Report Type: Consent Calendar  Meeting Date: 8/11/2014

Summary Title: Network HUT License Agreement

Title: Approval of a Master Network Hut License Agreement with Google Fiber

From: City Manager

Lead Department: IT Department

Recommendation
Approve a master Network Hut License Agreement (Exhibit A) with Google Fiber, which would allow for the placement of one or two Google “Fiber Huts” on individual city-owned sites, subject to the City Council’s approval of such individual sites and applicable site-specific terms.

Background
Licensing dark fiber to commercial customers in Palo Alto has been a financially successful enterprise for the City, consistent with the City’s goal of becoming a “leading digital city.” Improving broadband speed and choice for residential customers in the community has also been a priority for Palo Alto for a number of years. The City Council recently agreed to develop a master plan to explore the expansion of fiber to the premise (“FTTP”).

At the same time, Google Fiber Company (“Google” or “Google Fiber”) invited the City to participate as one of thirty-four (34) candidate cities for Google Fiber’s next potential expansion of its 1 gigabit fiber to more communities. City staff considers this to be an exciting opportunity that complements the open market approach the City Council directed staff to pursue in furtherance of the City’s goal of bringing FTTP to Palo Alto.

GOOGLE FIBER SERVICE
Google Fiber is a FTTP service designed to offer gigabit-speed broadband and television to residential customers. In 2011, Kansas City, Kansas and Kansas City, Missouri were selected from over 1,100 applicants to be the first Google Fiber communities. Since 2011, Google Fiber has disclosed plans to expand its service to several suburbs in the Kansas City metro area. In 2013, Google Fiber announced expansion plans to include Austin, Texas, in addition to purchasing an existing municipal FTTP network in Provo, Utah.

Current prices for Google Fiber service in the Kansas City region and Provo, Utah are:
Table 1: Current Google Fiber Prices

<table>
<thead>
<tr>
<th>Google Fiber Service</th>
<th>Provo, Utah</th>
<th>Kansas City Region</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gigabit Internet Only</td>
<td>$70/month + $30 construction fee</td>
<td>$70/month + $300 construction fee</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(currently waived)</td>
</tr>
<tr>
<td>Gigabit Internet + TV</td>
<td>$120/month + $30 construction fee</td>
<td>$120/month + $300 construction fee</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(currently waived)</td>
</tr>
<tr>
<td>Basic Internet access</td>
<td>$0/month (seven years) + $30</td>
<td>$0/month (seven years) + $300 construction fee</td>
</tr>
<tr>
<td>(5 Megabits/second)</td>
<td>construction fee</td>
<td>(currently waived)</td>
</tr>
</tbody>
</table>

GOOGLE’S POTENTIAL FIBER EXPANSION TO PALO ALTO AND OTHER CITIES

On February 19, 2014, Google Fiber announced it was considering the City of Palo Alto (“Palo Alto” or “City”) along with four (4) other California cities in the San Jose metro area (Mountain View, Sunnyvale, Santa Clara, and San Jose) as potential candidates to study for future fiber-optic network deployment. In total, thirty-four (34) cities nationwide in nine (9) metro areas are being considered by Google for fiber-optic network deployments. Selected cities, including Palo Alto, are required to participate in a “two-part planning process” in order to remain under consideration for the next round of possible Google Fiber expansions. As a first step, Google asked the City to respond to the “Google Fiber City Checklist” (the “Google Checklist” or the “Checklist”) before a May 1, 2014 deadline. The Google Checklist (attached hereto as Exhibit B):

- Sets forth an extensive list of Google’s information requests for the City, including: (a) detailed information about existing infrastructure (e.g. utility poles, available conduit and dark fiber); (b) identification of state laws, local ordinances, and/or commercial agreements that govern access to existing City infrastructure; and (c) existing city permits, forms and local or state requirements that are relevant to or may impact a network build;

- Describes Google’s preferred permitting and construction approaches. Google then requested that the City justify why its process differs and also asked the City to identify how it would streamline its process or otherwise accommodate Google Fiber’s network build with accelerated timelines; and

- Requires the City to agree to a master Network Hut License Agreement (“Hut License Agreement”), which would allow for Google’s Fiber Network Huts (“Network Huts” or “Fiber Huts”) to locate on city-owned property.

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1 Atlanta, GA, Charlotte, NC, Nashville, TN, Phoenix, AZ, Portland, OR, Raleigh/Durham, NC, Salt Lake City, UT, San Antonio, TX, San Jose, CA.
A cross-departmental team of City staff was actively engaged in developing the City’s response to the Google Checklist. With the exception of a completed Hut License Agreement, the City successfully submitted all documentation responsive to the Google Checklist to Google in advance of the May 1st deadline. The City’s response is available on the City’s website: http://www.cityofpaloalto.org/news/displaynews.asp?NewsID=2558&TargetID=268.

Google is in the process of deciding if the City is “fiber ready” for a possible Google Fiber expansion. Google anticipates making that determination, including a decision about whether or not to proceed with a FTTP project in Palo Alto, by the end of 2014. If Google Fiber and the City decide to proceed with an expansion of fiber service in Palo Alto, Google Fiber would apply for and secure the requisite permits, regulatory approvals (including environmental review) and agreements from the City for Google’s network build.

GOOGLE “FIBER HUTS”
Google has described the architecture of its FTTP builds, which involve installation of a fiber ring, connected to fiber huts, which then connect to telecommunications cabinets and finally to residences:

![Figure 1: Google Fiber Architecture](image)

Each Fiber Hut serves roughly 20,000 households. Google Fiber estimates one to two Fiber Hut structures will need to be located throughout the City. Google’s Fiber Huts are 12’ (wide) x 28’ (length) x 10’ (high) prefabricated buildings on a concrete foundation that will contain the equipment that provides Internet and television services for customers. Google requires that they be located on sites that have at least 1400 square feet in area, which is required for vehicle access. It is staffs understanding that Fiber Hut units are lowered onto the site by crane. Each fiber hut will have two air-conditioning units mounted to the side of the building, a back-up diesel generator and fiber-optic cable vaults. Google requires access to Fiber Huts 24 hours a day, seven days a week. An example of a Google Fiber Hut is presented in Figure 2, below and
additional schematic drawings are attached as an exhibit to the Hut License Agreement in Exhibit A.

Figure 2: Example of Google Fiber Hut

Discussion
In order to remain under consideration for a possible Google Fiber expansion, Google requires that the City:

- Consider locating Google’s Fiber Huts on City-owned property; and

- Agree to a master Hut License Agreement acceptable to Google. In the event Google Fiber elects to proceed with its fiber expansion in Palo Alto, individual sites and site-specific conditions would be subsequently negotiated between the City and Google, and subject to Council approval.

OVERVIEW
The terms and conditions of the Hut License Agreement Google Fiber is offering the City differ from the City’s standard provisions. The terms and conditions also depart in some respects from the more favorable terms Google Fiber has offered to some other cities, including San Jose. In addition, the price ($3.50/sq.ft. per year) that Google Fiber has offered Palo Alto (which is the same as the price offered to other cities in the region) is lower than what the City would typically seek to charge telecommunications or cable providers for the use of city-owned land. Staff is presenting the Hut Agreement to Council for approval because staff has concluded that the advantages of remaining in contention for a potential Google Fiber expansion to the Palo Alto community outweigh the potential impacts.

Staff expects representatives from Google Fiber to be present at the August 11 Council meeting.

BUSINESS TERMS & CONSIDERATIONS
Price

The Hut License Agreement proposes that Google pay the City a rate of $3.50 per square foot per year for the use of City-owned property for the 1400 square foot Google’s Fiber Hut. The Hut License Agreement would generate a total of $4,900 annually for Google’s use of city property, per site. An escalator of four percent (4%) per year is included as part of the Hut License Agreement. This is the same price and escalator that Google has offered to accepted by San Jose and Santa Clara.

Google asks the City to agree to a price that will apply to any City-owned property prior to selection of any actual location or category of possible locations. Typically, the City reserves the price term for negotiation once a specific site is selected. The City Council must approve the final site location.

As of now, the $3.50 per square foot per year rate that Google Fiber is offering the City is the highest price Google Fiber has offered in its negotiations with the 34 potential expansion cities. Representative prices are included in Table 2 below:

<table>
<thead>
<tr>
<th>Location</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Jose, Santa Clara</td>
<td>$3.50 per sq. ft., per year</td>
</tr>
<tr>
<td>Portland</td>
<td>$3.00 per sq. ft., per year</td>
</tr>
<tr>
<td>Phoenix</td>
<td>$2.75 per sq. ft., per year</td>
</tr>
<tr>
<td>Raleigh/Durham</td>
<td>$2.00 per sq. ft., per year</td>
</tr>
<tr>
<td>San Antonio</td>
<td>$1.61 per sq. ft., per year</td>
</tr>
<tr>
<td>Nashville</td>
<td>$1.60 per sq. ft., per year</td>
</tr>
</tbody>
</table>

At the same time, Google’s proposed $3.50 per square foot per year rate is lower than what staff considers a market value for use of most City-owned property. It is also significantly less than what the City would typically seek to charge telecommunications or cable providers for the use of City-owned land for the type of purpose Google proposes here. By way of comparison, the rates the City charges wireless carriers for antenna installations on City property currently range from $53 per square foot per year to as much as $114 per square foot per year.

City Policy concerning the lease of City-owned property requires that tenants provide the City with “adequate compensation,” the determination of which “shall begin with the estimated fair market rental value of the lease premises for the use proposed.” However, City Policy also allows the City to consider “non-monetary benefits” a lessee may offer, provided such public

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2 See Section E.1, POLICY AND PROCEDURES 1-11/ASD (LEASED USE OF CITY LAND/FACILITIES).
benefits are “clearly articulated” and “provide an actual benefit to a significant portion of the citizens and taxpayers of Palo Alto.”

Staff believes that Google Fiber will provide a public benefit to Palo Alto that is sufficient to justify charging less than the potential market value for city-owned property. The extension of Google Fiber to premises in Palo Alto offers potential economic and community development benefits. These include spurring competition amongst telecommunications and cable providers, and advancing the City’s general interest in ensuring its residents, not just businesses and anchor institutions, have access to ubiquitous, reliable and high-speed connectivity (up to 100 times faster than the average American Internet connection). The degree to which such benefits extend to “a significant portion of the citizens and taxpayers” of Palo Alto will depend, in part, on the extent to which Google Fiber rolls out its service to a variety of “fiber-hoods” and follows through with digital inclusion efforts (described in more detail below).

(2) Location

The Hut License Agreement does not identify any specific site or sites for Fiber Huts. If Google decides to proceed with a fiber-optic network build out in Palo Alto, the City and Google will determine whether any City-owned properties are suitable for location of a fiber hut, and negotiate applicable site-specific terms. Each specific site and applicable site-specific conditions are subject to City Council approval.

As part of the Checklist process, staff identified categories of potential sites for one or two huts, such as Fire Stations and Utility Substations. Staff will need to engage in a detailed analysis before any particular candidate site is selected. Google’s preferred Hut License Agreement terms, which offer less protection than the City’s standard terms and conditions, may restrict the range of sites that the City can make available without exposing the City or its infrastructure and personnel to undue risk.

Google has indicated that it prefers to locate its Fiber Huts on City-owned property where possible. However, Google Fiber has the option to negotiate agreements with private landowners for space to accommodate its installations, as other cable and telecommunications providers regularly do. Regardless of location, Google Fiber must obtain applicable City permits and comply with local design, zoning and building requirements before installing a Fiber Hut.

(3) Digital Inclusion

Google Fiber expansion to Palo Alto is not a guarantee that all residences city-wide will eventually be served by gigabit fiber services. Instead, the Company’s roll-out of FTTP is based on Google Fiber’s assessment of demand. Google Fiber constructs and offers FTTP service only

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3 See Section E.1, POLICY AND PROCEDURES 1-11/ASD (LEASED USE OF CITY LAND/FACILITIES).
after customers sign-up in advance of construction in numbers sufficient to satisfy the Company’s pre-registration goals for that area. Under Google’s “build to demand” approach, Google Fiber calls these areas “fiber-hoods.”

In meetings with staff, Google has indicated it is committed to the concept of digital inclusion. According to Google, the company has previously worked closely with public and non-profit partners in existing Google Fiber cities to develop mechanisms, partnerships and funding to support greater access to digital services, including the provision of gigabit fiber connections to public institutions (schools, libraries, community centers, etc.) and non-profit organizations at no cost for a defined period of time. Google advised they intend to implement some version of this program in any new fiber city selected for expansion; however, the details of any such digital inclusion program or requirements would be determined after Palo Alto is chosen by Google.

(4) Status of Google Fiber’s Negotiations with Other Communities

San Jose approved a Hut License Agreement with Google on June 11, 2014. The San Jose version of the Google Hut Agreement contains a number of more favorable provisions than those offered to Palo Alto, which are discussed in more detail in the legal issues section of this Staff Report. Santa Clara approved a Hut License Agreement on July 10, 2014. Like Palo Alto, Santa Clara’s agreement lacks many of the favorable provisions Google negotiated with San Jose. Staff’s understanding is that Mountain View’s City Council will consider a Google Hut License at a September Council meeting.

LEGAL ISSUES

Certain provisions in Google’s preferred Hut License Agreement deviate from the City’s standard provisions and present a degree of legal risk the City would not ordinarily take on in its agreements for third party use of City-owned property. City staff believes that these risks can be mitigated to some degree through judicious site selection, and that the benefits associated with remaining in contention for Google’s possible expansion of a gigabit-speed fiber-optic network to “fiber-hoods” within Palo Alto outweigh the legal risks.

(1) AT&T, Comcast, Others Entitled to Google Fiber’s Favorable Terms

The City makes reasonable efforts to treat all parties seeking licenses or leases of city-owned property consistently. However, the City’s standard terms and conditions do not require the City to offer a given price, type of location or agreement to a tenant on City-owned property simply because it has previously been offered to another City tenant or licensee.

Google’s Hut License Agreement contractually obligates the City to extend the “entirety of the rights” it affords to Google Fiber under the Hut License Agreement to other providers of “Internet access and multichannel video programming services,” which would include providers
like AT&T and Comcast. The Hut License Agreement further requires that the City make such rights available on “rates, terms and conditions that are as favorable” as those the City provided for Google — even if those providers are not first movers in the fiber space. According to Google, if there is a chance Google Fiber needs to attach to AT&T poles, a city must include this provision in the Hut License Agreement because of an agreement between Google Fiber and AT&T (to which the City is not a party). Google Fiber can bring suit to enforce this contract provision. A third party provider may also be able to sue to enforce the provision.

In practice, this means that the City will likely be obligated to make similar sites, Hut License Terms and the low prices it offers Google available if AT&T or another provider requests them. Litigation risk could arise for the City if: (a) the City cannot or does not want to offer a similar site or price; or (b) if the City and the provider cannot agree that the terms the City offers are “as favorable” as those the City offered to Google.

In San Antonio, AT&T secured the same Hut License Agreement as Google Fiber from the City in under a month. City staff is not currently aware of any other providers planning to expand into Palo Alto at this time. The City has some ability to mitigate litigation risk associated with this provision through judicious site selection. In the event City-owned property is not available to another provider, the City could also explore rental or purchase of property to satisfy obligations under the Hut License Agreement.

(2) Term

The initial term of the Hut License Agreement is twenty (20) years from the effective date. Following the initial term, the proposed agreement will renew for successive two (2) year periods unless the City provides Google with written notice that it does wish to renew the agreement. Section 7 of the City’s Charter limits the overall term for any lease of City-owned land to a maximum term of fifty (50) years. In order to implement this Charter provision, the 50 year term limitation will be incorporated into the site specific provisions applicable to any site selected for purposes of a Fiber Hut.

(3) Indemnification

Under the City’s standard terms and conditions, the City requires that the risks associated with claims, liabilities or losses be completely shifted from the City to the other party. Here, the City takes some risk that licensing City-owned property to Google for Fiber Huts could result in the City being sued by a third party who becomes injured in some way connected with the Hut.

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4 In Palo Alto, most poles are jointly owned by the City (power space) and AT&T (communications space). http://www.bizjournals.com/sanantonio/blog/2014/04/san-antonio-approves-lease-deal-with-at-t-similar.html?page=all.
The City generally requires the lessee to pay or otherwise compensate the City for the losses it suffers, even when the City itself was actively negligent (e.g. created a dangerous condition), or passively negligent (e.g. failed to notice there was a dangerous condition).

The City’s standard indemnity term offers maximum protection for the City against loss, without requiring the City to resort to litigation to recover its damages. This is not merely a theoretical concern. The City invokes indemnification provisions on a regular basis, saving the City tens of thousands of dollars by allocating responsibility for loss to contracting parties.

The Hut License Agreement offers the City less protection. Google only compensates the City for its losses or liabilities “to the extent caused by [Google] or its contractors.” This provision provides the City with less coverage against loss and also requires the City to litigate the extent of Google’s responsibility.

The City has some ability to mitigate risk associated with this provision through judicious site selection. Given that Google is taking on less responsibility for damages than the City typically requires, the City can select potential candidate sites with the goal of minimizing exposure to (a) important City assets or infrastructure that could be damaged, or (b) City employees or members of the public who could be injured.

(4) Assignment

Under the City’s standard terms and conditions, a lessee on City property is not entitled to assign its lease, or any interest in that lease (including, for instance, subletting) to another party without the City’s advance, written consent to such an assignment. In addition, the City’s standard terms make clear that any assignee is bound by the same terms and conditions as the original party.

By contrast, the Hut License Agreement allows Google Fiber to assign the agreement without the City’s consent to: (a) any Google Fiber affiliate; or (b) in connection with “a merger, acquisition, sale of network assets or similar transactions.” In practice, this gives Google Fiber the authority to substitute itself for another, unknown industry provider on City-owned properties without any City input in advance concerning whether such a transfer or substitution has the potential to adversely affect the City’s or community’s interests.

The City has some ability to mitigate risk associated with this provision through judicious site selection. Sites with heightened security requirements (e.g. certain utility sites) or broad exposure to the public may not be suitable candidates for Google Fiber installations if the City lacks input concerning changes to the party ultimately occupying and maintaining the installation.

(5) Limited Flexibility to Terminate
Under the City’s standard provisions, the City has sole discretion to terminate a lease on City property with 30 days advance written notice, if the City determines that it requires the property for any public purpose. The City’s right to terminate under the Hut License Agreement is more limited: the public purpose must be “reasonable and necessary,” otherwise termination is only possible for a material breach by Google that is not corrected for 60 days.

(6) Negotiation of Material Terms Prior to Site Selection

The Google Hut License agreement is different than the City’s typical practice for licensing or leasing City-owned real estate properties. Even where the City has adopted a form of agreement to use across similarly situated properties (often called a “master agreement”), material terms such as price and term are usually reserved for negotiation upon final agreement on a particular site or set of sites. Two potential issues arise from Google’s desire to fix material terms prior to site selection: (a) the City becomes obligated to “bargain in good faith” to identify sites; and (b) there is some potential for challenges to Fiber Huts or the Google Fiber project based on the theory that the City pre-committed to approve the Fiber Hut projects before performing the requisite review of such projects under the California Environmental Quality Act (“CEQA”).

Timeline
Google has informed the City that despite the May 1, 2014 deadline to complete all submissions requested in the Checklist, it will accept submission of the Hut License Agreement after the deadline.

Resource Impact
No resource impacts in conjunction with the approval of the Hut Agreement.

Policy Implications

Relationship between Google Checklist Effort and other City Fiber Initiatives
The City’s submission of a response to the Google Checklist, including agreement to the master Hut License Agreement, does not represent a commitment, promise or guarantee with respect to the design or construction of a fiber network by Google or any other provider. The City continues to explore the possibility of extending its existing 41-mile fiber ring to include homes and businesses and to evaluate beneficial wireless options for the city. As part of that evaluation, the City Manager appointed a Citizen’s Advisory Committee (“CAC”) in February 2014, to assist with the evaluation of the feasibility of building a city-wide, FTTP network in Palo Alto. This effort is wholly unrelated to the City’s response to the Google Checklist. The CAC’s work has proceeded separately, and in parallel with staff’s activities related to completion of the City’s Google Checklist submission. On July 3, 2014, the City issued Requests for Proposals.

For a more detailed description of the City’s fiber initiatives, unrelated to the Google Checklist Effort, see, e.g. Council Staff Report ID # 3914 (June 24, 2013); Staff Report ID # 4080 (September 17, 2013); Staff Report ID # 4203 (October 28, 2013); and Finance Committee Staff Report ID # 2097 (November 15, 2011).
(“RFPs”) to retain professional consulting services to develop a Fiber-to-the-Premise Master Plan and a Wireless Network Plan. It is expected that final contracts to retain professional services will be awarded in early September 2014. Staff anticipates presenting the findings and recommendations of these plans to the Council in January 2015.

**Environmental Review**

Negotiations between the City and Google of a Network Hut License Agreement are exempt from the California Environmental Quality Act (“CEQA”) under Title 14 of the California Code of Regulations Section 15061(b)(3) because they simply establish boilerplate license terms. Once a particular site or sites are identified, staff will do additional analysis to determine whether further environmental review is required.

**Attachments:**

- Exhibit B :: Google Fiber Checklist  (PDF)
- Exhibit A - Network Hut License Agreement  (PDF)
Google Fiber City Checklist

Updated February, 2014

Google Fiber
Let's get up to speed.

Over the last few years, gigabit Internet has moved from idea to reality, with dozens of communities working hard to build networks with speeds up to 100 times faster than what most of us live with today. People are hungrier than ever for faster Internet, and as a result, cities across America are making speed a priority. Over the next few months, we'll be working with your city, and 33 others, to explore the possibility of building one of these high speed networks in your community.

This checklist document is written specifically for the cities we're currently working with. But the items on this checklist are a collection of best practices recommended by the Fiber to the Home Council, the Gig U report and the U.S. Conference of Mayors and can help any fiber provider or city that's thinking of building a new network.

These are such big jobs that advance planning goes a long way toward helping us stick to schedules and minimize disruption for residents. While your city works on completing these items, we're going to work on a detailed study of local factors that could affect construction, like topography (e.g., hills, flood zones), housing density and the condition of local infrastructure.

Additionally, we will spend time talking with you during this process about how city leaders can get residents ready for Google Fiber, particularly those who don't currently use the Internet or have it at home. We want to help make sure that everyone in the community can take advantage of this opportunity.
Google Fiber is also exploring the possibility of deploying Wi-Fi in future Google Fiber cities. Requirements related to Wi-Fi are not included in this checklist, but we will be discussing our Wi-Fi plans and related requirements with your city as we move forward with your city during this planning process.

We are excited about the possibility of bringing Google Fiber to your city and look forward to working with you over the next few months.
Key Dates

Feb. 24th - Feb. 28th  Cities meet with Google to review the checklist in detail.

Feb. 24th - May 1st  Cities review and respond to tasks and requirements on the checklist.

Google and cities will hold regular calls to discuss progress and questions.

Google begins detailed studies in cities.

May 1st, Midnight PT  Deadline for cities to respond to items on the checklist.

May - End of 2014  Google evaluates completion of the items on the city checklist and completes the detailed study.

This process will take some time, but we hope to have updates on which cities will get Fiber by the end of the year.
Fiber Ready Checklist

Building a new network is complex, and we will work with your city to make it quicker, more efficient, and less disruptive to your community.

There are three core items on our fiber ready checklist.

- **Provide information about existing infrastructure**: We're asking your city to provide accurate information about local infrastructure like utility poles, conduit and existing water, gas and electricity lines so we'd know where to efficiently place every foot of fiber.
- **Help ensure access to existing infrastructure**: We're asking your city to help ensure that we, and other providers, can access and lease existing infrastructure. It would be wasteful and disruptive to put up duplicate utility poles or to dig up streets unnecessarily, when we could use existing poles or conduit.
- **Help make construction speedy and predictable**: We're asking your city to make sure you have efficient and predictable permit and construction processes appropriate for a project as large as a Google Fiber network build.

These three items are based on guidelines from the Fiber to the Home Council and the U.S. Conference of Mayors and clear a path for anyone willing to build a fiber network. We are not asking for any special treatment, tax incentives, or subsidies.

**Item #1 — Provide information about existing infrastructure**

As we work through our detailed studies and network design, detailed infrastructure data helps us understand where we can safely and efficiently place the fiber.

We ask that your city:
- gather and submit all required data asset requests as outlined in the Data Request List (Appendix 1A);
- identify which infrastructure and/or data is not owned, operated or controlled by the city.
Item #2 — Help ensure access to existing infrastructure.

Fiber providers need to string fiber along utility poles or bury it underground in protective tubing called “conduit.” It doesn’t make sense for each provider to install duplicate poles, or to dig up streets multiple times where conduit already exists. So, we’re asking for your help to ensure that providers have access to existing infrastructure. This makes the process faster, more efficient, more cost effective and significantly less disruptive.

We would like to see clear, predictable rules and reasonable terms for all providers to attach fiber to any utility poles that are within the public right of way. Providers of broadband Internet services, including IPTV, should have access to existing utility poles, city-owned ducts and conduit, on nondiscriminatory terms, in exchange for reasonable payment. Ideally, these terms would be at least equivalent to the rights made available to traditional cable operators and telephone companies per the FCC’s current rules.

These rights may already be covered by state law, local ordinances or other agreements with infrastructure owners. If we cannot secure such rights, we may rely on the city to provide these rights locally.

To complete this item, we ask that your city:
• provide a description of any existing state laws, local ordinances, and/or commercial agreements that satisfy the attachment and use rights described above;
• work with us, as needed, to ensure that Google and other service providers have access to these rights.
Item #3 — Help make construction speedy and predictable

The items we outline in this section will help ensure that the construction process is predictable, fast, and as minimally disruptive for your city as possible.

We'd like to discuss how your city's existing permitting and construction process aligns with the scope and pace of the construction of a Google Fiber network. With agreed upon processes and timelines, we can keep construction schedules predictable and moving along quickly while minimizing the burden on the city.

For permitting and construction, we ask that your city:
• review the Google Fiber Permitting, Construction, and Maintenance Plan (Appendix 3A) and identify if your city's current practices differ;
• if your city's current practices do differ, please explain why and outline ideas to accommodate a large network build with accelerated timelines;
• upload your existing permit application for our review;
• identify any local, city or state-wide requirements that may impact the pace of a network build (Construction Constraints List - Appendix 3B).

Another important part of network design is determining where to place Google Fiber network huts. City-owned sites generally make sense as hut locations because they are zoned appropriately and dispersed throughout the city.

We would like to complete a Hut License agreement between Google Fiber and your city. Please review the Google Fiber model Hut License (Appendix 3C) and let us know if it will work for your city. Alternatively, please provide us with a form of agreement that contains similar rights so we can discuss in more detail.

We will sign the Hut License Agreement and work together to identify locations for huts during the network design process.

By the checklist deadline, we ask that your city:
• upload the final Hut License, as agreed upon between Google Fiber and the city.
Fiber Ready Checklist

Item #1 — Provide information about existing infrastructure

☐ Gather and submit all required data asset requests as outlined in the Data Request List (Appendix 1A).

☐ Identify which infrastructure and/or data is not owned, operated or controlled by the city.

Item #2 — Help ensure access to existing infrastructure

☐ Provide a description of any existing state laws, local ordinances, and/or commercial agreements that satisfy the attachment and use rights described.

☐ Work with us, as needed, to ensure that Google and other service providers have access to these rights.

Item #3 — Make construction speedy and predictable

☐ Review the Google Fiber Permitting, Construction, and Maintenance Plan (Appendix 3A) and identify where your city's current practices differ.

☐ If your city's current practices do differ, please explain why and outline ideas to accommodate a large network build with accelerated timelines.

☐ Upload your existing permit application for our review.

☐ Identify any local, city or state-wide requirements that may impact a network build by reviewing and responding to the list of Construction Constraints List (Appendix 3B).

☐ Upload the final Hut License, as agreed upon between Google Fiber and the city.
Additional Resources

Google Resources

Google Fiber - Network Overview
http://googlefiberblog.blogspot.com/2013/10/behind-scenes-with-google-fiber-how-we.html
This Google Fiber blogpost gives a behind-the-scenes look at how we actually build Google Fiber including a basic network overview.

Google Fiber Website - City Expansion FAQs
http://google.com/fiber/newcities
Our website includes a set of FAQs about this checklist and process.

Third Party Resources

CTC Technology & Energy's Gigabit Communities
This white paper reviews and suggests strategies for bringing broadband to a community, including discussion of the checklist items outlined.

The Fiber to the Home Council community broadband toolkit
http://www.ftthcouncil.org/communitytoolkit
The Fiber to the Home Council has aggregated a range of resources in their community broadband toolkit.

The Fiber to the Home Council white paper on facilitating access to infrastructure
http://www.ftthcouncil.org/p/cm/lid=fid=47&tid=79&sid=1249
The FTTH Council has outlined their perspective in this short white paper: “State/Local Govt Role in Facilitating Access to Poles, Ducts, and Conduits in Public Rights of Way.”

US Conference of Mayors
Last year, the US Conference of Mayors passed a set of resolutions supporting increasing broadband access.
Gig.U Strategies for a Gigabit
Gig.U is working with a number of communities on gigabit networks and summarizes a number of key strategies.

Sunlight Foundation Open Data Guidelines
http://sunlightfoundation.com/opendataguidelines/
The Sunlight Foundation lists some suggestions that may be of use as you think through data updating and potential open data initiatives.

KC Digital Drive Playbook
http://www.kcdigitaldrive.com
In anticipation of Google Fiber coming to Kansas City, MO and Kansas City, KS, the cities created a ‘playbook’ for making the most of this opportunity.

Government Resources

Federal Communications Commission (FCC) documentation
http://www.ecfr.gov/ (CFR Title 47, Chapter 1, Subchapter C, Part 76, Subpart J)
The FCC has set up rules regarding equipment attachment. While the federal laws were not drafted with today’s broadband providers in mind, they are a good model of how to determine reasonable terms and clear schedules for pole attachment process.

Federal Communications Commission’s National Broadband Plan
http://www.broadband.gov/plan/
In its National Broadband Plan, the FCC estimated that the expense of obtaining infrastructure permits and leasing pole attachments and rights-of-way can total 20% of the entire cost of a fiber-optic network.

FCC’s Broadband Acceleration Initiative
https://www.fcc.gov/encyclopedia/broadband-acceleration
The FCC has an ongoing Broadband Acceleration Initiative that is considering a range of reforms at the national level.
Appendix

Item #1 -- Provide information about existing infrastructure
  1A: Google Fiber's Data Request List

Item #2 -- Help ensure access to existing infrastructure
  2A: Examples of Existing Municipal Ordinances

Item #3 -- Make construction speedy and predictable
  3A: Google Fiber Permitting, Construction, and Maintenance Plan
  3B: Construction Constraints List
  3C: Google Fiber's Model Hut License Agreement
Appendix 1A

Google Fiber Data Request List

Network Design & Fiber Route Planning

The data outlined below helps us determine how to most efficiently design our network and where our fiber routes would go. This data also helps us identify any areas that may require special consideration during our planning or construction process.

Addresses

- **Feature Type**: geospatial point; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed**:
  - Physical Address (i.e. Street Name, Street Suffix/Prefix, Street #, Unit # (if applicable) Zip Code, City Name)
  - include multi-dwelling unit data with individual unit numbers where possible
- **Address Type**:
  - (i.e. Apartment, Duplex, Triplex, Quadplex, Condo, Large Commercial Unit, Small Business Unit, Office Building, Restaurant, Single Family Unit, Church, Government, Vacant)

Streets

- **Feature Type**: geospatially correct polyline; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed**:
  - Street Name

Right of Way and Easements

- **Feature Type**: polygon; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed**:
  - Geo-reference
  - Type of Right of Way or Easement
City Boundaries
- **Feature Type:** polygon; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed:**
  - Jurisdiction name

Parcels or Lot Lines
- **Feature Type:** polygon; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed:**
  - Physical Address
  - Parcel Type (i.e. government, school, park, etc)
  - Easements (i.e. water, sewer, power, communications, etc)
  - Rights of Way

Poles: city owned, operated or controlled
- **Feature Type:** point; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed:**
  - Pole function (i.e. communications and/or utility)
  - Pole type (i.e. wood, concrete, steel, etc - or decorative)
  - Pole height and class
  - Pole ID
  - Operating entity (i.e. traffic, water, power department, etc)

Streetlights
- **Feature Type:** point; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed:**
  - Owner
  - Pole height
  - Pole ID
  - Photocell: indicate y/n
  - Bank-switched: indicate y/n

Overhead Strand (Guys and Anchors): city owned, operated or controlled
- **Feature Type:** polyline; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed:**
  - Type (i.e: primary, secondary, service, etc)
Existing Underground Utility Routes
- **Feature Type:** polyline; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed:**
  - Type (i.e. primary, secondary, service, water, gas, other as available)

Manholes
- **Feature Type:** point; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed:**
  - Type (i.e: sewer, water, utility)
  - Depth
  - Size
  - Operating entity (i.e. traffic, water, power department, etc)

Pavement Condition Index Score by Street (ASTM D6433)
- **Feature Type:** shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed**
  - City criteria for road repair in appropriate format
  - Score by street OR streets with scores that trigger extensive restoration

Zoning
- **Feature Type:** polygon; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed:**
  - Zoning type
  - Type description

Building Footprint
- **Feature Type:** polygon; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed:**
  - Physical Address

Minimize Disruption

The data below helps us minimize disruption during our construction process, as we would like to avoid unnecessary digging. Where possible, we will lease existing spare conduit or dark fiber and also try to coordinate with known construction projects. We
ask for potential hut sites to explore options ideally suited for minimal impact on the community.

**Existing Spare Conduit Available for Lease**
- **Feature Type**: polyline; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed**:
  - Location of existing conduit, preferably geospatially accurate data
  - Size and number

**Existing Dark Fiber Available for Lease**
- **Feature Type**: polyline; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed**:
  - Type (i.e. 288ct, 144ct, etc)
  - Fiber quality tests

**Infrastructure Maintenance Plan (road and power)**
- **Feature Type**: shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed**:
  - Street maintenance locations with extents and schedule
  - Pole maintenance areas and schedule

**Potential Hut Site Locations by Address**
- **Feature Type**: point; shapefile (.shp) or geodatabase (.gdb)
- **Attributes Needed**:
  - Type (i.e. fire station, police station, city property, substation, library, school, pump station, water tank, etc)
  - *Note: we would need space to set a 12'x30' precast one-story aggregation non-occupied building with surrounding space; approximate total 1400 sq ft.*
Appendix 2A
Examples of Existing Municipal Ordinances

Here are a few examples of local ordinances that have helped ensure access to existing infrastructure for all providers.

Lee County, FL:
“... the franchisee shall enter into agreements for the joint or common use of poles or other wire holding structures where poles or other wire holding structures already exist for the use in serving the county or serving the public convenience. Where reasonable terms and conditions cannot be negotiated with the owners of such poles and wire holding structures, the franchisee shall demonstrate the unreasonableness of the negotiations and terms, to the county administrator’s satisfaction, and request waiver of this provision.” Ch. 20, § 22-70.13(h) (1)

Anacortes, WA:
“A franchisee erecting or maintaining poles shall allow anyone constructing under the authority of this chapter and the city, joint use of its poles upon payment of a reasonable proportion of the cost of such poles installed and shall obey any order issued by the city’s director of public works relative to the joint use of poles.” Title 5, Ch. 5.44, § 5.44.190(D)

Norfolk, VA:
“The director of public works shall have the right to designate a pole for the joint use of the owner of such pole and other proprietors of lines, and to assign to each such joint user a certain section thereof on such terms as may be agreed upon. In the event of failure to reach such agreement, such director shall have the right to determine such terms, and to revoke the permit for such pole, unless such determination is accepted by the owner or proprietor thereof.” Ch. 42, § 42-92(a)
Mobile, AL
"It shall be the duty of the city electrician to so direct the placing, stringing and attaching of wires upon poles erected in the streets and alleys of the city that the same shall cause as little obstruction, either to travel in the streets or to the use and enjoyment of private property, as possible, and to compel the joint use of poles wherever practicable. In case the joint users of any such pole are unable to agree on such joint use or the rental to be paid the owner of such pole for such use, the city electrician shall fix such rate, which shall be binding upon the parties and companies interested; provided, that either party may appeal from the decision of the city electrician as to such joint use or the amount of rental to be paid for the use of such pole for the privilege of attaching wires thereto, to the city council." Ch. 19, § 19-37

Port Townsend, WA
"A franchisee erecting or maintaining poles shall allow anyone constructing under the authority of this master ordinance and the city, joint use of its poles upon payment of a reasonable proportion of the cost of such poles installed and shall obey any order issued by the public works director relative to the joint use of poles.” Ch. 5.14, § 5.14.120(D)
Appendix 3A

Google Fiber Permitting, Construction, and Maintenance Plan

This document details the ideal permit application, construction, and maintenance processes for Google Fiber. We've found that this approach to permitting and construction works well for a network build of this size.

As part of the checklist, we ask that your city review each of these items. In cases where your city has different processes and requirements from those outlined, please provide detailed notes on what the city's existing requirements or process are, so our engineering teams can work collaboratively to create a process that will work at scale.

Permitting Process

Google Fiber's Process and Standards:
- We plan to submit all permit application material to you electronically.
- For underground construction, we plan on submitting plan view only.
- All responses, including approvals, should be sent back to Google Fiber electronically.
- Permit applications will include the applicable area and the duration of at least one hundred and eighty (180) days to complete the proposed installation.
- We would like the applicable area to be as large as possible, ideally covering the entire city. If not, the applicable area should be a minimum of either:
  - twenty-thousand (20,000) households
  - three-hundred (300) route miles of underground installation.
- We are looking for a response within ten (10) days of submitting the permit application.
- If a permit application is not approved, we need to receive a detailed list of alterations needed to get the permit approved.
- The city should provide Permit Application communication through a single point of contact.
For Discussion:
- Do your city’s process or standards differ from what is outlined? If so, please provide detailed notes on your alternative requirements or process.
- Do you have any ideas or suggestions to improve efficiency, speed and predictability of the permitting process with your city?

Uploads Requested:
- Please upload a standard form of permit application document that Google Fiber will be expected to use.
- Please upload your city’s standard Conditions of Permit Approval.

Construction Process

Google Fiber’s Process and Standards:
- The preferred installation method may be shown on the plan view of the permit, but will be determined by field conditions at the time of construction.
- Google Fiber will implement the city’s standard traffic control plan at the time of installation of the Google Fiber network.
- The underground construction methods may include but are not limited to micro-trench, plow, open trench, directional bore and pneumatic bore.
- Twenty-four inch (24") horizontal separation from existing facilities will be maintained during installation, except where existing obstructions, underground congestion, or other reasons necessitate a lesser separation.
- Twelve inch (12") vertical separation from existing facilities will be maintained during installation, except where existing obstructions, underground congestion, or other reasons necessitate a lesser separation.
- Twenty-four (24") depth below existing grade will be maintained during installation, except where existing obstructions, underground congestion, or other reasons necessitate a shallower depth.
- When an open trench is utilized for construction in concrete or asphalt, a T-Cut method will be utilized for restoration, except where this method is not practicable.
- A single, full sidewalk panel will be replaced when any portion of a sidewalk panel is impacted, except by potholing.
- Pothole restoration will be limited to the circular area directly impacted by potholing activity, including in sidewalk areas.
• We plan to maintain an as-built description of changes required during the course of installation due to conditions on the ground. For proprietary reasons, Google Fiber will provide a PDF version of the plan view as-builds of the underground installation when required.

For Discussion:
• Do your city’s process or standards differ from what is outlined? If so, please provide detailed notes on your alternative requirements or process.
• Is there anything else we should know about your city as far as installation of infrastructure goes?

Uploads Requested:
• Please upload your standard traffic control plan.
• Please upload other applicable specifications, for example those regarding:
  • Utility System Engineering Design Manual
  • Utility System Construction Standards
  • Line-clearing and Tree-Trimming Service
  • Arborist requirements for working around trees
• Please upload building code specifications. This is helpful as we plan for multiple dwelling unit designs. Specifications requested:
  • Fire Safety
  • Electrical/Telecommunications Wiring
  • Grounding
  • Utilities

Maintenance

Google Fiber’s Process and Standards:
• For Google Fiber maintenance work activities, Google Fiber will provide forty-eight (48) hours’ electronic notice to the Right-of-Way Operator’s maintenance department before commencing planned work.
• Service wire to the home (drops) installation will be considered a maintenance activity.
For Discussion:
- Do your city's process or standards differ from what is outlined? If so, please provide detailed notes on your alternative requirements or process.

Uploads Requested:
Please upload documents setting out your standard maintenance notice requirements and any other relevant documents regarding maintenance process or timing.
Appendix 3B
Construction Constraints List

We'd like your help in identifying and determining ways to address any possible local, city or state-wide rules or regulations that would slow or otherwise impact construction. Please review and respond to the questions listed below.

*Are there any rules or regulations regarding when work can be performed throughout the year?*

*Please upload your tree-trimming regulations and outline any other information relevant to tree-trimming.*

*Are there historical site regulations?*

*Are there landscaping requirements for new structures?*

*Are there any underground construction requirements beyond NESC standards?*

*Are there any other environmental factors?*

*Anything else that may impede or slow construction within your city?*
Appendix 3C
Google Fiber’s Model Hut License Agreement
NETWORK HUT LICENSE AGREEMENT

This Equipment Housing License Agreement ("Agreement") is entered into by the municipal entity ("City") and the Google Fiber company ("Licensor") identified on the signature page of this Agreement. City and Licensor agree to the terms and conditions set forth below.

1. Purpose. Licensor needs rights to occupy and use various real property sites that may be owned by the City. The sites will be used for the purpose of constructing structures that will house network equipment and fiber that are part of Licensor's fiber optic network ("Network Hut"). The construction of each Network Hut will be based on the specifications described in Exhibit A to this Agreement, which may be amended by Licensor.

2. Location of Sites for Network Huts. Licensor will identify and propose to the City the location of various City owned sites. Licensor and City will work together to agree upon each site to be used for each Network Hut. When Licensor and City agree upon specific sites, the parties will complete and sign the form attached as Exhibit B to this Agreement ("Site Terms") for each site ("Network Hut Site"). The Site Terms include a legal description of the Network Hut Site, the fees to be paid for use of the site and any other special terms or requirements applicable to the Network Hut Site. Licensor's occupancy and use of each Network Hut Site will be subject to this Agreement, including the terms set forth in the applicable Site Terms.

3. Licensee Rights and Obligations. City grants to Licensor the right to access, enter, occupy and use each Network Hut Site at any time for the purpose of constructing, operating and maintaining each Network Hut. City grants these rights solely to the extent it has such rights, title and interest in the Network Hut Site, without any express or implied warranties. Licensor will obtain all applicable licenses, permits and other authorizations required to construct, operate and maintain the Network Hut and offer Licensor's services. Licensor will construct the Network Hut in accordance with all applicable laws and permitting requirements. Licensor will use and maintain the Network Hut Site in accordance with all applicable laws and reasonable requirements and will keep the site secure (based on applicable standards) and reasonably free from debris, litter and graffiti.

4. Effective Date and Term. This Agreement is effective on the last date it has been signed by both parties ("Effective Date"). The initial term of the Agreement is twenty (20) years from the Effective Date. Following the initial term, this Agreement shall renew for successive two (2) year periods unless City provides Licensor with written notice that it does wish to renew the Agreement. City must provide such written notice at least ninety (90) days prior to any renewal date of the Agreement.

5. Termination of Agreement or Site Terms. Licensor may terminate this Agreement or the Site Terms for a specific Network Hut Site at any time with thirty (30) days written notice to the City. City may terminate this Agreement in the event of a material breach of this Agreement by Licensor and Licensor fails to cure the breach within sixty (60) days of receipt of notice from City. City may also terminate the Site Terms for a Network Hut Site by providing a minimum of one hundred eighty (180) days written notice to Licensor if the City determines that the applicable Network Hut Site is needed for a compelling public purpose. Following such written notice, City agrees to use its best efforts to find an alternative City owned site that Licensor may use as a replacement. Upon any termination or expiration of this Agreement, in whole or in relation to a particular Network Hut Site, Licensor will vacate premises and return site to its

Exhibit D - Network Hut License Agreement (V2).docx
Form Subject to Updates and Changes Prior to Signature
original condition other than removal of any concrete foundations.

6. **Fees and Costs.** Licensee agrees to pay to City the fees set forth in the Site Terms for each Network Hut Site. The fees shall be paid on an annual basis for each Network Hut Site. Licensee shall be responsible for all its costs associated with construction, operation and maintenance of the Network Hut and Network Hut Site. Payments shall be delivered by Licensee within forty-five (45) days of the payment due date agreed upon by the parties.

7. **Indemnification.** Licensee will defend and indemnify City, its officers, elected representatives, and employees from any claims and liabilities related to any third party claim for property damage, personal injury or death to the extent caused by Licensee or its contractors. Licensee will have the right to control the defense of any such claim. If, in City’s reasonable judgment, a conflict exists between the interests of City and Licensee in such a claim, City may retain its own counsel whose reasonable fees will be paid by Licensee.

8. **Limitation of Liability.** *NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT.* *THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION SHALL BE SUBJECT TO AND MAY BE LIMITED BY APPLICABLE STATE LAW.*

9. **Insurance.** Licensee will carry and maintain general liability, workers compensation and other customary types of insurance applicable to the use of Network Hut Sites. The insurance coverage amounts shall be reasonably adequate based on the use of the Network Hut Sites and shall be issued by insurers duly qualified to offer and bind coverage within the state where the Network Hut Site is located.

10. **Notice.** All notices related to this Agreement will be in writing and sent to the address set forth in each signature block to this Agreement. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by facsimile transmission or by electronic mail, (c) upon receipt after dispatch by registered or certified mail, postage prepaid, (d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier.

11. **General Provisions.** This Agreement is governed by the laws of the state where the Network Huts are located. City will make the entirety of the rights set forth in this Agreement available to other network-based providers of internet access and multichannel video programming services in a non-discriminatory manner, including access to the City’s infrastructure, poles, conduits, assets and rights of way to the extent set forth in this Agreement, on rates, terms and conditions that are as favorable as those the City provides to Licensee for the same access; recognizing that the equivalent consideration afforded by other service providers may be different than what Licensee is obligated to provide under this Agreement. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control. This Agreement may not be assigned by Licensee without the consent of City except for assignments to Licensee’s affiliates or in connection with a merger, acquisition, sale of network assets or similar transactions. This Agreement sets out all terms agreed between the parties and supersedes all previous or contemporaneous agreements between the parties relating to its subject matter. This Agreement, including any exhibits, constitutes the entire Agreement between the parties related to this subject matter, and any change to its terms must be in writing and signed by the parties. The parties may execute this Agreement in counterparts, including
facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. Each party to this Agreement agrees to: (a) use electronic signatures; and (b) be subject to the provisions of the U.S. E-SIGN Act (i.e., the Electronic Signatures in Global and National Commerce Act (ESIGN, Pub.L. 106-229, 14 Stat. 464, enacted June 30, 2000, 15 U.S.C. ch.96).

LICENSEE: ____________________________

(Authorized Signature)

(Name)

(Title)

Address: 1600 Amphitheatre Parkway

Mountain View, CA 94043

Date:

CITY: ____________________________

(Authorized Signature)

(Name)

(Title)

Address:

Date:
EXHIBIT A
NETWORK HUT SPECIFICATIONS

EXHIBIT B

LEFT ELEVATION

FRONT ELEVATION

DETAIL "A"

RIGHT ELEVATION

REAR ELEVATION

1. NO THUS OR MASONRY IS TO BE SHOWN ON THE EXTERIOR OF THE BUILDING OR DOORS.
   INSTALL STAIN ALUMINUM PLATE ON THE INTERIOR OF THE BUILDING FOR ALL CASE AND WINDOW
   2. ADD AN EXTENSION TO EACH AIR CONDITIONER DRAIN TUBE TO DRAIN WATER AWAY FROM THE FOUNDATION.

PROJECT
GOOGLE FIBER

THERMOBOND BUILDINGS

Sheet 6 of 10
EXHIBIT B
NETWORK HUT SITE TERMS

1. Legal Description of Network Hut Site Location (describe below or attach legal description).

2. Annual Fees:

3. Other terms or requirements applicable to Network Hut Site.

LICENSEE: ________________________________

CITY: ________________________________

(Authorized Signature)

(Authorized Signature)

(Name)

(Name)

(Title)

(Title)

Address: 1600 Amphitheatre Parkway
Mountain View, CA 94043

Address:

Date:

Date:
This Equipment Housing License Agreement (“Agreement”) is entered into by the municipal entity (“City”) and the Google Fiber company (“Licensee”) identified on the signature page of this Agreement. City and Licensee agree to the terms and conditions set forth below.

1. **Purpose.** Licensee needs rights to occupy and use various real property sites that may be owned by the City. The sites will be used for the purpose of constructing structures that will house network equipment and fiber that are part of Licensee’s fiber optic network (“Network Hut”). The construction of each Network Hut will be based on the specifications described in Exhibit A to this Agreement, which may only be amended by Licensee upon written agreement of both parties.

2. **Location of Sites for Network Huts.** Licensee will identify and propose to the City the location of various City owned sites. Licensee and City will work together to agree upon each site to be used for each Network Hut. If and when Licensee and City agree upon specific sites, the parties will complete and sign the form attached as Exhibit B to this Agreement (“Site Terms”) for each site (“Network Hut Site”). The Site Terms include a legal description of the Network Hut Site, the fees to be paid for use of the site and any other special terms or requirements applicable to the Network Hut Site. Licensee’s occupancy and use of each Network Hut Site will be subject to this Agreement, including the terms set forth in the applicable Site Terms.

3. **Licensee Rights and Obligations.** City grants to Licensee the right to access, enter, occupy and use each Network Hut Site at any time for the purpose of constructing, operating and maintaining each Network Hut. City grants these rights solely to the extent it has such rights, title and interest in to the Network Hut Site, without any express or implied warranties. Licensee will obtain all applicable licenses, permits and other authorizations required to construct, operate and maintain the Network Hut and offer Licensee’s services. Licensee will construct the Network Hut in accordance with all applicable laws and permitting requirements. Licensee, at its sole expense, will keep the site secure and use and maintain the Network Hut Site in accordance with all applicable laws and requirements set forth in the Site Terms. Licensee will keep the site reasonably free from graffiti, debris, litter, or other vandalism or damage to the Network Hut Site. Licensee will repair any damage to City property caused by Licensee during construction, maintenance, or operation of the Network Hut Site. Licensee agrees that it will not use, generate store, or dispose of any hazardous materials on, under, about or within the Network Hut Site in violation of any federal, state, or local law or regulation.

4. **Effective Date and Term.** This Agreement is effective on the last date it has been signed by both parties (“Effective Date”). The initial term of the Agreement is twenty (20) years from the Effective Date. Following the initial term, this Agreement shall renew for successive two (2) year periods unless City provides Licensee with written notice that it does wish to renew the Agreement. City must provide such written notice at least ninety (90) days prior to any renewal date of the Agreement.

5. **Termination of Agreement or Site Terms.** Licensee may terminate this Agreement or the Site Terms for a specific Network Hut Site at any time with thirty (30) days written notice to the City. City may terminate this Agreement in the event of a material breach of this Agreement by Licensee and Licensee fails to cure the breach within sixty (60) days of receipt of notice from City. City may also terminate the Site Terms for a Network Hut Site by providing a minimum of one hundred eighty (180) days written notice to Licensee if the City determines that the
applicable Network Hut Site is needed for a reasonable and necessary public purpose. Following such written notice, City agrees to use its best efforts to find an alternative City owned site that Licensee may use as a replacement. Upon any termination or expiration of this Agreement, in whole or in relation to a particular Network Hut Site, Licensee will vacate premises and return site to its original condition, within one hundred and eighty (180) days, at Licensee’s sole expense.

6. Fees and Costs. Licensee agrees to pay to City the annual fee of $3.50 per square foot for each Network Hut Site. The fees shall be paid on an annual basis for each Network Hut Site and shall be subject to an escalation factor of 4% per year. Licensee shall be responsible for all its costs associated with construction, operation and maintenance of the Network Hut and Network Hut Site. Payments shall be delivered by Licensee within forty-five (45) days of the payment due date agreed upon by the parties. Any fee installments unpaid by the due date will bear interest at the rate of one and a half percent (1.5%) per month. If the Agreement is terminated by either party pursuant to Paragraph 5, Licensee shall be entitled to reimbursement of the annual fees paid by Licensee for that year pro-rated according to the number of months remaining after the termination date.

7. Indemnification. Licensee will defend, indemnify, and hold City, its officers, City Council, commissions, volunteers, agents, and employees harmless from and against any claims and liabilities, including all costs and reasonable attorneys' fees, for which City shall become liable related to any third party claim for property damage, personal injury or death to the extent caused by Licensee or its contractors. Licensee will have the right to control the defense of any such claim. If, in City’s reasonable judgment, a conflict exists between the interests of City and Licensee in such a claim, City may retain its own counsel whose reasonable fees will be paid by Licensee.

8. Limitation of Liability. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION SHALL BE SUBJECT TO AND MAY BE LIMITED BY APPLICABLE STATE LAW.

9. Insurance. Licensee will carry and maintain general liability, workers compensation and other customary types of insurance applicable to the use of Network Hut Sites. The insurance coverage amounts shall in accordance with the requirements set forth in Exhibit C.

10. Notice. All notices related to this Agreement will be in writing and sent to the address set forth in each signature block to this Agreement. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by facsimile transmission or by electronic mail, (c) upon receipt after dispatch by registered or certified mail, postage prepaid, (d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier.

11. General Provisions. This Agreement is governed by the laws of the state of California. Venue will be in the County of Santa Clara, California. City will make the entirety of the rights set forth in this Agreement available to other network-based providers of internet access and multichannel video programming services in a non-discriminatory manner, including access to the City’s infrastructure, poles, conduits, assets and rights of way to the extent set forth in this Agreement, on rates, terms and conditions that are as favorable as those the City provides to
Licensee for the same access; recognizing that the equivalent consideration afforded by other service providers may be different than what Licensee is obligated to provide under this Agreement. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control. This Agreement may not be assigned by Licensee without the consent of City except for assignments to Licensee’s affiliates or in connection with a merger, acquisition, sale of network assets or similar transactions. This Agreement sets out all terms agreed between the parties and supersedes all previous or contemporaneous agreements between the parties relating to its subject matter. This Agreement, including any exhibits, constitutes the entire Agreement between the parties related to this subject matter, and any change to its terms must be in writing and signed by the parties. The parties may execute this Agreement in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. Each party to this Agreement agrees to: (a) use electronic signatures; and (b) be subject to the provisions of the U.S. E-SIGN Act (i.e., the Electronic Signatures in Global and National Commerce Act (ESIGN, Pub.L. 106-229, 14 Stat. 464, enacted June 30, 2000, 15 U.S.C. ch.96).

LICENSEE: __________________________

CITY OF PALO ALTO

(Authorized Signature) James Keene
City Manager

ATTEST:

(Name) City Clerk

(Title) Approved as to Form:

Address: 1600 Amphitheatre Parkway

Mountain View, CA 94043

Date: __________________________

Senior Deputy City Attorney
EXHIBIT A

NETWORK HUT SPECIFICATIONS

1. No tags or any marking is to be shown on the exterior of the building or doors.
2. Metal roof, aluminum foil on the exterior of the building for all doors and windows.
3. Add an extension to the air conditioner drain tube to drain water away from the foundation.
EXHIBIT B
NETWORK HUT SITE TERMS

1. Legal Description of Network Hut Site Location (describe below or attach legal description).

2. Annual Fees:

3. Other terms or requirements applicable to Network Hut Site.

LICENSEE:__________________________________________  CITY [Conforming changes to City signature block required]:__________________________________________

(Authorized Signature) (Authorized Signature)

(Name) (Name)

(Title) (Title)

Address: 1600 Amphitheatre Parkway
Mountain View, CA 94043

Address:

Date: ___________________ Date: ___________________
EXHIBIT C
INSURANCE REQUIREMENTS

LICENSEE, AT ITS SOLE EXPENSE, SHALL FOR THE TERM OF THE CONTRACT OBTAIN AND MAINTAIN INSURANCE IN THE AMOUNTS FOR THE COVERAGE SPECIFIED BELOW, AFFORDED BY COMPANIES WITH AM BEST’S KEY RATING OF A:-VII, OR HIGHER, LICENSED OR AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE OF CALIFORNIA.

AWARD IS CONTINGENT ON COMPLIANCE WITH CITY’S INSURANCE REQUIREMENTS, AS SPECIFIED, BELOW:

<table>
<thead>
<tr>
<th>REQUIRED</th>
<th>TYPE OF COVERAGE</th>
<th>REQUIREMENT</th>
<th>MINIMUM LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>WORKER’S COMPENSATION</td>
<td>STATUTORY</td>
<td></td>
</tr>
<tr>
<td>YES</td>
<td>EMPLOYER’S LIABILITY</td>
<td>STATUTORY</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>YES</td>
<td>GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY</td>
<td>BODILY INJURY</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PROPERTY DAMAGE</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>BODILY INJURY &amp; PROPERTY DAMAGE COMBINED</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>YES</td>
<td>AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED</td>
<td>BODILY INJURY</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- EACH PERSON</td>
<td>$1,000,000</td>
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<td></td>
<td></td>
<td>- EACH OCCURRENCE</td>
<td>$1,000,000</td>
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<tr>
<td></td>
<td></td>
<td>PROPERTY DAMAGE</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>BODILY INJURY AND PROPERTY DAMAGE, COMBINED</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>YES</td>
<td>PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE</td>
<td>ALL DAMAGES</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>
YES  

THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: CONTRACTOR, AT ITS SOLE COST AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT ONLY CONTRACTOR AND ITS SUBCONSULTANTS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS’ COMPENSATION, EMPLOYER’S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL INSUREDS CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.

I. INSURANCE COVERAGE MUST INCLUDE:

A. A PROVISION FOR A WRITTEN NOTICE TO CITY OF CHANGE IN COVERAGE OR OF COVERAGE CANCELLATION; AND

B. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR’S AGREEMENT TO INDEMNIFY CITY.

II. CONTRACTOR MUST SUBMIT CERTIFICATES(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE.

III. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO “ADDITIONAL INSUREDS”

A. PRIMARY COVERAGE

WITH RESPECT TO CLAIMS ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED, INSURANCE AS AFFORDED BY THIS POLICY IS PRIMARY AND IS NOT ADDITIONAL TO OR CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY OR FOR THE BENEFIT OF THE ADDITIONAL INSUREDS.

NOTICES SHALL BE MAILED TO:

PURCHASING AND CONTRACT ADMINISTRATION
CITY OF PALO ALTO
P.O. BOX 10250
PALO ALTO, CA 94303