

CENTRAL BUSINESS DISTRICT (CBD) TOLLING PROGRAM

Appendix 19: Section 4(f) Correspondence

August 2022



June 30, 2022

Via email

Olivia Brazee
Historic Site Restoration Coordinator
New York State Office of Parks, Recreation and Historic Preservation
Division for Historic Preservation
P.O. Box 189
Waterford, NY 12188-0189

RE: **Section 4(f) Use of Historic Sites**
Central Business District (CBD) Tolling Program
New York City, New York County, New York

Dear Ms. Brazee,

The Triborough Bridge and Tunnel Authority (TBTA), an affiliate of the Metropolitan Transportation Authority (MTA), the New York State Department of Transportation (NYSDOT), and the New York City Department of Transportation (NYCDOT), collectively, are proposing to undertake the Central Business District (CBD) Tolling Program (the CBD Tolling Program or the Project). As a project requiring Federal Highway Administration (FHWA) approval, the Project is subject to the requirements of Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966 (now codified in 23 USC §138 and 49 USC §303), and the FHWA implementing regulation, 23 CFR Part 774.

Section 4(f) prohibits the Secretary of Transportation from approving any program or project that requires the use of a Section 4(f) resource, including public parks/recreation areas and historic sites, unless there is no feasible and prudent avoidance alternative to the use of such land and all possible planning has been undertaken to minimize harm to the Section 4(f) resource. However, a *de minimis* impact finding may be made when certain uses of Section 4(f) land will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f). In accordance with the applicable regulations and FHWA guidance, Central Park and the High Line are considered Section 4(f) properties as both park resources and historic sites.

A Memorandum of Understanding (MOU) between NYCDOT and TBTA documents an agreement that would allow TBTA to install, maintain, and repair the proposed toll collection system equipment within the Impacted Public Right of Way (portion of street and sidewalk, as well as any other poles, lines, or appurtenances). As per the MOU, NYCDOT would maintain CBDTP-related regional signage on behalf of TBTA. TBTA also has a Blanket Permit with NYC Parks that allows TBTA access to NYC Parks

properties for inspection and minor work, and it can be renewed as necessary. The properties covered by these agreements include Central Park and the High Line.

It is anticipated that the installation on the High Line would take approximately 3 days, including installation of the tolling equipment as well as underground electrical and fiber optic lines. Within Central Park, it would take approximately 2 days at each location to install the foundation as well as the underground electrical and fiber optic lines with an additional day at each location to install the pole and hardware. It is anticipated that preventative maintenance and cleaning of the infrastructure/equipment would occur four (4) times a year with a duration of approximately ½ hour each time.

The granting of access for construction and maintenance of tolling infrastructure and equipment within Central Park and on the High Line constitutes a use of these resources as defined by Section 4(f). However, the construction and maintenance of tolling infrastructure and equipment in Central Park and on the High Line would not adversely affect the activities, features, and attributes that qualify these resources for protection under Section 4(f). This was demonstrated in the Section 106 *No Adverse Effect* determination made by FHWA following consultation with SHPO and other Consulting Parties. Therefore, the Project's use of Central Park meets the Section 4(f) *de minimis* impact criteria. In accordance with 23 CFR 773.13, the use of the High Line as an historic site is excepted from the requirement for Section 4(f) approval.

On behalf of FHWA, NYSDOT respectfully requests that the New York State Historic Preservation Office (SHPO), as an official with jurisdiction over Central Park as a 4(f) historic site, provide concurrence in writing with FHWA's proposed *de minimis* finding for Central Park. Please provide your concurrence in a letter, which will be made part of the administrative record for the Project, and please include statements similar to the following:

"The proposed use of land from Central Park and the High Line under the CBD Tolling Alternative is unavoidable. The State Historic Preservation Office concurs that the granting of access for construction and future maintenance of tolling infrastructure and equipment within Central Park would not adversely affect the historic qualities of the Park that qualify it to be on the National Register and qualify Central Park for protection under Section 4(f)."

We would appreciate your response no later than July 14, 2022. If you have any questions or need additional information, please feel free to contact Lori Blair at (518) 485-5632 or at lori.blair@dot.ny.gov.

Sincerely,

Catherine Leslie

Catherine Leslie
Director, EIS & Special Projects Bureau

CL/lb/bb

cc: M. Pavlik, FHWA
R. Davies, FHWA
A. Price, FHWA
K. Kramer, FHWA
T. Smith, NYSDOT
A. de Cerreño, MTA
N. Angel, MTA
W. Carry, NYCDOT



**Parks, Recreation,
and Historic Preservation**

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

July 5, 2022

Lori Blair
Environmental Specialist 2, Cultural Resource Specialist
NYSDOT
50 Wolf Road, POD 4-1
Albany, NY 12232

Re: FHWA
Central Business District (CBD) Tolling Program
21PR06430
CBDTP

Dear Lori Blair:

Thank you for continuing to consult with the New York State Historic Preservation Office (SHPO). We have reviewed the provided documentation in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include other environmental impacts to New York State Parkland that may be involved in or near your project.

We have reviewed your letter dated June 30th, 2022. Based upon our review, we understand that the proposed use of land from Central Park and the High Line under the CBD Tolling Alternative is unavoidable. The State Historic Preservation Office concurs that the granting of access for construction and future maintenance of tolling infrastructure and equipment within Central Park would not adversely affect the historic qualities of the Park that qualify it to be on the National Register and qualify Central Park for protection under Section 4(f).

If you have any questions, I am best reached via e-mail at Olivia.brazee@parks.ny.gov.

Sincerely,

Olivia Brazee
Historic Site Restoration Coordinator
olivia.brazee@parks.ny.gov

via e-mail only

cc: G. Santucci, A. Sutphin, J. MacLean, D. Pagano, NYC LPC, A. Price, US DOT



June 30, 2022

Via email

David Cuff, Director of Environmental Review
Planning and Development
NYC Parks
The Arsenal, Central Park
830 Fifth Avenue, Room 401
New York, NY 10065

RE: **Section 4(f) Use of Parkland**
Central Business District (CBD) Tolling Program
New York City, New York County, New York

Dear Mr. Cuff,

The Triborough Bridge and Tunnel Authority (TBTA), an affiliate of the Metropolitan Transportation Authority (MTA), the New York State Department of Transportation (NYSDOT), and the New York City Department of Transportation (NYCDOT), collectively, are proposing to undertake the Central Business District (CBD) Tolling Program (the CBD Tolling Program or the Project). As a project requiring Federal Highway Administration (FHWA) approval, the Project is subject to the requirements of Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966 (now codified in 23 USC §138 and 49 USC §303), and the FHWA implementing regulation, 23 CFR Part 774.

Section 4(f) prohibits the Secretary of Transportation from approving any program or project that requires the use of a Section 4(f) resource, including public parks/recreation areas and historic sites, unless there is no feasible and prudent avoidance alternative to the use of such land and all possible planning has been undertaken to minimize harm to the Section 4(f) resource. However, a *de minimis* impact finding may be made when certain uses of Section 4(f) land will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f). In accordance with the applicable regulations and FHWA guidance, Central Park and the High Line are considered Section 4(f) properties as both recreational resources and historic sites.

A Memorandum of Understanding (MOU) between NYCDOT and TBTA documents an agreement that would allow TBTA to install, maintain, and repair the proposed toll collection system equipment within the Impacted Public Right of Way (portion of street and sidewalk, as well as any other poles, lines, or appurtenances). As per the MOU,

NYCDOT would maintain CBDTP-related regional signage on behalf of TBTA. TBTA also has a Blanket Permit with NYC Parks that allows TBTA access to NYC Parks properties for inspection and minor work, and it can be renewed as necessary. The properties covered by these agreements include Central Park and the High Line.

It is anticipated that the installation on the High Line would take approximately 3 days, including installation of the tolling equipment as well as underground electrical and fiber optic lines. Within Central Park, it would take approximately 2 days at each location to install the foundation as well as the underground electrical and fiber optic lines with an additional day at each location to install the pole and hardware. It is anticipated that preventative maintenance and cleaning of the infrastructure/equipment would occur four (4) times a year with a duration of approximately ½ hour each time.

The granting of access for construction and future maintenance of tolling infrastructure and equipment within Central Park and on the High Line constitutes a use of these resources as defined by Section 4(f). However, the construction and maintenance of tolling infrastructure and equipment in Central Park and on the High Line would not adversely affect the activities, features, and attributes that qualify each of these resources for protection under Section 4(f). Therefore, the FHWA intends to make a *de minimis* impact finding.

In addition, the construction of tolling system infrastructure and tolling system equipment within Central Park would result in temporary occupancy of the park. However, consistent with criteria set forth in 23 CFR Part 774.13(d), the temporary occupancy of Central Park would not be a use of this Section 4(f) property for the following reasons:

- In each location, the total amount of time required for construction for the CBD Tolling Program would be less than a month, which is less than the one year duration for construction of the entire Project, and there would be no change in the ownership of the land.
- The Project involves only minor construction activities, including limited excavation to replace the poles and connect with existing utilities, installation of the new poles, and restoration of the ground surface within very limited areas of the 840-acre park. The construction activities would not impede access to recreational facilities.
- Once complete, the permanent infrastructure would be similar in appearance to existing streetlight poles and signs within the park, and there would be no permanent effect on park uses.
- The utility trenches would be covered and restored to their current condition (i.e., fill or pavement). If landscaping was removed, it would be restored or replaced.
- The TBTA would coordinate work with NYC Parks and would require the contractor to implement measures to avoid, minimize, or mitigate construction effects on the park and park users to the extent feasible. The Project Sponsors have and will continue to coordinate with NYC Parks and the Central Park Conservancy regarding the construction of tolling infrastructure and tolling system equipment within Central Park.

On behalf of the FHWA, NYSDOT respectfully requests that the New York City Department of Parks and Recreation, as an official with jurisdiction over Central Park, provide concurrence in writing with FHWA's proposed *de minimis* finding for Central Park and the High Line and with the determination that the temporary occupancy of Central Park for construction of the CBD Tolling Alternative meets the conditions under 23 CFR Part 774.13(d) so that the temporary occupancy does not constitute a use within the meaning of Section 4(f). Please provide your concurrence in a letter, which will be made part of the administrative record for the Project, and please include statements similar to the following:

"The proposed use of land from Central Park and the High Line under the CBD Tolling Alternative is unavoidable. The temporary occupancy of Central Park for construction of the CBD Tolling Alternative meets the conditions under 23 CFR Part 774.13(d) so that the temporary occupancy does not constitute a use within the meaning of Section 4(f). The New York City Department of Parks and Recreation concurs that the granting of access for construction and future maintenance of tolling infrastructure and equipment within Central Park and on the High Line would not adversely affect the activities, features and attributes that qualify Central Park and the High Line for protection under Section 4(f)."

We would appreciate your response no later than July 14, 2022. If you have any questions or need additional information, please feel free to contact Lori Blair at (518) 485-5632 or at lori.blair@dot.ny.gov.

Sincerely,

Catherine Leslie

Catherine Leslie
Director, EIS & Special Projects Bureau

CL/lb/bb

cc: M. Pavlik, FHWA
R. Davies, FHWA
A. Price, FHWA
K. Kramer, FHWA
T. Smith, NYSDOT
A. de Cerreño, MTA
N. Angel, MTA
W. Carry, NYCDOT



NYC Parks

Jennifer Greenfeld
Deputy Commissioner,
Environment and Planning

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E Jennifer.Greenfeld@parks.nyc.gov

City of New York
Parks & Recreation

The Arsenal
Central Park
New York, NY 10065
www.nyc.gov/parks

July 12, 2022

Catherine Leslie
Director, EIS & Special Projects Bureau
New York State Department of Transportation
50 Wolf Road
Albany, NY 12232

RE: Section 4(f) Use of Parkland Central Business District (CBD) Tolling Program New York City, New York County, New York

Dear Ms. Leslie:

The New York City Department of Parks and Recreation (NYC Parks) understands that the Triborough Bridge and Tunnel Authority (TBTA), an affiliate of the Metropolitan Transportation Authority (MTA), the New York State Department of Transportation (NYSDOT), and the New York City Department of Transportation (NYCDOT), collectively, are proposing to undertake the Central Business District (CBD) Tolling Program (the CBD Tolling Program or the Project). As a project requiring Federal Highway Administration (FHWA) approval, the Project is subject to the requirements of Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966 (now codified in 23 USC §138 and 49 USC §303), and the FHWA implementing regulation, 23 CFR Part 774.

In accordance with the applicable regulations and FHWA guidance, Central Park and the High Line are considered Section 4(f) properties, as both are recreational resources and historic sites. The granting of access for installation and future maintenance of tolling infrastructure and equipment within Central Park and on the High Line constitutes a use of these resources, as defined by Section 4(f). However, the installation and maintenance of tolling infrastructure and equipment in Central Park and on the High Line are not expected to adversely affect the activities, features, and attributes that qualify each of these resources for protection under Section 4(f) and it is expected that the impacts to the 4(f) resources would be minimal.

NYC Parks further understands that there is a Memorandum of Understanding (MOU) between NYCDOT and TBTA that documents an agreement that would allow TBTA to install, maintain, and repair the proposed toll collection system equipment within the Impacted Public Right of Way (portion of street and sidewalk, as well as any other poles, lines, or appurtenances). As per the MOU, NYCDOT would maintain CBDTP-related regional signage on behalf of TBTA. TBTA also has a Blanket Permit with NYC Parks that allows TBTA access to NYC Parks properties for inspection and minor work, and it can be renewed as necessary. The properties covered by these agreements include Central Park and the High Line. Please know that the installation of CBDTP equipment would need a standalone permit or separate agreement and is not an authorized activity under the Blanket Permit.

In addition, the installation of tolling system infrastructure and tolling system equipment within Central Park would result in temporary occupancy of the park. However, consistent with criteria set forth in 23 CFR Part 774.13(d), the temporary occupancy of Central Park would not be a be considered a use of the Section 4(f) property, for the following reasons:



NYC Parks

- In each location, the total amount of time required for construction for the CBD Tolling Program would be less than a month, which is less than the one year duration for construction of the entire Project, and there would be no change in the ownership of the land.
- The Project involves only minor construction activities, including limited excavation to replace the poles and connect with existing utilities, installation of the new poles, and restoration of the ground surface within very limited areas of the 840-acre park. The construction activities would not impede access to recreational facilities.
- Once complete, the permanent infrastructure would be similar in appearance to existing streetlight poles and signs within the park, and there would be no permanent effect on park uses.
- The utility trenches would be covered and restored to their current condition (i.e., fill or pavement). If landscaping was removed, it would be restored or replaced.
- The TBTA would coordinate work with NYC Parks and would require the contractor to implement measures to avoid, minimize, or mitigate construction effects on the park and park users to the extent feasible. The Project Sponsors have and will continue to coordinate with NYC Parks (and the Central Park Conservancy) regarding the construction of tolling infrastructure and tolling system equipment within Central Park.

The granting of access for construction and future maintenance of tolling infrastructure and equipment within Central Park and on the High Line would not adversely affect the activities, features and attributes that qualify Central Park and the High Line for protection under Section 4(f). Therefore, NYC Parks, as the agency with jurisdiction over Central Park and the High Line, concurs with the proposed *de minimis* impact finding for Central Park and the High Line and with the determination that the temporary occupancy of Central Park for construction of the CBD Tolling Alternative meets the conditions under 23 CFR Part 774.13(d) so that the temporary occupancy does not constitute a use within the meaning of Section 4(f).

Please contact me at david.cuff@parks.nyc.gov if any further information is needed.

Sincerely,

David Cuff, AICP
Director of Environmental Review

CC:
Colleen Alderson, NYC Parks
Brendan Shera, NYC Parks



June 30, 2022

Via email

Mark Eberle
Resource Planning Specialist/External Review Coordinator
National Park Service
Interior Region 1, North Atlantic-Appalachian
1234 Market Street, 20th Floor
Philadelphia, PA 19107

RE: **Section 4(f) Use of Historic Sites**
Central Business District (CBD) Tolling Program
New York City, New York County, New York

Dear Mr. Eberle,

The Triborough Bridge and Tunnel Authority (TBTA), an affiliate of the Metropolitan Transportation Authority (MTA), the New York State Department of Transportation (NYSDOT), and the New York City Department of Transportation (NYCDOT), collectively, are proposing to undertake the Central Business District (CBD) Tolling Program (the CBD Tolling Program or the Project). As a project requiring Federal Highway Administration (FHWA) approval, the Project is subject to the requirements of Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966 (now codified in 23 USC §138 and 49 USC §303), and the FHWA implementing regulation, 23 CFR Part 774.

Section 4(f) prohibits the Secretary of Transportation from approving any program or project that requires the use of a Section 4(f) resource, including public parks/recreation areas and historic sites, unless there is no feasible and prudent avoidance alternative to the use of such land and all possible planning has been undertaken to minimize harm to the Section 4(f) resource. However, a *de minimis* impact finding may be made when certain uses of Section 4(f) land will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f). In accordance with the applicable regulations and FHWA guidance, Central Park and the High Line are considered Section 4(f) properties as both park resources and historic sites.

A Memorandum of Understanding (MOU) between NYCDOT and TBTA documents an agreement that would allow TBTA to install, maintain, and repair the proposed toll collection system equipment within the Impacted Public Right of Way (portion of street and sidewalk, as well as any other poles, lines, or appurtenances). As per the MOU, NYCDOT would maintain CBDTP-related regional signage on behalf of TBTA. TBTA also has a Blanket Permit with NYC Parks that allows TBTA access to NYC Parks

properties for inspection and minor work, and it can be renewed as necessary. The properties covered by these agreements include Central Park and the High Line.

It is anticipated that the installation on the High Line would take approximately 3 days, including installation of the tolling equipment as well as underground electrical and fiber optic lines. Within Central Park, it would take approximately 2 days at each location to install the foundation as well as the underground electrical and fiber optic lines with an additional day at each location to install the pole and hardware. It is anticipated that preventative maintenance and cleaning of the infrastructure/equipment would occur four (4) times a year with a duration of approximately ½ hour each time.

The granting of access for construction and maintenance of tolling infrastructure and equipment within Central Park and on the High Line constitutes a use of these resources as defined by Section 4(f). However, the construction and maintenance of tolling infrastructure and equipment in Central Park and on the High Line would not adversely affect the activities, features, and attributes that qualify these resources for protection under Section 4(f). This was demonstrated in the Section 106 *No Adverse Effect* determination made by FHWA following consultation with SHPO, NPS, and other Consulting Parties. Therefore, the Project's use of Central Park meets the Section 4(f) *de minimis* impact criteria. In accordance with 23 CFR 773.13, the use of the High Line as an historic site is excepted from the requirement for Section 4(f) approval.

On behalf of FHWA, NYSDOT respectfully requests that the National Park Service (NPS), as an official with jurisdiction over Central Park as a 4(f) historic site, provide concurrence in writing with FHWA's proposed *de minimis* finding for Central Park. Please provide your concurrence in a letter, which will be made part of the administrative record for the Project, and please include statements similar to the following:

"The proposed use of land from Central Park and the High Line under the CBD Tolling Alternative is unavoidable. The National Park Service concurs that the granting of access for construction and future maintenance of tolling infrastructure and equipment within Central Park would not adversely affect the historic qualities of the Park that qualify it to be on the National Register and qualify Central Park for protection under Section 4(f)."

We would appreciate your response no later than July 14, 2022. If you have any questions or need additional information, please feel free to contact Lori Blair at (518) 485-5632 or at lori.blair@dot.ny.gov.

Sincerely,

Catherine Leslie

Catherine Leslie
Director, EIS & Special Projects Bureau
CL/lb/bb

cc: M. Pavlik, FHWA
R. Davies, FHWA
A. Price, FHWA
K. Kramer, FHWA
T. Smith, NYSDOT
A. de Cerreño, MTA
N. Angel, MTA
W. Carry, NYCDOT



United States Department of the Interior



NATIONAL PARK SERVICE
Interior Region 1
North Atlantic-Appalachian
1234 Market Street, 20th Floor
Philadelphia, PA 19107

IN REPLY REFER TO:

Catherine Leslie, Director
Environmental Impact Statements & Special Projects Bureau
New York State Department of Transportation
Office of Environment
50 Wolf Road POD 4-1
Albany, NY 12232

RE: Central Business District Tolling Program Project
Borough of Manhattan, New York City/County, NY

Dear Ms. Leslie:

This letter is in response to the New York State Department of Transportation's (NYSDOT) June 30, 2022, letter which stated your Section 4(f) determination for the Central Business District (CBD) Tolling Program in the Borough of Manhattan, New York City/County, NY. The National Park Service (NPS) understands that the purpose of the project is to reduce traffic congestion in the Manhattan CBD in a manner that will generate revenue for future transportation improvements. As defined for this project, the Manhattan CBD, which encompasses all of Lower Manhattan and Midtown Manhattan, consists of the geographic area of Manhattan south and inclusive of 60th Street to the extent practicable, but not including the Franklin D. Roosevelt Drive and West Side Highway/Route 9A, including the Battery Park underpass and any surface roadway portion of the Hugh L. Carey Tunnel connecting to West Street (the West Side Highway/Route 9A). It is our understanding this area is characterized by traffic congestion and delays that slow travel and jeopardize the vitality of the Manhattan CBD and surrounding region.

The proposed project has components that are adjacent to Central Park, a world-renowned National Historic Landmark (NHL). Central Park encompasses 840 acres, with the designated boundaries extending from the northern curblineline of Central Park South (59th Street) to the southern curblineline of Central Park North (110th Street) and from the western curblineline of Fifth Avenue to the eastern curblineline of Central Park West (Eighth Avenue), including the sidewalks bordering the park on all sides. Central Park was the first large-scale public park in the United States, designed in the mid-19th century by Frederick Law Olmsted and Calvert Vaux. The Park was planned as a naturalistic landscape in which urban dwellers of all backgrounds could mingle and find respite from the pressures of city life.

The U.S. Department of Transportation Act of 1966, 49 U.S.C. §303 and 23 U.S.C. §138, establishes that Department of Transportation agencies must take into consideration public parks, recreation areas, and publicly- or privately-owned historic sites listed or eligible for listing on the National Register of Historic Places. Under Section 4(f), Department of

Transportation agencies cannot approve use of land from these areas unless there is no feasible and prudent avoidance alternative to the use. As a federally designated National Historic Landmark, Central Park qualifies as a Section 4 (f) property.

The NPS participated in several consulting party meetings for this project under Section 106 of the National Historic Preservation Act, as well as other discussions concerning the Section 4(f) review. This letter is confirming that the NPS, as one of the officials with jurisdiction over the Section 4(f) property, concurs with the *de minimis* determination prepared by NYSDOT and Federal Highway Administration for the project.

Based on the project information provided in your June 30, 2022, letter, the NPS also concurs that granting access for future construction and maintenance of tolling infrastructure and equipment within and adjacent to Central Park would not adversely affect the historic qualities of the park that qualifies it to be on the National Register and for protection under Section 4(f). The NPS concurrence is contingent upon NYSDOT getting concurrence from the other two officials with jurisdiction for Central Park--the New York City Parks Department and the New York State Historic Preservation Office.

In addition, the NPS wishes to be a consulting party when there are proposed changes to or replacement of equipment and signage in the future.

Thank you for coordinating with the NPS on this project. If you have any questions, please contact me or Kathy Schlegel at 215-597-6486 or via e-mail at kathy_schlegel@nps.gov.

Sincerely,

Jonathan Meade
Associate Regional Director
Resource Science and Stewardship

cc:
David Cuff, NYC Parks Department
Olivia Brazee, New York State Historic Preservation Office