

SCANNED

PENDING PETITION MEMO

Date: 5/8/2007

TO : Office of Telecommunications
FROM: CENTRAL OPERATIONS
UTILITY: MUNICIPALITY
SUBJECT: 07-V-0532

Petition of the City of New York for a Waiver of the Requirements of
of 16 NYCRR, Section 891.2(b)(2).



07-V-0532
RECEIVED
PUBLIC SERVICE
COMMISSION
EXEC-FILES-ALBANY

2006 MAY -8 AM 10: 41

**THE CITY OF NEW YORK
DEPARTMENT OF INFORMATION TECHNOLOGY & TELECOMMUNICATIONS**

Paul J. Cosgrave, Commissioner

MITCHEL AHLBAUM
*Deputy Commissioner
Franchise Administration and
Planning/ General Counsel*

May 7, 2007

VIA FEDEX
Ms. Jaclyn A. Brillling
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

Dear Secretary Brillling:

Attached please find an original and five copies of a petition by the City of New York, through the Department of Information Technology and Telecommunications, regarding a waiver of 16 NYCRR § 891.2(b)(2), to the extent that provision applies to the City's cable franchise renewal process.

We have been in contact with Mr. John Figliozi, of the Department of Public Service, regarding this petition.

If you have any questions or comments on the petition, or if there is anything the City needs to do to expedite it, please contact my senior regulatory counsel, Radhika Karmarkar, at (212) 788-6565 (or at rkarmarkar@doitt.nyc.gov).

Your assistance is greatly appreciated.

Sincerely,

Mitchel Ahlbaum

cc: John Figliozi, New York State Public Service Commission
Elizabeth A. Losinski, Cablevision Systems Corporation
Kathy Scopp, Time Warner Cable of New York and New Jersey



THE CITY OF NEW YORK
DEPARTMENT OF INFORMATION TECHNOLOGY & TELECOMMUNICATIONS

Paul J. Cosgrave, Commissioner

MITCHEL AHLBAUM
Deputy Commissioner
Franchise Administration and
Planning/ General Counsel

May 7, 2007

VIA FEDEX MAIL

Ms. Jaclyn A. Brilling
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

Dear Secretary Brilling:

The City of New York ("City"), through the Department of Information Technology and Telecommunications ("DoITT"), respectfully requests that the New York State Public Service Commission ("Commission") grant a waiver of the deadline contained in 16 NYCRR § 891.2(b)(2), to the extent that provision applies to the City's cable franchise renewal process. Section 891.2(b) of the Commission's rules provides that, within a set timeframe prior to expiration of an existing cable franchise, a municipality must commence a proceeding that affords the public an opportunity to comment on "the future cable-related community needs and interests, taking into account the costs of meeting such needs and interests" and the performance of the cable operator during the current franchise term. Section 891.2(b)(2), in turn, provides that this public comment process must be completed by the first day of the 15th month prior to the expiration date of the franchise.¹

While the City commenced its public comment process in the timeframe contained in section 891.2(b), the City's franchise renewal procedures, which are designed to accommodate the needs of an extremely diverse metropolis with a residential population of over 8 million, will require the City to go beyond the end date for public input on community needs contemplated in section 891.2(b)(2). A waiver of the section 891.2(b)(2) deadline is warranted because the City's procedures are intended to offer diverse opportunities for public input on the franchises that are to be renewed – a diversity that is necessary to match the diversity and breadth of New York City's unique composition and input that is needed to fully ensure that ultimate franchises reflect the community's needs, as envisioned by the federal Cable Act² and the Commission's rules. The City's proposed procedures will still allow it to complete its franchise renewal

¹ See 16 NYCRR § 891.2(b)(2).

² See 47 U.S.C. § 546(c)(1)(D).

process, as it has done in the past, before the current franchise terms expire, which is the Commission's goal as we understand it in having established its timeframe rules.

By way of background, the City currently has nine cable television franchises whose combined coverage comprises the entire five boroughs. Each of these nine franchise areas was originally served by one of several different companies, now all owned or controlled by either Time Warner or Cablevision. Time Warner provides service in Manhattan, Staten Island, Queens, and a portion of Brooklyn, while Cablevision provides service in the Bronx and the remaining portion of Brooklyn. Time Warner's franchises will expire on September 16, 2008 and Cablevision's will expire on October 8, 2008.

The City seeks a waiver of the Commission's section 891.2(b)(2) deadline to ensure that it can provide an adequate opportunity for public input regarding the franchises to be renewed. Given its large population³ and geographic size, the City deems it necessary to allow an extended period for public written and oral comment to ensure that interested individuals are able to participate in the renewal process. In addition, the size and diversity of New York City's population necessitates that the public comment process not be concluded too far in advance of the expiration of the current franchises. In smaller municipalities, it may be possible to get a relatively accurate assessment at an earlier point in time of what a community's future needs may be. In crafting franchises that address the needs of a city as large, diverse and swiftly changing as New York, however, concluding the public comment process by the deadline set out in section 891.2(b)(2) may lead to an inaccurate gauge of the community's future cable-related needs and interests. The existing cable franchises had ten year terms. If the renewed franchises are of a similar duration, franchise terms based on an inaccurate assessment of the community's needs and interests will have an impact for many years to come. Consequently, the City seeks a waiver to afford a broad spectrum of public interests sufficient time and opportunity for public comment.

Consistent with the Commission's requirements, the City initiated a public comment process "during the six-month period which commences with the 36th month prior to the expiration of an existing franchise," On June 6, 2006, the City issued a notice in the City Record regarding Time Warner Cable's submission of a letter with the City stating its intent to seek renewal of its franchises. The City Record notice stated that members of the public could submit comments to the New York City DoITT until June 1, 2007, identifying the future cable-related community needs and interests and regarding Time Warner Cable's performance during its current franchise term.⁴ A similar notice was published for Cablevision on September 14, 2006 stating that DoITT would accept comments until August 1, 2007.⁵ The City would like to extend the periods for such written comments to be submitted for an additional nine months.

In addition, the City will, as it has done in the past, hold public hearings in each of the boroughs to allow those members of the public who wish to do so an opportunity to express their comments orally. The City is currently establishing a schedule for these hearings and will publicize broadly the time and location of the hearings. The City expects to conduct these hearings in the second half of calendar year 2007.

³ Based on a 2003 U.S. Census Bureau estimate, the City has a population of approximately 8 million, while total population in the State is approximately 19 million. Based on the 2000 census, the City has 3.02 million households, while the total number of households in the State is 7.05 million.

⁴ See The City Record, Tuesday, June 6, 2006, at 1813 (included as "Attachment 1").

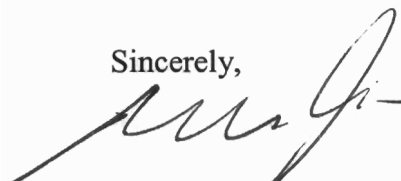
⁵ See The City Record, Thursday, September 14, 2006, at 3043 (included as "Attachment 2").

In addition to the City's view that it is necessary to provide New York City residents an extended time to provide public comment on a franchise renewal process that will accurately reflect the full breadth of community interests, the franchising requirements contained in the City Charter itself, also suggest the need for the instant waiver or at least a clarification of the Commission's rules to make clear that the Franchise and Concession Review Committee ("FCRC") process as reflected in the Charter is consistent with the Commission's requirements. Pursuant to the City Charter, after the agency - in this case, DoITT - tasked with selecting a franchisee has developed a proposed franchise agreement, the proposed agreement must be reviewed and approved by the City's FCRC.⁶ Prior to such approval, however, the City Charter requires that the FCRC conduct a public hearing regarding the proposed franchise within 30 days of the filing of the proposed franchise agreement with the FCRC. At least 15 days prior to the hearing, notice of the hearing, along with a summary of the proposed franchise, must be provided to the public. To the extent additional information relevant to the franchise renewal process pursuant to federal and state law is raised at the applicable FCRC public hearing, PSC rules should not be construed as precluding the incorporation or reflection of such information in any final renewal franchise agreement, nor should the PSC rules be interpreted as barring the conduct of such a public hearing on a proposed franchise agreement being presented to the FCRC for review.

Because of the unique needs associated with renewing franchises in a city as large and diverse as New York, the City seeks a waiver authorizing the City to continue to receive public comments in written or oral form through March 31, 2008, so as to allow a full range of timely views on community needs and interests and other relevant renewal matters across the extremely diverse communities of New York City. This waiver will enable the City to provide the public with full opportunities for both written and oral comment. The City also seeks a waiver or clarification making clear that a public hearing consistent with the City Charter providing for public comment on the text of a proposed renewal franchise agreement prior to a final FCRC vote on such an agreement, and changes to reflect such public comments would be authorized, even though it will take place after the conclusion of the formal public process for initial evaluation of community needs and interests.

Wherefore, the City respectfully requests that the Commission take action as expeditiously as possible to grant the waiver described above.

Sincerely,



Mitchel Ahlbaum

⁶ See City Charter, Ch. 14, § 363.f (included as "Attachment 3"). After approval by the FCRC, the franchise agreement must also receive be separately approved by the Mayor (or the Mayor's authorized designee) and registered with the City Comptroller. See City Charter, Ch. 14, § 372 and § 375. Cable television franchises would then, of course, be subject to Commission certification.

cc: John Figliozi, New York State Public Service Commission
Elizabeth A. Losinski, Cablevision Systems Corporation
Kathy Scopp, Time Warner Cable of New York and New Jersey

blueprints; other information; and for opening and reading of bids at date and time specified above.

School Construction Authority, Plans Room Window Room #1046, 30-30 Thomson Avenue, 1st Floor Long Island City, New York 11101, (718) 472-8222.

m23-j6

MASONRY REPAIRS - Competitive Sealed Bids - PIN# SCA06-08640D-1 - DUE 06-12-06 AT 10:30 A.M. - Center For Continued Education (at M911). Project Range: \$2,100,000.00 to \$2,210,000.00.

● **PROGRAM ACCESSIBILITY AND FA SYSTEM** - Competitive Sealed Bids - PIN# SCA06-07698D-3 - DUE: 06-07-06 AT 12:30 P.M. - P.S. 114 (Queens). Project Range: \$1,750,000.00 to \$1,850,000.00.

● **LOW VOLTAGE** - Competitive Sealed Bids - PIN# SCA06-003962-1 - DUE: 06-06-06 AT 12:30 P.M. - P.S. 175 (Manhattan). Project Range: \$1,280,000.00 to \$1,350,000.00.

● **AUDITORIUM UPGRADE, SCHOOL SAFETY, CONTAINERIZATION** - Competitive Sealed Bids - PIN# SCA06-08597D-1 - DUE: 06-09-06 AT 4:00 P.M. - P.S. 230 / IS 229 (UDC) in Bronx. Project Range: \$1,770,000.00 to \$1,860,000.00.

● **EXTERIOR MOD/FENCING/CONTAINER/AUDITORIUM UPGRADE** - Competitive Sealed Bids - PIN# SCA06-06-003945-1 - DUE: 06-12-06 AT 3:30 P.M. - P.S. 288 (Brooklyn). Project Range: \$1,820,000.00 to \$1,920,000.00.

● **SCHOOL SAFETY/ELECTRICAL SYSTEMS/LOW VOLTAGE** - Competitive Sealed Bids - PIN# SCA06-003984-1 - DUE: 06-12-06 AT 2:30 P.M. - IS 143 (Manhattan). Project Range: \$1,620,000.00 to \$1,710,000.00.

● **EXTERIOR MASONRY** - Competitive Sealed Bids - PIN# SCA06-08883D-1 - DUE: 06-09-06 AT 9:00 A.M. - P.S. 132 (Queens). Project Range: \$3,450,000.00 to \$3,630,000.00.

Non-refundable bid document charge: \$100.00, certified check or money order only. Make payable to the New York City School Construction Authority. Bidders must be Pre-Qualified by the SCA.

School Construction Authority, Plans Room Window Room #1046, 30-30 Thomson Avenue, 1st Floor Long Island City, New York, 11101, (718) 472-8222.

m22-j5

AGENCY PUBLIC HEARINGS ON CONTRACT AWARDS

"These Hearings may be cablecast on NYC TV Channel 74 on Sundays, from 5:00 p.m. to 7:00 p.m. For more information, visit: www.nyc.gov/tv" NOTE: Individuals requesting Sign Language Interpreters should contact the Mayor's Office of Contract Services, Public Hearings Unit, 253 Broadway, 9th Floor, New York, NY 10007 (212) 788-2400 no later than

Hall, 22 Reade Street, Main Floor, Borough commencing at 10:00 A.M. on the following:

IN THE MATTER of a proposed contract between the Department of Design and Construction of the City of New York and The Hudson River Park Trust, Pier 40 West Houston and West Streets, New York, NY 10014, for Rehabilitation of Pier 76, Borough of Manhattan. The contract amount shall be \$7,717,000. The contract term shall be 365 consecutive calendar days from the date of registration PIN #: 8502006XL0001P.

The proposed contract is with another government, pursuant to Section 1-02 (f) (1) of the Procurement Policy Board Rules.

A draft copy of the proposed contract is available for public inspection at the Department of Design and Construction, Professional Contracts Section, Fourth Floor, 30-30 Thomson Avenue, Long Island City, New York 11101, from June 5, 2006 to June 15, 2006, excluding Saturdays, Sundays, and Holidays, between the hours of 9:00 AM and 4:00 PM. Contact Bernarda Ramirez at (718) 391-2666.

j6

SPECIAL MATERIALS

COMPTROLLER

NOTICE

NOTICE OF ADVANCE PAYMENT OF AWARDS PURSUANT TO THE STATUTES IN SUCH cases made and provided, notice is hereby given that the Comptroller of the City of New York, will be ready to pay, at 1 Centre St., Rm. 629, New York, NY 10007 on June 7, 2006, to the person or persons legally entitled an amount as certified to the Comptroller by the Corporation Counsel on damage parcels, as follows:

Damage Parcel No.	Block	Lot
1	5227	35
2	6276	52
5	6810	99
6	6901	275

acquired in the proceeding, entitled: Staten Island Bluebelt Phase 2 subject to any liens and encumbrances of record on such property. The amount advanced shall cease to bear interest on the specified date above.

INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

NOTICE

Notice of Proceeding Concerning Time Warner Cable's Renewal of its Cable Television Franchises

On December 6, 2005, Time Warner Cable provided the New York City Department of Information Technology and Telecommunications ("DoITT") notice of its intent to seek renewal of its franchises to provide cable television service in the boroughs of Queens, Manhattan, Staten Island, and Western Brooklyn. These franchises will expire on September 16, 2008. Pursuant to 16 NYCRR § 891.2 and 47 U.S.C. § 546, DoITT hereby provides the public an opportunity to comment on the renewal of these franchises. In their submissions, commenters are invited to:

- (1) identify the future cable-related community needs and interests, taking into account the costs of meeting such needs and interests; and
- (2) review Time Warner Cable's performance during the current franchise term, which began on September 16, 1998.

DoITT will accept comments until June 1, 2007, subject to a possible future extension of such date if authorized by the New York State Public Service Commission. Comments and any questions should be addressed to:

Ms. Radhika Karmarkar
Senior Counsel for Regulatory and Legislative Affairs
Department of Information Technology and Telecommunications
75 Park Place, 9th Floor, New York, NY 10007
212-788-6565. rkarmarkar@doitt.nyc.gov

j6-20

CHANGES IN PERSONNEL

DEPARTMENT OF CORRECTIONS
FOR PERIOD ENDING 05/19/06

NAME	TITLE	SALARY	ACTION	PROV	EFF DATE
HAMES BELINBA	70467	\$56444.0000	PROMOTED	NO	05/05/06
JOHNSON DEBRA CK	91222	\$200.2000	RESIGNED	YES	05/18/06
JONES JILL	C 70468	\$80825.0000	PROMOTED	NO	04/28/06
JONES VALIE	M 70467	\$56444.0000	PROMOTED	NO	05/05/06
KNAPP GARY	90698	\$180.4800	RESIGNED	NO	05/12/06
LAKE DANIEL	K 91644	\$329.3600	APPOINTED	YES	05/01/06
LEARY MARK	D 70410	\$38008.0000	TERMINATED	NO	05/05/06
LEWIS CHARLTON	C 70488	\$80825.0000	PROMOTED	NO	04/28/06
LONG KYLE	70467	\$56444.0000	PROMOTED	NO	05/05/06
MARGARITO EDITH	70467	\$56444.0000	PROMOTED	NO	05/05/06
MATTHEWS WAYNE	70467	\$56444.0000	PROMOTED	NO	05/05/06
MCUFFIE ZERNAH	S 70467	\$56444.0000	PROMOTED	NO	05/05/06
MCLEAN ZINA	70488	\$80825.0000	PROMOTED	NO	04/28/06
MELENDEZ MIGUEL	A 70488	\$80825.0000	PROMOTED	NO	04/28/06
MERCADO MAYRA	70467	\$56444.0000	PROMOTED	NO	05/05/06
MERRIWEATHER LAKEESHA	70410	\$33838.0000	RESIGNED	NO	05/08/06
MITTL ROBERT	70488	\$80825.0000	PROMOTED	NO	04/28/06
MONTEFORTE TRUDIE	L 70467	\$56444.0000	PROMOTED	NO	05/05/06
MOORE PAUL	A 70467	\$56444.0000	PROMOTED	NO	05/05/06
OTAVIANO LUIGI	70488	\$80825.0000	PROMOTED	NO	04/28/06
PEOPLES YASMEEN	A 70467	\$56444.0000	PROMOTED	NO	05/05/06
RAHMAN MOHAMMED	J 70410	\$33838.0000	RESIGNED	NO	04/30/06
RIVERA JR. DAVID	70467	\$56444.0000	PROMOTED	NO	05/05/06
SALAMONE CAROL	10124	\$48008.0000	INCREASE	NO	04/24/06
SANCHEZ RUBEN	70410	\$39588.0000	TERMINATED	NO	05/03/06
SANTORO MICHAEL	70410	\$39588.0000	RESIGNED	NO	05/18/06
SIDNEY SHFA	N 70467	\$56444.0000	PROMOTED	NO	05/05/06
SMITH ANTHONY	70467	\$56444.0000	PROMOTED	NO	05/05/06
SMITH GUY	90698	\$157.3600	RESIGNED	NO	04/10/06
SMITH LUCIA	C 70467	\$56444.0000	PROMOTED	NO	05/05/06
TATIS RAFAEL	A 70410	\$59588.0000	RETIRED	NO	05/01/06

Flushing Meadows-Corona Park, Flushing, NY 11368.
718) 760-6771.
er, Room 60, Flushing Meadows-Corona Park
11368.

s13-15

Construction / Construction Services

REPAIR AND RESTORATION OF DAMAGED SIDEWALKS –
Sealed Bids – PIN# 8462006Q000C01 –
\$0.00 – TO: Core Restoration Inc., 826 72nd
Avenue, Lynbrook, NY 11228. By adjacent city-owned trees in
wards 1-7, Queens,
Contract Number QG-206M.

REPAIR AND RESTORATION OF PARK PATHS – Competitive
Sealed Bids – PIN# 8462006Q005C02 – AMT: \$636,000.50 –
TO: Ostino Landscape and GC Corp., 53-46 97th
Avenue, NY 11368. Located between Lake View
Street and 155th Street, Foch and Rockaway
Avenues, Baisley Pond Park, Queens,
Contract Number Q005-105M.

**REPAIR AND RESTORATION OF PORTIONS OF THE
FLUSHING MEADOWS-CORONA PARK** – Competitive Sealed Bids
– PIN# 06Q030C01 – AMT: \$195,965.00 – TO: MSM
Construction Corp., 128 Roselle Street, Mineola, NY
11004. Located between Hillside Avenue and Surrey Place, in
Park, Queens,
Contract Number Q030-105MA1.

**REPAIR AND RESTORATION OF THE PLAYGROUND
AT VERNON BOULEVARD** – Competitive
Sealed Bids – PIN# 8462006Q048C01 – AMT: \$897,368.00 –
TO: Contracting Inc., 3-02 26th Avenue, Astoria, NY
11004. Located at 4th Avenue, in Rainey Park, Queens,
Contract Number Q048-105M.

**REPAIR AND RESTORATION OF THE DRAINAGE AT THE
STABLES** – Competitive Sealed Bids –
PIN# 5Q094C01 – AMT: \$163,025.00 – TO: CMC
Construction, 1686 Woodbine Street #3L, Ridgewood, NY
11004. Located at South Conduit Avenue between Linden
Avenue and 49th Avenue, Queens,
Contract Number Q0940-106M.

REPAIR AND RESTORATION OF ENCLOSED ADA PLATFORM
– Competitive Sealed Bids – PIN# 8462006Q446C02 –
AMT: \$55.33 – TO: ARK Builders, 2239 60th Street,
Astoria, NY 11004. On the South elevation of the
creation Center located at 18-48 Cornaga
Avenue, known as Contract Number Q446-106M.

**REPAIR AND RESTORATION OF THE HIGH VOLTAGE
EQUIPMENT** – Competitive Sealed Bids –
PIN# 6Q099C06 – AMT: \$2,831,113.66 – TO: Expert
Construction, 18-71 41st Street, Astoria, NY 11105. Located
along Long Island Railroad and East of the Grand
Avenue, in Flushing Meadows-Corona Park,
Contract Number Q099-604M.

s14

blueprints, other information, and for opening and reading of
bids at date and time specified above.
Department of Small Business Services, 110 William Street,
7th Floor, New York, NY 10038.
Sheridan Ameer (212) 618-8731, sameer@sbs.nyc.gov

s14-20

TRIBOROUGH BRIDGE & TUNNEL AUTHORITY

SOLICITATIONS

Services

**INSPECTION, MAINTENANCE AND REPAIR OF
FIRES SUPPRESSANT SYSTEMS** – Competitive Sealed
Bids – PIN# 06MNT2771000 – DUE 10-03-06 AT 3:00 P.M. –
A pre-bid conference is scheduled for 09/20/06 at 11:00 A.M.
Reservations must be made with Janet Lebron, Procurement
Specialist at (646) 252-7322 no later than noon the preceding
work day.

Use the following address unless otherwise specified in
notice, to secure, examine or submit bid/proposal documents,
vendor pre-qualification and other forms; specifications/
blueprints; other information; and for opening and reading of
bids at date and time specified above.
Triborough Bridge and Tunnel Authority, 2 Broadway,
Bid Suite, New York, NY 10004, Bid Reception Desk,
(646) 252-6101, uprocure@mtabt.org. Call for fee.
All bids must be delivered to the 2 Broadway, Bid Suite
located at the 3 Stone Street entrance. Please allow extra time
for delivery.

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AGENCY PUBLIC HEARINGS ON CONTRACT AWARDS

**"These Hearings may be cablecast on NYC
TV Channel 74 on Sundays, from 5:00 p.m.
to 7:00 p.m. For more information, visit:
www.nyc.gov/tv" NOTE: Individuals
requesting Sign Language Interpreters
should contact the Mayor's Office of
Contract Services, Public Hearings Unit,
253 Broadway, 9th Floor, New York, N.Y.
10007, (212) 788-7490, no later than SEVEN
(7) BUSINESS DAYS PRIOR TO THE
PUBLIC HEARING. TDD users should call
Verizon relay services.**

COMPTROLLER

NOTICE

**NOTICE OF ADVANCE PAYMENT OF AWARDS
PURSUANT TO THE STATUTES IN SUCH cases made and
provided, notice is hereby given that the Comptroller of the
City of New York, will be ready to pay, at 1 Centre St., Rm.
629, New York, NY 10007 on September 22, 2006, to the
person or persons legally entitled an amount as certified to
the Comptroller by the Corporation Counsel on damage
parcels, as follows:**

Damage Parcel No.	Block	Lot
243	15830	30

acquired in the proceeding, entitled: Edgemere URA Phase II
subject to any liens and encumbrances of record on such
property. The amount advanced shall cease to bear interest
on the specified date above.

William C. Thompson, Jr.
Comptroller

s8-22

INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

NOTICE

**Notice of Proceeding Concerning Cablevision Systems of New
York City Corporation's Renewal of its Cable Television
Franchises**

On March 14, 2006, Cablevision Systems of New York City
Corporation ("Cablevision") provided the New York City
Department of Information Technology and
Telecommunications ("DoITT") notice of its intent to seek
renewal of its franchises to provide cable television service in
the boroughs of Brooklyn and the Bronx. These franchises
will expire on October 8, 2008. Pursuant to 16 NYCRR
Section 891.2 and 47 U.S.C. Section 546, DoITT hereby
provides the public an opportunity to comment on the
renewal of these franchises. In their submissions,
commenters are invited to:

- (1) identify the future cable-related community needs and
interests, taking into account the costs of meeting such needs
and interests; and
- (2) review Cablevision's performance during the current
franchise term, which began on October 8, 1998.

DoITT will accept comments until August 1, 2007, subject to
a possible future extension of such date if authorized by the

"ATTACHMENT 2"

New York State Public Service Commission. Comments and any questions should be addressed to:

Ms. Radhika Karmarkar
Senior Counsel for Regulatory and Legislative
Affairs
Department of Information Technology and
Telecommunications
75 Park Place, 9th Floor, New York, NY 10007
212-788-6565
rkarmarkar@doitt.nyc.gov

14-28

LABOR RELATIONS

NOTICE



JAMES F. HANLEY
Commissioner
PAMELA S. SILVERBLATT
First Deputy Commissioner

THE CITY OF NEW YORK
OFFICE OF LABOR RELATIONS
40 Rector Street, New York, NY 10006-1705
<http://nyc.gov/olr>

TO: HEADS OF CONCERNED CITY DEPARTMENTS AND AGENCIES
FROM: JAMES F. HANLEY, COMMISSIONER *James F. Hanley*
SUBJECT: EXECUTED CONTRACT: CORRECTION OFFICERS
TERM: MAY 1, 2005 TO JULY 31, 2007

Attached for your information and guidance is a copy of the executed contract entered into by the Commissioner of Labor Relations on behalf of the City of New York and the Correction Officer's Benevolent Association on behalf of the incumbents of positions listed in Article I of said contract.

The contract incorporates terms of an agreement reached through collective bargaining negotiations and related procedures.

DATED: SEP 05 2005

OFFICE OF LABOR RELATIONS	
REGISTRATION	
OFFICIAL	CONTRACT
NO: 07003	DATE: SEP 05 2005

and conditions of employment consistent with the dignity of Correction Officers, and to provide methods for fair and peaceful adjustment of disputes that may arise between the Union and the City; and

WHEREAS, as a result of collective bargaining the parties have reached an agreement which they desire to reduce to writing;

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE I - UNION RECOGNITION AND UNIT DESIGNATION

Section 1.

The City recognizes the Union as the sole and exclusive collective bargaining representative for the unit consisting of the employees of New York City in the title of "Correction Officer."

Section 2.

Except as otherwise provided herein, for purposes of this Contract, the terms "employee," "employees," "Correction Officer" or "Correction Officers" shall be interchangeable and shall relate solely to employees in the unit described in Section 1 of this Article.

ARTICLE II - UNION SECURITY - DUES CHECKOFF

Section 1.

All employees covered by this Agreement shall be free to become and remain members of the Union in good standing.

Section 2.

The Union shall have the exclusive right to the checkoff and transmittal of dues in behalf of each employee in the unit in accord with the Mayor's Executive Order No. 98, dated May 15, 1969 entitled "Regulations Regulating the Checkoff of Union Dues" and in accord with the Mayor's Executive Order No. 107, dated December 29, 1986 entitled "Regulations Governing Procedures for Orderly Payroll Checkoff of Union Dues" and any executive orders which amend or supersede said Executive Orders.

Section 3.

An employee may consent in writing to the authorization of the deduction of dues from his wages and to the designation of the Union as the recipient thereof. Such consent, if given, shall be in a proper form, in accord with Section 2 of this

amounts, which where specified include both salary and longevity adjustments, shall prevail for employees:

a. For Correction Officers Hired prior to November 2002

Grade-Service	Effective	Effective
First Grade	5/1/05	5/1/05
20 Years	\$67,921**	\$69,8
15 Years	\$66,921**	\$68,8
10 Years	\$65,921*R	\$67,8
5 Years	\$64,921*	\$66,8
Basic	\$61,376	\$63,8
Second Grade	\$47,642	\$49,1
Third Grade	\$45,924	\$47,8
Fourth Grade	\$43,766	\$45,8
Fifth Grade	\$41,708	\$43,8
Sixth Grade	\$39,194	\$40,8

b. For Correction Officers Hired between November 2002 and December 31, 2005

Grade-Service	Effective	Effective
First Grade	5/1/05	5/1/05
20 Years	\$67,921**	\$69,8
15 Years	\$66,921**	\$68,8
10 Years	\$65,921*R	\$67,8
5 Years	\$64,921*	\$66,8
Basic	\$61,376	\$63,8
Second Grade	\$47,642	\$49,1
Third Grade	\$45,924	\$47,8
Fourth Grade	\$39,307	\$40,8
Fifth Grade	\$37,088	\$38,8
Sixth Grade	\$34,853	\$35,8

c. For Correction Officers Hired on or after January 1, 2006

Grade-Service	Effective	Effective
First Grade	1/1/06	5/1/05
20 Years	\$67,921**	\$69,8
15 Years	\$66,921**	\$68,8
10 Years	\$65,921*R	\$67,8
5-1/2 years	\$64,921*	\$66,8
5 Years	\$48,968*	\$50,8
Upon completion of 5-1/2 years of employment (Basic)	\$61,376	\$63,8
Upon completion of 4-1/2 years of employment	\$45,423	\$46,8
Upon completion of 3-1/2 years of employment	\$42,745	\$44,8
Upon completion of 2-1/2 years of employment	\$39,140	\$40,8
Upon completion of 1-1/2 years of employment		

CHAPTER 14
FRANCHISES, REVOCABLE CONSENTS AND CONCESSIONS

§ 362. Definitions. For the purposes of this charter:

a. "Concession" shall mean a grant made by an agency for the private use of city-owned property for which the city receives compensation other than in the form of a fee to cover administrative costs, except that concessions shall not include franchises, revocable consents and leases.

b. "Franchise" shall mean a grant by an agency of a right to occupy or use the inalienable property of the city to provide a public service.

c. "Responsible Agency" shall mean (1) with respect to a franchise, the agency designated by the mayor pursuant to section three hundred sixty-three or three hundred seventy-eight as the agency having primary expertise and responsibility for the type of franchise involved, (2) with respect to a revocable consent, the agency authorized to grant a revocable consent of the type involved pursuant to section three hundred sixty-four, or (3) with respect to a concession, the agency granting a concession.

d. "Revocable Consent" shall mean a grant by the city of a right, revocable at will, (1) to any person to construct and use for private use pipes, conduits and tunnels under, railroad tracks upon, and

connecting bridges over inalienable property, (2) to an owner of real property or, with the consent of the owner, to a tenant of real property to use adjacent inalienable property for such purposes as may be permitted by rules of the department of transportation or the department of information technology and telecommunications or (3) to a public service corporation for facilities ancillary to, but not within, a franchise granted prior to the effective date of this section.

§ 363. Franchises. a. Franchises shall be awarded only in accordance with the provisions of an authorizing resolution adopted by the council pursuant to the provisions of this section.

b. An initial determination of the need for franchises of a particular type shall be made by the head of the agency designated by the mayor as having the primary expertise and responsibility in the policy area covered by that type of franchise. Upon making such a determination, such agency, with the advice of the corporation counsel and such other agencies as the mayor shall determine, shall prepare a proposed authorizing resolution for that type of franchise and shall submit such proposed authorizing resolution to the mayor. Such a proposed authorizing resolution shall set forth the nature of the franchise or franchises to be granted, the public service to be provided, the terms and conditions of the franchise or franchises, including any subsidies that will be given to a franchisee, the method by which proposals will be solicited for the franchise or franchises and the criteria to be used in evaluating the proposals submitted in response to such a solicitation.

c. The mayor may submit such a proposed authorizing resolution to the council. Promptly upon submission to the council, the text of any such authorizing resolution shall be published in the City Record. Within ninety days of receiving such a proposed resolution, the council or a committee of the council shall hold a public hearing on such resolution. The council may approve, approve with modifications or disapprove such resolution by majority vote. Any action of the council approving a

modification to a proposed authorizing resolution or disapproving a proposed authorizing resolution shall be subject to the disapproval of the mayor in the same manner as a local law which is passed by the council, and any such disapproval shall be subject to reconsideration, repassing and adoption, notwithstanding the objections of the mayor, in the same manner as a local law which is disapproved by the mayor. The council may on its own initiative amend an authorizing resolution. The procedure for council review and approval of such a proposed amendment shall be the same as for an authorizing resolution.

d. No authorizing resolution or other action of the council may provide for any involvement by the council or any member of the council in the selection of a franchisee pursuant to such resolution.

e. Pursuant to an authorizing resolution adopted by the council, the responsible agency may issue one or more requests for proposals or other solicitations of proposals, provided that (1) the corporation counsel shall have determined that the request for proposals is consistent with the provisions of the authorizing resolution and (2) no such request or solicitation shall be issued unless either the department of city planning has determined that the proposed franchise would not have land use impacts or implications or such request or solicitation has been reviewed and approved pursuant to section one hundred ninety-seven-c and section one hundred ninety-seven-d. A community board may waive a public hearing and the preparation of a written recommendation with respect to any such request for proposals or solicitation which in its

judgment does not involve a substantial land use interest. Any such request for proposals or solicitation issued in accordance with this subdivision shall set forth the criteria and procedures to be utilized in evaluating the proposals submitted in response to such request or solicitation.

f. The selection of a franchisee shall be in accordance with the provisions of the authorizing resolution covering franchises of the type involved. Each such selection and each franchise agreement shall be subject to the review and approval of the franchise and concession review committee pursuant to sections three hundred seventy-one, three hundred seventy-two and three hundred seventy-three.

g. Nothing in this section shall preclude any agency, prior to proposing an authorizing resolution, from issuing one or more requests for information or other solicitations of information regarding the availability of potential franchisees with expertise in the subject matter of a proposed type of franchise, suggestions regarding the appropriate terms and conditions which should be contained in an authorizing resolution for that type of franchise or any other information which would assist the agency in determining how to proceed with regard to the public service involved.

h. All franchises shall be consistent with the following requirements:

(1) Every grant of a franchise or modification thereof must be by written agreement approved by the franchise and concession review committee and executed by the responsible agency under the authority of an authorizing resolution adopted by the council in accordance with the provisions of this chapter.

(2) No such agreement shall be for a longer period than twenty-five years except that in the case of a tunnel railroad it may be for a period not exceeding fifty years.

(3) The agreement may, at the option of the city, provide for giving to the grantee the right of renewals not exceeding in the aggregate

twenty-five years on a fair redetermination of the compensation to the city to be made upon standards and methods as therein specified.

(4) At the termination of such agreement all the rights or property of the grantee in the inalienable property of the city to which the franchise relates shall cease without compensation.

(5) Any such agreement may provide that upon its termination the property, plant and equipment of the grantee shall, to the extent therein specified, thereupon be and become the property of the city, either without compensation to the grantee or on payment to the grantee of the fair value thereof as property, to be determined as provided in the contract, but excluding any value derived from the franchise. The city shall have the option either to take and operate on its own account the property, plant and equipment when so acquired, or to lease the same for a term not exceeding twenty years or to require that the property of the city be restored to its condition prior to the granting of the franchise.

(6) Every agreement granting a franchise for the performance of any public service shall contain an agreement by the grantee to recognize the right of its employees to bargain collectively through representatives of their own choosing, and at all times to recognize and deal with the representatives duly designated or selected by the majority of its employees for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment and not to dominate, interfere with or participate in the management or control of or give financial support to any union or association of its employees. This subdivision shall not apply to a

contract providing for a modification or amendment of or extension of service under a franchise not containing a similar provision, provided that the term of such franchise is not extended thereby.

§ 364. Revocable consents. a. A revocable consent shall not be granted for a use that would interfere with the use of inalienable property of the city for public purposes, nor shall a revocable consent be granted for a purpose for which a franchise may be granted.

b. All revocable consents shall be revocable at any time by the responsible agency, shall be granted for a fixed term, and shall provide for adequate compensation to be annually provided to the city during the continuance of the consent.

c. Revocable consents, other than for telecommunications purposes, may be granted by the department of transportation with respect to property under its jurisdiction or by such other agency as may be authorized by law to grant revocable consents. Revocable consents for telecommunications purposes may be granted by the department of information technology and telecommunications. All revocable consents shall require the approval of the department of transportation.

d. Every petition for the grant of a revocable consent shall be filed with the department of transportation. Each petition shall state the location of the proposed revocable consent and shall be in such form and contain such other information as the department of transportation and other responsible agencies, if any, shall require by rule. Petitions for each type of revocable consent shall be distributed to and reviewed by the agencies required to do so by local law or executive order of the mayor. If, in the judgment of the department of city planning, a proposed revocable consent has land use impacts or implications, the petition for the proposed revocable consent shall be subject to review and approval pursuant to section one hundred ninety-seven-c and section

one hundred ninety-seven-d.

e. Notwithstanding any provision of this charter or the administrative code, revocable consents to construct and operate sidewalk cafes shall be reviewed pursuant to subchapter six of chapter two of title twenty of the administrative code.

§ 365. Terms of agreements; enforcement. a. Every agreement memorializing the terms and conditions of a franchise, revocable consent or concession shall contain adequate provisions by way of forfeiture or otherwise (1) to secure efficiency of public service at reasonable rates, if a public service is to be provided, (2) to assure the maintenance of the property of the city in good condition throughout the term of the agreement, and (3) to provide for adequate compensation to the city.

b. Every agreement memorializing the terms and conditions of a franchise, revocable consent or concession shall contain an agreement by the grantee that it will (1) permit the placement or display of the public health messages required by section 17-621 of the code, on any property subject to such franchise, revocable consent or concession, or any facility, plant, equipment or other property used in connection with such franchise, revocable consent or concession; and (2) bear any costs associated with the posting of such public health messages and any costs in terms of foregone advertising revenues associated with the placement or display of such public health messages.

c. The responsible agency shall also monitor the performance of the grantee and enforce the terms and conditions of any franchise, revocable consent or concession under its jurisdiction.

§ 371. Public hearing on proposed agreement; publication of notice. The franchise and concession review committee in the case of a franchise, or the responsible agency in the case of a revocable consent, shall hold a public hearing on the proposed agreement memorializing the terms and conditions of each proposed franchise or revocable consent before final approval of the proposed franchise or consent. Any such public hearing conducted by the franchise and concession review committee shall be held within thirty days of the filing with the committee by the responsible agency of a proposed agreement containing the terms and conditions of the proposed franchise. No hearing held by the franchise and concession review committee or by the responsible agency shall be held until after notice thereof and a summary of the terms and conditions of the proposed agreement shall have been published for at least fifteen days, except Sundays and legal holidays, immediately prior thereto in the City Record, nor until a notice of such hearing, indicating the place where copies of the proposed agreement may be obtained by all those interested therein, shall have been published at least twice at the expense of the proposed grantee in a daily newspaper designated by the mayor which is published in the city of New York and having a circulation in the borough or boroughs in which the affected property of the city is located and a weekly newspaper or newspapers designated by the mayor which are published in the city of New York and have a circulation in the community district or districts in which the affected property of the city is located. In the event a franchise or revocable consent relates to property of the city located in more than one borough, notice of hearing in a weekly newspaper shall not be required; however, in that event, notice of hearing in two daily newspapers, and mailing by the grantee, no later than fifteen days

immediately prior to the date of the public hearing, of such notice to the borough presidents and community boards and council members in whose districts the affected property of the city is located, shall be required. In the case of a franchise for a bus route which crosses one or more borough boundaries, notice of hearing in a weekly newspaper shall not be required; however, in that event, notice of hearing in two daily newspapers, and mailing by the grantee, no later than fifteen days immediately prior to the date of the public hearing, of such notice to the borough presidents and community boards and council members in whose districts the bus route is located, and posting of such notice in the buses operating upon such route, shall be required.

§ 372. Powers of the mayor. a. The separate and additional approval of the mayor shall be necessary to the validity of every franchise agreement revocable consent agreement.

b. Every such agreement shall before it takes effect be presented, duly certified, to the mayor for approval. Such agreement shall not be effective unless approved by the mayor within sixty days after it is presented to the mayor.

§ 373. Franchise and concession review committee. a. A franchise and concession review committee is hereby established. The committee shall consist of the following officials or their designees: the mayor, who

shall serve as chair; the director of the office of management and budget; the corporation counsel; the comptroller; and one additional appointee of the mayor. Whenever the committee reviews a proposed franchise or concession or the procedures for granting a particular concession, the borough president of the borough in which such franchise or concession is located or his or her designee shall also serve as a member of the committee. If such a franchise, concession or procedure relates to more than one borough, the borough presidents of such boroughs shall designate one of such borough presidents or another individual to serve as a member of the committee for the purpose of considering such matter.

b. The mayor shall designate a public officer or employee to act as the clerk of the committee who shall be responsible for maintaining the records and minutes of the committee and performing such other duties as may be required.

c. The committee shall act by the affirmative vote of at least four members except that the affirmative vote of at least five members shall be required to approve a franchise agreement.

d. The committee shall:

(1) adopt rules establishing procedures for granting concessions through public bidding or by other means designed to ensure a competitive and fair process;

(2) review and approve the granting of concessions that are proposed to be granted pursuant to procedures that differ from the procedures established by the rules of the committee; provided, however, that the committee need not review awards of concessions that are not subject to renewal and have a term of less than thirty days;

(3) determine whether each franchise agreement proposed by a city agency is consistent with the request for proposal or other solicitation pursuant to which such agreement was negotiated and require appropriate modifications to any such agreements to correct any significant inconsistencies; and

(4) review and approve the selection of franchisees pursuant to

subdivision f of section three hundred sixty-three.

§ 374. Concessions. a. No city agency shall grant a concession without either complying with the procedures established by the franchise and concession review committee or obtaining the approval of the committee prior to granting the concession.

b. The city planning commission shall adopt rules that either list major concessions or establish a procedure for determining whether a concession is a major concession. A "major concession" shall mean a concession that has significant land use impacts and implications, as determined by the commission, or for which the preparation of an environmental impact statement is required by law. All major concessions shall be subject to review and approval pursuant to section one hundred ninety-seven-c and section one hundred ninety-seven-d.

§ 375. Registration with the comptroller. All agreements memorializing the terms of franchises, revocable consents or concessions shall be agreements subject to the applicable registration requirements and other provisions of section three hundred twenty-eight except that the terms "vendor" and "contractor" as used in section three hundred twenty-eight shall be deemed to apply to the holders of franchises, revocable consents and concessions.

§ 376. Central file. Copies of all franchise and revocable consent agreements shall be filed with the department of transportation. The department of transportation shall compile and keep up to date a listing of all current franchises and revocable consents which shall be available to the public and shall include the date, terms, names of the parties, description of the permitted use and location of each franchise and revocable consent. Such listing shall be arranged and indexed so as to enable a member of the public to determine what current franchises and revocable consents involving use or occupancy of streets and sidewalks have been granted for any location in the city and the identity of the holder of each such franchise or revocable consent.

§ 377. Bureau of Franchises. The bureau of franchises shall be discontinued as of the first day of July, nineteen hundred ninety. The records and staff of the bureau of franchises shall be transferred to the department of transportation, except that the records and staff of the bureau relating to telecommunications franchises shall be transferred to the department of telecommunications and the records relating to energy shall be transferred to such agency as the mayor shall designate.

§ 378. Transition. a. All franchises, revocable consents and concessions granted prior to the effective date of this section shall remain in full force and effect for the terms which they were granted.

b. Not later than the first day of March, nineteen hundred ninety, the mayor shall designate a single agency as the responsible agency for each type of franchise currently granted by the city. If such an agency intends to continue granting any such type of franchise, the agency shall submit to the council a proposed authorizing resolution for such type of franchise at least two years, or such shorter period as may be approved by the franchise and concession review committee, prior to the earliest expiration date of any existing franchise of that type; provided, however, that such an agency, with the approval of the franchise and concession review committee, may extend to the

thirty-first day of December, nineteen hundred ninety-two the expiration date of any franchise which is scheduled to expire prior to that date, if such an extension is necessary in order to provide the agency with adequate time during which to prepare a proposed authorizing resolution for the type of franchise involved; and provided further, that the department of transportation, with the approval of the franchise and concession review committee, may extend the expiration date of the operating authority of any private bus company that receives a subsidy from the city to a date not later than the fourth day of December, two thousand and four; and provided further, that the department of transportation, with the approval of the franchise and concession review committee, may extend the expiration date of the operating authority of any private bus company that does not receive a subsidy from the city to a date not later than the thirtieth day of June, two thousand and seven; and provided further, that the department of transportation, with the approval of the franchise and concession review committee, may extend the expiration date of any franchise to operate and maintain bus shelters to a date not later than the thirty-first day of December, two thousand and four. Notwithstanding the provisions of section three hundred seventy-one, the public notice and hearing requirements of the franchise and concession review committee with respect to an approval of an extension of the operating authority of a private bus company that receives a subsidy from the city shall be fully satisfied by a public hearing held after notice of such hearing shall have been published at least one day prior thereto in the City Record.

CHAPTER 15 PROPERTY OF THE CITY

§ 381. Authority to acquire real property. The city may acquire title in fee to real property or any interest therein whenever required for any public or municipal use or purpose or for the promotion of public utility, comfort, health, enjoyment or adornment. Such title or interest shall be acquired according to law by purchase, condemnation or otherwise.

§ 382. Notice to owners of proceeding to acquire property. In addition to all other requirements of law, written notice of the application to have compensation for real property ascertained in any proceeding brought by the city to acquire title to real property shall be given by the corporation counsel to the owners of all property affected by the proceeding at least ten days prior to such application, by mailing the same to such owners at the address registered or filed with the commissioner of finance for the purpose of forwarding to them bills for taxes, assessments and frontage water rates. Such notice shall state the purpose for which the property is to be acquired and the date when such application will be presented and shall contain a copy of such application. Upon request by the corporation counsel, the commissioner of finance shall furnish a certified list of the registered or filed names and addresses of such owners. Failure to comply with the directions contained in this section shall not invalidate or affect the proceeding.

§ 383. Inalienable property. The rights of the city in and to its water front, ferries, wharf property, bridges, land under water, public landings, wharves, docks, streets, avenues, highways, parks, waters,