



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.nyc.gov/mcb4

CHRISTINE BERTHET
Chair

JESSE BODINE
District Manager

December 5, 2014

Hon. Gale A. Brewer
Manhattan Borough President
1 Centre Street, 19th Floor
New York, NY 10007

Hon. Anne Roest
Commissioner
Department of Information Technology and Telecommunication (DoITT)
255 Greenwich, 9th Floor
New York, NY 10007

Re: Links – Department of Information Technology and Telecommunication (DoITT)

Dear Manhattan Borough President Brewer and Commissioner Roest:

Manhattan Community Board 4 (CB4) requests that the New York City Franchise and Concession Review Committee (“FCRC”) postpones the approval of the Franchise Agreement for the Installation, Operation, and Maintenance of Public Communications Structures in the Boroughs of the Bronx, Brooklyn, Manhattan, Queens and Staten Island (Contract), until three clauses essential to the success of this agreement are revised: the siting rules which impact pedestrian safety, the substitution and removal rules which are inconsistent and open to interpretation, and the inclusion of the Borough presidents in the approval process.

CB4 applauds the Department of Information Technology and Telecommunication (DoITT) for its selection of appliances and services: the Links (the new name of the appliances that replace the phone booths) provide desirable features (Wi-Fi with a reach of 150 feet, over 1 gigabyte of bandwidth, continuous network, browser, 911 service, free phone calls to the U.S., phone charging, user lighting), in an attractive station (Advertising Structure: 114” in height and 11” by 35” in dimension, Non Advertising Structure: 122.9” in height and 11” by 16” in dimension). CB4 is also very grateful for DoITT having extensively engaged the community in the design of the new Link and incorporated the vast majority of the community’s many suggestions in the contract. In particular we are pleased that the contract allows much flexibility in the removal and relocation of installations.

Community Review: We are surprised that this productive engagement with the community will terminate with the signing of the contract. Contrary to the customary community consultation provided by the city for other sidewalk obstructions like sidewalk cafés and newsstands, the community boards will not be consulted for the placement or replacement of installations. We expect this to be costly to the Franchisee since, after the installations are in place, the community

will ask for their removal and relocation. For a successful and cost effective program, we urge that you include the Borough President upfront in the decision process for replacements removals relocations and new locations.

Removals and Relocations

In section 2.5 Substitute Location indicates “In the event that, pursuant to Sections 2.2, 2.3, and 2.4, the City requests removal of a Structure, the Franchisee shall be permitted to install a Structure at a mutually acceptable location of equal or greater advertising value.”

Based on this clause, it would be impossible to replace an installation on 8th Avenue at Penn Station, which has an extremely high advertising value but also should be removed to make place to pedestrians who are currently walking the streets because of lack of sidewalk.

This statement is also inconsistent with those in Paragraph 4.2.3 “The Franchisee acknowledges and accepts that the City has the sole discretion in the management of its rights-of-way to approve or deny any request by the Franchisee, or other Person, for a permit to install a Structure in a particular location” and in paragraph 1.2 (ii) of the SVR “Notwithstanding the forgoing, DoITT will have the right to deny approval of any such location if DoITT approves an alternative location that in DoITT’s reasonable judgment is of at least equal economic value to the Franchisee.”

This discrepancy is particularly concerning since it appears that the removals cannot take place until the replacement has been installed. Thus this clause could render inoperative the clause permitting the removal as long as the Franchisee does not accept the replacement location.

It is critical that removal not be subject in any way to the approval of the Franchisee. This has been a major problem in the current contract and must not be replicated. We urge that the “mutually acceptable location of equal or greater advertising value” be replaced by “A location that in DoITT’s reasonable judgment is of at least equal economic value to the Franchisee.” In case of a loss of revenue to the Franchisee, a reduction in minimum payment should be contemplated.

Siting measurements

- While the new measurements are an improvement over the current ones, they may not be enforceable, since the contract says: "Notwithstanding anything contained herein, the siting of Franchise Structures shall be subject to any applicable requirements of the New York City Administrative Code." It is also not clear if the new installations will render irrelevant the grandfathering clauses existing in the current rules, as they should.
- Clear Path: The links contract should increase the clear path requirement in order to reflect the new design, or change the design to provide services below the advertising panel.

Although the appliance is narrower than the current installations, it is as deep and still presents the same 36" encroachment in the pedestrian clear path. Because the design does not allow the user to be serviced within the footprint of the installation, as is the case with the current phone booth, it requires the user to be in front of the installation obstructing the 8 foot pedestrian clear path by a minimum of 1'6". In addition we can anticipate that the new services will attract many

more users that will spend longer time in front of the appliances (3 minutes to charge a phone). The city has already established a precedent for Newsstands where the required clear path is 9'6" to accommodate the same user placement. This is particularly important in the very busy arterial with thousands of commuters like Penn Station and Eight Avenue, or avenues like 9th Avenue and its side streets with narrow sidewalks. On such avenues, DOT has elected to install 2 foot wide way finding signs instead of the normal 3 foot wide to preserve the maximum clear path.

- Distance from pedestrian crossings and corner quadrants: with the massive increase in pedestrian volumes over the last 20 years, the DOT often widens the pedestrian crossings to accommodate the increased foot traffic. CB4 recommends a required 5' distance from the outside limit of pedestrian crossings to provide a safe crossing to all the pedestrians and from corner quadrants to allow the pedestrian platoons to congregate while waiting for the lights.
- Distances from traffic sign and traffic lights remain at 3 feet and 4 feet respectively: the height of the new appliance (114 or 123) where the advertising display may either block the signs and signals or distract the drivers or the pedestrians about to cross the street makes such distances inadequate as a matter of safety.

We urge the committee to require such changes that will guarantee a more successful and less costly deployment of the Links.

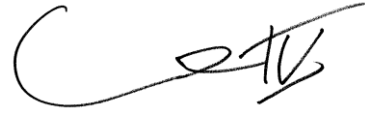
Sincerely,



Christine Berthet
Chair



Jay Marcus
Co-Chair, Transportation
Planning Committee



Ernest Modarelli
Co-Chair, Transportation
Planning Committee

CC: NYC Councilmember Corey Johnson
NYC Councilmember Helen Rosenthal
NYS Assemblymember Linda Rosenthal
NYS Assemblymember Richard Gottfried
NYS Senator Brad Hoylman
NYS Senator Adriano Espaillat
U.S. Congressman Jerrold Nadler
U.S. Congresswoman Carolyn Maloney
NYC DOT Commissioner Margaret Forgione
NYC DOT Assistant Commissioner Urban Design & Art, Wendy Feuer