

**FIRST AMENDMENT TO
BROADBAND INFRASTRUCTURE GRANT AGREEMENT**

This **First Amendment to the Broadband Infrastructure Grant Agreement** (the “First Amendment”) is made as of this 4th day of January, 2022 (the “First Amendment Effective Date”), by and between the County of Monterey, a political subdivision of the State of California (hereinafter “County” or (the “Grantor”), and Spectrum Pacific West, LLC., by its Manager, Charter Communications, Inc. (hereinafter “Contractor” or the “Grantee,” together with the Grantor, the “Parties”).

RECITALS

A. Under the Broadband Infrastructure Grant Agreement dated as of August 5, 2022 (the “Grant Agreement”), Grantor issued to Grantee a grant in the amount of \$1,610,000 (the “Grant”) to be used by Grantee for the purposes of funding the Broadband Project described in Exhibit A to the Grant Agreement.

B. After entering into the Grant Agreement, the Parties agree to amend the Grant Agreement.

NOW, THEREFORE, in consideration of the foregoing, the terms and conditions set forth in this First Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Defined Terms; Recitals.** Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Grant Agreement (including those capitalized terms used in the recitals hereto). The recitals set forth above shall be construed as part of this First Amendment as if set forth fully in the body of this First Amendment.
2. **Amendments to Grant Agreement.**
 - (a) **Project Costs.** The Grant Agreement shall be modified by striking the project costs spreadsheet appearing on the Grant Agreement’s 18th page (including exhibits) and replacing it with the Amended Project Costs attached hereto as Exhibit B-1.
3. **Ratification.** Each Party affirms that (i) except as expressly provided in this First Amendment, nothing contained herein shall modify its obligations under the Grant Application; and (ii) the Grant Agreement, as modified by this First Amendment, shall remain in full force and effect.
4. **Governing Law.** This First Amendment shall be construed, interpreted, and enforced in accordance with the laws of the State of California without regard to conflict of laws provisions.

- 5. **Execution.** This First Amendment may be executed in one or more counterparts, each of which will be deemed to be an original copy of this First Amendment and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this First Amendment and of signature pages by facsimile or by electronic transmission shall constitute effective execution and delivery of this First Amendment as to the Parties and may be used in lieu of the original First Amendment for all purposes. Signatures of the Parties transmitted by facsimile or electronic transmission shall be deemed to be their original signatures for all purposes.

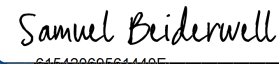
IN WITNESS WHEREOF, intending to be legally bound, the undersigned have executed this First Amendment as of the First Amendment Effective Date.

For Grantor: County of Monterey, California


DocuSigned by:

 By: _____
 Eric Chatham, Chief Information Officer

1/12/2023 | 9:10 AM PST
 Date: _____
 DocuSigned by:

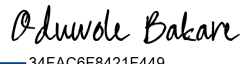

 By: _____
 Samuel Beiderwell, Deputy County Counsel

1/11/2023 | 10:19 AM PST
 Date: _____
 DocuSigned by:


 By: _____
 Deputy Auditor-Controller

1/12/2023 | 8:27 AM PST
 Date: _____

**For Grantee: Spectrum Pacific West, LLC,
 By: Charter Communications, Inc., its Manager**

DocuSigned by:

 By: _____
 Wally Bakare, Regional Vice President Northwest Region

1/4/2023 | 9:00 AM PST
 Date: _____

DocuSigned by:

 By: _____
 Ed Gaffney, Area Vice President Sierra Nevada Management Area

1/11/2023 | 9:55 AM CST
 Date: _____

EXHIBIT B-1

	San Ardo	San Lucas	Strawberry Canyon	Prunedale North	Prunedale South	2022 Total
Total Project Cost	\$ 1,274,315	\$ 848,895	\$ 468,432	\$ 182,361	\$ 838,152	\$ 3,612,155
Route Miles	29	11	8.9	2.1	11.5	62.5
Passings	174	98	126	23	159	580
Subsidy Request	\$ 567,984	\$ 378,367	\$ 208,788	\$ 81,281	\$ 373,579	\$ 1,610,000
Subsidy Percentage	45%	45%	45%	45%	45%	45%
Charter Cost	\$ 706,331	\$ 470,528	\$ 259,644	\$ 101,079	\$ 464,573	\$ 2,002,155
Charter Percentage	55%	55%	55%	55%	55%	55%

Addresses	174	98	126	23	159	580
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COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter “County”) and **Spectrum Pacific West, LLC., by its Manager, Charter Communications, Inc.** (hereinafter “CONTRACTOR”).

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

Provide:

Contractor will install a high-speed fiber-to-the-premises (“FTTP”) wireline broadband network capable of providing at least 25/3 Mbps speeds to the Project Area set forth in **Exhibit A** (“Broadband Project”).

2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: **\$1,610,000**.

3.0 TERM OF AGREEMENT:

3.01 The term of this Agreement is from the Effective Date of this Agreement to ninety days after Grantee receives Final Payment per the Milestone Payment Schedule in Exhibit A., unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement**. No provision of this Agreement shall survive the termination of this Agreement unless expressly stated herein.

Grantee shall commence performance of this Agreement as soon as practicable with the goal of completing the project no later than December 31, 2024, to complete the entire Project Area, subject to Excusable Delay. Excusable Delay means a delay to the construction of the project that affects completion and is directly caused by (1) make-ready work that is not received by Spectrum within 45 days of Spectrum’s submission of a completed application for utility pole attachments; or (2) any delay in receiving governmental, regulatory and third-party permits, licenses and approvals, despite Spectrum’s good faith efforts to secure timely approvals, or (3) pursuant to Force Majeure.

4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions, Exhibit B Broadband Address List

5.0 PERFORMANCE STANDARDS:

5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or to the best of CONTRACTOR's knowledge and belief, immediate family of an employee of the County.

5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS:

6.01 The award amount for the Project shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.

6.02 Negotiations for any costs in addition to the award amount shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Changes to awarded amounts are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.

6.03 Invoice amounts shall be billed directly to the ordering department.

6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION:

7.01 In the event of Termination, the amount payable under this Agreement to CONTRACOR shall be made by County in proportion to the services provided prior to the date of termination.

7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. “Good cause” includes the failure of CONTRACTOR to materially perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR less pro-rata amounts for completed locations, and the County may proceed with the work for the remaining locations in any manner, which County deems proper. The cost to the County shall be deducted from any remaining sum due the CONTRACTOR under this Agreement.

7.03 The County’s payments to CONTRACTOR under this Agreement are funded by the Coronavirus State and Local Fiscal Recovery Fund (“SLFRF”), established by the American Rescue Plan Act (“ARPA”) provided funding to local government entities for certain purposes, including support for development of necessary broadband infrastructure. The County asserts that it has the requisite funding under SLFRF and authority to enter into and carry out its obligations under this Agreement with CONTRACTOR.

8.0 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys’ fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR’s performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. “CONTRACTOR’s performance” includes CONTRACTOR’s action or inaction and the action or inaction of CONTRACTOR’s officers, employees, agents, and subcontractors.

9.0 INSURANCE REQUIREMENTS:

9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a “Certificate of Insurance” certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County’s Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a “Notice to Proceed” with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 **Qualifying Insurers:** All coverages, except surety, shall be issued by companies which hold a current policy holder’s alphabetic and financial size category rating of not less than A- VII, according to the current Best’s Key Rating Guide or a company of equal financial stability that is approved by the County’s Purchasing Manager.

9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR’s duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Requestor must check the appropriate Automobile Insurance Threshold:

Requestor must check the appropriate box.

Agreement Under \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Agreement Over \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers’ Compensation Insurance: if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer’s Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers’ compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance: if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a “claims-made” basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage (“tail coverage”) with the same liability limits. Any such tail

coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04 Other Requirements:

All insurance required by this Agreement shall be issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement

immediately.

10.0 **RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** Neither Party, and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. Neither Party shall not disclose any confidential records nor other confidential information received from the other Party or prepared in connection with the performance of this Agreement, unless the non-disclosing Party specifically permits the other Party to disclose such records or information. Each Party shall promptly transmit to the other Party any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** County shall have a royalty-free, exclusive, and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION:

- 11.1 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and

requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0 COMPLIANCE WITH APPLICABLE LAWS:

13.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT as well as any privacy laws including, if applicable, HIPAA. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices require by law in the performance of the Services.

13.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.

13.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

14.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance, or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

15.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR’S contract administrators at the addresses listed below:

<p>FOR COUNTY:</p> <p>Alex Zheng, Deputy Chief Information Officer</p> <hr/> <p>Name and Title</p> <p>1590 Moffett Street, Salinas, CA 93905</p> <hr/> <p>Phone: (831) 759-6991</p>	<p>FOR</p> <p>Lisa Ludovici Director, Government Affairs Central & Northern California</p> <hr/> <p>Name and Title</p> <p>270 Bridge Street, San Luis Obispo, CA 93401</p> <hr/> <p>Phone: (805) 783-4945</p>
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16.0 MISCELLANEOUS PROVISIONS.

- 16.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 16.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 16.04 **Contractor:** The term “CONTRACTOR” as used in this Agreement includes CONTRACTOR’s officers, agents, and employees acting on CONTRACTOR’s behalf in the performance of this Agreement.
- 16.05 **Assignment and Subcontracting:** The CONTRACTOR shall provide the County with notice of any assignment, sale, or otherwise transfer of its interest or obligations in this Agreement. Notwithstanding any subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 16.06 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 16.07 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 16.10 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 16.11 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services for areas outside of the Project Area as described in Exhibit A or if this Project is cancelled or terminated per the terms of this Agreement.
- 16.12 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 16.13 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 16.14 **Authority:** Any individual executing this Agreement on behalf of the County, or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 16.15 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 16.16 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

17.0 **CONSENT TO USE OF ELECTRONIC SIGNATURES.**

- 17.1 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. Section 7001 et seq.; California Government Code Section 16.5; and, California Civil Code Section 1633.1 et. seq. Pursuant to said state and federal law as may be amended from time to time, the parties to this

Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).

17.2 Counterparts.

The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.

17.3 Form: Delivery by E-Mail or Facsimile.

Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

***** THIS SECTION INTENTIONALLY LEFT BLANK *****

18.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

CONTRACTOR

Spectrum Pacific West, LLC

Contractor/Business Name *

By: _____
Contracts/Purchasing Officer

DocuSigned by:
By: Adunwole Bakare
34FAC68F8424F140...
(Signature of Chair, President, or Vice-President)

Date: _____

Wally Bakare,
Regional Vice President Northwest Region

DocuSigned by:
By: Eric Chatham
747D862C7BD04AE...
Department Head (if applicable)
Date: 8/5/2022 | 10:58 AM PDT

Date: 6/30/2022 | 6:26 PM PDT
Name and Title

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

DocuSigned by:
By: Samuel Beiderwell
61543080564440E...
County Counsel

DocuSigned by:
By: Ed Gaffney
31ADE8CD15E7427...
(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)

Date: 7/5/2022 | 10:25 AM PDT

Ed Gaffney,
Area Vice President Sierra Nevada Management Area

Date: 7/5/2022 | 11:56 AM PDT
Name and Title

Approved as to Fiscal Provisions

DocuSigned by:
By: Jennifer Forsyth
4E750E70304644E...
Auditor/Controller

Date: 7/7/2022 | 8:16 AM PDT

Approved as to Liability Provisions
Office of the County Counsel-Risk Manager
Leslie J. Girard, County Counsel-Risk Manager

By: _____
Risk Management

Date: _____

County Board of Supervisors' Agreement No. _____ approved on _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

¹Approval by County Counsel is required

²Approval by Auditor-Controller is required

³Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

EXHIBIT-A

To

Service Agreement

COUNTY OF MONTEREY, hereinafter referred to as “COUNTY”

AND

SPECTRUM PACIFIC WEST, LLC BY CHARTER COMMUNICATIONS, INC.,
hereinafter referred to as “CONTRACTOR”

Scope of Services / Payment Provisions

A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the Broadband Project “PROJECT” as set forth below:

Build, deploy, operate, and maintain broadband services to unserved and underserved areas in Monterey County, set forth in Request for Proposal (RFP) Number 10819, in the amount of \$1,610,000.00 for the term of July 26, 2022 through December 31, 2024; deploy a network that meets the eligibility requirements in the American Rescue Plan Act of 2021 (ARPA), PL 117-2 (March 11, 2021), and be capable of reliably meeting or exceeding 100 Mbps download and at least 20 Mbps upload speeds, and be scalable to a minimum of 100 Mbps download and 100 Mbps upload.

Unserved and underserved households and businesses are defined as those that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps upload speed. The addresses of the unserved and underserved locations impacted by this Agreement are listed in Exhibit B.

A.1 PROJECT SERVICE LEVEL REQUIREMENTS

COUNTY has identified the following minimum service level PROJECT requirements which must be followed by the CONTRACTOR.

CONTRACTOR will build a high speed broadband network capable of reliably delivering a minimum 100 Mbps download and designed to be scalable to a minimum of 100 Mbps download and 100 Mbps upload.

- CONTRACTOR will monitor and administer the Internet assets twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days per year.
- CONTRACTOR will provide preventative maintenance pursuant to acceptable industry standards.
- CONTRACTOR will provide ongoing capacity management and planning to assure internet traffic throughput meets the required speeds.

A.2 PROJECT LICENSES AND PERMITS

Throughout the term of this Agreement, CONTRACTOR shall possess or secure all licenses, permits, qualifications and approvals legally required to design, make purchase for, construct and/or install the PROJECT and shall comply with all applicable federal, state, and local laws, ordinances and regulations. CONTRACTOR shall obtain any and all land use and building entitlements necessary to complete the PROJECT, including without limitation all zoning, development and site plan approvals, rights of entry, and appropriate building, environmental health or other permits as may be applicable. Upon COUNTY’s request, CONTRACTOR shall provide COUNTY with copies of all final permits, documents or other approvals required to design, make purchases for, construct and/or install the PROJECT.

A.3 PROJECT TIMELINE

CONTRACTOR plans to use its existing comprehensive proprietary construction project management system and process to manage all phases of construction activity on a passing-by-passing basis to ensure that it can meet its completion date as set forth in the Grant Agreement.

A.4 REPORTS

CONTRACTOR will supply the following reports throughout project, which reports shall be treated as confidential:

a. Payment Milestone Report

A Milestone report will be submitted along with the invoice for each site finished. This report will include the name of project area completed, date completed, requested reimbursement amount.

Name of PoP	Date completed	Build Report Attached (y/n)	Amount requested	Invoiced (y/n)
San Ardo				
San Lucas				
Strawberry Canyon				
Prunedale North				
Prunedale South				

Note: order of sites built is subject solely to Contractor's discretion and subject to change based on engineering and agreement procurement and other factors.

b. Quarterly Report

A quarterly progress report shall be submitted that includes the following information:

- Progress on each of the milestones and their associated contingencies.
- Number of subscribers, from each completed site.
- A narrative on any progress in the overall project,
- A summary of all work completed with descriptions of the relevant technology and hardware used.

A.5 MAINTENANCE

- a. COUNTY will provide a direct capital dollar contribution for the project under the terms and timelines specified in this agreement. COUNTY funding will be released upon completion and acceptance of agreed-upon project milestones. All deployment, maintenance, and operational costs, including customer acquisition and customer service, will be the responsibility of the CONTRACTOR.
- b. COUNTY does not intend to enter the broadband business as a competitive service provider. County does not intend to own the network infrastructure it financially supports through this project. County does not intend to operate the network infrastructure it financially supports through this project.
- c. CONTRACTOR shall be solely responsible for the proper execution of and on-going operation and maintenance of the PROJECT, and for full compliance with all legal requirements and permitting requirements, including CEQA/NEPA to the extent applicable to this project.
- d. CONTRACTOR shall pay all costs and expenses associated with maintenance and operation of the PROJECT and shall keep the PROJECT and all portions thereof in a good, safe and usable condition.

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT MILESTONES

- a. CONTRACTOR shall invoice the COUNTY only when a site has been certified by CONTRACTOR as complete and ready to serve subscribers. This certification shall be considered the milestone for purposes of reporting and invoicing.

MILESTONE SCHEDULE		
Milestone	Percentage (%)	Amount
Within fifteen (15) business days from the date of Written Notice by Grantee of Activation of at least 25% of Passings listed in this Exhibit A	25%	\$402,500
Within fifteen (15) business days from the date of Written Notice by Grantee of Activation of at least 50% of Passings listed in this Exhibit A	25%	\$402,500
Within fifteen (15) business days from the date of Written Notice by Grantee of Activation of at least 75% of Passings listed in this Exhibit A	25%	\$402,500
Within fifteen (15) business days from the date of Written Notice of Activation of 100% of Passings listed in this Exhibit A.	25%	\$402,500
Total Grantor Payment	100%	\$1,610,000

The term “Activation” as used herein is defined as the capability of an address to receive broadband service from the Broadband Project.

- b. CONTRACTOR shall solely carry the financial burden for obtaining necessary materials, agreements, and licenses necessary for operation.

If applicable and County approves travel reimbursement, CONTRACTOR shall receive compensation for travel expenses as per the “County Travel Policy”. A copy of the policy is available online at www.co.monterey.ca.us/auditor/policies.htm To receive reimbursement, CONTRACTOR must provide a detailed breakdown of authorized expenses, identifying what was expended and when.

B.2 CONTRACTORS BILLING PROCEDURES

Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.

PAYMENT INSTRUCTIONS:

To transfer funds:

Bank Address for ACH
 US Bank
 7th and Washington
 St. Louis, MO 63101

Account Title: Charter Communications Operations LLC

Account Number: 152319781067
Routing Number: 081000210
SWIFT: USBKUS44STL

To send a check, mail to:

Attn: Sundry Billing, Grants
Charter Communications
12405 Powerscourt Drive
St. Louis, MO 63131

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COUNTY.

COUNTY shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the subject Milestone has been completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

	San Lucas	San Ardo	Strawberry Canyon	Prunedale North	Prunedale South	2022 Total
Total Project Cost	\$ 1,274,315	\$ 848,895	\$ 468,432	\$ 182,361	\$ 838,152	\$ 3,612,155
Route Miles	29	11	8.9	2.1	11.5	62.5
Passings	174	98	126	23	159	580
Subsidy Request	\$ 567,984	\$ 378,367	\$ 208,788	\$ 81,281	\$ 373,579	\$ 1,610,000
Subsidy Percentage	45%	45%	45%	45%	45%	45%
Charter Cost	\$ 706,331	\$ 470,528	\$ 259,644	\$ 101,079	\$ 464,573	\$ 2,002,155
Charter Percentage	55%	55%	55%	55%	55%	55%

Addresses	174	98	126	23	159	580
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Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Luis A. Alejo to:

Agreement No.: A-15965

- a. Authorize the Chief Information Officer or his designee, to execute a non-standard Agreement with Spectrum Pacific West, LLC., by its Manager, Charter Communications, Incorporated, to build, deploy, operate, and maintain broadband services to unserved and underserved areas in Monterey County, set forth in Request for Proposal (RFP) Number 10819, in the amount of \$1,610,000 for the term of July 1, 2022, through December 31, 2024; and
- b. Authorize the Chief Information Officer the option to execute up to two (2) additional amendments to this Agreement, each extending the term by one year, where the additional costs per year do not exceed ten percent (10%) of the total contract amount, subject to County Counsel review, and provided that the terms and conditions of the agreement remain substantially the same.

PASSED AND ADOPTED on this 26th day of July 2022, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams
NOES: None
ABSENT: None
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting July 26, 2022.

Dated: August 3, 2022
File ID: A 22-381
Agenda Item No.: 43

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

Emmanuel H. Santos, Deputy