



May 1, 2024/ Calendar No. 14

C 240088 MCM

IN THE MATTER OF an application submitted by the New York City Department of Transportation, pursuant to Section 197-c of the New York City Charter, for a major concession to the Times Square Alliance within portions of Broadway and 7th Avenue between West 41st Street and West 53rd Street, Borough of Manhattan, Community District 5.

The Department of Transportation (DOT) filed an application on November 3, 2023 seeking approval for a major concession in an area on Broadway and 7th Avenue between West 41st Street and West 53rd Street to facilitate the management and maintenance of approximately 252,000 square feet of concession area in Times Square in Manhattan, Community District 5.

BACKGROUND

Starting in 2009, DOT began a series of pioneering pedestrian realm improvements to Times Square, previously one of the most congested areas of the city. This culminated in the capital build-out of a grand new pedestrian plaza that reshaped the experience of Times Square and served as a gold standard for streetscape redesign in New York City. The design, development and maintenance of this new public space was done in partnership with the Times Square District Management Association, Inc. d/b/a the Times Square Alliance (“the Alliance”).

The success of the Times Square Plaza resulted in increased pedestrian and business activity in the area, and further revitalized this central portion of Manhattan. Building on the plaza’s success, the Alliance entered into a concession agreement with DOT—which is still ongoing—whereby the Alliance operates and manages ten separate pedestrian plaza areas that cover approximately 38,000 square feet on Broadway and 7th Avenue between West 41st Street and West 47th Street. DOT and the Alliance are looking to expand the concession area to a wider geography, which, totaling an area greater than 42,000 square feet, necessitates the requested major concession.

The proposed major concession agreement would cover approximately 252,000 square feet of area located on Broadway and 7th Avenue between West 41st and West 53rd Streets. The proposed expanded concession area, when completed, would include the existing pedestrian plaza areas and expanded sidewalks in Times Square. This would allow the consistent operation and maintenance of the streets, sidewalks and pedestrian plazas in the project area's right of way. The Alliance would solicit and manage subconcessions within the major concession area, which are competitively procured agreements with individual vendors and sponsors, examples of which could include food kiosks, public outdoor markets, sponsorship activities and special events. The Alliance anticipates any new subconcessions would significantly enhance and activate the Times Square area and re-imagine the public realm while building community partnerships.

Land uses surrounding Times Square include a variety of commercial office and retail uses. Times Square is in the Midtown West neighborhood which contains a significant amount of tourist activity. Over 500,000 daily passengers utilize the area's five subway stations, five bus lines and the Port Authority Bus Terminal within the area.

DOT intends to enter into a concession agreement with the Alliance which is subject to review by the Franchise Concession Review Committee. The proposed expansion would allow DOT to provide the Alliance with the official means to expand its concession opportunities and fund the increased maintenance obligations of the proposed additional concession area. The initial term of the concession agreement will be five years and include three five-year renewal options, which may be exercised at the City's sole discretion.

The concession agreement that the Alliance and DOT intend to negotiate would permit the Alliance to engage in revenue-generating activities, such as entering into competitively procured subconcession agreements. All subconcessions and events must receive DOT approval and/or approval from the City's Street Activity Permit Office. The proposed major concession is intended to provide activities that would complement the existing uses of Times Square and the surrounding area. Under the concession agreement, the Alliance intends to use funding from the proposed concession activities for the provision of services within the Times Square major concession area. Any installations or fixtures to be installed in the concession area by the

Alliance or any sub-concessionaire, would be approved by DOT pursuant to their standards and best practices for pedestrian plazas.

ENVIRONMENTAL REVIEW

This application (C 240088 MCM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 22DOT002M. The lead agency is the Department of Transportation. This application was determined to be a Type II action, which requires no further environmental review.

UNIFORM LAND USE REVIEW

This application (C 240088 MCM) was certified as complete by the Department of City Planning on January 2, 2024, and was duly referred to Community Board 5 and the Manhattan Borough President, in accordance with the Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Manhattan Community Board 5 held a public hearing on this application on January 24, 2024, and on February 8, 2024, by a vote of 33 in favor, none opposing, and one abstaining, adopted a resolution recommending approval of this application.

Borough President Recommendation

This application was considered by the Manhattan Borough President who issued a recommendation approving the application on March 13, 2024.

City Planning Commission Public Hearing

On March 6, 2024, (Calendar No. 2) the City Planning Commission scheduled March 20, 2024 for a public hearing on this application (C 240088 MCM). The hearing was duly held on March

20, 2024 (Calendar No. 27). There were four speakers in favor of the application and none in opposition.

Two representatives of DOT and two representatives of the Alliance, including the President of the Alliance, described the proposed concession area and indicated their intention of entering a concession agreement together. The representatives described the DOT plaza program and addressed the proposed terms of the concession agreement. The speakers described the relationship DOT has with its concessionaires which includes strong oversight of subconcession agreements. They stated that there are currently four subconcessions operating and the Alliance expressed their ongoing dedication to ensuring that opportunities for small, women-owned, and minority-owned businesses are maximized.

The representatives provided an overview of the planned programming for the concession area and indicated their ongoing efforts to address Community Board 5's concerns about ADA accessibility, including for the visually impaired, and pedestrian safety throughout the proposed concession area.

In response to questions from the Commission, DOT and the Alliance emphasized that they plan to closely monitor the subconcession selection process and would maintain oversight of any future subconcession agreements in the major concession area in order to ensure that subconcession programming complements existing retail uses and meets community needs.

DOT noted that all permits for events are required to be reviewed by the Street Activity Permit Office. The representatives of the Alliance and NYCDOT stated that they would continue to coordinate closely with Manhattan's Community Board 5 regarding programming and subconcessions for the plaza.

There were no other speakers and the hearing was held open by the Chair of the City Planning Commission to April 3, 2024. On April 3, 2024 (Calendar No. 12), there were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application by the Department of Transportation for a major concession is appropriate.

The concession area encompasses approximately 252,000 square feet of the streets, sidewalks and pedestrian plazas in the right-of-way on Broadway and 7th Avenue between West 41st Street and West 53rd Street. The proposed action will facilitate a major concession, which will allow the Times Square Alliance to support the maintenance and management of the pedestrian plaza areas in Times Square. This will help activate and revitalize pedestrian plazas in a neighborhood that serves over 500,000 daily commuters and is one of New York City's busiest tourist destinations. The intensity of use seen in public spaces within this area is exceptional and has resulted in greater commercial activity and safety for pedestrians. The Commission believes that the expansion of the concession area through the requested major concession will build upon the successes of the original concession agreement and further activate a key portion of the Broadway corridor. The Commission notes that the proposed major concession will allow for an expanded and more dynamic public realm in the heart of Midtown Manhattan.

Regarding concerns that the future level of pedestrian use could cause unsafe crowding or conflicts between modes of mobility, the Commission notes that DOT both stated and provided statistics indicating that the prior pedestrianization of the existing Times Square Plaza resulted in decreases in incidents with pedestrians across virtually every mode of transport. Regarding a slight uptick in incidents involving cyclists, DOT noted that the implementation of the Times Square Plaza and its associated bike lanes resulted in more cyclists using and passing through the area. DOT also noted that the three most recent years of statistics reflect the years immediately following the onset of the COVID-19 pandemic, during which there were periods of increased cyclist activity in Manhattan. The Commission acknowledges that DOT and the Alliance have committed to designating both dedicated pedestrian flow zones and designated activity zones within the public plaza and major concession area, replete with wayfinding signage to ensure ease of movement through the area.

The Commission is pleased to see that DOT is committed to working closely with the Alliance to approve and permit programming and will work with the Alliance to ensure that concession and subconcession activities are consistent with the character of the neighborhood.

DOT established its Plaza Program to provide for the maintenance, operation and management of plazas under its jurisdiction. Concession agreements help provide services such as programming and landscaping, sweeping/trash removal, cleaning, maintenance, and snow removal. Since the Plaza Program's funding does not include on-going funding for the management and maintenance of these plazas, the concession agreement allows their partners certain revenue generating opportunities that may only be used to offset annual expenses. The Commission believes approval of this major concession will allow funding from the revenue-generating activities conducted in the concession area to be used by the Times Square Alliance for the maintenance, operation and management of the Times Square major concession.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the application (C 240088 MCM) submitted by the City of New York Department of Transportation, pursuant to Section 197-c of the New York City Charter, for a major concession in Times Square on Broadway and 7th Avenue between West 41st Street and West 53rd Streets in the Borough of Manhattan, Community District No. 5 is approved.

The above resolution (C 240088 MCM), duly adopted by the City Planning Commission on May 1, 2024 (Calendar No. 14), is filed with the Office of the Speaker, City Council and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

DANIEL R. GARODNICK, Esq., *Chair*,
KENNETH J. KNUCKLES, Esq., *Vice-Chairman*
GAIL BENJAMIN, ALFRED C. CERULO, III,
ANTHONY CROWELL, Esq., JOSEPH I. DOUEK,
DAVID GOLD, Esq., LEAH GOODRIDGE, Esq., RASMIA KIRMANI FRYE,
ORLANDO MARIN, JUAN CAMILO OSORIO, RAJ RAMPERSHAD, *Commissioners*



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Times Square Major Concession			
Applicant:	NYC DOT Department of Transportation	Applicant's Primary Contact:	NYC DOT Department of Transportation
Application #	240088MCM	Borough:	
CEQR Number:	22DOT002M	Validated Community Districts:	M05

Docket Description:

IN THE MATTER OF an application submitted by the New York City Department of Transportation, pursuant to Section 197-c of the New York City Charter, for a major concession to the Times Square Alliance within portions of Broadway and 7th Avenue between West 41st Street and West 53rd Street, Borough of Manhattan, Community District 5.

Please use the above application number on all correspondence concerning this application

RECOMMENDATION: Favorable			
# In Favor: 33	# Against: 0	# Abstaining: 1	Total members appointed to the board: 46
Date of Vote: 2/8/2024 12:00 AM		Vote Location: 424 5th Avenue	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 1/24/2024 6:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	450 7th Avenue, Suite 2109, NY NY 10123

CONSIDERATION: Please see CB5 Resolution attached.

Recommendation submitted by	MN CB5	Date: 2/12/2024 1:21 PM
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Manhattan Community Board Five

Nicholas Athanail, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Marisa Maack, District Manager

February 09, 2024

Daniel Garodnick
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: Application by the NYC Department of Transportation with the Times Square Alliance for a Major Concession to allow the DOT to contract with a private entity to allow for revenue generating concession and sub-concessions within an approximately 252,000 square foot area along Broadway from West 41st to 53rd Street that would fund maintenance of public space in Times Square

Dear Chair Garodnick:

At the regularly scheduled monthly Community Board Five meeting on Thursday, February 08, 2024, the following resolution passed with a vote of 33 in favor; 0 opposed; 1 abstaining:

WHEREAS, the applicant, the New York City Department of Transportation (“DOT”) jointly with the Times Square Alliance, is seeking approval of a major concession to facilitate the expansion of the existing concession area boundaries in Times Square, in Manhattan’s Community District 5; and

WHERE, “DOT” has awarded Sole Source License Agreements (agreements) to the Flatiron BID, Fashion Center BID, 34th St. Partnership and the Times Square Alliance (BIDs) among others, for the operation, management, and maintenance of the pedestrian plazas; including the right to award sponsorships, and sub-concessions intended to generate revenue for each plaza's maintenance; and

WHEREAS, there is an existing concession 1 agreement between DOT and the Times Square District Management Association, Inc. d/b/a The Times Square Alliance (“Alliance”), whereby the Alliance operates and manages ten separate pedestrian plaza areas on Broadway and 7th Avenue between West 41st and 47th Streets (“Existing Concession Area”); and

WHEREAS, the proposed action would expand the boundaries of the Existing Concession Area to a total area of 252,356 square feet (“Proposed Major Concession Area”) which includes 38,063 of the existing square feet of Existing Concession Area; and

WHEREAS, six separate pedestrian areas along Broadway between 47th and 53rd street, expanded pedestrian space on Broadway between 41st and 42nd Streets, and the sidewalks along 7th Avenue adjacent to the plazas in the existing Concession Area, all totaling 214,293 additional square feet. (“Proposed Additional Concession Area”); and

WHEREAS, the proposed action would align the concession area with the actual existing pedestrian plaza areas in Times Square providing for consistent operation and management throughout the entire Times Square pedestrian plaza area; and

WHEREAS, increase public space amenities to activate and revitalize the Proposed Additional Concession Area; and

WHEREAS, allow space for additional revenue generating opportunities which will help to fund the increased maintenance obligations at the Proposed Additional Concession Areas; and

WHEREAS, Community Board 5 understands that the purpose of this application is to ensure the maintenance of the re-designed bowtie and portions of Broadway between 47th Street and 53rd Street, but we believe it is important to outline and document how these spaces are managed and regulated more broadly; and

WHEREAS, the Times Square Alliance can ensure Community Board 5 that these spaces are used in the manner in which they were envisioned at their conception, and finally how these spaces can serve the public need for more open space and circulation space in some of the densest parts of New York City; and

WHEREAS, the Times Square Alliance has been excellent stewards of this business improvement district working in conjunction with the DOT to make these plazas an important part of the NYC's most iconic open spaces; and

WHERE, Community Board 5 would be consulted about on-going changes and plans, and a dialogue would continue as problems or unforeseen circumstances rose during implementation; and

WHEREAS, the spaces, at their core, would serve as public open space and circulation amenities, whose primary purpose was to improve the pedestrian environment in some of the most crowded streets anywhere in the world; and

WHEREAS, the City Department of Transportation (DOT) has come before Manhattan Community Board Five (CB5) to request the grant of major concession for the maintenance of the bowtie area and Broadway stretching up from 47th Street 53rd Street; and

WHEREAS, the plazas are intended for the benefit of the public and designed to promote passive recreation and a peaceful respite, the same function as city parks, public plazas, and waterfront esplanades; and

WHEREAS, the pilot design project has received an overwhelmingly favorable response and made a positive impact on the pedestrian and vehicular experience and a permanent design for Times Square has been approved by CB5 and is under construction; and

WHEREAS, DOT asserted that it would continue to seek community involvement and support at the time the project was approved and the plazas were to be re-designed as permanent; and

WHEREAS, while Community Board 5 welcomes the programming of public space for entertainment, education, and philanthropic activities, it has taken a strong and consistent stance regarding the over commercialization of our parks and public open spaces, the overcrowding of sidewalks with newsstand and other concessioners, an excess of predominantly commercial street activities; and

WHEREAS, The DOT is responsible for educating and enforcing all laws pertaining to wheeled vehicles i.e. Bikes, Mopeds, Scooters and E-bikes, and historically failed to do so, and that the Times Square Alliance is actively inviting the public to enter an area that can be dangerous when these laws are

overlooked, The Board sincerely hopes that great effort will be made to bring this area up to a legally compliant district; and

WHEREAS, at Community Board 5's request, and based on feedback, DOT and Times Square Alliance will generate a design that is respectful of disabled persons, including the visually impaired who rely of sidewalk curb for special orientation; and

WHEREAS, Community Board 5 desires a more complete listing of concessions and has the assurance from the Alliance and the DOT that these details will take top priority; therefore, be it

RESOLVED, Community Board 5 **recommends approval** of the Times Square Major Concession for Broadway and 7th Ave between West 41st and 47th streets. And Broadway between 47th and 53rd Streets

Sincerely,



Vikki Barbero
Chair



Layla Law-Gisiko
Chair, Land Use, Housing and Zoning Committee

Cc: Hon. Mark Levine, Manhattan Borough President
CPC Commissioners



BOROUGH PRESIDENT RECOMMENDATION

Project Name: Times Square Major Concession	
Applicant: NYC DOT Department of Transportation	Applicant's Administrator: NYC DOT Department of Transportation
Application # 240088MCM	Borough: Manhattan
CEQR Number: 22DOT002M	Validated Community Districts: M05

Docket Description:

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RECOMMENDATION: Favorable

Please attach any further explanation of the recommendation on additional sheets as necessary

CONSIDERATION:

Recommendation submitted by	MN BP	Date: 3/13/2024 2:31 PM
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OFFICE OF THE

MANHATTAN BOROUGH PRESIDENT

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Mark Levine, Borough President

March 13, 2024

Recommendation on ULURP Application No. 240088MCM – Times Square Major Concession By NYC Department of Transportation

PROPOSED ACTIONS

NYC Department of Transportation (DOT) (the “Applicant”) is seeking a major concession in an area spanning West 41st Street to West 53rd Street along Broadway and 7th Avenue in Manhattan Community District 5. The Applicant proposes expanding the boundary of the existing 38,063-square-foot concession area along Broadway to add 214,293 square feet of additional concession area, for a total proposed major concession area of 252,356 square feet.

The new concession area would align with the existing pedestrian plaza areas in Times Square and streamline their operation and management, increase public space amenities to activate and revitalize the proposed concession area, and increase revenue - generating opportunities to fund maintenance in those areas.

BACKGROUND

DOT has multiple programs and initiatives in and around the proposed concession area. In 2007, PlaNYC called for the development or enhancement of a public plaza in every community. DOT then created its Plaza Program with the aim of having all New Yorkers living within a 10-minute walk of an open space. Starting in 2016, DOT began its Broadway Vision plan, working with five Business Improvement Districts (BIDs) to envision a plan for Broadway from Union Square to Columbus Circle that includes public space, bike infrastructure, and pedestrian enhancements.

DOT is responsible for the design and construction of new pedestrian plazas to be managed by a local pedestrian plaza partner, with the Times Square Alliance as the partner for the plazas in the Times Square area. As part of the Broadway Vision, DOT implemented slow/shared streets at West 48th to 50th Streets in 2021. DOT is currently planning plaza and amenity spaces from 41st to 42nd Streets, 47th to 48th Streets, and 50th to 53rd Streets.

In 2009, DOT and the Times Square Alliance entered into a concession agreement for a 38,063-square-foot area on Broadway and 7th Avenue between West 41st and 47th Streets. There are 10 public pedestrian plazas in the existing concession area, which the Times Square Alliance manages currently. The Alliance has also been in charge of operations and maintenance of the remaining 214,293 square feet that comprise the remainder of the concession area. Since 2009, the Alliance has spent about \$44 million on operation and maintenance of public plazas and generated about \$22 million in revenue.

Proposal

The proposed action would facilitate the expansion of the existing concession area by 214,293 square feet to span from West 41st Street to West 53rd Street along Broadway and 7th Avenue, for a total concession area of 252,356 square feet. This expanded area includes six pedestrian areas along Broadway between West 47th and West 53rd Streets, expanded pedestrian space on Broadway between 41st and 42nd Streets, and sidewalks along 7th Avenue adjacent to the plazas in the existing concession area. Because this action would facilitate a concession of an area greater than 42,000 square feet, it is known as a major concession and must obtain approval through the Uniform Land Use Review Procedure (ULURP).

The existing concession agreement permits the Times Square Alliance to solicit subconcession agreements via RFP, accept gifts and sponsorships, and collect a plaza concession fee from events held within the concession area. This revenue can only be used for services provided within the plaza and amenities for the community. The expanded major concession also is required to use any subconcession revenue to support the public realm and activate the proposed concession area.

In 2017, the Franchise and Concession Review Committee (FCRC) voted to allow DOT to negotiate a new concession agreement with the Times Square Alliance. Upon receiving ULURP approval for this action, DOT will seek approval from the FCRC and the NYC Comptroller.

The Times Square Alliance has represented that they already operate and maintain the areas that would be added to the concession area. The Alliance currently has no plans for new concessions – the expanded area gives the organization the opportunity to collect revenue for events that already occur in areas they manage today.

Area Context

The concession area is located in Manhattan Community Board 5 in Midtown. The surrounding area is mainly zoned commercial, including C6-7 and C6-7T in the concession area, with commercial districts of similar density in the adjacent areas.

The area is located within the Special Midtown District, the Special Midtown Theater Subdistrict, and the Times Square Business Improvement District.

According to the Applicant, the Times Square area has 133 office buildings out of 359 total buildings, 31.5 million square feet of commercial office space, 600 retail storefronts, 39 of the city's 41 Broadway theaters, and 19,500 hotel rooms. More than half a million daily commuters use the Times Square subway stations, bus lines, and Port Authority Bus Terminal.

The concession area is well served by transit, including the N, Q, R, W, 1, 2, 3, 7, S, A, C, E subway lines, multiple bus lines, and is close to the Port Authority Bus Terminal on West 41st Street and 8th Avenue.

COMMUNITY BOARD RESOLUTION

No. 240088MCM – Times Square Major Concession

The Land Use, Housing and Zoning Committee of Manhattan Community Board 5 (CB 5) heard a presentation from the Applicant on January 24, 2024. Members of the Board expressed concerns regarding the interaction between bikes and pedestrians, the desire for siting of public bathrooms, and desire by some members to require that any proposed subconcessions be brought to CB 5 for review. DOT and the Times Square Alliance expressed that they were working to address these concerns and would continue to be engaged with CB 5.

On February 8, 2024, Community Board 5 voted to recommend approval of this major concession. The Board noted that it was pleased that the Applicant did not have plans to expand the number of concessions and thanked the Times Square Alliance for its willingness to work on accessibility concerns. The resolution noted the Board's request for DOT and the Times Square Alliance to work on enforcing pedestrian safety, maximizing accessibility in its plazas – including for the visually impaired – and that the Alliance provide CB 5 with a list of any future concessions.

BOROUGH PRESIDENT'S COMMENTS

Times Square is an iconic center of activity in Manhattan for New Yorkers and visitors alike. This major concession application will facilitate a continued partnership between DOT and the Times Square Alliance.

The Times Square Alliance has demonstrated effective management of those public spaces, working tirelessly to maintain a clean, safe, and active Times Square. I am pleased that any revenue collected from the expanded concession area will continue to be invested into the maintenance and operations of Times Square. There are events that happen outside the existing concession area that the Alliance can't collect revenue from today, and I look forward to them being able to do so in the future. Furthermore, I appreciate that while the Alliance does not currently have plans for concessions, they have committed to selecting partnerships that do not compete with existing cafes and businesses, but rather partnerships that help enhance and promote the area.

The myriad users of Times Square, which include offices, theaters, residents, commuters, tourists, pedestrians, and cyclists, create both opportunities and unique challenges. I applaud that DOT's vision for Broadway prioritizes both bike and pedestrian infrastructure, and I urge the agency to continue to consider feedback on how the public realm can best suit public needs and safety. I thank DOT and the Times Square Alliance for considering Community Board 5's concerns regarding pedestrian safety in areas where they share space with cyclists, going beyond existing accessibility requirements to ensure plazas are navigable for those with visual impairments, and potential future plans for public restrooms. The future of Times Square is bright with continued collaboration between DOT, the Times Square Alliance, and Community Board 5.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, I recommend **approval** of ULURP Application No. 240088MCM.



Mark Levine
Manhattan Borough President