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DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS TESTIMONY BEFORE THE CITY COUNCIL

COMMITTEES ON FINANCE, LAND USE AND TECHNOLOGY AND THE SUBCOMMITTEE ON CAPITAL BUDGET

FISCAL YEAR 2022 EXECUTIVE BUDGET

MAY 20, 2021

Good afternoon Chairs Dromm, Rosenthal, Salamanca, and Holden, and members of the City Council Committees on Finance, Land Use and Technology, and the Subcommittee on Capital Budget. My name is Jessica Tisch and I am the Commissioner of the Department of Information Technology and Telecommunications and New York City's Chief Information Officer.

Thank you for the opportunity to testify today about DoITT's Fiscal 2022 Executive Budget. With me is Janine Gilbert, DoITT's First Deputy Commissioner, Joseph Antonelli, our Deputy Commissioner of Management and Budget and Tynia Richard, our Deputy Commissioner of Legal Matters.

Since my testimony a few weeks ago went deep into the Covid-related work of the agency and other strategic initiatives over the past year, I thought it made sense to use my prepared testimony today to bring the Committees up to speed on new developments since last I appeared before the Council.

First, I am pleased to report that our program to install Wi-Fi in all shelters that serve families with children will be completed ahead of schedule. The initial target date for this ambitious program was August, but it will now be fully delivered in June.

Given the success of this program, we have also committed to taking on a new phase – to focus on the approximately 30 shelters that serve families with children that already had Wi-Fi solutions installed prior to commencement of this program and ensure that they have the same high quality Wi-Fi that we have rolled out elsewhere. That work has commenced and we are pushing hard to complete by September.

Second, when last I testified before you, I reported that we were close to putting out a solicitation that will serve as the basis for the formation of a new set of information services franchise agreements, which will ultimately allow new franchisees to use the City's rights of way to build out their networks and provide broadband service throughout New York City.

This was made possible by the Council's passage of Authorizing Resolution 1445-A, which lifted constraints on our ability to promote, encourage, and attract companies to compete in the broadband space against the big cable providers.

So, let's break a little news here today! That solicitation is now out. As of approximately 15 minutes ago. I am ecstatic about it and look forward to our continued collaboration with the Council as we move forward.

This solicitation invites companies that seek to provide low cost broadband in New York City, and others, to enter the market and compete against the big three cable companies, which are currently if not the only broadband game in town, certainly the vast majority of it!

I think we all agree that the big three cable companies have not played that game fairly over the past decade, as New Yorkers can tell from their monthly broadband bills.

Why do I think this will ultimately translate into lower broadband prices for New Yorkers, in particular in underserved parts of the City? Because for the first time ever, these new franchise agreements are being crafted with exactly that in mind.

Franchise agreements have been structured to compensate the City at a rate of 5 percent of gross revenue or based on the linear footage of the franchisees' plant installed. So, in either model, franchisees end up paying the City roughly the same price for installation of fiber in the Manhattan core, where they make a lot of money on their investment in that fiber, as they do in Brownsville, where they make significantly less.

Given that incentive structure, which profit-oriented company wouldn't focus their efforts on the Manhattan core?

To increase competition in underserved areas of the City, this solicitation changes the model entirely. It contemplates counting only linear footage in Manhattan below 96th St. for a period of several years when determining compensation requirements.

Further, the solicitation contemplates discounted compensation rates for franchisees with less than a specified number of linear feet of fiber in the City's rights-of-way, to give small providers a leg up and encourage new entrants and more competition in the market

I look forward to keeping you posted as we work to move this ball aggressively forward.

Third, last Friday, we noticed a Franchise Concessions Review Committee (FCRC) hearing regarding a proposed LinkNYC amendment. This Council, and in particular, the leadership of the committees I am appearing before today, have pushed me to ensure the City gets repaid the money owed us and that the City gets the digital equity value out of the program promised to New Yorkers in 2015 when the franchise was first established. I deeply appreciate the space, time, support, and guidance you have given us over the past year to get this done, and I believe the deal we have put forward meets the clear objectives you have set out.

The initial deal that CityBridge struck with the City six years ago contained some wildly unrealistic assumptions. Most notably, the amount of revenue that the digital advertising associated with the LinkNYC kiosks would bring in. Initially estimated at $3 billion over the life of the program, gross revenue has been a mere 10 percent of that halfway through the term of the 15-year franchise.

Now, usually it wouldn't matter to the City, that the franchisee isn't hauling in as much money as they expected. The problem here is that these anticipated revenue projections drove the dollar values in the contract for how much CityBridge was required to pay the City each year. These are referred to as Minimum Annual Guarantees.

So, if CityBridge's advertising revenue projections back in 2014 were off by a little – I'd call that a great deal for the City. The minimum annual guarantees would eat into CityBridge and its investors' profits, but not meaningfully affect the viability of the program.

Unfortunately, because the projections in 2014 were off by a full order of magnitude, CityBridge's inability to bring in the anticipated revenue meant that the minimum annual guarantees CityBridge was on the hook to pay the City represented such a large proportion of their gross revenues from advertising sales, that it left them with limited operating funds that were key to building out the kiosks and keeping the "lights on," as they say. CityBridge was going under and could not afford to keep the LinkNYC service running, let alone pay back the money owed to the City.

So in 2018, after paying the City $70 million up to that point, CityBridge stopped paying the City the annual payments it owed under the terms of the franchise agreement. By March of 2020, CityBridge owed the City $60 million in overdue payments, and had not built a single additional Link in nearly a year. At that time, I committed before the Council that I would take any and all necessary action against these multiple breaches of contract to collect the money the City is owed.

And, indeed, we were in the process of drawing up the default papers in March of last year when the pandemic hit and the City shut down. In my opinion, March and April 2020 were not the time for the Links to go dark. The City had so many problems, it seemed unnecessary and, frankly, unwise to gratuitously add to them. During the pandemic, we even leveraged the Links for public health messaging.

But even good partnership during a pandemic doesn't wipe away a $60 million dollar debt, and does not negate the lack of buildout required by the franchise agreement. I believe my testimony to the Council in March 2020 shook up CityBridge and their investors, and they came to us with a proposal that formed the basis of the amendment that has been put before the FCRC.

So, let me tell you about the amendment. The headline is that LinkNYC will be re-envisioned as a key part of building out the City's 5G network, in addition to the program as we all have known it – as a replacement of the payphone and provider of free Wi-Fi.

First, the City will be repaid 100 percent of what was owed us as of the time we started negotiating the amendment in earnest – March 2020. Of the $60 million debt, the City will get $25 million immediately upon FCRC approval of the amendment, and the balance of $35 million split into annual payments over the remaining term of the franchise agreement.

Second, this is only possible because we are fundamentally changing the model. The amendment contemplates leveraging the Links to build out 5G in New York City. The concept here is that the carriers – AT&T, Verizon, T-Mobile, and Sprint – are desperate to build out their 5G networks by installing 5G radios and antennas throughout the City.

But for 5G to work, the infrastructure needs to be more densely distributed than was required for 4G networks. This poses a challenge for the carriers. So, the key concept of this amendment is that for the first time, we will be leveraging the Links for installation of 5G radios and antennas. In order to make the links compatible with 5G technology, we will also be seeking approval from the Public Design Commission to increase the size of the links. Although taller links are necessary to transmit 5G signals, it's important to note that the advertising dimensions will not change or increase.

This proposed new use of the LinkNYC infrastructure has enabled CityBridge to attract a new strategic investor, Zenfi, which has put a $200 million capital investment into the program. This investment will allow CityBridge to continue buildout of the Links in New York City. Under the terms of this amendment, CityBridge will double the Link footprint in New York City, going from approximately 2,000 Links today to 4,000 links at full buildout. The buildout will guarantee the City an additional, and more reliable, revenue stream from the LinkNYC kiosks, including an estimated $16 million for use of each Link kiosk for hosting 5G infrastructure.

For its part, the City has agreed that on a go-forward basis, we will drop the Minimum Annual Guarantees to a more realistic level – so that they are closer to a normal and, importantly, sustainable franchise model of 5 percent of gross revenue. These payments are projected to total $27 million over the remaining nine years of the franchise term. Importantly, we have written provisions into the amendment to ensure that should advertising revenue increase dramatically over the term of the franchise agreement, the City will participate meaningfully in the upside – 8 percent of gross revenue between $100 and $200 million; plus an additional 50 percent of gross revenue above $200 million.

That brings me to my third point, that this proposed amendment doubles down on the founding principle of the LinkNYC program – to promote digital equity. One of the most important components of this amendment is a requirement that 90 percent of the new Links will be sited outside of the Manhattan core business district – in Brooklyn, the Bronx, Queens, and Staten Island, and in Manhattan north of 96th Street. That means that these areas – in addition to getting the benefits of LinkNYC as we know them today – will get massive 5G buildouts.

We cannot repeat with 5G the mistakes of the broadband buildout of more than a decade ago, where the fiber and infrastructure was run profusely in Manhattan, and much less so in the outer boroughs. That meaningfully contributed to the digital equity issues that this City and cities around the country have long struggled with – and that were so painfully brought to the fore during the pandemic. We must use 5G, and the benefits of tying the 5G buildout with the LinkNYC program, as an element of our work to right this wrong and push forward digital equity as an engine of recovery. Because 5G is said to offer broadband-like speeds, its buildout through underserved areas of the City couldn't be more important to help bridge the digital divide going forward. While this new strategy itself will not solve the digital divide, leveraging these well-placed assets will certainly be an important part of the larger 5G buildout.

Now, in the interest of time, I will take the Committees through our FY22 budget.

DoITT's Fiscal 2022 Executive Budget provides for operating expenses of approximately $706.9 million, allocating $175 million in Personnel Services to support 1,854 full-time positions; and $531.9 million for Other than Personnel Services, or OTPS. Intra-City funds transferred from other agencies account for $139.9 million, or about 20 percent of our total budget allocation. Telecommunications costs represent the largest portion of the Intra-City expense, projected at $121.3 million for Fiscal 2021.

For Fiscal Year 2021, the expense budget appropriation increased by $248.9 million from the Fiscal Year 2022 January Financial Plan to the Executive Financial Plan. The increase to the Fiscal Year 2021 Executive Budget is largely attributed to the funding that DoITT has received for COVID and vaccine-related costs.

For Fiscal Year 2022, the expense budget appropriation increased by $7.6 million from the Fiscal Year 2022 January Financial Plan to the Executive Financial Plan. The increase to the Fiscal Year 2022 Executive Budget is largely attributed to the funding that DoITT has received for the extension of our IFA positions, lease cost adjustments, and for MOME's operating expenses.

DoITT's Fiscal 2022 Executive Budget provides for a Capital Budget of $1.3 billion over the full Fiscal Year 2021 through Fiscal Year 2031 ten-year plan window. The majority of the budget is in Fiscal Years 2021 and 2022, totaling $666.3 million over the two fiscal years.

For Fiscal Years 2021 and 2022, the capital budget appropriation increased by $176.2 million dollars from the Fiscal Year 2022 Preliminary Financial Plan to the Fiscal Year 2022 Executive Financial Plan. This increase to the combined Fiscal Year 2021 and Fiscal Year 2022 budget is largely attributed to continued IT Modernization initiatives, as well as the second year of the Microsoft Enterprise License Agreement.

With that, I want to thank the Committees for this opportunity to update you on DoITT's important work and I am now happy to take your questions.