

PAYMENT IN LIEU OF TAXES AGREEMENT

THIS PAYMENT IN LIEU OF TAXES AGREEMENT (this “**PILOT Agreement**”) is entered into as of this ^{1st} day of ~~March~~^{APRIL}, 2024 (the “**Effective Date**”), by and among the WARREN COUNTY, INDIANA, an Indiana County Government, through the Warren County Economic Development Organization (the “**County**”), and through the WARREN COUNTY COMMISSION (the “**Commission**”), JOINK, LLC, a Delaware limited liability company, and its permitted successors and assigns (“**Joink**”).

RECITALS

WHEREAS, the County determined that the provisioning of High-Speed Broadband Services within the County (the “**Project**”), as defined below, to residents and businesses is a critical public utility need that directly impacts the vitality and quality of life within Warren County;

WHEREAS, the County has adopted the provisions of Indiana Code 5-23 regarding the power of government bodies to utilize public-private agreements to procure public facilities (collectively, the “**P3 Statute**”);

WHEREAS, the P3 Statute authorizes the County to enter in an agreement for the acquisition, planning, design, development, reconstruction, repair, maintenance or financing of any public facility on behalf of the County (a “**Public-Private Agreement**”);

WHEREAS, the County determined it is in the public interest to procure the Project through the execution and performance of a Public-Private Agreement;

WHEREAS, the County issued a request for proposals (“**RFP**”) from service providers to deploy, operate, and maintain a broadband network;

WHEREAS, Joink responded to the RFP and proposed to: (a) extend its all-fiber optic network solution from where it currently terminates in Vermillion County to Pine Village, State Line, West Lebanon, and Independence, in addition to homes directly passed along Joink’s fiber routes; (b) at Joink’s expense, extend its all-fiber optic network solution to Williamsport; and (c) provide High Speed Broadband Services to County residents and businesses (collectively, “**Consumers**”) within the County (“**Service Area**”);

WHEREAS, this PILOT Agreement is being entered into to provide revenue to the County for further expansion of its broadband expansion efforts and is intended to cover any area in the County that chooses to support the PILOT through adoption of a property tax abatement of Joink assets contained within the scope of the Project to provide broadband services in the County;

WHEREAS, it is anticipated that Joink will receive property tax abatement pursuant to Indiana Code (“**IC**”) 6-1.1-12.1, (the “**Abatement Statute**”) for certain of its tangible property

within the County and desires to enter into an agreement to make payments in lieu of taxes related to the various property tax abatements it receives;

WHEREAS, the County and Commission will undertake action to abate Joink tangible property pursuant to the Abatement Statute that is to be installed or used as a part of the Project in unincorporated areas within the County (the “**County Abatement**”) and further will undertake efforts to facilitate and encourage cities and towns within the County in which Joink is expanding into or operating in as a part of the Project to approve property tax abatement for Joink pursuant to the Abatement Statute (“**City and Town Abatement**”);

WHEREAS, Joink represents and warrants that it will accurately complete and file all property tax returns and filings that are required to be filed as a result of the Project as well as a result of any County Abatement and City and Town Abatement;

WHEREAS, Joink has agreed to make payments in lieu of taxes to the Warren County Treasurer as it relates to the development of the County’s broadband expansion efforts, all as more fully described in this PILOT Agreement;

WHEREAS, the County and Joink have agreed that, if any of Joink’s tangible property installed or otherwise used as a part of the Project receives a County Abatement or City and Town Abatement pursuant to the Abatement Statute (“**Property**”), Joink will make payments to the County on an annual basis for the property taxes that otherwise would be owed but for the applicable County Abatement and/or City and Town Abatement(s); and

NOW, THEREFORE, in consideration of the foregoing premises, mutual covenants, and the sum of One and 00/100 Dollars (US\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

Section 1. Obtaining Abatement.

Section 1.1. (a) Joink represents and warrants that it will work with the County and Commission for the Project to receive both the County Abatement as well as City and Town Abatements.

(b) Joink agrees to install and maintain the Property to provide broadband services in the County and fulfill all obligations it is required to undertake pursuant to **the [insert agreements related to Project]** (the “**County/Joink Public Private Agreement**”).

(c) Joink acknowledges that this PILOT Agreement does not confer any property tax abatement on the Property under the Abatement Statute and that in order to obtain any such property tax abatement, the applicable designating body must approve the abatement and thereafter Joink must timely file on an annual basis documentation to maintain the abatement. The County agrees to assist Joink in ensuring the Property obtains County Abatement and City and Town

Abatement if Joink has satisfied all requirements contained in the County/Joink Public Private Agreement.

Section 1.2. Payment in Lieu of Tax and Related Filing Obligations.

(a) Joink shall pay to the County an annual amount equal to:

the Indiana property taxes that would otherwise have been owed by Joink, or any affiliates, successors or assigns, had the applicable Property not received abatement for the applicable tax year under any outstanding County Abatement and/or City and Town Abatement.

The payments referenced under Section 1.2 shall each be referred to as a “PILOT Payment.”

(b) Joink shall submit to the County prior to May 10 on an annual basis in which there is an outstanding abatement on any portion of the Property the following information:

(i) Joink’s calculation of the PILOT Payment that is due for the applicable year;

(ii) A copy of all property tax returns related to the Project for the applicable year filed to the applicable taxing authorities, including without limitation the County Assessor and Department of Local Government Finance;

(iii) A copy of all Joink’s property tax bills received for Property for the applicable year; and

(iv) A copy of all documentation submitted to applicable governmental authorities related to any County Abatement and/or City and Town Abatement for the applicable year.

Section 1.3. Timing of Payment.

(a) The PILOT Payment payable by Joink shall be payable in two equal installments due and payable on or before May 10th and November 10th (each an “**In Lieu of Payment**”) to the County Treasurer. The PILOT Payment shall continue to be made on an annual basis for as long as any of the Property is receiving any County Abatement and/or City and Town Abatement (the “**Payment Period**”).

(b) To the extent that the County disputes the amount of a PILOT Payment, as calculated and remitted by Joink, it shall provide written notice within sixty days (60) of the later of receiving (i) the PILOT Payment and (ii) the information and documentation required to be submitted under Section 1.2(b). To the extent that the County provides written notice of its objection to the amount of the PILOT Payment, the parties shall use best efforts to determine the correct amount of the PILOT Payment. If after sixty (60) days of the County providing such written notice there is not an agreement as to the amount of the PILOT Payment, the County shall

have the option to (i) submit the dispute to an independent property tax consultant selected by the County, subject to Joink's approval which shall not be unreasonably withheld, for a binding, non-appealable determination of the correct amount of the applicable PILOT Payment, and (ii) rights contained within Section 2.2. Any costs incurred pursuant to this Section 1.3 for the independent property tax consultant shall be borne equally between Joink and the County.

Section 1.4. Joink hereby reserves the right to contest and to appeal the amount of any tax assessment of the Property. Any such challenge will not affect the timely payment of the In Lieu of Payment described in Section 1.3.

Section 1.5. Joink shall be liable for prompt payment of all In Lieu of Payments when due. Joink shall be liable for all penalties, costs and expenses imposed under IC 6.1.1-22-1 *et seq.* and IC 6-1.1-37-1 *et seq.* or any statute which amends or replaces them for delinquent In Lieu of Payments.

Section 1.6. The County, upon receipt of each In Lieu of Payment described in Section 1.2 and Section 1.3, shall earmark and set aside such funds to be used in the future expansion of broadband access within the County.

Section 2. Termination.

Section 2.1. This PILOT Agreement shall automatically terminate, by no action of the parties, and shall be of no force or effect between or among the parties upon the expiration of the Payment Period and the remittance of all In Lieu of Payments due and payable pursuant to Section 1.3 hereof.

Section 2.2. In the event the County determines that Joink has failed to satisfy the requirements of Section 1.1, Section 1.2, or Section 1.3 herein, the County shall notify Joink in writing of such default. Joink shall have sixty (60) days from the effective date of the notice to cure the reason for default (the "Cure Period"). The County may in its sole discretion elect to extend the Cure Period. Following the Cure Period, this PILOT Agreement shall automatically terminate upon written notice from the County to the Joink that such default has not been cured within the Cure Period and furthermore each designating body that approved a County Abatement and/or City and Town Abatement is authorized to cancel the abatement for both the assessment year for which the non-compliance relates and all subsequent assessments years.

Section 2.3. The parties hereto may mutually agree to terminate this PILOT Agreement. Such termination agreement shall be in writing and executed by all parties hereto. Upon mutual termination pursuant to this Section 2.3, this PILOT Agreement shall become null and void, and of no further force or effect between or among the parties; provided, however, Joink shall pay the In Lieu of Payments for the year in which such termination.

Section 2.4. Upon termination of this PILOT Agreement, the parties hereto agree to the following:

(a) Joink shall pay the amount of In Lieu of Payments for the year in which such termination occurs as well as all previous years to the extent such In Lieu of Payments are outstanding.

(b) Upon termination of this PILOT Agreement, all other provisions of this PILOT Agreement, except for Section 2.2 and Section 2.4, shall become null and void, and of no further force or effect between the parties.

Section 3. General Provisions.

Section 3.1. Captions; Incorporation and Exhibit. The captions and headings of various Articles, Sections and Exhibit referenced herein are for convenience only and are not to be considered as defining or limiting in any way, the scope or intent of the provisions hereof. Notwithstanding the foregoing, each of the Recitals and the Exhibit referenced herein are incorporated and expressly made a part hereof.

Section 3.2. Entire PILOT Agreement. This PILOT Agreement constitutes the entire agreement of the parties, and all prior discussions, negotiations and document drafts are merged herein.

Section 3.3. Notices. Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing, addressed as follows and shall be deemed to have been properly given if hand delivered (effective upon delivery), if sent by reputable overnight courier, charges prepaid (effective the business day following delivery to such courier) or if mailed by United States registered or certified mail, postage prepaid, return receipt requested (effective two business days after mailing):

If to Joink:

Joink, LLC
1362 Wabash Avenue,
Terre Haute, IN 47807
Attn: josh.zuerner@joinkllc.com

With copies to:
Ted Browne, Esq.
browne@mcmahonberger.com

If to County:

Warren County, Indiana
Attn: Ben Dispennett
31 N Monroe Street
Williamsport, IN 47993
Telephone: (765) 762-6055
Email: ben@warrenadvantage.onmicrosoft.com

Warren County, Indiana
Attn: Auditor
125 N. Monroe Street, Suite 7
Williamsport, Indiana 47993

With copies to:
Ice Miller LLP
Attn: Thomas A. John, Esq.
One American Square, Suite 2900
Indianapolis, IN 46282
Telephone: (317) 236-2257
Fax: (317) 592-4808/236-2219
Email: thomas.john@icemiller.com

Ice Miller LLP
Attn: Christopher L. Miller, Esq.
250 West Street, Suite 700
Columbus, Ohio 43215
Telephone: (614) 462-5033
Fax: (614) 462-5135
Email: christopher.miller@icemiller.com

or at such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. Notices given in any other manner shall be deemed effective only upon receipt.

Section 3.4. Modification, Amendment, or Waiver. No modification, waiver, amendment, discharge or change of this PILOT Agreement shall be valid unless the same is in writing and signed by all parties to this PILOT Agreement.

Section 3.5. Governing Law. This PILOT Agreement shall be governed by and construed under the laws of the State of Indiana, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this PILOT Agreement. Any action or proceeding arising out of this PILOT Agreement will be litigated in the courts located in Warren County, Indiana. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Warren County, Indiana.

Section 3.6. Time is of the Essence. Time is hereby declared to be of the essence of this PILOT Agreement and of every part hereof.

Section 3.7. Counterparts. This PILOT Agreement and any amendments hereof may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed to be an original, and all of which taken together shall constitute one and the same instrument.

Section 3.8. Severability. If any provision of this PILOT Agreement is determined by a court having jurisdiction to be illegal, invalid or unenforceable under any present or future law, the remainder of this PILOT Agreement will not be affected thereby. It is the intention of the parties that if any provision is so held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible that is legal, valid and enforceable.

Section 3.9. No Joint Venture. Nothing contained in this PILOT Agreement will be construed to constitute any party as a joint venturer with the County or to constitute a partnership between any party and the County.

Section 3.10. Construction. The parties acknowledge that each party and each party's counsel have reviewed and revised this PILOT Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this PILOT Agreement or any amendments or exhibits hereto.


Section 3.11. Authorization. The persons executing and delivering this PILOT Agreement on behalf of the parties hereto represent and warrant to the other party that such person is duly authorized to act for and on behalf of said party and execute and deliver this PILOT Agreement in such capacity to County as is indicated below.

Section 3.12. Assignment/Successor. This PILOT Agreement shall be binding upon County, Commission, Joink, and all successor, grantees or assignees of Joink with respect to the Property (or any portion thereof) which would otherwise be entitled to claim an abatement for property taxes imposed on the Property. Notwithstanding the foregoing, Joink shall not assign this PILOT Agreement or any County Abatement and/or City and Town Abatements without the express written approval of the County, which shall not be unreasonably withheld so long as any successors and assigns are subject to the terms of this PILOT Agreement and the applicable terms and conditions of any outstanding County Abatement and/or City and Town Abatements.


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IN WITNESS WHEREOF, the undersigned parties have caused the execution of this PILOT Agreement by their duly authorized officers as of the Effective Date.

COUNTY OF WARREN, INDIANA
WARREN COUNTY COMMISSION

By: 
Craig Greenwood, President

By: 
John Comer, Vice President

By: 
Clay Andrews

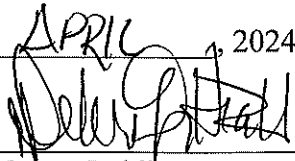
WARREN COUNTY LOCAL ECONOMIC
DEVELOPMENT ORGANIZATION, INC.

By: 
Executive Director

STATE OF INDIANA)
) SS:
COUNTY OF WARREN)

Before me, a Notary Public, in and for said County and State, personally appeared BEN D. SPENNETT in HIS capacity as the Executive Director of the Warren County Local Economic Development Organization, Inc. acting for and behalf of the County of Warren, Indiana, who acknowledged the execution of the foregoing instrument as such Executive Director acting for and on behalf of said Warren County Local Economic Development Organization, Inc. and who, having been duly sworn, stated that any and all representations and warranties contained therein are true and correct in all material respects.

Witness my hand and Notarial Seal this 16 day of APRIL, 2024.


Notary Public
DEBRA L HATT
Printed Signature

My Commission Expires:

12-31-26

My County of Residence:

WARREN

JOINK, LLC

a Delaware limited liability company

By: _____

Josh Zuerner, President and CEO

STATE OF INDIANA)

) SS:

COUNTY OF _____)

Before me, a Notary Public, in and for said County and State, personally Josh Zuerner in his capacity as the President and CEO of Joink, LLC, a Delaware limited liability company, who acknowledged the execution of the foregoing instrument as such President and CEO acting for and on behalf of said limited liability company and who, having been duly sworn, stated that any and all representations and warranties contained therein are true and correct in all material respects.

Witness my hand and Notarial Seal this ____ day of _____, 2024.

Notary Public

Printed Signature

My Commission Expires:

My County of Residence:
