

ORDINANCE A-230-A

AN ORDINANCE GRANTING A FRANCHISE TO USE RIGHTS OF WAY WITHIN THE CITY OF COBURG TO ASTOUND BROADBAND LLC REPEALING ORDINANCE A-230 AND SETTING AN EFFECTIVE DATE

WHEREAS, Astound Broadband, LLC is a Washington limited liability company that is a registered business in Oregon and holds a Certificate of Authority to Provide Telecommunications Service from the Public Utilities Commission of Oregon and Domestic and International Section 214 authorizations from the Federal Communications Commission (FCC); and

WHEREAS, Astound Broadband, LLC desires to construct fiber optic distribution facilities within the City of Coburg, within the public right-of-way, to provide service to potential customers, including facilities to existing cell phone towers; and

WHEREAS, the CITY of COBURG, OREGON hereinafter referred to as the "Grantor" has determined that Astound Broadband, LLC, hereinafter referred to as the "Grantee," is qualified for a franchise to use and occupy the rights of way within the City of Coburg; and

WHEREAS, City of Coburg adopted ordinance A-230 on September 13, 2014 granting a franchise to Astound Brodband, LLC. The franchise became effective on November 1, 2014 and expired August 1, 2024 as stated in Ordinance A-230 section 14.7.

WHEREAS, Council wishto continue in a Franchise agreement with the Grantee for the construction and operation of a telecommunications system on the terms set forth herein.

THE CITY OF COBURG ORDAINS AS FOLLOWS:

SECTION 1. Definitions. For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this Section, unless the context clearly indicates a different definition. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- A. "Council" shall mean the governing body of the City of Coburg.
- B. "Franchise" shall mean the non-exclusive rights granted pursuant to this Franchise to construct, operate and maintain a Telecommunications System along the Public Ways within all or a specified area in the Service Area.

- C. "Gross Revenue" shall mean any and all revenue, of any kind, nature or form, without deduction for expense; all inflows or enhancements of assets or settlements of its liabilities (or a combination of both) of whatsoever kind and nature derived by the Grantee, less uncollectables, and, any affiliates, subsidiaries or parent of the Grantee on account of goods or for Telecommunications Services from the Grantee's ongoing operations delivered within the City of Coburg. Gross revenue shall include any and all subsidies, discounts, rebates or other considerations or forbearances by the Grantee associated with the delivery of such goods and services within the City of Coburg. Gross Revenues shall not include any revenues from activities exempted from local fees by state or Federal law.
- D. "Person" shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- E. "Service Area" shall mean the geographic boundaries of the Grantor, and shall include any additions thereto by annexation or other legal means, subject to the exception in Section 6 hereto.
- F. "State" shall mean the State of OREGON.
- G. "Street", "Rights-of-Way" or "Public Way" shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, and similar Public Ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or property dedicated for compatible uses now or hereafter held by the Grantor in the Service Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Telecommunications System.
- H. "Subscriber" shall mean any Person lawfully receiving Telecommunications Service from the Grantee.
- I. "Telecommunications Service" shall mean any service provided to a subscriber within the City limits of the City of Coburg that is delivered by means of the Telecommunications System.
- J. "Telecommunications System" shall mean a system of fiber optic cable and other wiring and service vaults and other equipment installed in the public rights of way within the City of Coburg by Grantee.

SECTION 2. Grant of Franchise

2.1 Grant. The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during its terms; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Telecommunications System.

2.2 Police Powers and Conflicts with Franchise. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance. In the event of any conflict with other ordinances, the ordinance with the most specificity and most directly related to public health and safety shall prevail. Grantor shall administer the Franchise in a reasonable, uniform, and non-discriminatory manner.

SECTION 3. Franchise Term and Renewal

3.1 Term. The Term of this Franchise is for ten years from the signed date of acceptance by Grantee, unless terminated pursuant to the provisions of Section 13.

3.2 Acceptance by Astound. Within thirty (30) days after the passage of this ordinance by the City, Astound Broadband LLC, shall file an unqualified written acceptance thereof with the City Recorder, otherwise the ordinance and the rights granted herein shall be null and void.

3.3 Procedures for Renewal. If Grantee desires to renew the franchise, then at least six months but no more than nine months prior to the end of the franchise, Grantee shall notify Grantor of its desire for renewal, and shall propose any alteration in the terms of the franchise that it might wish. Grantor shall consider the proposed renewal, but shall be entitled to make a decision on the renewal based on its determination of the best interests of the residents of Coburg.

SECTION 4. Indemnification and Insurance

4.1 Indemnification. The Grantee shall defend the Grantor, its officers, boards, commissions, agents, and employees from all claims for injury to any Person or property caused by, or alleged to be the result of the negligence or fault of Grantee in the construction or operation of the Telecommunications System and, in the event of a determination of liability shall indemnify and hold Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any Person or property as a result of the negligence or fault of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the installation and operation of the Telecommunications System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor within ten (10) days of receipt of a claim or action pursuant to this section. In the event any such claim arises, the Grantor shall tender the defense thereof to the Grantee

and the Grantee shall have the right to defend, settle or compromise any claims arising hereunder, except that if such settlement or compromise might obligate Grantor, Grantee shall obtain Grantor’s written consent to the settlement or compromise, which Grantor may not unreasonably withhold. If the Grantor determines in good faith that its interests cannot be represented by the Grantee, the Grantee shall be excused from any obligation to represent or indemnify the Grantor. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor, its officers, boards, commissions, agents, or employees. This obligation of indemnification shall survive the termination of the Franchise.

4.2 Insurance.

- a. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	\$1,000,000 per occurrence, Combined Single Liability (C.S.L.) \$2,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos.	\$1,000,000 per occurrence C.S.L.
Umbrella Liability	\$1,000,000 per occurrence C.S.L.

- b. The Grantor shall be added as an additional insured, arising out of work performed by Grantee, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.
- c. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

SECTION 5. Service Obligations

5.1 No Discrimination. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, users, or general citizens on the basis of race, color, religion, national origin, age or sex.

SECTION 6. Installation Requirements

6.1 Installation. All installations shall be done in compliance with applicable laws and regulations and only after obtaining all required permits from the State of Oregon, Lane County and the City of Coburg.

6.2 New Development Underground. In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least thirty (30) days prior notice of such construction or development, and of the particular dates on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching to allow Grantor to provide notice of Grantee's work to other interested parties. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five-day period, the cost of new trenching is to be borne by Grantee.

6.3 Annexation. After Grantee initiates telecommunications services to any subscriber in Coburg, in the event the Grantor modifies the potential Service Area by annexation or any other means, the Grantor shall provide at least sixty (60) day prior notice to the Grantee. The Grantor shall also notify Grantee of all new street address assignments or changes within the Service Area. Said notice shall be in writing to the address set forth below by U.S. certified mail, return receipt requested. Grantor shall provide address files and maps in sufficient detail and in an acceptable digital format. Grantee shall begin to collect Franchise Fees from Subscribers in any annexed area within one hundred and twenty (120) days of such notice and address information as described above. Grantee shall not be obligated to collect and remit Franchise Fees until such notice and information has been received by Grantee.

Grantee shall provide Grantor thirty (30) days written notice of address changes affecting this subsection pursuant to section 14.4.

SECTION 7. Construction and Technical Standards

7.1 Compliance with Codes. All construction practices and installation of equipment shall be done in accordance with all applicable sections of the Oregon Building Codes and with all applicable local laws.

7.2 Construction Standards and Requirements. All of the Grantee's plant and equipment, including but not limited to any antenna site, head-end and distribution system, towers, house connections, structures, poles, wire, fiber optic cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

7.3 Safety. The Grantee shall, at all time, employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

SECTION 8. Conditions on Street Occupancy

8.1 General Conditions. Subject to State regulations concerning pole attachments, Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property without obtaining all legally required permits of the Grantor and other owners of the right of way occupied by Grantee.

8.2 Underground Construction. Grantee may install aerial facilities, except that the facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. When the existing aerial facilities of similarly situated entities are required to be placed underground by the Grantor in accordance with ORS 758.210 through 758.270, the Grantee shall likewise place its facilities underground. In the event that any telephone or electric utilities are reimbursed by the Grantor or any agency thereof for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as any telephone, electric or other utilities. Grantee's acceptance of any reimbursement by the Grantor or an agency of Grantor under the previous sentence does not limit Grantee's rights under ORS 758.245 and ORS 758.250, except that Grantee may not accept any reimbursement in excess of its costs to place facilities underground.

8.3 Construction Codes and Permits. Grantee shall obtain all legally required permits before commencing any work requiring a permit, including the opening or disturbance of any Street within the Service Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets. The Grantee shall adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the Telecommunications System in the Service Area.

8.4 System Construction. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair, at Grantees sole expense. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any Public Way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such Public Way.

8.5 Restoration of Public Ways. Grantee shall, at its own expense, restore any damage or disturbance caused to the Public Way as a result of its operation, construction, or maintenance of the Telecommunications System to a condition reasonably comparable to the condition of the Public Way immediately prior to such damage or disturbance.

8.6 Removal in Emergency. Whenever, in case of fire or other disaster, it becomes necessary in the reasonable judgment of the Grantor to remove any of the Grantee's facilities, no charge shall be made by the Grantee against the Grantor for restoration and repair, unless such acts amount to gross negligence or willful misconduct by the Grantor.

8.7 Tree Trimming. Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities. Trimming shall be done in a manner consistent with good arborist practices.

8.8 Relocation for the Grantor. The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily relocate, or temporarily remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. In the event of a permanent relocation or disconnection request, Grantor shall advise Grantee in writing prior to the end of Grantee's current budget cycle. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor Rights-of-Way are responsible for the costs related to the relocation of their facilities.

8.9 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, relocate in or temporarily remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Grantee is give reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation.

8.10 Reimbursement of Costs. If funds are available to any Person using the Streets for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.

SECTION 9. Service Requirements

9.1 Phone Service. The Grantee shall maintain a toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received at any time.

9.2 Notification of Service Procedures. The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee's name, address and local telephone number. Grantee shall give the Grantor thirty (30) days prior notice of any rate increases or other substantive service changes.

SECTION 10. Compensation for Right of Way use: Franchise Fees

10.1 Amount of Fee. Grantor's initial use of the rights of way in Coburg will be along Bottom Loop Road, crossing Van Duyn Street, and along Coburg Road North. As compensation for the use of those portions of City Right-of-Way, Grantee shall pay to Grantor a franchise fee ("Franchise Fee") equal to \$600 annually with an annual 3% increase. In the event that Grantee expands its presence in the City of Coburg and offers any services within the City of Coburg, Grantee shall pay to Grantor as compensation for use of the City Right of Way, an additional franchise fee of five percent 5% of Gross Revenue.

10.2 Reserved for Future Expansion.

10.3 Franchise fee payments not in lieu of other payments. Payment of franchise fees required in this Section 10 shall be in addition to taxes or fees of general applicability owed to the Grantor, or any other jurisdiction, by the Grantee.

10.4 Payment. Payment of the Franchise Fee due the Grantor shall be calculated on an annual basis, beginning with the first day of the Effective Month. Grantee agrees to pay pro rata Franchise Fees within forty-five (45) days of the close of each calendar quarter, transmitted by electronic funds transfer to a bank account designated by Grantor. The payment period and the collection of the Franchise Fees that are to be paid to the Grantor pursuant to the Franchise shall commence sixty (60) days after the Effective Date of the Franchise. The payment of Franchise Fees shall be either accompanied by or closely followed by a statement of said payment, reflecting the applicable charges, and the revenue from subscribers and the gross revenue calculations. Grantee shall provide, annually, a statement certified by Grantee's representative as to the accuracy of the Franchise Fee payments. Grantor may have access, upon reasonable request and at Grantee's business offices during normal business hours, to Grantee's books and accounts for an audit or other review of Grantee's revenues to affirm the accuracy of Grantee's payments. Such review shall be done at Grantor's expense, unless such a review finds a discrepancy of greater than five percent (substantial discrepancy) between the amount determined to be owed and any amounts paid within the twenty-four months prior to the date of the initiation of the review, or Grantee unreasonably refuses Grantor's agents access to Grantee's accounts. In case of either a substantial discrepancy in franchise fees, or a refusal to cooperate in the review, Grantee shall be responsible for all of Grantor's costs for the review, including attorney fees at trial and on appeal.

10.5 No Waiver. No acceptance of any payment by the Grantor shall be construed as a release or as a waiver of any claim the Grantor may have for additional sums payable under this Franchise.

10.6 Limitation on Recovery. In the event that any Franchise payment or recomputed payment is not made on or before the dates specified herein, the Grantee shall pay an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest rate of the Grantor's primary depository bank during the period such unpaid amount is owed. The period of limitation for recovery of interest on any Franchise Fee payable hereunder shall be twenty-four months from the date on which payment by the Grantee was due.

SECTION 11. Transfer of Franchise

11.1 Franchise Transfer. The Franchise granted hereunder shall not be assigned, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, and such consent shall not be unreasonably withheld or delayed once Grantor is satisfied that the party to whom the Franchise is being transferred has sufficient technical and financial capacity to comply with the requirements of the Franchise. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Telecommunications System to secure indebtedness. Grantee's lease of some of the components of the Telecommunication System to third parties shall not constitute a transfer, as long as Grantee retains ownership and responsibility for maintenance of the Telecommunications system. Grantor's consent to any requested transfer shall be deemed given on the thirtieth day after receipt of Grantee's request, unless, within thirty (30) days of receiving a request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If Grantor requests additional information under the previous sentence, Grantor's consent to a requested transfer shall be deemed given on the thirtieth day after Grantor's receipt of the additional information from Grantee, unless Grantor, within thirty days of the receipt of the additional information provides reasons for needing additional time, including the need for more information. Except where Grantor can show Grantee's failure to provide an adequate response to Grantor's questions, Grantor shall be deemed to approve the transfer on the ninetieth day for which Grantor has the original request and any subsequent responses before it. In this calculation of ninety days, the time for Grantee to respond to requests for information shall not be included.

SECTION 12. Records, Reports and Maps

12.1 Inspection of Records. Subject to confidentiality restrictions under federal or state law, Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice to examine during normal business hours and on a nondisruptive basis any and all records that are legally permissible for release and that are reasonably necessary to

ensure Grantee's compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. The Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Grantee makes the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books or records as required by law, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and Federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person. The Grantor, its agents, employees, representatives or any other Person who has access to records provided by the Grantee shall sign Grantee's nondisclosure agreement prior to records review.

SECTION 13. Default and Termination or Revocation

13.1 Notice of Violation. If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor may first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, or Grantor has reason to conclude that such discussions would be fruitless, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the "Violation Notice").

13.2 Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the Violation Notice to (i) respond to the Grantor, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

13.3 Enforcement. Subject to applicable Federal and State law, in the event the Grantor determines that the Grantee is in default of any provision of the Franchise, and the default is not contested or cured within the times provided in Section 13.2, the Grantor may:

- a. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- b. Commence an action at law for monetary damages or seek other equitable relief; or
- c. In the case of a substantial default of a material provision of the Franchise, revoke the Franchise itself in accordance with Section 13.4 below.

13.4 Revocation.

- a. Prior to revocation of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice of intent to revoke may be combined with a notice of default if the Grantor is satisfied that there has been a pattern of noncompliance. If Grantor does not provide notice of intent to revoke with the notice of default, Grantor shall provide an additional notice of intent to revoke. Any notice of intent to revoke shall set forth the exact nature of the noncompliance. Grantee shall have thirty (30) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, The City Council of Coburg shall hold a public hearing on the question of revocation. Grantor shall give Grantee at least thirty (30) days' notice of the time and place of such a public hearing. Grantor shall be entitled to appear at the public hearing and present evidence and arguments concerning its failure to comply with the Franchise and the proposed revocation. If, at the close of the hearing, or at a later time after deliberations, the Council determines that Grantor's original determination of default was correct, and that Grantee has failed to cure the default, or offer a credible plan for cure, Grantor may revoke the Franchise.
- b. Upon revocation or termination of the Franchise, Grantee shall remove its Telecommunications System from the Streets of the Grantor, or provide Grantor written notice that it is electing to abandon the System in place. Upon receipt of notice of intent to abandon the System, or the passage of sixty (60) days after the notice of revocation has been sent to Grantee, Grantor may, at its sole discretion, take ownership of the abandoned system, or remove the system and bill Grantee for the out-of-pocket expense of removal, or any combination of the two options. The obligation to pay for such expenses shall survive the termination of this Franchise.

13.5 Termination. This Franchise will terminate upon the occurrence of any of the following events:

- a. The term of the franchise has passed without a renewal agreed to by both parties, acting within their sole discretion.
- b. Grantee files a voluntary petition in any United States Bankruptcy Court, or is named as defaulting party in any involuntary petition filed in Bankruptcy Court.
- c. Grantor completes the steps for revocation set forth in this section.

SECTION 14. Miscellaneous Provisions

14.1 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's Telecommunications System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

14.2 Minor Violations. The parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fine, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers. Such determination shall be within the sole reasonable determination of the Grantor.

14.3 Action of Parties. In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

14.4 Notices. Unless otherwise provided by Federal, State or Local law, all notices, reports or demands pursuant to this Franchise shall be in writing and shall be deemed to be sufficiently given upon delivery to a Person at the address set forth below, or by U.S. certified mail, return receipt requested or by nationally or internationally recognized courier service such as Federal Express.

As set forth above, notice served upon the Grantor shall be delivered or sent to:

Attn: City Administrator
City of Coburg
P.O. Box 8306
Coburg, OR 97408

And every notice served upon Grantee shall be delivered or sent to:

Astound Broadband
Attn: James Penney
401 Kirkland Parkplace, Suite 500
Kirkland, WA 98033

Each Party shall be responsible to promptly notify the other in writing of any change of address.

14.5 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

14.6 Administration of Franchise. Any changes, modifications or amendments to this Franchise must be made in writing, adopted as an amendment to this Ordinance, and accepted by the Grantee before the amendment becomes effective.

14.7 Effective Date. This ordinance shall become effective upon written acceptance by Astound Broadband.

14.8 Repeal. Ordinance A-230, Granting a ten year franchise 2014 to 2024 to Astound to use right of way adopted on September 30, 2024

ADOPTED by the City Council of the City of Coburg this 12th day of November 2024, by a vote of _____ for and _____ against.

APPROVED by the Mayor of the City of Coburg this ___ day of _____, 2024.

Nancy Bell, Mayor

ATTEST: _____
Sammy L. Egbert, City Recorder