ORDINANCE No. 187880

Amend public benefits for Google Fiber Oregon, LLC franchise (Ordinance; amend Ordinance No. 186641)

The City of Portland ordains:

Section 1. The Council finds:

1. In June 2014, the City Council granted a franchise to Google Fiber Oregon, LLC ("Google Fiber") for a period of 10 years with an effective date of August 11, 2014. Ordinance No.186641.

2. In April 2016, the City Council adopted the Digital Equity Action Plan. Resolution No. 37100. The Plan provides a road map to address digital inclusion for all Portlanders by targeting efforts and investments throughout the entire City, whether by City bureaus directly, or in partnership with federal, state or local governments, or community-based and private sector organizations.

3. The Office for Community Technology has a well-established history of facilitating and coordinating policy and regulatory leadership on the Council's behalf in the area of broadband and digital equity.

4. The City's vision for digital equity includes providing every resident with the opportunity to be fully engaged in digital society in accessing and using digital and communications technology.

5. The Broadband Strategic Plan brought together city offices and community partners in the recognition that high-speed affordable fiber broadband to every home and business represents basic infrastructure for Portland in the twenty-first century.

6. The Office for Community Technology, Revenue Division, Bureau of Revenue and Financial Services recommends that the Council amend the Google Fiber franchise to revise the public benefit commitments to appropriately reflect and incorporate both the Digital Equity Action Plan and the Broadband Strategic Plan, as adopted by Council in September 2011 by Resolution No. 36879. Staff further recommends that the franchise be extended for an additional two years, until December 31, 2026.

NOW, THEREFORE, the Council directs:

a. Section 1.2 of Ordinance No. 186641, granting Google Fiber Oregon, LLC a franchise to construct and operate a fiber network, is amended to read as follows:

1.2 <u>Term of Franchise</u> This Franchise, and all rights, privileges, obligations and restrictions pertaining thereto, shall expire on December 31, 2026, unless terminated

sooner as provided in this Franchise.

b. Section 8 of Ordinance No. 186641 is amended to read as follows:

Section 8 PUBLIC BENEFITS

8.1 Public Benefits Grantee will promote and engage in initiatives that are designed to benefit the residents of the City and that are consistent with the general mission and overarching goals of the Digital Equity Action Plan (DEAP, adopted by the Council on April 6, 2016) and the Broadband Strategic Plan (BSP, adopted by the Council on September 14, 2011). Such initiatives will be based on programs deployed by Grantee or its affiliates in other geographic service areas and may be tailored or otherwise designed to reflect local conditions and existing initiatives.

A. 1. Expanding Broadband Services to Persons in Need, Including Residential Areas of Low Adoption. Grantee will offer products that seek to narrow the digital divide among Portland residents. Consistent with Goal 1 (Access) of the DEAP, Grantee will include product and service offerings designed to expand residential access to Broadband Services in digitally-divided areas of the community with low broadband adoption rates. In addition, Grantee will use good faith efforts to work with affordable housing providers and/or public housing providers to identify dwelling units within the City where Grantee may offer Broadband Services at no cost to residents. The City may request Grantee to report on plans and progress under this Section A.1 pursuant to Section 9.1A.

2. Digital Literacy and Capacity Building. In support of Goals 2 (Support and Training) and 3 (Leadership and Capacity) of the DEAP, Grantee shall actively support the work of local organizations that (i) teach digital literacy to residents, (ii) demonstrate the importance of broadband in communities with limited broadband access, and/or (iii) help unconnected residents subscribe to Broadband Service. Grantee further agrees to use good faith efforts to consult with the City in designing and implementing such initiatives, with the goal of generally aligning Grantee's efforts with the goals and priorities of the DEAP and the BSP.

3. Strategies for Construction Efficiencies and Cost Reduction. In support of the Goals of the BSP, the City and Grantee agree to work in good faith to identify mutually-beneficial opportunities to reduce the costs of both parties through efficient construction strategies such as shared trenches, joint/coordinated builds, and interconnection; any such efforts may also include other third parties. Any discussions pursuant to this Section A.3 will be subject to definitive documentation to be agreed between the parties.

B. Digital Equity Support Fee. Grantee shall pay the City 3% of Grantee's Gross Revenues as a Digital Equity Support Fee. The City shall use the revenues generated by the Digital Equity Support Fee exclusively for purposes consistent with the City's

adopted Digital Equity Action Plan and Broadband Strategic Plan to support the City's digital equity initiatives. The Digital Equity Support Fee may be used for capital or operating expenses, including but not limited to payment of costs of constructing, interconnecting or provision of fiber optic facilities to or for public primary and secondary school and community colleges; public libraries; government agencies or designated access providers. The Digital Equity Support Fee shall be administered by the Office for Community Technology. The Digital Equity Support Fee will be in addition to any other payments owed under this Franchise, including the franchise fee required by Section 7.1, and does not replace or reduce Grantee's obligations as outlined in subsections 8.1.A above.

C. Payments, Audits and Other Rights. The rights and obligations in this Franchise relating to the payment, reporting, auditing and other obligations of Grantee and rights of the City apply equally to the Digital Equity Fee as any other payment under this Franchise.

c. Except as specifically provided in this ordinance, all other terms and conditions of Ordinance No. 186641 shall remain the same, without modification.

d. On or before five (5) business days after this ordinance becomes effective, Google Fiber Oregon, LLC shall file in the Office of the Auditor of the City of Portland a written acceptance of this ordinance, executed by a duly authorized representative, meeting the approval of the City Attorney. Any failure on the part of Google Fiber Oregon, LLC to file such written acceptance within such time shall be deemed an abandonment and rejection of this ordinance, and this ordinance shall thereupon be null and void. Such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms contained in this ordinance.

Passed by the Council: JUL 06 2016

Mayor Charlie Hales
Prepared by: MBHenry/BWalters
Date Prepared: June 8, 2016

Mary Hull Caballero
Auditor of the City of Portland
By Gayla Jennings
Deputy

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Agenda No. 187880

ORDINANCE NO.

Title

Amend public benefits for Google Fiber Oregon, LLC franchise (Ordinance; amend Ordinance No. 186641)

INTRODUCED BY Commissioner/Auditor: **Mayor Hales**	CLERK USE: DATE FILED JUN 21 2016
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland
Mayor—Finance and Administration - Hales	By: Susan Parsons Deputy
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	**ACTION TAKEN:**
BUREAU APPROVAL Bureau: OMF/BRFS, Revenue CAO: Fred Miller KLR for FM CFO, Bureau Head: Kenneth L. Rust KLR Division Head: Thomas W. Lannom	
Prepared by: Mary Beth Henry Date Prepared: June 8, 2016	JUN 29 2016 **PASSED TO SECOND READING** JUL 06 2016 **9:30 A.M.**
Impact Statement Completed ☒ Amends Budget ☐	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes ☐ No ☒	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: Benjamin Walters	
Council Meeting Date **June 29, 2016**	

AGENDA
TIME CERTAIN ☒ **Start time: 4:00 p.m.** **Total amount of time needed: 45 mins.** (for presentation, testimony and discussion)
CONSENT ☐
REGULAR ☐ **Total amount of time needed:** _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Novick	4. Novick	✓	
Hales	Hales	✓	