. NYCEDC and the City make no representations as to the availability, accuracy or completeness of these documents. There is a nominal fee for reproductions.

C. REQUIREMENTS DURING THE TERM OF THE CONCESSION

1. Concessionaire will enter into a one (1) year concession with options, at the City's sole discretion, for two (2) additional one (1) year periods for a possible total of three (3) years. This concession is terminable at will by the City upon twenty-five (25) days' notice. The concession is subject to FCRC approval.
2. Concessionaire shall remit a guaranteed annual concession fee.
3. Concessionaire shall be required to indemnify the City and NYCEDC for losses associated with the Concessionaire's actions under the Agreement, pursuant to a provision to be included in the Agreement.
4. If Concessionaire performs any construction work at the Site, NYCEDC may request that Concessionaire provide a Construction Security Deposit, in an amount to be approved by NYCEDC, which may be in the form of a certified bank check, official bank check, or cashier's check, in order to ensure that all construction or renovation work is completed to the satisfaction of NYCEDC. Upon NYCEDC's request, the Construction Security Deposit shall be submitted before the commencement of any construction or renovation work and returned promptly to Concessionaire at the completion of such work.
5. In addition to the Construction Security Deposit, if any, Concessionaire shall submit a security deposit equal to two months of concession fees, which will be required for the duration of the term of the concession (the "Security Deposit"). The Security Deposit, which

may be in the form of a **certified bank check, official bank check, or cashier's check**, shall be due upon the execution of the Agreement.

6. Concessionaire shall be required to provide the insurance types and coverage amounts listed on Appendix 3.
7. Concessionaire shall cooperate with NYCEDC and the City during special events and other unanticipated circumstances.
8. Concessionaire shall supply all equipment necessary for the operation of its business. All fixed equipment shall become the property of the City upon installation, at the City's option. Should the City choose not to exercise this option, Concessionaire shall remove, at its expense, the fixed equipment and return the Site to the City in a condition as good or better than at the commencement of the concession term.
9. Concessionaire shall provide regular pest control inspections and extermination. To the extent that Concessionaire applies pesticides to any property at the Site, Concessionaire or any subcontractor hired by Concessionaire shall comply with Chapter 12 of Title 17 of the New York City Administrative Code.
10. Concessionaire shall obtain any and all necessary approvals, permits, and licenses for the construction and lawful operation of the Site, including all costs associated with environmental assessments, if any.
11. Concessionaire shall adhere to all Federal, New York State and New York City laws, rules, directives and restrictions.
12. Concessionaire shall pay for any and all utility costs associated with its operations at the Site, including, but not limited to, installing all necessary utilities, service lines, conduits, water meters, pipes, etc. Utility costs also include all water and sewer charges that the DEP assesses for water usage. Concessionaire shall remove any unsuitable utility materials as required by NYCEDC. NYCEDC and the City make no representations that the current Site utilities are adequate.
13. Concessionaire must remove all rubbish from the Site on an ongoing basis. Concessionaire must clean the Site and the area within fifty (50) feet of the Site. Concessionaire must provide waste and recycling receptacles. All waste and recycling materials must be removed daily by a private carter. Concessionaire must comply with all City, state, and federal recycling regulations. Rubbish removal schedules are subject to NYCEDC's approval.
14. Concessionaire must keep all signs and structures in good condition and free of graffiti.
15. Concessionaire is prohibited from placing advertisements on the Site unless NYCEDC's prior approval is obtained by Concessionaire. **Any and all signage is subject to NYCEDC's approval.**
16. Concessionaire shall, at its sole cost and expense, make all necessary Site repairs, during the term of the concession as well as those repairs based upon NYCEDC directives.

17. Concessionaire shall, at its sole cost and expense, maintain total security within the Site. Concessionaire shall provide a 24 hour-a-day security system at the Site. All security plans and systems are subject to the approval of NYCEDC.
18. The selling and/or advertisement of cigarettes, cigars, or any other tobacco products are strictly prohibited.
19. Smoking on-site is strictly prohibited.
20. Concessionaire shall retain a professional New York State-licensed engineer or registered architect to design and file proposed capital work and to oversee the entire construction project. This supervising architect or engineer shall ensure that all construction conforms to the plans approved by NYCEDC.
21. Concessionaire shall pay all taxes applicable to the operation of its business at the Site.
22. Inspectors from NYCEDC and the City will visit the Site unannounced to inspect operations and determine whether or not Concessionaire is in compliance with the terms of the Agreement. Violations may result in liquidated damages. Liquidated damages not paid promptly may be deducted from Concessionaire's security deposit.
23. Proposers should be aware that the City currently has and is developing "marketing partnership" agreements. These agreements may identify specific brands as the "designated" or "official" products or services of the City of New York. As this occurs, if the Concessionaire sells goods in a category that is the subject of a marketing partnership, the Concessionaire will be required to sell the specific products so identified on an exclusive basis. If directed by the City, the Concessionaire may be required to purchase the products from designated distributors or suppliers. The City will use reasonable commercial efforts to work with designated distributors or suppliers to provide the products at a competitive price. Should the designated distributor or supplier be unable to furnish Concessionaire a competitive price, then Concessionaire shall be permitted to obtain the designated product from any source. If the subject of any marketing partnership is a service, the Concessionaire will be required to use the service identified if the Concessionaire utilizes the service that is the subject of a marketing partnership. (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, but may in addition if the City's marketing partnership is non-exclusive, accept payment by means of another credit card). If a City marketing partnership for a service is exclusive, Concessionaire will be required to use that service on an exclusive basis. 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. With respect to designated or official products, the City reserves the right to place vending machines on the Licensed Premise and to require Concessionaire to sell on an exclusive basis only specified products. The City shall not place a vending machine within reasonable proximity of an area that would conflict with Concessionaire's operations. The City reserves the right to preclude Concessionaire from selling competing products (or using competing services) in those categories for which the City has entered into a "marketing partnership" agreement. Preclusion of any such product or service will not change the amount of payments to the City. Concessionaire should also be aware that the City has entered into a marketing partnership agreement with the Snapple Beverage Group, Inc. ("Snapple") 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. Accordingly, iced teas, bottled water and chocolate drink are designated products. As such, Snapple has first priority to install vending machines in and around the Site. In the event Snapple chooses not to install vending machines at the Site, then the Concessionaire may install its own vending machine(s), with prior written approval from NYCEDC, providing that Concessionaire is precluded from selling iced teas, water or chocolate drink produced by a company other than Snapple. Therefore, to the extent that the Concessionaire places any vending machines within the Site and the Concessionaire intends to vend water, iced teas and/or chocolate drink from those machines, such vending machines must sell Snapple Brand water, iced teas and/or chocolate drink exclusively (no competing product).

24. Concessionaire must comply with all City, State and Federal laws relating to access for persons with disabilities. Concessionaire shall comply with all City, state and federal requirements to provide safe and accessible facilities, including for persons with disabilities. Concessionaire is encouraged to exceed accessibility requirements whenever possible.

III. RFP PROCESS/PROPOSAL PROCEDURE

A. PROPOSAL SUBMISSION INSTRUCTIONS

The Proposal should be typed on 8 ½ X 11"paper. The City requests that all Proposals be submitted on paper with no less than 30% post-consumer material content, i.e., the minimum recovered fiber content level for reprographic papers recommended by the United States Environmental Protection Agency (for any changes to that standard please consult: [HTTP://WWW.EPA.GOV/CPG/PRODUCTS/PRINTING.HTM](http://www.epa.gov/cpg/products/printing.htm)). Proposer should state whether its response is printed on recycled paper containing the minimum percentage of recovered fiber content as requested by the City in these instructions. Failure to comply with any of the instructions set forth in this paragraph will not be considered non-responsive.

No Proposals should be submitted in plastic sleeves. Illustrations may be included. All plans are subject to NYCEDC's approval. Oversized drawings may be submitted, but must be accompanied by 8 ½" x 11" sectionals or reductions to 8 ½" x 11". No telegraphic or facsimile Proposals will be accepted.

Please submit six (6) copies (including six copies of all required attachments) and one (1) electronic version of the Proposal.

The following information should be printed on the outside of the envelope:

- Name and address
- Project Code # 3375
- Due date: **July 8, 2008 at 4:00 PM**

B. PROPOSAL SUBMISSION REQUIREMENTS

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

1. Only responses from principals of the proposing corporation or entity will be considered. Proposals submitted by individuals in a representative, agency, or consultant capacity will not be considered.
2. All Proposers must submit a Proposal that includes a guaranteed annual concession fee offer.
3. Pursuant to Local Law 34 of 2007, amending the City's Campaign Finance Law, the City is required to establish a computerized database containing the names of any "person" that has "business dealings with the city" as such terms are defined in the Local Law. In order for the City to obtain necessary information to establish the required database, vendors responding to this solicitation are required to complete the attached Doing Business Data Form and return it with this proposal, and should do so in a **separate envelope**. (If the responding vendor is a proposed joint venture, the entities that comprise the proposed joint venture must each complete a Data Form.) If the City determines that a vendor has failed to submit a Data Form or has submitted a Data Form that is not complete, the vendor will be notified by the agency and will be given four (4) calendar days from receipt of notification to cure the specified deficiencies and return a complete Data Form to the agency. Failure to do so will result in a determination that the proposal is non-responsive. Receipt of notification is defined as the day notice is e-mailed or faxed (if vendor has provided an e-mail address or fax number), or not later than five (5) days from the date of mailing or upon delivery, if delivered.
4. Proposals must be received by July 8, 2008 at 4:00 PM. Proposals and modifications received after this time will be considered late and returned to Proposer unopened and will not be considered for award
5. Proposals must be submitted, in a sealed envelope, to:

New York City Economic Development Corporation

110 Williams Street, 4th Floor

New York, NY 10038

Attention: Maryann Catalano, Vice President of Contracts

C. Proposal Content Guidelines

Each Proposal is expected to include the following:

1. **Concession Fee - 5% Escalation *Preferred***
 - A fee offer that includes an escalation of at least five percent (5%) per year, compounded annually, shall be preferred.
2. **Operating Experience:**
 - Proposers are strongly encouraged to submit resumes and/or a detailed description of Proposer's team's professional qualifications, demonstrating Proposer's experience in the operations planned for the Site (at least 5 years preferred), and any work with City agencies or access to individuals and/or firms with such expertise. Please include the names and addresses of all corporate officers of the entity submitting the proposal as well as a completed NYCEDC Background Investigation Form attached hereto as Appendix 2.
 - Proposers are strongly encouraged to include a list of at least three (3) recent relevant references with whom Proposer has previously worked and/or who can describe such matters as Proposer's financial, operational and construction capability and safety record. Please include the name of the reference entity, a description of the nature of the listed reference's experience with Proposer and the name, title, address, and telephone number of a contact person at the reference entity.
3. **Proposed Capital Investment and Design:**
 - Proposer should submit a capital investment plan and design timetable. This timetable should clearly outline proposed improvements, the projected cost of these improvements, and the anticipated commencement and completion dates for these improvements.
 - Proposer should integrate their capital improvement plan with the City's plan of development for the Esplanade Project. As directed by the City or NYCEDC, Concessionaire will be required to provide the City with access across the Site for the development and operation of the Esplanade Project.
4. **Planned Operations:**
 - Proposer should submit a detailed business plan for the Site, including but not limited to proposed use of the Site, proposed products and/or services, proposed operating hours, any plans to install energy efficient appliances that have the Energy Star seal of approval and/or water conserving appliances, any plans to use "Green Seal" or other environmentally friendly products or devices, plans for deliveries and rubbish removal and a cleaning schedule, any other required maintenance, and security.
 - Preference shall be given to Proposers proposing operations restricted to regular, weekday business hours of operation (approximately 8am to 6pm), as opposed to night and weekend hours.

- Preference shall be given to proposed operations that require limited vehicular traffic to and from the Site. Water dependent operations are preferred, provided that a new fendering system is installed by Concessionaire.
- Proposal should provide a schedule for commencing operations at the Site.
- Proposer should submit an estimated number of full-time and seasonal employees respectively, and the positions these employees will fill.

5. Financial Capability

The Proposal should demonstrate that Proposer has sufficient financial resources to provide the proposed services.

Proposer should provide financial data and pro forma statements for operation including, but not limited to, sources and uses of funds, cash flow from operation, operating expenses, a statement of assumptions on which all calculations were based, and letters of interest from lenders, upon request.

The operating pro forma should cover a three (3) year forecast of operating income, operating expenses and any debt service payments, if applicable.

The pro-forma should be submitted as a hard copy and should also be submitted via computer disk or CD in Excel format.

Proposer should provide a sample of a monthly accounting report as part of the Proposal. The sample should include a break down of estimated expenses, revenues, and the concession fee amount. This sample need not be certified.

Proposer should include financial statements prepared in accordance with generally accepted accounting principles. Financial statements should include, but are not limited to, annual income and net worth (assets and liabilities), including a breakdown of liquid and non-liquid assets. Proposer should include supporting documentation of its financial worth, including but not limited to, certified financial statements, balance sheets and income statements and three (3) years of past tax returns (corporate or personal).

Proposer should complete and submit a NYCEDC Background Investigation Form, a copy of which is attached as Appendix 2.

Proposer should be aware that, upon NYCEDC's request, it shall be required to submit completed original copies of two (2) VENDEX questionnaires (Vendor and Principal Questionnaires) to the Mayor's Office of Contract Services.

IV. EVALUATION AND SELECTION PROCEDURES

Proposals will be evaluated by a selection committee composed of NYCEDC employees in accordance with procedures established by the Franchise and Concession Review Committee. Selection will be based upon the criteria listed below.

A. PROPOSAL EVALUATION CRITERIA

- Proposed Concession Fee (25%) (5% annual escalation preferred)
- Experience (at least 5 years preferred) that demonstrates Proposer's business plan for the Site including any work with City agencies or access to individuals and/or firms with such expertise; (20%)
- Proposed capital improvements, including investment, design, and construction timetable; (20%)
- Proposed operations, including regular business hours, limited vehicle traffic, water dependent operations, maintenance, environmental considerations, compatibility with Esplanade Project, and quality and affordability of products and/or services offered; and (20%)
- Financial capability. (15%)

B. EVALUATION PROCEDURES

NYCEDC will only consider Proposals that meet satisfactory levels of the above criteria. NYCEDC and the City are not required to accept the highest concession fee offer Proposal. NYCEDC's acceptance of a Proposal does not imply that every element of that Proposal has been accepted.

NYCEDC will not consider Proposals which propose improvements or operations at the Premises that cause any threshold of the major concession rules promulgated by the City Planning Commission, codified in 62 RCNY Chapter 7, to be exceeded, or require the preparation of an Environmental Impact Statement (EIS).

The successful Proposer will be required to fulfill all NYCEDC contracting requirements, including, but not limited to, submission of VENDEX questionnaires and the NYCEDC Employment Questionnaire.

V. OTHER GENERAL RFP REQUIREMENTS AND CONDITIONS

In addition to those stated elsewhere, this RFP is subject to the conditions, terms, and limitations stated below:

NYCEDC and/or the City reserve the right to postpone or cancel this RFP or reject all Proposals, if in their respective judgments, it is deemed to be in the best interest of the City.

Proposers are advised that NYCEDC has the option of selecting Concessionaire without conducting discussions or negotiations. Therefore, Proposer should submit its best Proposal initially, since discussions or negotiations may not take place.

All RFP submission materials become the property of the City and NYCEDC. 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 ("FOIL").

NYCEDC and the City are subject to FOIL, which governs the process for the public disclosure of certain records maintained by NYCEDC and the City. (See Public Officers Law, Sections 87

and 89.) Individuals or firms that submit Proposals to NYCEDC and the City may request that NYCEDC and the City except all or part of the 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 NYCEDC or the City grants the request for exception from disclosure, NYCEDC or the City shall keep the Proposal or portions thereof in secure facilities, except as required by law.

The City and NYCEDC shall not be liable for any costs incurred by Proposers in the preparation of Proposals or for any work performed in connection therewith.

The information set forth in this RFP concerning the Site and its condition, development, legal requirements, and other matters is believed to be accurate, but is not so warranted. The City and NYCEDC, their officers, agents, and employees, assume no responsibility for errors or omissions, make no representations whatsoever as to the physical condition of the Site, its status of title thereto, its suitability for any specific use, the absence of hazardous waste and toxic materials, or any other matter. All measurements are approximate. Proposers should evaluate the physical condition of and all arrangements affecting the Site. Proposers are advised to verify independently the accuracy of all information and to make their own judgments of the risks involved in the developing or operating of the Site as contemplated in the RFP.

The concession will be developed and operated pursuant to the Agreement issued by DSBS. In the event that the Agreement is terminated, NYCEDC and the City will not reimburse Concessionaire for any costs incurred pursuant to the Agreement 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. NYCEDC will only consider the latest version of the Proposal. Late Proposals and late modifications will not be considered for evaluation. Proposer may withdraw its Proposal from consideration at any time before the Proposal deadline. To withdraw a Proposal, Proposer must provide NYCEDC with written notification.

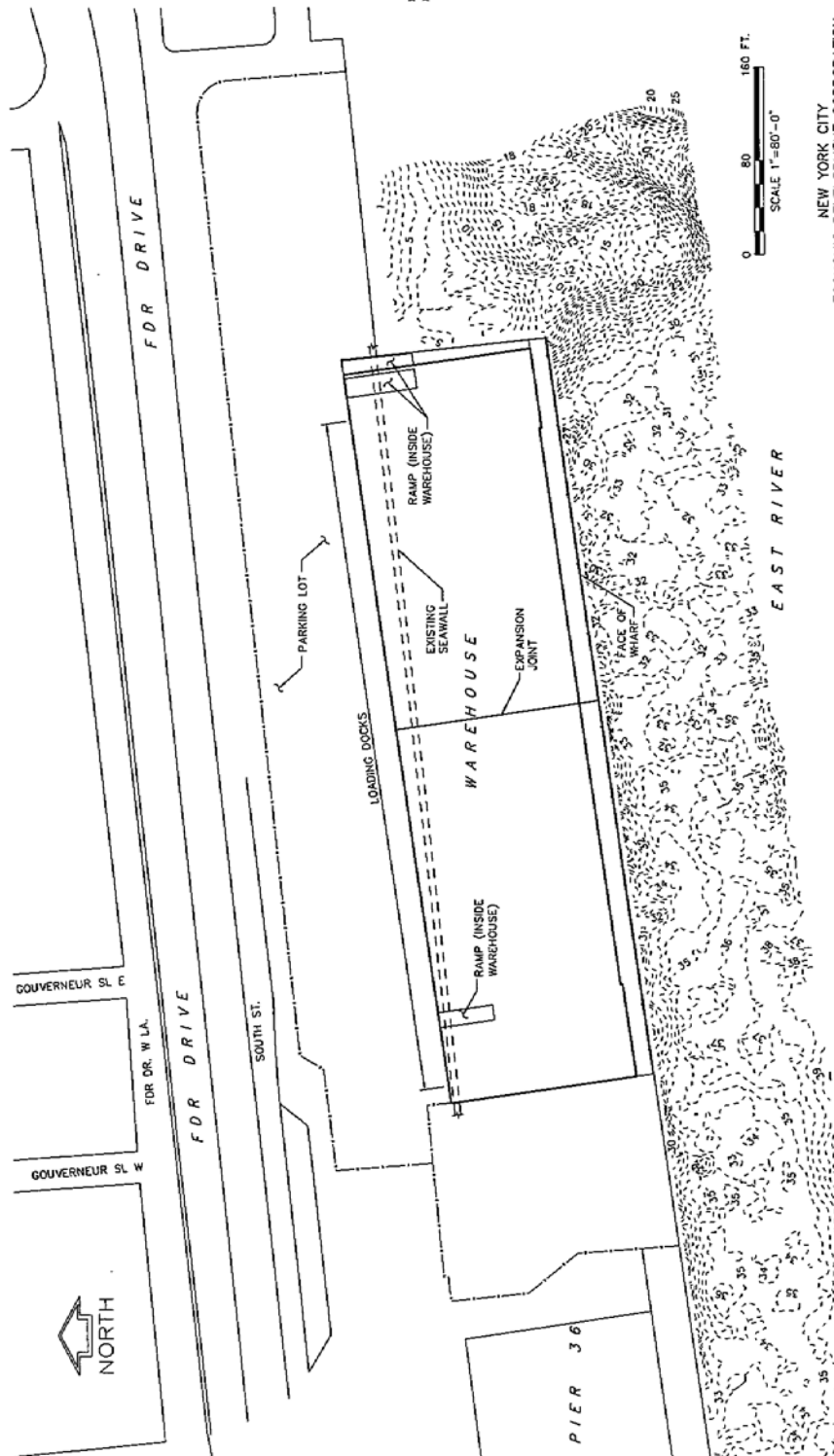
Addenda issued by NYCEDC will be the only authorized method for communicating and clarifying information to all potential Proposers. Proposers should contact NYCEDC before submitting a Proposal to verify that they have received any addenda issued. Proposers shall acknowledge the receipt of any addenda in their Proposal submissions.

Proposers are advised that concession award is subject to completion of VENDEX questionnaires and review of that information by the Department of Investigation. Proposers are also advised that the concession award is subject to applicable provisions of Federal, State, and Local laws and executive orders requiring affirmative action and Equal Employment Opportunity.

Proposers have the right to appeal a determination of non-responsiveness and/or non-responsibility and have the right to protest a solicitation and award as specified in Chapter 1 of Title 12 of the Rules of the City of New York.

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 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.

Appendix I



NEW YORK CITY
ECONOMIC DEVELOPMENT CORPORATION
PIER 42, MANHATTAN, NY

Site Plan

NOTES

1. PLAN INFORMATION OBTAINED FROM DRAWING NO. 98-3-52, TITLED "WAREHOUSE", DATED JUNE 15, 1982.
2. HYDRO SURVEY CONDUCTED BY "HYDROGRAPHIC SURVEYING", INC., 1000 AVENUE OF THE STARS, SUITE 1000, FORT MYERS, FLORIDA 33907. THIS SURVEY WAS CONDUCTED AT THE TIME OF THE SURVEY.

Appendix 1: SITE MAP



APPENDIX 2: NYCEDC BACKGROUND INVESTIGATION FORM



Internal Background Investigation Questionnaire

THIS FORM IS FOR:

**Contracts under \$100,000,
Land Sales, Leases, Licenses, Permits,
NYCIDA Projects and any Discretionary Reviews**

New York City Economic Development Corporation • New York City Industrial Development Agency • Apple Industrial Development Corp.
110 William Street, New York, NY 10038

INSTRUCTIONS FOR COMPLETING NYCEDC INTERNAL BACKGROUND INVESTIGATION QUESTIONNAIRE

1. Please submit, with this Questionnaire, the organizational documents for the submitting business entity.
2. For purposes of completing this Questionnaire, the following defined terms shall have the meanings given to them below (unless provided otherwise with respect to specific questions in the Questionnaire):
 - “Affiliate” – A Person is “affiliated with” or an “affiliate” of another Person if the Person controls, is controlled by or is under common control with that other Person.
 - “Applicant” – The submitting business entity.
 - “Control” – A Person controls another Person if the Person (i) owns ten percent (10%) or more of the voting interest or has a ten percent (10%) or greater ownership interest in that other Person or (ii) directs or has the right to direct the management or operations of that other Person or (iii) is a member of that other Person’s Board of Directors*.
 - “Executive Officer” – Any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Applicant, by whatever titles known, and all other executive officers of Applicant.
 - “Family Member” – With respect to a particular Person, includes spouse, children, grandchildren, parents, parents-in-law, brothers, sisters, brothers-in-law, sisters-in-law, and all family members living in the same household as such Person (except if such individuals are minors).
 - “Person” – Any individual, corporation, partnership, joint venture, sole proprietorship, limited liability company, trust or other entity.
 - “Principal” – each of the following Persons is a Principal of the Applicant and must be identified in Section B, Part I on page 2 of the Questionnaire.
 - Executive Officers
 - Persons that “Control” the Applicant
 - For Limited Liability Companies, ALL members
 - For Partnerships, ALL general partners and ALL partners performing on the contract or able to bind the Partnership

*For a not-for-profit corporation, ONLY the Chairperson of the Board of Directors and any director who is also an employee of Applicant needs to be considered for purposes of determining “Control” under this clause (iii).

SECTION A

The following questionnaire is to be completed by Persons desiring to do business with the New York City Economic Development Corporation or the New York City Industrial Development Agency or Apple Industrial Development Corp.

This form may be duplicated for additional space. PLEASE COMPLETE THIS QUESTIONNAIRE CAREFULLY AND COMPLETELY.

Refer to attached instruction sheet for specific instructions and definitions of terms required to complete this Questionnaire.

BUSINESS NAME: _____ EIN/SSN: _____

BUSINESS ADDRESS: _____ City _____ State _____ Zip Code _____

BUSINESS TELEPHONE: _____ TYPE OF ENTITY: _____

BUSINESS FAX: _____ BUSINESS E-MAIL: _____

SECTION B

I. PRINCIPALS OF APPLICANT

PRINCIPAL NAME	TITLE	HOME ADDRESS	PERCENTAGE OF VOTING INTEREST	PERCENTAGE OF OWNERSHIP	DATE OF BIRTH	SOCIAL SECURITY NUMBER/EMPLOYER IDENTIFICATION NUMBER
(1)			%	%		
(2)			%	%		
(3)			%	%		
(4)			%	%		
(5)			%	%		

II. FAMILY MEMBERS OF EACH INDIVIDUAL PRINCIPAL

Note: Only the following Family Members need to be identified in this Section B, Part II:

- Spouse
- Family Members who are employed by, are officers of or have a less than 10% voting or ownership interest in the Applicant
- Family Members who are directly or indirectly providing services and/or supplies with respect to the subject project (e.g. consultants, subcontractors, suppliers or an employee thereof)

PRINCIPAL NAME	IMMEDIATE FAMILY MEMBER	RELATIONSHIP TO PRINCIPAL	HOME ADDRESS
(1)			
(2)			
(3)			
(4)			
(5)			

SECTION B (Continued)

PROVIDE A DETAILED RESPONSE TO ALL QUESTIONS CHECKED "YES" ON THE FOLLOWING PAGE

NO	YES	
☐	☐	1. Does the Applicant or any Principal have any Affiliates? If yes, please identify the Affiliates, with SSN/EIN and respective addresses, and describe the nature of the affiliation, on the following page.
☐	☐	2. In the past 7 years, has the Applicant, any Principal, or any entity affiliated with the Applicant (each of the foregoing individually, a "Subject Person" and collectively, the "Subject Persons") been adjudicated bankrupt or placed in receivership, filed bankruptcy, or is any Subject Person currently the subject of any bankruptcy or similar proceedings? If yes, please explain on the following page.
☐	☐	3. In the past 5 years, has any Subject Person been a plaintiff or defendant in any civil proceeding (including any court and federal, state and local regulatory agency proceedings) other than a domestic relations proceeding (e.g., divorce, separation, support, alimony, maintenance, adoption, custody)? If yes, please identify all adjudicated, settled and pending lawsuits on the following page.
☐	☐	4. In the past 5 years, has any Subject Person or any Family Member identified in Section B, Part II (a "Subject Family Member"):
☐	☐	• been disqualified as a bidder, or defaulted or terminated, on a permit, license, concession, franchise, lease, or other agreement with the City of New York or any governmental agency? If yes, please explain on the following page. • failed to file any required tax returns or to pay any applicable federal, state, or New York City taxes or other assessed New York City charges or fines, including but not limited to water and sewer charges and administrative fees? If yes, please explain on the following page.
☐	☐	5. In the past 10 years, has any Subject Person or any Subject Family Member used an EIN, SSN, name, trade name, or abbreviation other than the name or number provided in response to Section A or Section B, Part I or II of this Questionnaire or provided in response to question 1 above, as the case may be? If yes, please specify on the following page.
☐	☐	6. In the past 5 years, has any Subject Person, any Subject Family Member, any Affiliate of any Subject Family Member or any managerial employee of Applicant:
☐	☐	• been the subject of any criminal investigation and/or civil anti-trust investigation (by any federal, state or local prosecuting or investigative agency) and/or investigation by any governmental agency (including, but not limited to federal, state and local regulatory agencies)? If yes, please explain on the following page. • had any judgment, injunction or sanction obtained against it in any judicial or administrative action or proceeding other than a domestic relations proceeding or motor vehicle proceeding? If yes, please explain on the following page.
☐	☐	7. In the past 10 years, has any Subject Person, any Subject Family Member, any Affiliate of any Subject Family Member or any managerial employee of Applicant been convicted, after trial or by plea, of any criminal offense and/or are there any felony or misdemeanor charges pending against any of them? If yes, please explain on the following page.

**INDICATE
QUESTION #**

BELOW PROVIDE A DETAILED EXPLANATION TO ALL QUESTIONS CHECKED "YES". IF YOU NEED MORE SPACE, PHOTOCOPY THIS PAGE AND ATTACH IT TO THIS QUESTIONNAIRE.

[illegible]

Section C – IDENTIFICATION OF PROPERTY INTERESTS

1. Identify Project Property:

Block & Lot(s): _____

Street Address: _____

Borough of _____

2. The following, together with attachment(s) hereto, if any, is a complete list of properties in which any of the Subject Persons or any of the Subject Family Members have an ownership interest and which are located in the City of New York, together with a statement as to each such property of any current arrears in real estate taxes, sewer rents, sewer surcharges, water charges or assessments due and owing to the City of New York.

PROPERTY OWNED IN THE CITY OF NEW YORK

PROPERTY OWNER	BOROUGH	BLOCK/LOT	STREET ADDRESS	DATE OF PURCHASE	AMOUNT OF ARREARS	TYPE OF ARREARS

SECTION C (Continued)

PROVIDE A DETAILED RESPONSE TO ALL QUESTIONS CHECKED "YES" ON THE FOLLOWING PAGE

NO	YES	
☐	☐	3. In the past 5 years, has any Subject Person or any Subject Family Member, been a former owner of the Project Property?
☐	☐	4. Is any Subject Person or any Subject Family Member a tenant of the City of New York? If yes, please list below; Agency, Borough, Block, Lot, Account Number, Monthly Rent, and Current Balance.
☐	☐	5. Has any Subject Person or any Subject Family Member previously purchased property from the City of New York? If yes, please list below; Agency, Borough, Block, Lot, Sale Date, Parcel Number, and Closing Date.
☐	☐	6. Does any Subject Person or any Subject Family Member have a mortgage with the City of New York? If yes, please list below; Agency, Borough, Block, Lot, Account Number, Principal Amount, Monthly Installment, and Current Balance.

**INDICATE
QUESTION #**

BELOW PROVIDE A DETAILED EXPLANATION TO ALL QUESTIONS CHECKED "YES". IF YOU NEED MORE SPACE, BELOW PHOTOGRAPH THIS PAGE AND ATTACH IT TO THIS QUESTIONNAIRE.

[illegible]

CERTIFICATION

A FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE OR ANY FALSE INFORMATION WILLFULLY OR FRAUDULENTLY SUBMITTED IN CONNECTION WITH THIS QUESTIONNAIRE MAY RESULT IN RENDERING THE APPLICANT NOT RESPONSIBLE WITH RESPECT TO THE PRESENT PROJECT OR FUTURE PROJECTS INVOLVING THE NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION, THE NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY, APPLE INDUSTRIAL DEVELOPMENT CORP. AND THE CITY OF NEW YORK AND, IN ADDITION, MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

I, _____, being duly sworn, state that I have read and understand the items contained in the foregoing 8 pages of this questionnaire and _____ pages of attachments, if any, and that, having made due inquiry, I supplied full, complete, and truthful answers to each item therein to the best of my knowledge, information and belief; that I will notify the New York City Economic Development Corporation, the New York City Industrial Development Agency, or Apple Industrial Development Corp., as the case may be, in writing of any change in circumstance occurring after the submission of this Questionnaire and before (i) the execution of any contract or agreement with any of them and/or the City of New York and (ii) in the case of an agreement to purchase or enter into a ground lease for real property and/or a financing through or straight lease or retention transaction with the New York City Industrial Development Agency, the closing of the transaction; and that all information supplied by me is true to the best of my knowledge, information and belief. I understand that the New York City Economic Development Corporation, the New York City Industrial Development Agency, or Apple Industrial Development Corp., as the case may be, will rely on the information supplied by me in this Questionnaire as an inducement to enter into a contract or agreement and to close a transaction with the Applicant.

Sworn to me

This _____ Day of _____ 200 _____

Name of Applicant

Notary Public

By: _____
Signature of Authorized Person

Print Name and Title of Authorized Person

Date

APPENDIX 3: INSURANCE

During the term of the Agreement, Concessionaire shall provide or cause its contractors to provide, as applicable to the Concessionaire's operations at the Site, evidence of the following insurance to the City and NYCEDC:

- (a) Commercial general liability insurance, written on ISO Form CG 00 01 or its equivalent, for bodily injury, death, and for property damage with a limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, with no exclusion for waterfront activities. In addition, the aforesaid insurance shall include a contractual liability endorsement to insure Concessionaire's obligations under the Agreement, and shall conform to independent contractors coverage. The policy must include a "per location" or "per project" General Aggregate limit endorsement.
- (b) Comprehensive Automobile Liability Insurance for all vehicles that are used in connection with the Agreement, whether owned or not owned, for bodily injury, death and property damage with a combined single limit of one million dollars (\$1,000,000) per occurrence.
- (c) Worker's compensation insurance in statutory amounts and disability and employer's liability insurance in the amount of \$500,000.
- (d) Umbrella/Excess Liability Coverage in the amount of \$5,000,000 per occurrence and in the aggregate, specifically listing Commercial General Liability, Comprehensive Automobile Liability and Workers' Compensation/Disability/Employer's Liability as primary coverages, to protect the City, DSBS, NYCEDC, Apple Industrial Development Corp. ("Apple"), Concessionaire and its subcontractors, and any other entity required by the City or NYCEDC from any and all claims in excess of the underlying policy limits for such primary coverages. The certificate of insurance must indicate that the insurance afforded by this Section (d) is on a "Per Occurrence" basis (the Umbrella policy will not include a per project aggregate).
- (e) Jones Act Insurance and U.S. Harbor Workers' and Long Shoremens' Compensation Act Insurance if Concessionaire or any of its subcontractors utilizes floating equipment, barges or floats, or performs marine-related construction in connection with the Agreement.
- (f) Marine Protection and Indemnity insurance of \$25,000,000 per occurrence, incorporating U.K. Rules or the equivalent if the Concessionaire or any of its subcontractors utilizes floating equipment, barges or floats, or performs marine-related construction, covering any and all claims for personal injury, death and property damage arising out of or in connection with the Agreement.
- (g) Pollution Liability Insurance policy, on an occurrence basis, providing coverage for bodily injury liability, property damage or environmental damage caused by pollution conditions with a limit of liability of not less than Ten Million Dollars (\$10,000,000.00) per occurrence and in the aggregate. The policy shall include coverage for environmental clean-up on land, in air and on water. The policy shall include coverage for completed operations for two (2) years after the completion of the performance of the concession, gradual and sudden and accidental pollution coverage, with a time element of no less than seven (7) days' notice and thirty (30) days' reporting. The policy shall not contain a sunset provision, or any other provision, which would prohibit the reporting of a claim and the subsequent defense and indemnity that would normally be provided by the policy. The policy shall provide transportation coverage for the hauling of hazardous materials from the Pier to the final disposition location, if applicable.

- (h) Professional Liability Insurance to the extent applicable to the obligations performed pursuant to the Agreement by Concessionaire or its subcontractors for a period from the Commencement Date until three (3) years after the completion of the term of the Agreement.
- (i) All policies of insurance, required by this Section shall contain a written waiver of the right of subrogation with respect to all of the named insureds and additional insureds, including the City, DSBS, NYCEDC, Apple, and any other entity required by the City or NYCEDC. Should other or additional types of insurance or clauses thereafter become available, Concessionaire agrees to furnish such new policies to the City or NYCEDC. Concessionaire further agrees to execute and deliver any additional instruments and to do or cause to be done all acts and things that may be requested by the City to insure the City and NYCEDC properly and fully against all damage and loss as herein provided for and to effectuate and carry out the intents and purposes of the Agreement.
- (j) Policies providing for applicable insurance shall be issued only by insurance companies that are licensed or authorized to do business in the State of New York and that have a rating in the latest edition of "Bests Key Rating Guide" of "A:VII" or better, or another comparable rating reasonably acceptable to the City and NYCEDC. Certificates of Insurance evidencing the issuance of all insurance required by this Section, and guaranteeing at least thirty (30) days' prior notice to the City and NYCEDC of cancellation or non-renewal, shall be delivered to the City and NYCEDC prior to execution of the Agreement, or, in the case of new or renewal policies replacing any policies expiring during the Period, no later than thirty (30) days before the expiration dates of such policies. At the City's or NYCEDC's request, Concessionaire shall submit the entire original policy.
- (k) Each policy of insurance required to be carried pursuant to the provisions of this Exhibit C, except worker's compensation/employer's liability, shall contain a provision that no act or omission of Concessionaire shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained by the City, or NYCEDC, or Apple.
- (l) All policies shall be primary protection and neither the City, NYCEDC nor Apple will be called upon to contribute to a loss that would otherwise be paid by Concessionaire's insurer.
- (m) All policies of insurance shall name the City, NYCEDC, Apple, and any other entity required by the City or NYCEDC as additional insureds, except for workers' compensation / employer's liability and Professional Liability. All certificates of insurance shall state that the City, NYCEDC, Apple, and any other entity required by the City or NYCEDC are additional insureds, except for workers' compensation / employer's liability and Professional Liability.

APPENDIX 4: DOING BUSINESS DATA FORM

Print Form



The City of New York
Mayor's Office of Contract Services
Doing Business Accountability Project

Agency: _____

PIN/ Contract #: _____

Doing Business Data Form - Contract Recipients

A Doing Business Data Form must be completed by all vendors prior to receiving an award (see Q&A sheet for more information). Please type or print in black ink, sign the last page, and return the complete Data Form to the contracting agency. **Submission of a complete and accurate form is required for any vendor to receive an award.**

This Data Form requires information to be provided on your principal officers, owners and senior managers. The name, employer, and title of each person identified on the Data Form will be included in a public database of people who do business with the City of New York; no other information reported on this form will be disclosed to the public. This Data Form is separate from the City's VENDEX requirements.

General Instructions for Sections 2, 3, and 4:

Title: The actual office title held by the officer, owner, or manager.

Employer (if not vendor): If the individual is not employed by the vendor, list his/her employer's name.

Certification:

Fill out the certification box on the last page completely, and return the completed Data Form to the contracting agency. If you have questions, please contact the Doing Business Accountability Project at 212-788-8104 or DoingBusiness@cityhall.nyc.gov. Thank you for your cooperation.

NOTE: Under the Federal Privacy Act the furnishing of Social Security Numbers is voluntary. Failure to provide an SSN will not result in any vendor's disqualification. SSNs will not be disclosed to the public. SSNs will be used to: identify a vendor's officers, owners and managers; assist the City in enforcement of Local Law 34 by ensuring that it is applied only to those individuals intended to be covered; and provide the City a means of identifying individuals whose names are not required to be listed in the *Doing Business Database*.

Section 1: Vendor Information

Vendor Name: _____

Vendor EIN: _____

Vendor Filing Status (select one):

- ☐ New Vendor/Full Data Form. *Fill out the entire form.*
- ☐ Change from previous Data Form dated _____. *Fill out only those sections that have changed, and indicate the name of the person(s) who no longer hold positions with the vendor.*
- ☐ No Change from previous Data Form dated _____. *Skip to the bottom of the last page.*

Vendor Type: ☐ Corporation (any type) ☐ Partnership (any type) ☐ Sole Proprietor
☐ Other (specify): _____

Vendor Address: _____

Vendor Main Phone #: _____ Vendor is a Non-Profit: ☐ Yes ☐ No

Vendor Main E-mail: _____

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.

12/26/07

Section 2: Principal Officers

Please fill in the required identification information for each officer listed below. If the vendor has no such officer or its equivalent, please check the "Position does not exist" box. If the vendor is filing a Change Data Form and the person listed is replacing someone who was previously disclosed, please check the "This person replaced" box and fill in the name of the person being replaced so his/her name can be removed from the *Doing Business Database*, and indicate the date that the change became effective.

Chief Executive Officer (CEO) or equivalent officer☐ This position does not exist

The highest ranking officer or manager, such as the CEO, President or Executive Director; or, if those positions do not exist, the Chairperson of the Board.

Name:
Office Title: SSN:
Employer (if not vendor):
Birth date: Home phone #:
Home address:
☐ This person replaced CEO: On date:

Chief Financial Officer (CFO) or equivalent officer☐ This position does not exist

The highest ranking financial officer, such as the CFO, Treasurer, Comptroller, Financial Director, or VP for Finance.

Name:
Office Title: SSN:
Employer (if not vendor):
Birth date: Home phone #:
Home address:
☐ This person replaced CFO: On date:

Chief Operating Officer (COO) or equivalent officer☐ This position does not exist

The highest ranking operational officer, such as the COO, Chief Planning Officer, Director of Operations, or VP for Operations

Name:
Office Title: SSN:
Employer (if not vendor):
Birth date: Home phone #:
Home address:
☐ This person replaced COO: On date:

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.

Section 3: Principal Owners

Please fill in the required identification information for all individuals who, through stock shares, partnership agreements or other means **own or control 10% or more of the vendor**. If no individual owners exist, please check the appropriate box below to indicate why, and skip to the next page. If the vendor is owned by other companies, those companies do not need to be listed. If an owner was identified on the previous page, fill in his/her name and write "See above." If the vendor is filing a Change Data Form, list any individuals who are no longer owners at the bottom of this page. If more space is needed, attach additional pages labeled "Additional Owners."

There are no owners listed because (select one):

- ☐ The entity is not-for-profit ☐ There are no individual owners ☐ No owner holds 10% or more shares in the entity
☐ Other (explain):

Principal Owners (who own or control 10% or more of the vendor):

Name: SSN:
Employer (if not vendor):
Office Title: Birth date:
Home address:
Home phone #:

Name: SSN:
Employer (if not vendor):
Office Title: Birth date:
Home address:
Home phone #:

Name: SSN:
Employer (if not vendor):
Office Title: Birth date:
Home address:
Home phone #:

Remove the following previously-reported Principal Owners:

Name:	Removal date:
Name:	Removal date:
Name:	Removal date:

To list more Principal Owners, please attach additional pages.

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.

Section 4: Senior Contract Managers

Please fill in the required identification information for all senior managers who oversee any of the vendor's contracts with the City. Senior managers include anyone who, either by title or duties, has substantial discretion and high-level oversight regarding the solicitation, letting, or administration of any contract with the City. You must list at least one Senior Manager or your Data Form will be considered incomplete. If a senior manager has been identified on a previous page, fill in his/her name and write "See above." If the vendor is filing a Change Data Form, list any individuals who are no longer senior managers at the bottom of this section. If more space is needed, attach additional pages labeled "Additional Senior Managers."

Senior Contract Managers:Name: SSN: Employer (if not vendor): Office Title: Birth date: Home address: Home phone #: Name: SSN: Employer (if not vendor): Office Title: Birth date: Home address: Home phone #: Name: SSN: Employer (if not vendor): Office Title: Birth date: Home address: Home phone #: **Remove the following previously-reported Senior Contract Managers:**Name: Removal date: Name: Removal date: Name: Removal date: **To list more Senior Contract Managers, please attach additional pages.**

I certify that the information submitted on these four pages and additional pages is accurate and complete. I understand that willful or fraudulent submission of a materially false statement may result in the vendor being found non-responsible and therefore denied future City awards.

Name: Signature: Date: Vendor name: Title: Work phone #:

Return the completed Data Form to the contracting agency.

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.