

LIST OF REFERENCES – PPP

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A. Description And Historical Perspective Of The Pledges Made To The Citizens And Taxpayers Of New York City To Gain Their Financial Support For Creation Of New York City's PPP/PEC

1. For a description of the PEC **"public support" purpose**, see ["Free Public Education in Nature and Art combined in Original Central Park and Museum Plans, 1857-1871 of Andrew H. Green, Frederick Law Olmsted and Calvert Vaux,"](#) prepared for the Municipal Art Society, March 30, 1931.
 - a. pp. 1: "Between the years 1857 and 1869, the foundation period of Central Park, **popular education** in Science, Art, History, and Literature, combined with the beauty and inspiration of Nature, was **the prominent motive in securing financial support** for a great and costly enterprise. **Popular education** then [1857-1860 and the construction of Central Park] and now [1931 and the 62nd Annua Report of Natural History] **made the stronger appeal to the public.**" Andrew H. Green, as President of New York City's Board of Education and first Comptroller of the Parks, **"wrote these educational motives into the State and City Charters and Contracts."**
 - b. pp. 3: Quoting from a book on Andrew Haswell Green: "... From 1859 to 1863 Andrew H. Green never ceased to insist on the necessity of incorporating in the Park zoological and botanical gardens; he welcomed a zoological collection **worthy of the city as ancillary to 'that great free public education system which he called already the prize of the city.'** * * * In the report [Park Commissioners'] report for the year ending December 31, 1961: 'The Board desired to encourage, under proper organizations [the "private" of the public-private partnership], the establishment within the Park of collections of art and of science, of botanical and zoological gardens, that combine instruction with amusement.' **This educational policy is reiterated to the exclusion of all other enterprises and purposes. This was the first step toward the half private, half municipal support, under which the American and Metropolitan Museums were founded in 1869-1870.**"
 - c. pp. 4: **The educational purposes were written into** the original charter of the State and Contract with the City as shown in the following excerpts:
 - i. Referring to incorporating legislation of the American Museum of Natural History: "of advancing the general knowledge of kindred subjects, **and to that end of furnishing popular instruction.**"

- d. pp. 5: “Andrew H. Green, in January, 1869, wrote the following significant letter ... to Messrs. Roosevelt, Choate, Morgan and other Founders of The American Museum of Natural History:
 - i. GENTLEMEN: ... The Commissioners appreciating the views you so kindly express entirely concur in the desirability for the **establishment of a Museum in the Park, that shall become an aid in the Great Educational System of the city**, concentrate and develop Scientific efforts in all departments of Natural History, **and at the same time be an instructive and acceptable resort for the people of the city**, and for the throng of strangers that visit it.”
2. Enticements made by the Founders and successor Trustees of The Metropolitan Museum of Art to garner public purse support reported in their [An Appeal to the Public, 1871](#), Metropolitan Museum *Bulletin*, Vol. 15, No 5 (May 1920), pp. 97-101. In its reprinting, 50 years after the *Appeal*, the 1871 *Appeal* stated:

“The Officers of The Metropolitan Museum of Art are sure that **the people of New York are glad to see this growing worth in their city, and feel that a little more or the graces of a great library and social center ... would make the place dearer to them than it has been.**” [p. 99] [emphasis added]

And, in their Introduction to the 1870 *Appeal*, reprinted in 1920, the MMA Trustees reiterated the Founders’ pledge:

“The **Founders laid especial stress upon the need of support from the public of New York** for the Museum, which they saw **as an institution for their own city.**” [emphasis added]
3. Enticements made by the Founders of the American Museum of Natural History to garner public purse support, read the words of the Trustees of the American Museum of Natural History as set forth in [Proceedings of the Board of Estimate and Apportionment 1892](#).

“**The [AMNH] Trustees feel positive** that the opening of the new building, and of the old and well, as provided for in the act referred to, **will be a source of profit, pleasure and instruction to our citizens.** We have every reason to feel that the public appreciates the efforts made by the Trustees to enlarge the collections, and by the city authorities in **providing for the maintenance of the institution.**” [emphasis added]
4. For a present-day description of New York City’s PPP, read the Department of Cultural Affairs’ [DCA’s] [History of Cultural Institutions Group \[CIGs\]](#) as well as its [About: A Unique Partnership](#).
5. To demonstrate the serious effort then, and as a model for one needed now, see a descriptive analysis of the “factors” City-funded park institutions provide to the residents of New York to justify our substantive financial support in, [“New York now offers more Free Public Education in Natural Sciences than any other city” | GUIDE TO THE NATURE TREASURES OF NEW YORK CITY \ American Museum of Natural History : New York Aquarium : New York Zoological Park and Botanical Garden : Brooklyn Museum, Botanic Garden and Children’s Museum](#)” by George N. Pindar assisted by Mabel H. Pearson and G. Clyde Fisher. This was

published for the American Museum of Natural History by Charles Scribner's Sons in 1917 [see [FA's annotation](#) demonstrating how the Guide's format serves as an exemplar of accountability then and now].

- a. American Museum of Natural History [AMNH] President Henry Fairfield Osborne sets the standard for, and predicts the need for, the level of accountability New Yorkers deserve from institutions qualifying for City funding.
- b. The preface of the treatise reads:
 - i. "New York now offers more **Free Public Education** in Natural Sciences than any other city..."
- c. In highlighting the guide's role, Osborne put forward a model of accountability which was:
 - i. "To be brief enough to permit easy reading and at the same time sufficiently detailed and descriptive to give an adequate idea of the collections these institutions contain and their importance as educational factors."

d. FA Conclusion: An example of an annual accounting to be prepared by the custodians of city-funded park institutions to be presented to the appropriate oversight city agencies and to inform New York City taxpayers to demonstrate compliance with state and local laws regarding New Yorkers' right to free access to these park institutions, as well as popular instruction for New York's citizenry and schools to qualify for city funding [see [FA's annotation](#) demonstrating how the Guide's format serves as an exemplar of accountability then and now].

6. [Third Annual Report of the Board of Commissioners of the Central Park, January, 1860.](#)

- a. ***The Commissioners describe the role of the "public" and "private" in the inventive public-private partnership.***

pp. 12-13: **Commissioners note** in the first full paragraph the justification for the macro reasoning for the PPP; to wit: "It is interesting to observe the eagerness that exists in the public mind for the establishment, within the Central Park, of institutions that **will afford the means of popular cultivation and innocent recreation**. Observatories, museums of natural history, zoological and botanical gardens, and galleries of art, find offers of substantial aid for their foundation. The Board doubt the propriety of appropriating the moneys placed at its disposal, for these or any kindred purposes. **[The Board's] duty is confined to the construction, maintenance, and regulation of the Park [the "public"]**; and, while institutions of this nature are desirable, and would be fitly placed on the Park, **the Board deem it proper that the means for their establishment, maintenance, and arrangement should be derived from other sources [the "private"]**. The Board would probably be authorized to provide a suitable structure, within which donations of works of art might be deposited and protected, but it would **not** long be tolerated that the Board should expend the public moneys in the purchase of such works. **[the "public"]** Whatever may be the authority of the Board to appropriate any of the domain of the Park for establishments such as those to which reference has been made, though they would, doubtless, command

very general approval, yet the authority should be exercised only after the most mature consideration. **To ensure the proper management of such institutions, it would be better to leave them to the care of private hands, or of associations [the "private"],** under such judicious general regulations as might be prescribed by the Board, having reference to the convenience and comfort of visitors, and to the integrity and faithfulness of their management."

7. [Park Planning for Greater New York \(1870-1898\)](#)," NYC Parks Website. NYC Department of Parks and Recreation.
 - a. Details initial concept surrounding the establishment of parks in New York City. Politics forces the NYS Legislature to put parks under Mayoral control. Commissioner and Education President Green will continue, and thus commitment to Park Education Campus will continue as a stronghold.

B. *Quid Pro Quo* And The PPP

8. Winifred Howe. A History of the Metropolitan Museum of Art. New York, 1913.
9. Michael Gross, [Rogues Gallery: The Secret Story of the Lust, Lies, Greed, and Betrayals that Made the Metropolitan Museum of Art](#). Crown Publishing Group. 2010.
10. Murielle Vautrin. "Government and Culture: New York City and Its Cultural Institutions 1870-1965", Ph.D. Dissertation. Brandeis University. 1997.
11. Lillian B. Miller. [Patrons and Patriotism: The Engagement of the Fine Arts in the United States 1790-1860. Chicago and London](#). The University of Chicago Press. 1966.
12. Rosenzweig and Blackmar, [The Park and the People](#). Cornell University Press. 1992.
13. John M. Kennedy, "Philanthropy and Science in New York City: The American Museum of Natural History, 1868-1968". Ph.D. dissertation. Yale University, 1968.
14. Calvin Tomkins, [Merchants and Masterpieces: The Story of the Metropolitan Museum of Art](#). New York. 1989. E.P. Dutton. 1970. [also a [documentary](#) by writer, producer and director Suzanne Bauman Films]

C. Laws pertaining to the structure of the PPP/PEC

15. [Sixth Annual Report of the Board of Commissioners of the Central Park, 1863](#). Describes authority given to the Commissioner to establish the New York Botanical Garden.
 - a. pp. 15: "In 1861 the Legislature chartered the American Botanical and Zoological Society, and gave the Commissioners of the Park authority to set apart a portion of it, not exceeding sixty acres, for the use of the Society, for

the establishment of a Zoological and Botanical Garden. * * * That such an establishment is demanded, both for popular amusement and instruction, there can be no question.”

- b. pp. 23: “[The Botanical Garden and Zoological Garden] might, with great propriety, become ancillary to and valuable auxiliaries of that great free public education system, which is already the pride of our city, as well as the source of useful practical information to agriculturists, merchants, and manufacturers throughout the land.”
16. [Chapter 119 of the Laws of the State of New York of 1869](#). [p. 205]
The American Museum of Natural History was the first of the PEC institutions to be incorporated within the framework of the PPP. The Metropolitan Museum of Art quickly followed.
 17. [Chapter 290 of the Laws of the State of New York of 1871](#)
 - a. Set out park boundaries as well as assigning authority for the appointment of Parks Commissioner, with Andrew H. Green serving in the dual role of Treasurer and President of schools, thus ensuring the commitment to the PEC.

D. New York City Documents The PPP/PEC Structure

18. [“Procedures Manual for Members of New York City’s Cultural Institutions Group.”](#) City of New York. Department of Cultural Affairs. January 2005.
 - a. New York City’s Department of Cultural Affairs [DCA] oversees New York’s Cultural Institutions Group [CIGs] and the “Manual” **sets out the prerequisites institutions must meet to qualify for public funding.**
 - b. **The “Manual” demonstrates the DCA’s failure to properly safeguard New Yorkers’ rights to free access to a park education campus [PEC] intended to provide instruction and recreation to New Yorkers.**
 - c. The “Manual” describes **the “public” obligation under the PPP/PEC partnership in** Section 1. Introduction C. History, of the “Manual” as follows:
 - i. “... **each institution is bound by public-private compact** based on the premise that these institutions are privately-run nonprofit organizations, operating in public facilities as part of DCA’s Charter mandate to ‘plan, acquire, design, construct, improve and manage facilities for the conduct of cultural activities by the City. In the pattern that has evolved since 1869, **the City upholds its compact with the Institutions through provision of public facilities for the Institutions’ operations, public funds for the maintenance and support of those facilities and their operation, and access to a host of other benefits, including subsidized employee health and savings plans, and public funds for capital improvements. These and other benefits provided to the Institutions** are detailed in section II” [emphasis added].
 - d. The “Manual” describes **the “private” obligation under the PPP/PEC partnership in** Section 1. Introduction C. History, of the “Manual” as follows:

conflict with or contradict a particular legal agreement, by-laws or other governing document, the Institution should obtain clarification from DCA's Institutions Unit. [NOTE: **No mention of New York State laws.**]

- i. A review of the "Manual's" **section IV disappoints because** it does **not** require that the Institution comply with the incorporating purpose found in state and local laws; namely, to provide instruction and recreation to New Yorkers, as a prerequisite to City funding.

E. Examples Of New York City's Failure To Comply With The PPP

19. See Section D. 1. - 4. in the opening paragraphs of the "Inventiveness" section above .
20. DCA denied FA's initial May 7, 2021, Freedom of Information Law [FOIL] request. Nonetheless, DCA's letter disclosed that it "generally" does not retain or refer to New York State documents in carrying out its duties. Many PPP/PEC institutions are legitimized through New York State laws [see [LAWS](#)].

DCA ultimately responded to FA's FOIL request and produced approximately 3,000 pages, many of which were copies of New York State legislation pertaining to the PPP/PEC institutions. Even so, **DCA's document production revealed that it and other city agencies entered** Amended Lease and/or new or License **Agreements in contravention of New York State law as well as** the DCA prerequisite to price tickets to "encourage attendance by a broad segment of the population of the City of New York" [see "Procedures Manual" described above].

F. New York State Law Supersedes Local Laws And Contracts.

21. **Examples of new or amended agreements** New York City politicians have entered with the custodians of the PPP/PEC institutions demonstrating the **trading away of New Yorkers' rights to** free access, instruction and recreation, while doling out \$1 BILLION annually in direct and indirect subsidies to the PEC Institutions, who deny us our bought-and-paid-for rights [see [FINANCIAL ANALYSIS](#)]?
 - a. September 9, 2013, Amended Lease Agreement between the American Museum of Natural History and New York City's Department of Parks and Recreation.
 - b. November 1, 2016, License Agreement between the Commissioner of the Department of Cultural Affairs and the Brooklyn Academy of Music Inc., for premises located at 651-653 Fulton Street, Brooklyn, NY 11217.
 - c. December 3, 2013, License Agreement between the Commissioner of the Department of Cultural Affairs and the Brooklyn Academy of Music, for premises at 321 Ashland Place, Brooklyn, New York.
 - d. July 7, 2009, License Agreement between the Commissioner of the Department of Cultural Affairs and the Brooklyn Botanic Garden.
 - e. October 25, 2011, License Agreement between the Commissioner of the Department of Cultural Affairs and the Brooklyn Children's Museum.

- f. **Unproduced** but known to exist. Amended Lease Agreement between Department of Parks and Recreation and the Brooklyn Institute of Arts and Sciences, aka the Brooklyn Museum.
 - g. September 9, 2013, Amended Lease Agreement to a January 26, 1928 Lease, Amended July 1, 1931 between the Department of Cultural Affairs and the Museum of the City of New York.
 - h. October 21, 2013, Amended Lease Agreement between the Department of Parks and Recreation and The Metropolitan Museum of Art.
 - i. NOTE: The MMA has received **MILLIONS OF DOLLARS annually** for its maintenance yet [New York City Administrative Code](#) Chapter 4 – EXPENSE BUDGET: Section 5-509, 2.d. prohibits payments in excess of \$95,000 annually.
 - i. December 12, 1965, License Agreement between Commissioner of Parks and Hall of Science of the City of New York, Inc.
 - j. September 3, 2016, Sublicense Agreement between Snug Harbor Cultural Center and Botanical Garden and Staten Island Institute of Arts and Sciences [SIIOAS] dba The Staten Island Museum [SIM] and Commissioner of the Department of Cultural Affairs.
 - k. June 10, 1936, 1936, Agreement between the Commissioner of Parks and Staten Island Zoological Society, Inc.
 - l. November 4, 1965, Agreement between Commissioner of Parks and Wave Hill Incorporated.
 - m. October 28, 1953, Supplemental Agreement to an October 20, 1950 Agreement, between the Commissioner of Parks and the New York Zoological Society [NYZS]. NOTE: NYZS is now the Wildlife Conservation Society [WCS] which operates four New York City Zoos; namely, Bronx, Prospect Park, Queens and Central Park, as well as the New York Aquarium.
22. Regarding the City of New York and The Metropolitan Museum of Art collaborating to disavow existing New York State law, see:
- a. Grace Glueck. “Metropolitan Museum to Institute Admission Charge.” [The New York Times. 10/09/1970.](#)
 - i. Covers the initiation of a pay-what-you-wish-but-you-must-pay-something admission fee for all visitors, including New Yorkers.
 - b. Randy Kennedy. [“New York City Amends Fee Policy for a Visit to the Met.” The New York Times. 10/24/2013.](#)
 - i. Article reports on an Amendment to The Metropolitan Museum’s, the Museum of Natural History’s and the Museum of the City of New York’s Leases, during the Bloomberg administration, where the Mayor in effect provided these institutions the right to “make an admission fee mandatory,” despite no evidence that the Office of Corporation Counsel had read, interpreted and opined on the provisions of state and local laws, among other things or codified them for enforcement by oversight agencies.
 - ii. Article reveals that The Metropolitan Museum had been untruthful in reporting to the New York City courts that a 1970 agreement with the City authorized The Met to operate using a pay-what-you-wish-but-

you-must-pay-something admissions policy yet the 1878 Lease was not amended.

- c. Regarding the Kennedy article above,
 - i. Consider a [Settlement](#) reached in a consolidated court case against The Metropolitan Museum of Art regarding its admission policy [see Justice Kornreich's 6/6/17 Decision and Order].
 - ii. Then, consider [Why We Are Opposing The Proposed Metropolitan Museum Settlement](#), by Michael Hiller, principal, Hiller PC. A negation of the Settlement reported by counsel for FA Founder Pat Nicholson, party to the non-class action portion of this consolidated action.
- d. In addition, consider a New York City Corporation Counsel [Amicus Brief](#) filed in 2014 as part of this litigation and in support of The Metropolitan Museum of Art [see "[Brief Amicus Curiae](#) for the City of New York." 2014. Supreme Court of New York. Appellate Division: First Department. *Saska et al vs. The Metropolitan Museum of Art* consolidated with *Grunewald/Nicholson vs. The Metropolitan Museum of Art*. Corporation Counsel of the City of New York.]
 - i. An Amicus Brief is filed when one is not a party to the litigation but wants to support one of the parties, known as a "friend of the court" filing. **Corporation Counsel wrote in favor of The Metropolitan Museum of Art.**
 - ii. FA's Founder was a party to the non-class portion of this consolidated action.
 - iii. **Corporation Counsel in effect demonstrates that if a New Yorker attempts to bring legal action against a PPP/PEC institution, the City will advocate on behalf of the institution and not the residents and taxpayers of New York City.**

23. To determine what laws do, or should do, control compliance with the PPP venture pertaining to the Brooklyn Museum [BM], Brooklyn Children's Museum [BCM], Brooklyn Botanic Garden [BBG] and Brooklyn Academy of Music [BAM], consider their affiliation with the Brooklyn Institute of Arts and Sciences [BIOAS] and the economic benefits they reap while not complying with New York State law [see [HISTORY OF BIOAS](#)].

24. Four New York City zoos and an aquarium benefit from laws applicable to the New York Zoological Society [NYZS], yet they do not provide New Yorkers free access and they do not comply with their incorporating purpose.

- a. Consider that the Wildlife Conservation Society [WCS] operates as an "assumed name" of the NYZS. **WCS is not a separate enterprise from NYZS and as such is subject to the laws applicable to NYZS.**
- b. The initial NYZS enterprise was incorporated in the 1800's and operated under the name, the Bronx Zoological Park [the Bronx Zoo (BZ)].
- c. Today, WCS operates and manages BZ along with New York City's Prospect Park [PPZ], Queens [Flushing Meadows Park, QZ] and Central Park [CPZ] Zoos as well as the New York Aquarium [NYA]. New York City's Department of Parks is the owner of these five venues and benefits from the economic advantages afforded NYZS while not provided free access to New Yorkers nor complying with its incorporating purpose [see [HISTORY OF NYZS/WCS](#) and

[FINANCIAL ANALYSIS](#)].

25. Consider that DCA does not report New Yorkers' forfeiture of **more than \$700 MILLION** in free rent to the PPP/PEC institutions and has not put in place a process whereby **the value of free rent is included in the calculation reporting the total subsidy** provided to each of the PPP/PEC institutions to ensure that New Yorkers, as well as City politicians and the custodians of the PPP/PEC institutions, appreciate the full extent of New Yorkers' philanthropy and the **economic evidence of New Yorkers' right to claim our right free access in compliance with the provisions of our PPP**. [See the Reference in A.5. above, especially FA's [Annotation](#).]
26. Further, consider DCA's failure to "actively oversee" and promote New Yorkers' free access right to the PPP/PEC institutions, consider its 2017-2019 campaign entitled, [CREATENYC: A Cultural Plan for All New Yorkers](#), where two of DCA's stated objectives were (1) increasing equitable funding and support for culture, especially in historically underserved communities and (2) providing free, high-quality arts education for all New York City public school students. Yet, in two years of discussion and planning resulting in the publication of a "Plan of Action," **no mention was ever made** of New Yorkers' free access right to the PPP/PEC institutions comprising New York City's Park Education Campus.

D. Popular Press

27. Dena Kleiman. "[Behind Inflated Attendance Figures](#)." *The New York Times*. [02/21/1987](#).
 - a. Reveals that **four of the 17 PPP/PEC institutions**, namely, the Bronx Zoo, the New York Botanical Garden, the American Museum of Natural History and The Metropolitan Museum of Art, with the last overestimating attendance by 42%, counted visitors "[t]wice." In the case of The Metropolitan Museum and Natural History, their figures would plummet from 7,000,000 and 5,000,000 to 3,500,000 and 2,500,000, respectively and their cost per visitor would double. Similarly, the Bronx Zoo and the New York Botanical Garden would fall from 1,820,766 to 910, 383 and from 1,300,000 to 650,000, respectively.
28. 1811-1860. [Central Park: Images through 1860](#). Diane L. Durante.
 - a. Offers a visual history of Central Park.