

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE MEMBERS OF THE AMENDED AND RESTATED JOINT POWERS
AGREEMENT DATED JUNE 9, 2009, RELATING TO THE ADMINISTRATION
OF CABLE TELEVISION AND VIDEO FRANCHISES**

This Memorandum of Understanding (“MOU”) between and amongst the members of the Amended and Restated Joint Powers Agreement dated June 9, 2009, relating to the administration of cable television and video franchises, outlines the general understanding of each member’s agreement with respect to the utilization of PEG Fees.

BACKGROUND

Under the terms of the Amended and Restated Joint Exercise of Powers Agreement, dated June 9, 2009, and as hereinafter may be amended (“JPA Agreement”), by and between the Cities of Palo Alto, East Palo Alto and Menlo Park, the Town of Atherton and the Counties of San Mateo and Santa Clara (collectively, “Joint Powers” or “JPA”), the City of Palo Alto (“CPA”) is authorized, on behalf of the JPA members, to administer and enforce the State Franchises awarded to Comcast and AT&T to provide cable and video services within the Franchise Area.

In accordance with California Digital Infrastructure and Video Competition Act of 2006 (“DIVCA”), and the federal Cable Communications Policy Act of 1984, as amended, 47 U.S.C. §§ 521 *et seq.* (“Cable Act”), AT&T and Comcast provide ongoing funding to the JPA members, equivalent to \$0.88 per residential subscriber per month, to support the operation of the public, educational and government (“PEG”) channels provided for by the Franchises (“PEG Fee”). Under the JPA Agreement, CPA collects and oversees expenditures of the PEG Fees on behalf of the JPA members.

The JPA designated the Midpeninsula Community Media Center (“Midpen Media”) to operate and administer the PEG channels, and CPA oversees Midpen Media’s PEG operations on behalf of the JPA members through a contract between CPA and Midpen Media. Pursuant to the JPA Agreement, CPA has been collecting and remitting all PEG Fees to Midpen Media for support of the PEG facilities and channels.

Under federal law, PEG Fees may only be used for capital costs associated with PEG access facilities and equipment. Since 2016, the PEG Fee revenue has been placed in a restricted account managed by Midpen Media (the “PEG Fee Account”). These funds have been accumulating and currently amount to \$1,065,701 as of November 7, 2019.

The JPA members desire to maintain Midpen Media as the PEG access-provider for the franchise territory. Midpen Media needs funding in order to continue providing PEG access facilities, programming and services. Midpen Media does not have sufficient capital needs at this time eligible for use of the PEG Fees. However, some of the individual JPA members do have capital projects planned that will be eligible for PEG Fee expenditure because they will entail updating and improving their individual capital facilities and equipment related to producing and cablecasting council and other public meetings on PEG channels. In order to make PEG Fees available for individual JPA

members' PEG capital projects, to provide Midpen Media with continued funding to operate and administer the PEG access facilities, equipment and channels, and to comply with federal requirements related to PEG Fees, the JPA members have agreed to utilize the PEG Fees and to contribute other funds to Midpen Media's operations, as follows.

UNDERSTANDING

1) Although Comcast and AT&T are required to remit PEG Fee payments directly to CPA, each jurisdiction has a share of the PEG Fee revenue (based on each JPA member's pro rata share of total JPA area cable subscribers). JPA members have agreed to pool the PEG Fee revenue to support qualifying PEG capital projects that may exceed an individual member's share of PEG Fee revenue. CPA will maintain an accounting of each member's share of the PEG Fee funds to ensure money is available for all jurisdictions that have qualifying PEG-capital projects. However, because PEG Fee funds are limited, not all jurisdictions with qualifying projects may receive the requested amount; the distribution of the funds will depend on availability. Further, if at any time PEG Fees are no longer paid by cable subscribers or PEG Fee revenue is substantially diminished due to changes in federal law or for another reason, the jurisdictions that have utilized the pooled PEG Fee revenue are not required to reimburse the other jurisdictions that have not utilized their share of the PEG Fee funds provided the JPA member makes the payment required in Paragraph 3 of this MOU.

2) Midpen Media will continue to hold the existing PEG Fee Account, which will be available to fund JPA members' individual PEG-related capital projects on a draw-down basis. CPA shall authorize expenditure of PEG Fees for individual JPA members' PEG-eligible capital projects. Upon being presented with CPA authorization, Midpen Media shall, within forty-five (45) days, remit the authorized amount from the PEG Fee Account to the individual JPA Member.

3) Anytime a JPA member receives a payment from the PEG Fee Account as described above, it in turn shall pay to Midpen Media an equivalent amount of money from its local funds (the source of which will be determined by the individual JPA Member but shall not be restricted funds), no later than forty-five (45) days after it receives the PEG Fees from Midpen Media, which money may be used by Midpen Media without restriction to support PEG programming. In the interest of supplying Midpen Media with ongoing revenue, JPA members, in their sole discretion, may agree to provide the authorized expenditure amount to Midpen Media in advance of their receipt of the PEG Fee payment.

4) Midpen Media will continue to hold the existing PEG Fee Account until it has been depleted through the expenditure draw-down process described above. All PEG Fee revenue received after the execution date of this MOU will be held in the CPA Cable Fund, on behalf of the Joint Powers, and will be used for PEG-related capital expenditures by the JPA members or Midpen Media after the money in the PEG Fee Account is exhausted.

5) CPA may authorize reimbursement to Midpen Media for any approved actual and documented PEG-eligible capital expenditures it may incur, upon application for such by Midpen Media.

6) JPA members will use the form (or one substantially similar) attached hereto as Attachment 1 (“PEG Fee Use Authorization and Corresponding Contribution Obligation”) to memorialize their respective use of the PEG Fees and agreement to contribute an equivalent sum to Midpen Media. The JPA Working Group shall meet and review the PEG Fee process described in this MOU every 6 months to determine its efficacy, and is authorized to make any adjustments it deems necessary or desirable.

NOW, THEREFORE, the parties have executed this MOU as follows:

CITY OF PALO ALTO:

By: _____

Name: _____

Title: _____

Date of Execution: _____

CITY OF EAST PALO ALTO:

By: _____

Name: _____

Title: _____

Date of Execution: _____

CITY OF MENLO PARK:

By: _____

Name: _____

Title: _____

Date of Execution: _____

TOWN OF ATHERTON:

By: _____

Name: _____

Title: _____

Date of Execution: _____

COUNTY OF SANTA CLARA:

By: _____

Name: _____

Title: _____

Date of Execution: _____

COUNTY OF SAN MATEO:

By: _____

Name: _____

Title: _____

Date of Execution: _____

ATTACHMENT 1

AUTHORIZATION TO UTILIZE CABLE JPA PEG FEES FOR CAPITAL PROJECT AND AGREEMENT TO CONTRIBUTE MATCHING SUM TO MEDIA MIDPENINSULA COMMUNITY MEDIA CENTER

This Authorization to Utilize PEG Fees for Capital Project and Agreement to Contribute Matching Sum to Midpeninsula Community Media Center ("Midpen Media"), dated _____, is made by the City of Palo Alto, as administrator of the Cable JPA ("CPA"), and _____, as member of the Cable JPA ("Member").

RECITALS

WHEREAS, pursuant to the Memorandum of Understanding ("MOU") dated _____, between and amongst the members of the Amended and Restated Joint Powers Agreement, incorporated herein by reference, which outlines the process for utilizing PEG Fees, JPA members may use PEG Fees for their individual capital projects which qualify as PEG-eligible, and, in return, will contribute the same amount of money to Midpen Media to support PEG programming; and

WHEREAS, in order to use PEG Fees, Member must demonstrate to CPA that the funds it is seeking will be used only for capital costs associated with PEG access facilities and equipment; and

WHEREAS, Member has demonstrated that the amount it is seeking for its _____ Project is an eligible PEG Fee expenditure, and has agreed to contribute an equivalent amount of funding to Midpen Media in exchange for the use of PEG Fees.

AUTHORIZATION

1. Authorization. Member is hereby authorized to receive \$_____ from the Restricted PEG Fee Account held by Midpen Media (or PEG funds held by CPA after the restricted Midpen Media Account is depleted) for its _____ Project ("PEG Fee Payment").

2. PEG Fee Payment. The PEG Fee Payment to Member shall be made in the form of an advance (pre-funding of PEG capital costs) or a reimbursement of actual PEG capital expenditures.

A. Advance. In the case of an advance, Member shall submit a request for payment of the authorized amount, and Midpen Media (or CPA after the Restricted PEG Account is depleted) shall remit the PEG Fee Payment to Member within 45 days of

receiving Member's executed authorization. At the end of the project, Member shall provide CPA with an accounting of its actual PEG capital expenditures. If the amount of the advance is in excess of actual PEG capital expenditures, Member shall reimburse CPA for the difference within 45 days of completing the project or within 1 year of the remittance of the advance, whichever occurs earlier. CPA may extend the period for reimbursement upon request; any extension shall be in writing. If the PEG capital expenditures are in excess of the amount of the advance, Member may seek reimbursement from the PEG fund for the difference.

B. Reimbursement. For a reimbursement, upon receiving evidence of payment made by Member for authorized costs, Midpen Media (or CPA after the Restricted PEG Account is depleted) shall remit the PEG Fee Payment to Member within 45 days.

CONTRIBUTION TO MIDPEN MEDIA

3. Contribution. In return for its use of PEG Fees, Member agrees to contribute a like sum, or \$_____ ("Member Contribution") to Midpen Media. The source of funding for Member Contribution shall be in Member's sole discretion but shall be unrestricted funds, and Midpen Media may use the Member Contribution in any manner that supports PEG programming.

4. Timing of Contribution. The Member Contribution may be made any time following Member's authorization to use PEG Fees, as evidenced by this Agreement, but in no event later than 45 days following receipt of the PEG Fee Payment, or, in the case of an advance, no later than 45 days after the final accounting for the project is completed or within 1 year of the remittance of the advance, whichever occurs earlier. If CPA approves an extension of the period for reimbursement under Section 2.A above, CPA may also extend the timing of the contribution.

IN WITNESS WHEREOF, the parties by their duly appointed representatives have executed this Agreement as of the date written above.

CITY OF PALO ALTO:

By: _____

Name: _____

Title: _____

Date of Execution: _____

MEMBER ENTITY:

By: _____

Name: _____

Title: _____

Date of Execution: _____