

DARK FIBER RECIPROCAL LICENSE AGREEMENT

This Dark Fiber Reciprocal License Agreement ("Agreement") is entered into this 31st day of March, 2020, by and between ExteNet Systems (California) LLC, a California Limited Liability Company ("ExteNet"), and the City of Salinas, a California charter city and Municipal Corporation ("City"). ExteNet and City are sometimes referred to herein individually as a "Party" or collectively as the "Parties."

Recitals

WHEREAS, this Agreement is made in light of the following premises and circumstances, all of which are a part of this Agreement:

- A.** ExteNet, a California limited liability company authorized to provide full facilities-based local exchange and interexchange telecommunications services under a Certificate of Public Convenience and Necessity issued by the California Public Utilities Commission, is the owner of certain fiber optic cables located within and in proximity to the boundaries of City, as depicted on the Fiber Route Map attached hereto as Exhibit 1; and
- B.** ExteNet desires to utilize a portion of the installed fibers as a component of a small cell, Distributed Antenna System or other similar telecommunications facilities ("DAS") network that ExteNet desires to install in, over and/or under the public rights of way ("ROW") within the geographic boundaries of City for the provision of telecommunications service (the "Network"); and
- C.** City is a political subdivision of the State of California with jurisdiction over the ROW and is the owner of certain conduits located within the ROW along the Planned Fiber Route; and
- D.** City is entitled to manage the public ROW and to require fair and reasonable terms of compensation as a condition to allowing ExteNet access to the ROW; and
- E.** City desires to develop and maintain a nonexclusive Dark Fiber Network serving the residents and businesses of the City of Salinas to facilitate access by third-party internet service providers; and
- F.** ExteNet and City desire to enter into an agreement to govern the terms and conditions under which ExteNet will reserve Dark Fiber strands in ExteNet's fiber optic cable for the exclusive use of City as defined in this Agreement, and City will permit ExteNet to utilize its infrastructure within the ROW in accordance with the License Agreement for Wireless Installations on Public Structures entered into between the Parties on March 31, 2020 (as such may be amended from time to time).

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, ExteNet and City, for valuable consideration, the sufficiency of which is hereby acknowledged, hereby agree as follows:

Agreement Terms and Conditions

1. Definitions

For the purpose of this Agreement, the following terms when used herein shall have the following meanings:

- (i) “Access Point” means a Manhole, Vault, Handhole, Junction Box or Pedestal through which the ExteNet Cable may be accessed for the purposes of splicing fibers to interconnect to other networks or facilities.
- (ii) “Authorized Contractors” means third party contractors (whether independent or affiliated with ExteNet) that have been approved and authorized by ExteNet to utilize Access Points and to make splices or perform other work on the ExteNet Cable as provided for in this Agreement.
- (iii) “City Fiber” means fiber owned by the City of Salinas which is used by ExteNet pursuant to this Agreement.
- (iv) “CMRS Services” means services which require the possession of a Commercial Mobile Radio Services license to operate.
- (v) “Dark Fiber” means an unlit optical fiber strand in a Fiber Segment that is separate from and has not yet been connected to any of the equipment, electronics, lasers or additional Fiber Segments necessary to transmit optical signals via the fiber strand or to corresponding fiber strands in other adjacent Fiber Segments.
- (vi) “ExteNet Cable” means the several Fiber Segments, including the Licensed Fiber, whether aerial or undergrounded, comprising the optical fiber components of the Network as deployed and depicted in the Fiber Route Map as the Fiber Route Map as may be changed from time to time.
- (vii) “Fiber Route Map” means the map of the composite routes of the various Fiber Segments which ExteNet has a legal right to lease. These Fiber Segments are depicted on the map attached as Exhibit 1, which shall represent the scope of the Fiber Segments covered by this License Agreement, except that Exhibit 1 shall be updated from time to time as necessary to reflect modifications to the Fiber Segments or additional Fiber Segments comprising the ExteNet Cable made in the future.

Dark Fiber Reciprocal License Agreement

- (viii) “Fiber Segment” means a continuous run of multi-strand fiber optic cable covering a portion of the fiber cable route shown on the Fiber Route Map.
- (ix) “Handhole” means a buried box, with a lid that is even with the surface of the ground, used to store, terminate, splice or transfer fiber optic cable.
- (x) “Junction Box” means a box where fiber optic cable splices and connections are made and accessed.
- (xi) “Licensed Fiber” means the individual strands of Dark Fiber within each Fiber Segment of the ExteNet Cable, as the same may be modified in accordance with this Agreement that shall be reserved and/or designated for exclusive use by City in accordance with and subject to the terms of this Agreement. All ExteNet Cable shown in Exhibit 1 of this Agreement shall be deemed to be Licensed Fiber. Additional Fiber Segments that are connected to the Network following its initial construction and deployment in accordance with the Fiber Route Map set forth in Exhibit 1 on the effective date of this Agreement shall be deemed a part of the Licensed Fiber and shall be subject to the foregoing obligations on the part of ExteNet to reserve and/or designate strands of Dark Fiber for exclusive use by City only if and to the extent that such Fiber Segments and any associated Equipment are located within (or provide connection to Fiber Segments and any associated Equipment located within) the geographic boundaries of City and are made subject to this Agreement on terms and conditions no less favorable to ExteNet than those that are then in effect with respect to the Network as initially constructed and deployed. Licensed Fiber does not include portions of the ExteNet Cable that ExteNet acquires from a third-party under commercial or wholesale terms (e.g. leased fiber, licensed fiber, IRU fiber, etc.) and/or otherwise does not have the legal right to license that specific portion of the ExteNet Cable to the City.
- (xii) “Manhole” means a subsurface enclosure which qualified personnel may enter and use for the purpose of installing, operating and maintaining facilities.
- (xiii) “Municipal Purposes” means and includes all purposes within City’s powers as defined by the City’s charter, where any such purpose is directly pursued by City itself or its contractors with the primary object of promoting the security, health, good government, or general convenience of its inhabitants, including, but not limited to, police, fire, emergency life support, library, park, recreation, transportation, community development, economic development, and similar services, as well as programs to build and support equipment and improvements on City property and the public right-of-way, such as street lights and traffic signals. Also includes administrative support of the above actions.
- (xiv) “Pedestal” means an above ground structure used to store, terminate, splice or transfer fiber optic cable.

Dark Fiber Reciprocal License Agreement

- (xv) “Sub-Licensee” means a third party identified by City to utilize the Licensed Fiber and who has entered into an agreement with ExteNet for the use of the Licensed Fiber consistent with the terms of this Agreement.
- (xvi) “Vault” means an underground structure used to store, terminate, splice or transfer fiber optic cable.

2. License

2.1 License Grant

Subject to the terms, conditions and limitations set forth herein, each party hereby grants to the other party as follows:

- (i) ExteNet hereby grants to City a license and right for the exclusive use of the Licensed Fiber for the transmission of optical signals generated by optical or other equipment by City as defined in this Agreement. The duration of the foregoing license shall continue in perpetuity so long as the ExteNet Cable installation remains in place and is in use by ExteNet and its successors in interest and assigns, but nothing herein shall obligate ExteNet to continue to maintain and operate the ExteNet Cable or any portion thereof or to maintain any attachment rights related thereto during any periods in which ExteNet is not otherwise using or planning to use the ExteNet Cable (other than the Licensed Fiber) for the provision of services to ExteNet’s customers. The foregoing license and right is granted as compensation to City as payment of certain ongoing payments and/or fees that might otherwise be assessed on any property in the ROW based upon ExteNet’s installation of its facilities, as defined in the License Agreement for Wireless Installations on Public Structures entered into between the Parties on March 31, 2020 (as such may be amended from time to time).
- (ii) City hereby grants to ExteNet a License to install fiber and any associated conduit, including fiber installed for the use of third parties, within the boundaries of City, in accordance with the terms of this Agreement and City’s laws and regulations.

2.2 Scope of License - ExteNet

- (i) ExteNet shall provide City with access to Twenty-Four (24) strands of Licensed Fiber for all ExteNet Cable identified on the Fiber Route Map. To the extent that ExteNet has authority to use and authorize third party use of Access Points, it will grant permission to Authorized Contractors to use such Access Points for splicing the Licensed Fiber for the purpose of interconnection to other compatible equipment or facilities as directed by City and at City’s sole cost. ExteNet shall have no obligation whatsoever to install any additional fiber optic cable or to allocate any additional strands of the ExteNet Cable to meet the needs of City.

Dark Fiber Reciprocal License Agreement

- (ii) City may, at its discretion, allow for the usage of the Licensed Fiber by itself or third parties acting as a Sub-Licensee, in accordance with the following:
- a. If the City elects to use a fiber strand from the Licensed Fiber for its own Municipal Purposes the City may provide a written request to ExteNet to allow City to utilize the assigned strand(s). ExteNet shall not demand any compensation for the use of these strands, except that ExteNet may make use of City-owned fiber or conduit for its own commercial purposes on an equal-exchange basis. ExteNet shall make available to City up to a maximum of eight (8) strands of the Licensed Fiber pursuant to this subsection. City shall comply with all other terms of this Agreement when utilizing the Licensed Fiber.
 - b. If City elects to allocate Licensed Fiber to a Sub-Licensee, City shall provide a written request to ExteNet to allow said Sub-Licensee to utilize the assigned strand(s), as described in Section 2.4 of this Agreement. Upon written request by City, ExteNet shall make available to that entity a number of strands as requested by the City, up the maximum number of strands allowed under this Agreement. ExteNet shall lease (or otherwise allow the use of) the entirety of the Licensed Fiber to the Sub-Licensee at the rate of \$400 per strand per month, inclusive of ongoing or repeating charges, surcharges, or fees.
 - c. The Licensed Fiber may be used by Sub-Licensees for the following purposes:
 - i. The provision of internet/broadband services by the Sub-Licensee directly to the ultimate consumer (ie retail) or to itself, excluding CMRS Services; and
 - ii. To create points of connection between remote locations for the purposes of supporting the Sub-Licensee's internal network operations, where the Sub-Licensee is a governmental or other bona fide non-profit agency; and
 - iii. Other purposes mutually agreed upon in writing by ExteNet and City.
 - d. ExteNet may require that Sub-Licensees enter into a separate Agreement with ExteNet and may require such requirements as may be reasonably necessary to facilitate the good functioning of the system, provided that such requirements are not more stringent or costly than those found herein.
 - e. Notwithstanding any other provision of this Agreement, ExteNet may condition the usage of Licensed Fiber by a Sub-Licensee to preclude the Sub-Licensee from either sub-leasing, sub-licensing, or otherwise allowing the use of the Licensed Fiber by any other party.
 - f. City may not encumber, offer as collateral, or allow any third party claims of any type on or against the Licensed Fiber. Under no circumstances shall the City charge any License or Connection Fees for the use of the Licensed Fiber, except as may be reasonably necessary to cover its actual costs.
- (iii) City shall be responsible for obtaining any approvals, authorizations, coordination and supervision that is necessary in connection with its own use of the Licensed Fiber. Without limiting the foregoing, City shall have the sole responsibility for performing all activities and paying all costs necessary to make the Licensed Fiber

Dark Fiber Reciprocal License Agreement

operational, including but not limited to: (i) splicing the Licensed Fiber to achieve interconnection between or within the applicable Fiber Segments and between the Licensed Fiber and fiber optic cable belonging to itself or others, and (ii) providing, attaching and interconnecting equipment, electronics and lasers as required to transmit or receive optical signals via the Licensed Fiber. City shall further have the sole responsibility for paying all costs and for constructing or otherwise providing facilities needed to connect the Licensed Fiber to any other network or facilities via appropriate Access Points, and for performing all necessary fiber splices for interconnection of the Licensed Fiber to other network facilities. Except as otherwise approved by ExteNet (such approval not to be unreasonably withheld) all such splices and other uses of Access Points shall be carried out only by Authorized Contractors. The City shall provide written notice to ExteNet of any of the work described in this subsection. ExteNet shall have the right to have one of its representatives present during the work to inspect and approve the work being performed. ExteNet and City shall coordinate to determine times available for an ExteNet representative, and City shall schedule such work, to the extent practicable, only during regularly scheduled maintenance windows or at other times that are reasonably convenient for ExteNet, but in any event not more than 45 days from the initial notification of such work unless both parties consent to a later date.

- (iv) ExteNet and City agree that ExteNet may deny the Subleasing request if such request is physically impractical; is prohibited by law; or would violate the terms of any contract or agreement between ExteNet and any third party where said contract or agreement was in force prior to the effective date of this Agreement. ExteNet shall provide the reasons for any such denial to City upon request, and shall work with the City in good faith to determine if a Subleasing request can be modified to address the issues outlined above. ExteNet represents that that to the best of its knowledge none of those purposes described in Section 2.2(ii)(c) of this Agreement would be precluded by these limitations as of the date of this Agreement.
- (v) ExteNet and City agree and acknowledge that City's use and operation of the Licensed Fiber (whether used by City or Sub-Licensee) does not and will not create or convey to City or Sub-Licensee any ownership or property rights of any nature in the Licensed Fiber or any portion of the ExteNet Cable or of any Access Points or of the Network.

2.3 Scope of License - City

- (i) City grants to ExteNet a nonexclusive license to encroach upon the City's public right-of-way for the purpose of construction, installation, operation, placement, protection, repair, maintenance, and removal of fiber cable, conduit, and any Access Points necessary for the good operation and repair of these facilities, subject to the following:

Dark Fiber Reciprocal License Agreement

- a. Prior to installation of any facilities, ExteNet shall obtain an Encroachment Permit from City. ExteNet shall be responsible to pay City its normally applicable permit application and inspection fees and shall ensure that all appropriate inspections by City occur. City may require reasonable information to be submitted with the applications, including, but not limited to, the location of installation, construction methods, existing infrastructure, and traffic control measures.
 - b. Installations of fiber, conduits, vaults, and equipment shall be made below-ground except that fiber lines may be installed above-ground when immediately adjacent to previously-existing above-ground utilities including, but not necessarily limited to, fiber, telephone, and/or electrical lines.
 - c. Except as provided by applicable laws or this Agreement, ExteNet shall not interfere in any manner with the existence and operation of any and all public and private rights of way, sanitary sewers, water mains, storm drains, gas mains, poles, overhead and underground electric and telephone wires, street lights, traffic signals, cable television, conduit, other telecommunication facilities, and City property without prior approval of the owners of such property.
 - d. ExteNet shall conduct itself in compliance with City laws, Ordinances, Resolutions, regulations, including the City's "Dig Once" Policy (Resolution 20810), as such may be amended from time-to-time.
 - e. When installing new fiber, ExteNet shall, at its discretion, perform one of the following:
 - i. Install a number of fiber strands adequate to ensure that ExteNet can provide the number of strands specified herein to the City while meeting its other legal obligations; or
 - ii. For below-ground installations only, install separate conduit and Access Points per City specifications so that City may install its own fiber at the time of its choosing.
- (ii) The City reserves the right to grant, renew, or extend similar licenses to others. Notwithstanding the foregoing, the City expressly conditions approval of other licenses so as not to cause disruption or interference with any ExteNet Cable. ExteNet shall have the right to take appropriate action against any interfering party. City shall not be liable for expenses or damages suffered by ExteNet as a result of interference.
- (iii) The permissions granted by this Agreement shall not constitute an easement or an encumbrance upon City property or against any City right-of-way. No right, title, or interest in the public right-of-way, or any part thereof, shall vest or accrue by reason of this Agreement, by issuance of a Permit, or by exercise of any privilege given thereby.
- (iv) This License is personal to ExteNet only and is not transferable without the written consent of City.

2.4 Designation of Licensed Fiber Strand

- (i) At any time following completion of the construction and installation of any ExteNet Cable, City may notify ExteNet of its desire to utilize or assign the Licensed Fiber reserved for its use by ExteNet. Such notice shall be written and shall be provided no fewer than sixty (60) days prior to the date on which City desires to access the Licensed Fiber. City's notice shall identify all of the following: (1) whether City intends to utilize the fiber for its own purposes per Section 2.2(ii)(a) of this Agreement or whether it wishes to assign said fiber to a Sub-Licensee; (2) the Access Points City desires to use (if any) to access and splice the Licensed Fiber, (3) the names and contact information of any Sub-Licensee to whom the City proposes to assign its rights pursuant to Section 2.2(ii) of this Agreement, (4) all personnel or contractors that City proposes to use to perform any work activity involving the Licensed Fiber, including but not limited to construction and installation of fiber drops or laterals for interconnection of the Licensed Fiber to ancillary Access Points or to lasers, electronics or other equipment, facilities or networks for purposes of lighting and using the Licensed Fiber, and (5) City's plans for interconnecting with and using the Licensed Fiber, including relevant technical and functional network specifications and design criteria for City's systems that may facilitate consultation and cooperation of City and ExteNet in the interest of efficient and effective implementation of City's plans in accordance herewith.
- (ii) For requests by City to utilize fiber for its own purposes, within ten (10) days following receipt of such initial notice, ExteNet shall provide City with a color-coded diagram designating the specific optical fiber strands within the designated Fiber Segments that have been designated as the Licensed Fiber for all purposes hereunder. ExteNet shall designate strands that are technically capable of meeting the City's requirements identified in Section 2.4(i), above, if such strands are available. For requests by City to assign the Licensed Fiber to a Sub-Licensee, ExteNet shall promptly offer a lease (or similar instrument if agreed to between the parties) of said fiber upon terms consistent with this Agreement to Sub-Licensee. Upon the mutual acceptance of terms by both ExteNet and Sub-Licensee, ExteNet shall within ten (10) days provide City and Sub-Licensee with a color-coded diagram designating the specific optical fiber strands within the designated Fiber Segments that have been designated as the Licensed Fiber for all purposes hereunder.
- (iii) ExteNet shall have the right to determine in advance whether City's personnel and/or proposed contractors are qualified to perform such work activities and may disapprove any proposed personnel or contractor in its sole reasonable discretion. ExteNet shall identify the reasons for such disapproval in writing and City may propose alternate personnel or contractors.
- (iv) City is solely responsible for obtaining all public, private or government approvals,

Dark Fiber Reciprocal License Agreement

authorizations, permits, certifications, easements, rights of way and attachment rights beyond those required for installation and maintenance of the ExteNet Cable, if any, that are necessary in order for City to light and transmit or receive signals using the Licensed Fiber, and shall provide documentary evidence thereof as and when reasonably requested by ExteNet.

- (v) At City's request or in the event that ExteNet refuses to approve City's selected contractor as an Authorized Contractor, ExteNet will either propose or exert commercially reasonable efforts to cause one of its Authorized Contractors to propose to perform the work necessary for City's proposed interconnection of equipment and other network facilities with the Licensed Fiber on a time and materials basis at then prevailing commercially reasonable rates for work of substantially similar complexity and difficulty in the relevant market.

2.5 Limitations and Requirements for Use of City and ExteNet Fiber

- (i) ExteNet and City agree and acknowledge that either Party may use the ExteNet and City Cables for any lawful purpose for which the fiber strand is technically suited, provided that City and any Sub-Licensee shall use the Licensed Fiber in a manner consistent with this Agreement.
- (ii) If either Party determines for any reason that it is necessary to relocate, modify, underground or otherwise alter ("Relocation or Modification") all or any portion of the ExteNet or City Cable (as applicable), including the Licensed Fiber (whether such Licensed Fiber is then lit and/or in use by City), that Party shall provide written notification to the other Party prior to making the proposed relocation, modification or alteration. Such notice shall be given at least sixty (60) days in advance except in circumstances in which the relocating Party is legally obligated to take action more promptly and the prior notification requirement of this section shall not apply to emergency situations, in which case the relocating Party will give notice as quickly as is reasonably practicable. The Party receiving such notification shall have no responsibility for costs and expenses relating to any such Relocation or Modification of the ExteNet or City Cable (as applicable). But if and to the extent that such Relocation or Modification is required by reason of events or circumstances beyond the relocating Party's reasonable control, the other Party shall have sole responsibility for costs and expenses relating to any necessary rearrangement, relocation, modification or alteration of any fiber drops or laterals or other equipment, electronics or lasers installed to light the ExteNet or City Cable (as applicable), or other facilities the other Party has interconnected to the ExteNet or City Cable (as applicable) that may result therefrom. However, if and to the extent that such Relocation or Modification is made at the relocating Party's discretion or for its benefit, then that Party shall bear the reasonable cost of the Relocation or Modification resulting therefrom.
- (iii) Any equipment, electronics, lasers, or interconnecting fiber or other network

facilities shall be installed and maintained in accordance with the requirements and specifications of the then current editions of the National Electrical Code (NEC), and the National Electrical Safety Code (NESC), each of which are incorporated by reference in this Agreement. Further, each Party and its consultants and contractors shall at all times comply with the applicable rules and regulations of the Occupational Safety and Health Act of 1970 (OSHA), with all applicable state and federal statutes and laws, and with all applicable regulations, rules and orders issued by any state or federal agency having jurisdiction thereof, including without limitation the Federal Communications Commission and the California Public Utilities Commission

3. Maintenance

- (i) Each Party shall maintain all facilities interconnected with or comprising a part of the ExteNet or City Cable (as applicable) that are owned by that Party, including the Licensed Fiber, provided that each Party's obligation to maintain such facilities shall not in any way extend beyond the term of any other agreement between the Parties for ROW use or equipment attachments to City's facilities and provided further that such obligation shall cease earlier as to any Fiber Segment with respect to which ExteNet and its successors in interests either: (1) loses the necessary attachment and access rights to enable such maintenance; or (2) permanently ceases to use such Fiber Segment (other than the Licensed Fiber) for the provision of services to their customers, provided that before removing any such Fiber Segment ExteNet gives City prior written notice and an opportunity to assume responsibility for maintaining and operating such Fiber Segment as provided in Section 8.3(ii).
- (ii) Each Party shall have sole responsibility for maintaining all of its equipment, electronics, lasers, fiber and other facilities interconnected to the Licensed Fiber. Parties shall maintain their equipment, electronics, lasers and interconnecting fibers and facilities in good repair and in a manner that will not interfere with, or degrade the quality or reach of any signal, transmission or telecommunications carried on the ExteNet and/or City Cable. If a Party's equipment or facilities should cause any type of interference with, or degradation of, any signal, transmission or telecommunications on the ExteNet or City Cable, the applicable Party agrees to correct the condition. Such correction shall be made within three (3) hours for any problem causing interference or disruption of any signal, transmission or telecommunications on the ExteNet or City Cable. Such correction shall be made within six (6) hours for any problem causing a degradation, but not disruption, of any signal, transmission or telecommunications on the ExteNet or City Cable. If a Party fails to take such corrective action, the other Party may in its sole discretion correct said condition at the original Party's expense. Each Party shall notify the other Party in writing prior to performing such work whenever practicable. When either Party reasonably believes, however, that such conditions pose an immediate threat to public safety or interfere with the performance of its service obligations to its customers, or pose an immediate threat to the physical integrity of the ExteNet

Dark Fiber Reciprocal License Agreement

or City Cable(s) or other facilities, that Party may perform such work and/or take such action, including temporary disconnection of the other Party's equipment and facilities from the ExteNet or City Cable that it reasonably deems necessary without first giving written notice to the other Party. In this event, the other Party shall be responsible for paying the Party performing the work for all reasonable costs incurred by that Party in taking such corrective actions if the Party performing the work shows that the problem was in fact caused by the other Party's equipment or facilities. If the problem is discovered to not be caused by the other Party's equipment or facilities, the Party performing the work shall bear the cost of any reconnection or restoration of the other Party's equipment or facilities that is made necessary as a result of the mistaken actions of the Party performing the work. Each Party shall be indemnified by the other Party for such work in accordance with Section 5 below.

- (iii) Each Party reserves the right to make periodic inspections at any time of any part of its equipment, electronics, lasers, or facilities (including interconnected fiber or copper cable) utilized by the other Party for purposes of assuring compliance with the terms and conditions hereof and with applicable laws, rules and regulations as reasonably necessary to prevent or detect interference with or damage to the Network or breaches of either Party's obligations hereunder. Except in the case of an emergency, each Party shall give the other Party 48 hours' notice before carrying out such inspections and the other Party shall be permitted, but not required, to have a representative present for such inspections. Such inspections shall be conducted at the inspecting Party's expense unless the inspecting Party determines, based on the inspection, that the other Party is not in compliance with the terms of this Agreement. In such instance, the other Party shall be responsible for paying the inspecting Party for all reasonable costs incurred by the inspecting Party in making the inspection. Each Party agrees that such periodic inspections, or the failure to do so, shall not relieve that Party of any responsibility, obligation or liability whether assumed under this Agreement or otherwise existing.
- (iv) The City's obligations under Subsections (i) through (iii) of this Section shall only apply to that fiber the City has elected to use for its own Municipal Purposes. Responsibilities for maintenance for Licensed Fiber utilized by a Sub-Licensee shall be in accordance with an agreement reached between ExteNet and the Sub-Licensee. ExteNet may require inclusion of these (or substantially similar) provisions in any lease or other agreement between it and a Sub-Licensee, with the Sub-Licensee assuming responsibility rather than the City.
- (v) City reserves the right to conduct inspections of ExteNet's construction sites or of ExteNet cable at any time to ensure compliance with regulatory requirements. If ordered by City, ExteNet shall correct all sites and/or work that are found to be noncompliant with applicable building or safety codes and/or approved permits within 30 days of receipt of such notice by City. City reserves the right to remove any facilities within the City right-of-way for which no permit has been issued

and/or finalized and may seek the actual costs incurred in so doing. The City's failure to act as to unauthorized facilities on or under the right-of-way shall not be deemed an approval of such use.

4. Liability and Damages

- (i) Only as arising under this Agreement and not in its capacity as a municipality or otherwise, City, its personnel, agents and contractors shall exercise reasonable caution to avoid damaging the facilities of ExteNet and shall make an immediate report to ExteNet of the occurrence of any such damage caused by its personnel, agents or contractors. City agrees to reimburse ExteNet for all reasonable costs incurred by ExteNet for repair of such facilities damaged by City, its personnel, agents and contractors.
- (ii) Each Party shall be liable to the other Party for all of its actions or omissions that cause damage to the ExteNet or City Cable (as applicable), the Access Points and all other facilities and equipment associated with the Network, or that interfere with, disrupt or degrade the quality or reach of any signal, transmission or telecommunications carried on the ExteNet or City Cable or the Network, but shall not be liable for any special, indirect, or consequential damages arising from its own actions or omissions. This subsection shall be applicable to the City only as arising under this Agreement and not in its capacity as a municipality or otherwise.
- (iii) ExteNet shall not be liable to City for any special, indirect, or consequential damages arising from any interruption or degradation of City's communications carried on Licensed Fiber.

5. Mutual Indemnification

- (i) Each of ExteNet and City (as "Indemnifying Party") hereby agrees to indemnify, defend and hold harmless the other (as "Indemnitee") from and against any third party demand, claim, action, suit or proceeding ("Claim") and any resulting loss, liability, cost, expense or fine, including court and appeal costs and reasonable attorneys' fees and expenses ("Losses"), that are caused by or arise out of the actual acts or omissions, whether negligent or willful, of the Indemnifying Party, its personnel, agents or contractors, in connection with the performance under this Agreement or otherwise in connection with the construction (including any excavation), installation, operation, maintenance or use of the ExteNet Cable or the Licensed Fiber or any equipment or facilities interconnected or associated therewith.
- (ii) Notwithstanding the foregoing, each party's respective obligations as an Indemnifying Party under paragraph (i) above shall not include any liability or

Dark Fiber Reciprocal License Agreement

obligation to defend:

- a. to the extent that Losses arise out of or are caused by the Indemnitee's intentional misconduct and/or gross negligence;
 - b. to the extent that the defense of any Claim is prejudiced, or the resulting Losses are caused by the Indemnitee's failure or refusal to provide the Indemnifying Party with timely notice of the Claim, or to cooperate in the defense thereof; or
 - c. to the extent that Losses result from the Indemnitee's failure or refusal to take commercially reasonable actions as the Indemnifying Party may request, and at the Indemnifying Party's sole cost and expense, in order to mitigate or lessen such Losses.
- (iii) The Indemnitee shall give the Indemnifying Party timely written notice of any Claim covered by this Section 5. The Indemnitee shall tender the defense of the Claim to the Indemnifying Party and such defense shall be carried out under the control and at the expense of, the Indemnifying Party. The Indemnitee may participate in the defense of a Claim at any time, provided that, during all periods in which such defense has been assumed and is being carried out by the Indemnifying Party with qualified counsel, the incremental costs of the Indemnitee's participation shall be at its own expense.

6. Insurance

- (i) Without limiting any obligations or liabilities of either Party under this Agreement, prior to interconnecting with the ExteNet or City Cable (as applicable), each Party shall maintain for the duration of such interconnection, at its own expense, Commercial General Liability Insurance including Contractual Liability Coverage, covering liability assumed under this Agreement, Products/Completed Operations Coverage, Broad Form Property Liability Coverage, and Personal Injury Coverage in the amount of \$1,000,000 combined single limit for Bodily Injury and Property Damage and a \$1,000,000 occurrence aggregate.
- (ii) Insurance policies required by this Agreement shall name the other Party as well as its officers, employees, and agents as additional insured by endorsement, except that such shall not be required if a Party is self-insured.
- (iii) City shall provide ExteNet with Certificates of Insurance evidencing coverage currently in effect prior to commencing to place equipment, electronics or lasers to light the Licensed Fiber. All policies are to provide ExteNet with thirty (30) days prior written notice of cancellation or any material adverse change in conditions.

7. Assignment

- (i) City may assign its rights to Sub-Licensees under this Agreement, pursuant to

Dark Fiber Reciprocal License Agreement

Section 2.2(ii). ExteNet shall provide for the use of fiber by these Sub-Licensees, including obligations for maintenance, as specified in this Agreement.

- (ii) ExteNet may assign, sub-license, or transfer in any manner, in whole or in part, its rights, duties or obligations under this Agreement at any time and for any reason.
- (iii) Neither this Agreement nor any term or provision hereof, nor any inclusion by reference shall be construed as being for the benefit of any person or entity not a signatory hereto.

8. Agreement Term and Termination

8.1 Term of Agreement

This Agreement shall continue in perpetuity so long as the ExteNet Cable (or any portion thereof) remains in place and is in use by ExteNet and its successors in interest and assigns.

8.2 Termination of Agreement

The Parties shall have the right to terminate this Agreement and the Licenses granted herein under the following circumstances:

- (i) ExteNet may terminate this Agreement upon written notice with an opportunity to cure within thirty (30) days therefrom in the event that City commits a material breach of this Agreement.
- (ii) City shall have the right to terminate this entire Agreement or any Permit issued hereunder whenever ExteNet is in default of any material term of this Agreement and does not, upon notification by City, cure such default within 30 days of said notification.
- (iii) Termination of this Agreement for any other reason shall require the mutual consent of both parties.

8.3 Effect of Termination

- (i) In the event of termination in accordance herewith for any reason, each Party shall remove all equipment, electronics, lasers and fiber or other facilities interconnected to the other Party's Cable within sixty (60) days after the effective date of the termination. All costs of any kind arising from removal of each Party's equipment, lasers and fiber, or other facilities shall be borne entirely by that Party.
- (ii) ExteNet or its successors in interest shall give City prior written notice and a reasonable opportunity to assume responsibility for maintaining and operating the Licensed Fiber before removing the Licensed Fiber or any portion thereof. Except

where ExteNet is otherwise legally obligated to remove a Fiber Segment in a shorter period of time, such prior notice shall be given at least ninety (90) days in advance of such removal. Notwithstanding the foregoing, in the event that ExteNet or its successor in interest proposes to cease using a Fiber Segment for the provision of services to customers, City shall have the option, in order to avoid removal of such Fiber Segment, of assuming responsibility for the operation and maintenance of such Fiber Segment.

9. General Provisions

9.1 Notices

- (i) All notices required or permitted to be given to either party by the other party under any provisions of this Agreement shall be in writing. Notice shall be deemed served when delivered by hand or sent by a nationally recognized overnight courier service to the other party's address set forth below during normal business hours. If a Notice is mailed, service is deemed complete upon the earlier of actual delivery or the close of business on the third business day following the date when the Notice is placed in a receptacle regularly maintained by the U.S. Postal Service addressed to the party at the address set forth below with postage pre-paid.
- (ii) Notices shall be given to the following:

If to City:

City Manager
200 Lincoln Avenue
Salinas, CA 93901

With a copy to City Attorney at the same address.

If to ExteNet:

ExteNet Systems (California) LLC
ATTN: CFO
3030 Warrenville Rd, Suite 340
Lisle, Illinois 60532
NOTICE@extenetsystems.com

With a copy to General Counsel and COO at the same address.

Or to such other addresses and persons as City or ExteNet may hereafter designate in a notice given in accordance with this Section 9.1.

9.2 Non-Waiver

Dark Fiber Reciprocal License Agreement

Failure of either Party to take action to enforce compliance with any of the terms or conditions of this Agreement, or to give notice or declare this Agreement or any authorization granted hereunder terminated, or to exercise any right or privilege hereunder, shall not be construed as a continuing or future waiver of such term, condition, right or privilege, but the same shall be and remain at all times in full force and effect.

9.3 Headings

All headings contained in this agreement are for convenience only and are not intended to affect the meaning or interpretation of any part of this Agreement.

9.4 Governing Law

This Agreement and the rights and obligations contained in it shall be construed in accordance with, and governed by, the laws of the State of California without regard to its choice of law provisions.

9.5 Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed shall be deemed an original, but all of which together shall constitute one and the same instrument.

9.6 Confidentiality

The parties acknowledge that ExteNet will disclose proprietary and confidential network and business information to City in order to perform this Agreement. City agrees to take all reasonable steps to protect such proprietary and confidential information from public disclosure, and to make available such information internally only to City personnel with a need to know or to its legal counsel. City shall not disclose the contents of this Agreement except as required by law in response to a formal request pursuant to an applicable freedom of information law. City shall notify ExteNet within 48 hours of receiving such a request for information about this Agreement.

9.7. Venue

Venue for any complaint, cause, case or action arising from or related to this Agreement shall be in a state or federal court of competent jurisdiction sitting in the State of California.

9.8 Prior Agreements

This Agreement shall amend and supersede the terms of the "City of Salinas Master License Agreement" executed between the Parties on March 15, 2017.

Dark Fiber Reciprocal License Agreement

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

CITY OF SALINAS

DocuSigned by:
Ray E. Corpuz, Jr.

CEE7B0F9D4C34D0
Ray E. Corpuz, Jr., City Manager

APPROVED AS TO FORM:

DocuSigned by:
Christopher A. Callihan

1895479BC5A349F
Christopher A. Callihan, City Attorney, or
Rhonda Combs, Assistant City Attorney

ATTEST:

DocuSigned by:
Patricia Barajas

5BE31EC636A6432
Patricia M. Barajas, City Clerk

EXTENET SYSTEMS (CALIFORNIA) LLC

DocuSigned by:
Richard J. Coyle, Jr.

FCC62408E68644F
Richard J. Coyle, Jr., EVP

Dark Fiber Reciprocal License Agreement

EXHIBIT 1

Licensed Fiber Route Map dated August 27, 2019

