

DRAFT MEMORANDUM OF UNDERSTANDING
BETWEEN
GOLDEN STATE CONNECT AUTHORITY
AND
COUNTY OF TEHAMA
REGARDING
THE CONSTRUCTION, IMPROVEMENT, OPERATION, AND MAINTAINANCE OF
BROADBAND INTERNET ACCESS SERVICE

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is dated _____, 2025 and made between **GOLDEN STATE CONNECT AUTHORITY** ("GSCA") and **COUNTY OF TEHAMA** ("County"). This MOU is made in reference to the following facts:

RECITALS:

- (a) GSCA is a joint powers authority organized and existing under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. Under that certain *Golden State Connect Authority Joint Exercise of Powers Agreement*, GSCA is authorized to establish and operate programs and projects to facilitate the provision and expansion of broadband internet access service in rural communities, and to acquire, construct, improve, and maintain broadband infrastructure and operate broadband internet access service.
- (c) County is a political subdivision of the State of California, and a full Member of GSCA. County is authorized to acquire, construct, improve, and maintain broadband infrastructure and operate broadband internet access service under Government Code section 26231.
- (d) GSCA proposes to finance, construct, own, operate, and maintain an open access broadband internet access service network, in the same manner as a municipal utility. A portion of the proposed network will be located within the unincorporated area of County.
- (e) County desires to promote and facilitate the construction and operation of GSCA's proposed network, which will serve the public purposes of County, and provide significant benefits for County residents.

- (f) Under the Joint Exercise of Powers Act (Gov. Code, §§ 6500 et seq.), GSCA and County (collectively, the “Parties”) are authorized to enter into an agreement to jointly exercise any power common to both entities. Government Code section 6504 further provides that the “personnel, equipment or property of one or more of the parties to the agreement” may be contributed for the purpose set forth in the agreement. GSCA may request support of County staff at GSCA’s warehouse, Fiber Huts and other facilities. GSCA shall use its best efforts to include the reasonable costs of County’s services, and shall reimburse those amounts to County.

THEREFORE, THE PARTIES SHALL JOINTLY EXERCISE THEIR COMMON POWER AS FOLLOWS:

1. Recitals Incorporated. The above recitals are true and correct and are hereby incorporated into this MOU.
2. Authority. This MOU is authorized by Government Code sections 6500 et seq. and 26231.
3. No Separate Entity. This MOU does not create an agency or entity that is separate from the parties to the agreement.
4. Irrevocable License. Pursuant to Government Code section 6504, the County hereby contributes the following property interests to GSCA in furtherance of public purposes of this MOU:
 - a. GSCA 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, owned by or otherwise under the possession, control, or jurisdiction of County. **This license shall survive withdrawal of County from GSCA or termination of this MOU**, 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 County, as provided in Section 5, which shall not be unreasonably withheld, conditioned, or delayed.
 - c. Except as provided in Section 5, this license and the exercise of GSCA's rights hereunder shall be without cost to GSCA.

- 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 MOU.
- e. The property interests contributed to GSCA under this MOU are in addition to, and do not diminish, the rights, if any, possessed directly by GSCA under Article 3 (commencing with Section 10101) of Chapter 1 of Division 5 of the Public Utilities Code.
- f. 5. Encroachment Permits. County shall collaborate with GSCA in good faith to streamline issuance of any permits or authorizations necessary for construction, improvement, or maintenance of broadband infrastructure as set forth in Section 4.
- g. Any fees charged in connection with such permit or authorization shall not exceed the reasonable costs to process and issue the permit.
- h. Such permits or authorizations may be subject to those conditions determined necessary by County to afford security for life and property, provided that County shall collaborate with GSCA in good faith to reduce the costs of compliance with any such conditions to the greatest extent practicable.
- 5. Fiber Huts. GSCA shall collaborate with County in good faith to identify appropriate locations on public property for ancillary broadband network equipment, which consists of two (2) fiber huts and related equipment, and shall exercise its best efforts to make such locations available for use by GSCA.
- 6. Grant of Franchise and Lease GSCA shall collaborate with County in good faith for use of County property and right of ways. Tehama County ("County") hereby grants GSCA a non-exclusive franchise to operate within County right-of-way/network and concurrently leases to GSCA the associated County property interests (the "Leased Property") necessary for its construction, operations and maintenance of fiber huts.
- 7. Franchise Fee GSCA shall pay the County a franchise fee equal to X% of GSCA's gross revenues derived from operations under this franchise with service providers, payable quarterly within 30 days after the end of each quarter with a detailed statement of gross revenues. The percentage rate shall be reviewed at least every 3 years and adjusted to ensure it remains reasonably related to the value of the franchise rights and the County's cost of regulation, in compliance with Article XIII C, § 1(e)(4) and § 1(e)(1) of the California Constitution, which requires that franchise fees for use of government property must bear a reasonable relationship to value delivered (cacitnetwork.org, Best Best & Krieger LLP).
- 8. Lease Rent GSCA shall also pay annual lease rent for the County property included in the Leased Properties. Unless otherwise negotiated, rent shall be set

at fair market value as determined through an independent appraisal, adjusted annually/indexed to CPI to reflect changes in market rates.

9. Audit and Adjustments County shall have the right to audit GSCA's financial records once per year, at County expense, to verify gross revenues and lease payments. If the audit reveals an underpayment of more than 5%, GSCA shall reimburse County for the underpayment plus interest at ____% per annum.
10. Cost of Service Adjustment If the County incurs additional material regulatory or administrative costs directly attributable to the franchise (above base costs), the parties may negotiate an adjustment to the franchise fee, provided the revised fee continues to meet the constitutional requirement of reasonable relation to value (Article XIII C § 1(e)(1)) (Colantuono, Highsmith & Whatley, PC).
11. Compliance with Prop 218 / Prop 26. The parties acknowledge that any franchise fee or lease rent that constitutes a property-related fee under Proposition 218 and Article XIII D must comply with constitutional procedures—including notice, public hearing, and the proportional cost-of-service rule—and that determinations about whether a levy is a tax versus a fee are controlled by caselaw such as *Jacks v. City of Santa Barbara* requiring voter approval for taxes but not for bona fide property use fees, so long as they are reasonably related to value.
12. Technical Assistance. Upon request by GSCA, County shall cooperate with GSCA 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.
13. Grant-Related Services. Upon mutual agreement of the County Chief Administrator of County and GSCA's Executive Director, GSCA may provide consulting or administrative services to County to facilitate implementation of any federal or state grants received by County relating to broadband services. County shall use its best efforts to include the reasonable costs of GSCA's services within the grant, and shall reimburse those amounts to GSCA from grant funds to the extent allowed by the grant.
14. Lead Agency. Pursuant to California Code of Regulations section 15051, subdivision (d), the parties hereby designate GSCA as the lead agency for purposes of the California Environmental Quality Act with respect to this Memorandum of Understanding and any construction, improvement, operation, or maintenance of broadband internet access service undertaken in accordance herewith.
15. No Commitment to Construct or Operate. No provision of this MOU shall be construed to obligate GSCA to finance, construct, or operate any broadband

infrastructure within or outside County, or to provide any broadband services at any time. Moreover, neither party has definitely committed itself to the construction or operation of the proposed broadband network as a whole or to any particular features, so as to effectively preclude any alternatives or mitigation measures, including the alternative of not going forward with the project.

16. Compliance with Law. GSCA and County shall perform **all** functions related to the services or activities described herein in accordance with **all applicable federal, state, and local laws, ordinances, regulations, and rules**, and in accordance with the terms of the aforementioned grants, leases and Franchise Fees.
17. Independent Contractor. **GSCA shall, during the entire term of this MOU, be construed to be an independent contractor and nothing in this MOU is intended nor shall be construed to create an employer-employee relationship**, a joint venture relationship, or to allow County to exercise discretion or control over the professional manner in which GSCA performs the services which are the subject matter of this contract. GSCA staff performing services under this MOU not be deemed employees of County for any purpose.
18. Indemnification. In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties hereto pursuant to Government Code section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the parties agree, pursuant to Government Code section 895.4, as follows:
 - a. GSCA shall hold harmless, defend, and indemnify County, its agents, officers, and employees, against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees, expert fees, litigation costs, and investigation costs), damages, judgments or decrees by reason of any person's or persons' bodily injury, including death, or property (including property of County) being damaged by the negligent acts, willful acts, or errors or omissions of GSCA, or any person employed by or under GSCA in any capacity, during the provision of services provided for herein, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of County.
 - b. County shall hold harmless, defend, and indemnify GSCA, its agents, officers, and employees, against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees, expert fees, litigation costs, and investigation costs), damages, judgments or decrees by reason of any person's or persons' bodily injury, including death, or property (including property of GSCA) being damaged by the negligent acts, willful acts, or errors or omissions of County, or any person employed by or under County in any capacity, during

the provision of services provided for herein, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of GSCA.

19. Insurance. GSCA and County shall each secure and maintain in full force and effect during the full term of this agreement commercial general liability insurance or participation in a self-insurance program with limits of liability of not less than \$1 million combined single limit bodily injury and property damage. Policies shall be written by carriers with an 'A' rating or better. On request, a certificate evidencing the insurance requirements of this paragraph shall be provided.
20. No Third Party Beneficiary. Nothing in this MOU shall be construed to create any rights of any kind or nature in any other party not a named party to this MOU.
21. Commercial Use Limitation. GSCA shall not use, nor permit the use of, any portion of the County's granted access rights, facilities, or leased property for any commercial purposes other than those expressly authorized under this Agreement without the prior written approval of the County. Commercial use includes, but is not limited to, providing access or capacity to third parties for compensation, offering resale services, installing paid advertising, or hosting third-party infrastructure on or within County property.
22. No Sublicensing Without County Consent. GSCA shall not assign, sublicense, lease, rent, sell, or otherwise transfer or share any rights, access, or privileges granted by the County under this Agreement to any third party—whether for compensation or not—without the prior written consent of the County, which may be withheld at the County's sole discretion. Any unauthorized sublicense or commercial transaction shall constitute a material breach of this Agreement.
23. Revenue from Secondary Uses. If GSCA derives revenue from third-party uses of County property or access (including co-location, network leasing, or service resale), GSCA shall provide a detailed quarterly report of such uses and revenues to the County. Upon approval, the County reserves the right to negotiate a revenue-sharing arrangement or apply an additional secondary use fee, in an amount to be reasonably related to the market value or additional impact of such uses on County infrastructure or property.
24. Enforcement and Remedies. Any breach of this Section shall entitle the County to seek injunctive relief, monetary damages, or termination of this Agreement pursuant to the remedies outlined in Section [Remedies Clause Number]. Unauthorized use or sublicensing shall also be subject to a liquidated damages fee of \$_____ per occurrence, unless otherwise negotiated in writing by both parties.

25. Public Benefit and Priority Use. Notwithstanding the above, County retains the right to prioritize public benefit uses over private commercial exploitation and may deny commercial proposals that conflict with County policy, public infrastructure planning, or community standards.
26. Authorization. Each party executing this MOU and each person executing this MOU in any representative capacity, hereby fully and completely warrants to all other parties that he or she has full and complete authority to bind the person or entity on whose behalf the signing party is purporting to act.
27. Entire Agreement/Amendments. This MOU supersedes all previous agreements or understandings, and constitutes the entire understanding between the parties with respect to the above referenced services, terms of compensation, and otherwise. This MOU shall not be amended, except in a writing that is executed by authorized representatives of both parties.
28. Governing Law and Venue. This agreement shall be deemed to be made in, and shall be governed by and construed in accordance with the laws of the State of California (excepting any conflict of laws provisions which would serve to defeat application of California substantive law). Venue for any action arising from this agreement shall be in Sacramento County, California.
29. Term and Termination.
- a. This Agreement shall become effective when fully executed by both parties ("Effective Date") and shall remain in effect until terminated in accordance with this section.
- b. Either Party may terminate this MOU by giving at least ninety (90) calendar days' written notice to the other Party, subject to Section 4.a.
30. Notices. Any notice required to be given pursuant to the terms and provisions of this MOU shall be in writing and shall be sent first class mail to the following addresses:

GSCA: Golden State Connect Authority
 Attn: Executive Director
 1215 K Street, Suite 1650
 Sacramento, CA 95814

County: County of Tehama
 Attn: Chief Administrator
 727 Oak Street, Ste. 202
 Red Bluff CA 96080

IN WITNESS WHEREOF, GSCA and County have executed this Memorandum of Understanding on the day and year set forth below.

Date: _____

GOLDEN STATE CONNECT AUTHORITY

By: _____

Executive Director

Date: _____

COUNTY OF _____

By: _____

Chair, Board of Supervisors