

**DEPARTMENT OF INFORMATION TECHNOLOGY AND  
TELECOMMUNICATIONS**

**AMENDMENT No. 1**

**TO**

**THE FRANCHISE AGREEMENT**

**BETWEEN THE CITY OF NEW YORK AND CITYBRIDGE, LLC**

**FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF PUBLIC COMMUNICATIONS  
STRUCTURES IN THE BOROUGHS OF THE BRONX, BROOKLYN, MANHATTAN, QUEENS AND  
STATEN ISLAND**

**Contract No. RCTI-858-20158202566**

THIS **AMENDMENT No. 1** modifies the above referenced **Agreement** by and between CityBridge, LLC, and the City of New York (“the City”), acting through its Department of Information Technology and Telecommunications (“DoITT”).

**PURPOSE OF AMENDMENT AND AUTHORITY**

The purpose of this Amendment No. 1 is to modify the Agreement to include additional rights and responsibilities of the parties, including: the provision of Wi-Fi Services to Gigabit Centers; clarification of state of the art reporting, technology refresh requirements, and data rights; more detailed Maintenance and Monitoring System specifications; and corresponding changes to related provisions in the Agreement documents.

This Amendment No. 1 is entered into pursuant to Section 15.18 of the Agreement and has satisfied all administrative prerequisites to its effectuation. The Franchise and Concession Review Committee (“FCRC”) held a public hearing on this Amendment No. 1, which was a full public proceeding affording due process in compliance with the requirements of Chapter 14 of the Charter. The FCRC, at its duly constituted meeting held on September 9, 2015, voted on and approved the modifications to the Franchise Agreement set forth in this Amendment No. 1.

*Now therefore*, the parties agree as follows:

1. Section 1.1 of the Agreement is modified as follows:

The definition of “Service(s)” is modified as follows:

“Service(s),” “PCS Service(s),” or “Public Communications Structure Service(s)” means, individually and collectively, all work, goods, and services that the Franchisee is (i) obligated to provide under this Agreement or (ii) authorized to provide and in fact does provide under this Agreement.

2. Section 3.12 of the Agreement is modified such that subsection 3.12.1 is amended as below:

3.12.1 The Franchisee retains ownership rights in all data created in the course of providing the Wi-Fi Services and ancillary services contemplated in Part VII of Attachment SRV to the extent that such data doesn’t include Personally Identifiable Information, and subject to the requirements of subsection 4.4.4 of Attachment SRV. The Franchisee retains no ownership rights in Personally Identifiable Information.

3. Section 3.12.5 of the Agreement is modified as follows:

3.12.5 The Franchisee hereby grants the City a perpetual, unhindered, non-exclusive, irrevocable right to use any anonymized aggregated data created in the provision of the Wi-Fi Services or in connection with the ancillary services contemplated in Part VII of Attachment SRV. The ongoing irrevocable right to use such data — created at any time during the Term or any Holdover Period — is provided in exchange for the franchise granted to the Franchisee under this Agreement. The City will not have any rights to receive or use Personally Identifiable Information, subject to any exceptions in the Privacy Policy set forth in Exhibit 2 to this Agreement. For the avoidance of doubt, all data that the City has the right to receive pursuant to this Agreement will be entirely free to the City.

4. Part IV of Attachment SRV to the Agreement is modified such that the following new Section 4.6 is inserted:

**4.6 Gigabit Centers**

4.6.1 Subject to any required administrative, regulatory or other approvals, the Franchisee shall provide Wi-Fi Services at each of five facilities (“Gigabit Centers”). There will be one Gigabit Center in each borough, and each Gigabit Center will be designated by DoITT with input from the Franchisee, at the Commissioner’s discretion, and in consultation with the respective Borough President, for the purpose of furthering the goal that all New Yorkers have full access to the benefits of high-speed Internet connections, including the opportunity to incubate businesses, connect with communities, enhance educational experiences and develop innovative uses for LinkNYC. Additional Gigabit Centers beyond the initial five facilities may be selected by mutual agreement between the Franchisee and the Commissioner. Gigabit Centers may be any facility that offers technology training or other vital community service to the public, such as a library, computer resource center, computer lab, media arts center or community media center. Except as otherwise agreed by the Franchisee, each Gigabit Center will (i) be located on a street that is a Fiber route to at least one Structure (other than the Gigabit Center) and (ii) have existing conduit entering the premises from a manhole near that Structure on that same Fiber route. The Franchisee may refuse the designation of a Gigabit Center in a location where the Franchisee can demonstrate evidence reasonably acceptable to the Commissioner that (x) there is no existing conduit from a manhole near the Structure on the Fiber route, or other means available to bring fiber to the premises to provide Wi-Fi services to the Gigabit

Center and (y) installing new conduit between the premises and a manhole near the Structure on the Fiber route or using other means, such as microtrenching, would not be commercially reasonable. All leasing and other arrangements with respect to the Gigabit Centers shall be made by DoITT or the Gigabit Center's host, and the Franchisee shall have no obligation to arrange for the availability or provisioning of facilities at any Gigabit Centers or to pay rent or other charges in respect thereof, it being understood that the sole obligation of the Franchisee in respect of the Gigabit Centers is the provision of Wi-Fi Services in accordance with this Section 4.6.

4.6.2 Wi-Fi Services will be provided throughout the premises of each Gigabit Center by bringing Fiber to the premises of the Gigabit Center, and by using such Wi-Fi Equipment and Fiber as is necessary to provide the Wi-Fi Services. For the purposes of this Section 4.6.2, the "premises" of each Gigabit Center shall be no more than one single floor, shall comprise no more than 5,000 square feet and shall require no more than 3 Wireless Access Points. Wi-Fi Services provided at each Gigabit Center shall comply with all provisions in this Agreement applicable to Wi-Fi Services provided at Structures that are subject to a minimum aggregate throughput requirement of 1 Gbps. Gigabit Centers are deemed to be Non-Advertising Structures for purposes of this Agreement, except that Wi-Fi Services provided at Gigabit Centers will not be subject to Exhibit 4, Exhibit 5 of the Franchise Agreement or to Sections 1.1.1, 1.1.2, 1.2, 3.1, 3.3, and 5.2.3 of Attachment SRV, or to Part 1 of Attachment RDR, and provided that the provisions of this Section take precedence over any conflicting provision in the Agreement with respect to Non-Advertising Structures.

4.6.3 The Franchisee shall provide the Wi-Fi Services to each Gigabit Center (i) no earlier than December 31, 2016 (provided, however, the Franchisee may in its sole discretion begin providing the Wi-Fi Services at Gigabit Centers designated under Section 4.6.1 before December 31, 2016), and (ii) no later than the date that is 120 days after the date on which such Gigabit Center is identified by DoITT with input from the Franchisee and on which Franchisee may legally access the Gigabit Center for the purpose of installing Wi-Fi Services. The Franchisee must complete deployment of the final of the initial five Gigabit Centers no later than October 31, 2017 (subject to Franchisee having legal access to each such Gigabit Center for the purpose of installing Wi-Fi Services). The Franchisee shall provide Wi-Fi Services at each of the first five Gigabit Centers at no charge for a period no less than five years for each Gigabit Center, which may be extended at the mutual agreement of the parties.

4.6.4 The Franchisee shall procure, design, implement, deploy, maintain and upgrade all of the Fiber, Wi-Fi Equipment and any other goods and services necessary to provide Wi-Fi Services at the Gigabit Centers in accordance with this Section 4.6, at its own cost and at no cost to the City or to the owners, tenants or other occupants of the facilities where the Gigabit Centers are located, at service levels that are consistent with those applicable under the Franchise Agreement to a Structure providing Wi-Fi Services with a total aggregate throughput of 1 Gbps. The Franchisee shall submit a project plan and a proposed responsibility matrix for each Gigabit Center for approval by DoITT and the Gigabit Center's host. The Gigabit Center's host, the Franchisee and DoITT will work in good faith to agree in writing on each party's obligations with respect to provisioning by the Franchisee of Wi-Fi Services at such Gigabit Center (e.g., physical access, power supply, insurance, coordination of installation and maintenance schedules with building rules, etc.) in accordance with this Section 4.6 and in accordance with industry custom and practice. DoITT and the Gigabit Center's host will have responsibility for acceptance of the design and implementation of Gigabit Center Wi-Fi Services proposed by the Franchisee. Neither the project plan nor any other document will supersede any provision of the Agreement.

5. The Agreement is modified such that Attachment 1 to this Amendment No. 1 is added as "Exhibit 6 - MMS Specifications."

6. Section 6.1.5 of Attachment SRV to the Agreement is deleted in its entirety and replaced with the following:

6.1.5 The MMS must provide, at minimum, the functionality, capabilities and data detailed in Exhibit 6. Exhibit 6 may be modified at DoITT's reasonable discretion, in writing, so as to comply with the requirements of Section 6.1.1. Modifications to Exhibit 6 that add functionality or integration requirements do not require amendments to this Agreement. DoITT shall provide appropriate personnel to coordinate the creation of an interface between MMS and the 311 system.

7. Part IX of Attachment SRV is modified by numbering the paragraph under Section 9.2 as 9.2.1 and inserting the following new Section 9.2.2:

9.2.2 The report will also identify all free public Wi-Fi systems constructed, operated, maintained, or upgraded in whole or in part by the Franchisee or any Covered Related Party (as such term is defined in Section 9.3.1) anywhere in the world. For each system identified, the report shall include the date of Wi-Fi system activation and the date of the most recent upgrade to the system, if any, and shall include a description with system specifications sufficient to enable direct comparison of attributes such as Wi-Fi technology, functionality, operations, standards, resiliency, collocations, interoperability, advertising, Wi-Fi offloading or mass deployment of municipal free public Wi-Fi, between the system identified and the System that is operated and maintained under the terms of this Agreement.

Subsection 9.3.1 is modified as below:

9.3.1 The Franchisee shall perform a technology refresh and upgrade to each part of the System that is not State of the Art no later than the sixth (6th) and tenth (10th) Contract Years, in accordance with the plans described in Section 9.3.2. The technology refresh will include at a minimum an offer to use commercially reasonable measures to upgrade the System to the best that Franchisee or any Covered Related Party offers, in terms of Wi-Fi technology, functionality, operations, standards, resiliency, collocations, interoperability, advertising, Wi-Fi offloading or mass deployment of municipal free public Wi-Fi in any free public Wi-Fi system constructed, operated, maintained, or upgraded in whole or in part by the Franchisee or any Covered Related Party anywhere in the world. For purposes of this Part IX, the term "Covered Related Party" means (i) any direct or indirect subsidiary of Franchisee or (ii) any corporation, partnership or limited liability company that is wholly owned, directly or indirectly, by the Initial Members of the Franchisee or by the successors and assigns of the Initial Members of the Franchisee. Nothing in this Section 9.3.1 shall be interpreted to relieve the Franchisee, or any Covered Related Party, of the State of the Art requirement if the State of the Art at the time is superior to anything offered by the Franchisee and any Covered Related Party. Performance of the second technology refresh and upgrade of the System is contingent upon the City extending the Agreement pursuant to Section 2.2 of the Franchise Agreement.

**Exhibit 6 - MMS Specifications**

This Exhibit 6 to the Agreement sets forth the minimum requirements of the MMS.

The MMS must provide, at a minimum, the following:

- Two-way information sharing between DoITT and the Franchisee for the recording and processing of complaints from the public and DoITT.
- Plotting of Public Communication Structures on maps, and Wi-Fi usage data for each Structure and in the aggregate.
- Color coding of Structures.
- Incident recording and reports, Gross Revenues by location, structure type, and the system as a whole, and advertising panels displaying NYC Program Advertising.
- Back-up maintenance and data protection protocols.
- A help menu function for assisting with MMS operation.
- Real-world Wi-Fi coverage range maps for each Structure, based on initial installation test results and updateable by readings from DoITT field inspectors. The maps shall be able to display this information on the level of detail ranging from an individual Structure to the entire System. Summaries of each coverage area or collective areas must appear in the executive dashboard to be designed by the Franchisee with input from DoITT.
- A system for DoITT field inspectors to capture inspection checklists, photographs, signal strength measurements, construction punch list items and other inspection items and transmit them from the field to a centralized location such as a summary bulletin board.
- Fiber mapping with the ability to display Fiber capacity, Fiber ownerships, Fiber leasing, dark Fiber, and other Fiber location and capacity information the Commissioner deems necessary to monitor the Fiber deployment to the Public Communication Structures, subject to Franchisee's obligations under the Agreement.
- Display of Gross Revenue produced by each PCS and by the System as a whole.
- A dashboard reporting function to track incidents that occur in the operation of each Structure and of the System, including:
  - Monitoring of the Wi-Fi access point in use at the Structures with specific monitoring review of operating frequencies, (i.e., 2.4, 5 GHz and other operating frequencies as data is available);
  - Number of devices connected to each Structure, reported monthly; and
  - A date-range search function for retrieving these metrics and incidents according to the Franchisee data retention policy.
- Identification of any telecommunication service providers operating from a Structure, including the providers' primary use of the Structure, engineering specifications of equipment, and operating frequencies.

- The ability to describe the “load” of network consumption by large network saturation moments.
- Should Franchisee enter into roaming agreements with interoperable wireless Internet service providers, Franchisee will provide details of those agreements with DoITT including operator names, Wi-Fi standards, handoff and authentication details, and other relevant details specified by the Commissioner.
- Make available one or more application program interfaces (APIs) to allow for integration/interface with a DoITT-owned all-in-one database in order to archive the deployment, maintenance, operation, coverage, interoperability, construction details, photographs and other information specified by the Commissioner.
- Detail related to the conversion of old PPTs to Structures, including review and approval of proposed sites for Structures, review of construction drawings, Notices to Proceed, and process timeline.
- Data to which the City has exclusive rights or has been granted a license to use under the terms of the Agreement displayed on the executive dashboard to be designed by the Franchisee with input from DoITT.
- Reporting of calls from Link 911 emergency service from each Structure and from the System as a whole.
- Capacity for export of the data in the MMS in a standard, open format such as comma-separated values (CSV) or Keyhole Markup Language (KML).

IN WITNESS WHEREOF, the party of the first part, by its Department of Information Technology and Telecommunications and its Deputy Mayor, duly authorized by the Charter of the City of New York, has caused the corporate name of the City to be hereunto signed and the corporate seal of said City to be hereunto affixed and the party of the second part, by its officers thereunto duly authorized, has caused its name to be hereunto signed and its seal to be hereunto affixed as of the date and year first above written.

**CITY OF NEW YORK  
DEPARTMENT OF INFORMATION  
TECHNOLOGY AND  
TELECOMMUNICATIONS**

255 Greenwich St.  
New York, NY 10007

[Redacted Signature]

Commissioner Date  
By: Charles B. Fraser  
General Counsel

**CITY OF NEW YORK**

[Redacted Signature]

Deputy Mayor Date

Attest: [Redacted Signature]

**Approved as to form:**

[Redacted Signature]

Acting Corporation Counsel

**CITYBRIDGE, LLC**

100 Park Avenue, 6th Floor  
New York, NY 10021

[Redacted Signature]

Scott Goldsmith, Chief Operating Officer Date

(Seal)

Attest: [Redacted Signature]

COUNTY OF NEW YORK )

) ss:

STATE OF NEW YORK )

On the    day of September, 2015, before me personally came Charles R. Fraser, to me known, who, being by me duly sworn, did depose and say that he/she is General Counsel of the Department of Information Technology and Telecommunications of the City of New York, the entity described in and which executed the above instrument; and that he/she signed his/her name thereto in such capacity being authorized to thus execute said instrument on behalf of the City of New York.

[Redacted Signature]

Notary Public



COUNTY OF NEW YORK )

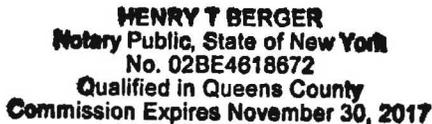
) ss:

STATE OF NEW YORK )

On the 9<sup>th</sup> day of ~~September~~ October, 2015, before me personally came Anthony Stora, to me known, who, being by me duly sworn, did depose and say that he/she is Deputy Mayor of the City of New York, the entity described in and which executed the above instrument; and that he/she signed his/her name thereto in such capacity being authorized to thus execute said instrument on behalf of the City of New York.

[Redacted Signature]

Notary Public



COUNTY OF NEW YORK )

) ss:

STATE OF NEW YORK )

On the 28<sup>th</sup> day of September, 2015, before me personally came Scott Goldsmith, to me known, who, being by me duly sworn, did depose and say that he/she is Chief Operating Officer of CityBridge, LLC, the entity described in and which executed the above instrument; and that he/she signed his/her name thereto in such capacity being authorized to thus execute said instrument on behalf of the CityBridge, LLC.

[Redacted Signature]

Notary Public

Linda Bechutky  
No: 02BE6261993  
Exp: 5/21/16