

**FIRST AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT
CREATING THE SOUTH SALINAS VALLEY BROADBAND AUTHORITY**

This Amendment (the “First Amendment”) is made this ___ day of ___ 2022 by and between the following public entities (each a “Party,” collectively, the “Parties”):

- a) CITY OF GONZALES (“Gonzales”), a municipal corporation.
- b) CITY OF SOLEDAD (“Soledad”), a municipal corporation.
- c) CITY OF GREENFIELD (“Greenfield”), a municipal corporation; and
- d) CITY OF KING (“King”), a municipal corporation.
- e) COUNTY OF MONTEREY (“County”), a political subdivision of the State of California.

RECITALS

WHEREAS, the Parties have previously entered into that certain *Joint Exercise of Powers Agreement Creating the South Salinas Valley Broadband Authority* (the “Original JPA”); and

WHEREAS, the parties desire to amend the Original JPA to better facilitate cooperation with other public entities that may propose to construct and operate open-access broadband networks within the boundaries of the Authority.

AGREEMENT

NOW, THEREFORE, based upon mutual promises contained in this Amendment, the Parties agree as follows:

- 1. The above recitals are hereby incorporated into this Amendment.
- 2. Subsection 1 of Section H of the Original JPA is hereby amended to read as follows:
 - 1. *Pursuant to Government Code section 6504, each Party hereby contributes the following property interests to the Authority in furtherance of public purposes of this Agreement:*
 - a. *The Authority is hereby granted a license to construct, improve, operate, and maintain fiber-optic lines and other broadband infrastructure, with the necessary appurtenances, across, along, in, under, over, or upon any road, street, alley, avenue, or highway, and across, under, or over any railway, canal, ditch, or flume which the route of such works intersects, crosses, or runs along, or any utility easement, that is located within the boundaries of the Authority and is owned by or otherwise under the possession, control, or jurisdiction of the Party. This license shall survive withdrawal of the Party from the Authority, and shall further survive termination of this Agreement, and shall be irrevocable with respect to any broadband infrastructure financed or constructed in reliance upon such license.*

- b. *Construction of broadband infrastructure under this license shall be contingent upon obtaining an encroachment permit or similar authorization from the applicable Party, as provided in Subsection 2 of this Section, which shall not be unreasonably withheld, conditioned, or delayed.*
- c. *Except as provided in Subsection 2 of this Section, this license and the exercise of the Authority's rights hereunder shall be without cost to the Authority or its sublicensees.*
- d. *This license shall have the same terms and conditions as the franchise granted to municipal corporations under Article 3 (commencing with Section 10101) of Chapter 1 of Division 5 of the Public Utilities Code, to the extent not inconsistent with the terms of this Agreement.*
- e. *The property interests contributed to the Authority under this Agreement are in addition to, and do not diminish, the rights, if any, possessed directly by the Authority or its sublicensees under Article 3 (commencing with Section 10101) of Chapter 1 of Division 5 of the Public Utilities Code.*
- f. *The Authority may grant one or more sublicenses to other public entities for the same purpose on the same terms and conditions as set forth herein.*

3. Subsection 2 of Section H of the Original JPA is hereby amended to read as follows:

2. *Encroachment Permits:*

- a. *Each Party shall collaborate with the Authority and any sublicensee in good faith to streamline issuance of any permits or authorizations necessary for construction, improvement, or maintenance of broadband infrastructure as set forth in Subsection 1 of this Section.*
- b. *Any fees charged in connection with such permit or authorization shall not exceed the reasonable costs to process and issue the permit. No rent, license fee, franchise fee, or other recurring fee or charge shall be imposed for such permit or for use of the right-of-way or utility easement.*
- c. *Such permits or authorizations may be subject to those conditions determined necessary by the applicable Party to afford security for life and property, provided that the Party shall collaborate with the Authority and any sublicensee in good faith to reduce the costs of compliance with any such conditions to the greatest extent practicable.*

4. Subsection 4 of Section H is hereby added to the Original JPA, to read as follows:

5. *Upon request by the Authority or any sublicensee, each Party shall cooperate with the Authority or sublicensee to review plans for the proposed network infrastructure in order to identify any potential constraints to the timely and efficient construction and operation of the network.*

4. All other terms and conditions of the Original JPA shall remain in effect unchanged.

5. This First Amendment, together with the Original JPA, constitutes the entire agreement of the parties and supersedes all previous agreements, writings, and oral statements. In the event of any inconsistency or conflict between this First Amendment and the Original JPA, the provisions of this First Amendment shall prevail. The Agreement may not be further modified except in a writing signed by both parties.

IN WITNESS WHEREOF, the Parties, pursuant to resolutions duly and regularly adopted by their respective governing boards, have caused their names to be affixed by their proper and respective officers as of the day and year so indicated.

COUNTY OF MONTEREY

By _____
Mary L. Adams
Chair of the Board of Supervisors

Dated: _____

APPROVED AS TO FORM

By _____
Leslie J. Girard, County Counsel

CITY OF GONZALES

By _____
Mayor

Dated: _____

APPROVED AS TO FORM

_____, City Attorney

By _____

CITY OF SOLEDAD

By _____

Mayor

Dated: _____

APPROVED AS TO FORM

_____, City Attorney

By _____

CITY OF GREENFIELD

By _____

Mayor

Dated: _____

APPROVED AS TO FORM

_____, City Attorney

By _____

CITY OF GONZALES

By _____

Mayor

Dated: _____

APPROVED AS TO FORM

_____, City Attorney

By _____

CITY OF KING

By _____