

ORDINANCE NO. 622
CITY OF DAYTON, OREGON

*An Ordinance Granting a Telecommunications Franchise to Astound Broadband LLC to Use
City Rights of Way to Provide Telecommunications Services*

WHEREAS, Chapter 6 of the Dayton Municipal Code governs the construction and franchising of telecommunications carriers operating within the City and desiring to occupy City rights of way; and

WHEREAS, Astound Broadband LLC has requested a franchise pursuant to Chapter 6; and

WHEREAS, the City has reviewed the request and application filed by Astound Broadband LLC and finds that the company has the requisite authority to provide these services and that the level of impact on the City's rights of way will be acceptable, and the City Council therefore desires to issue a franchise.

The City of Dayton Ordains as follows:

Section 1: Franchise Grant.

a. Subject to the terms and conditions contained herein, the City of Dayton does hereby grant to Astound Broadband LLC ("Grantee") a telecommunications franchise to locate its telecommunications facilities within the rights of way of the City.

b. Such grant is subject to all of the laws and ordinances of the City of Dayton and the State of Oregon in existence at the time of this franchise grant or hereafter enacted or amended.

c. The scope of this grant allows the installation, maintenance and repair of telecommunications facilities by Grantee in the City's rights of way to provide telecommunications services, internet access services, and private line services. In the event the Grantee intends to provide services other than telecommunications services, internet access services, or private line services, Grantee shall be required to obtain an additional or revised franchise from the City to the extent required by law.

d. The terms "telecommunications facilities," "telecommunications services," "rights of way" and any other term used in this franchise that is defined in Chapter 6.11 of the Dayton Municipal Code shall have the meaning set forth therein.

Section 2: Construction standards. The construction standards of Chapter 6.11 of the Dayton Municipal Code, or any other applicable construction standards hereafter enacted, shall apply to all work performed by the Grantee in City rights of way.

Section 3: Franchise Fee. The annual franchise fee payable to the City shall be the greater of (i) five percent (5%) of Grantee's gross revenues earned from the provision of telecommunications services, internet access services, and private line services to customers in

the City or (ii) one thousand dollars (\$1,000.00). "Gross revenues" shall mean any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles, subject to all applicable limitations imposed by federal or state law. The franchise fee shall be paid quarterly, in arrears, for each quarter during the term of the license. The franchise fee shall be due and payable within forty-five (45) days of the end of each calendar quarter.

Section 4: Term. The term of this franchise shall be ten (10) years. It shall be effective thirty (30) days after the enactment date set forth below, provided Grantee complies with Section 5.

Section 5: Acceptance. The grant of franchise herein is conditioned upon Grantee's acceptance of all terms and conditions hereof in writing in the form attached hereto as Exhibit A within thirty (30) days of City Council enactment of this Ordinance. In the event Grantee fails to timely file the acceptance, this Ordinance shall be null and void.

PASSED AND ADOPTED this 3rd day of November, 2014.

Mode of Enactment:

Date of first reading: October 20, 2014 In full _____ or by title only X

Date of second reading: November 3, 2014 In full _____ or by title only X

X No Council member present at the meeting requested that the ordinance be read in full.

X A copy of the ordinance was provided to each Council member; three copies were provided for public inspection in the office of the City Recorder no later than one week before the first reading of the Ordinance.


Final Vote:

In Favor: Bixler, Collins, Frank, Marquez, Price, Utt, and Wytoski

Opposed: None.

Absent: None.

Abstained: None.

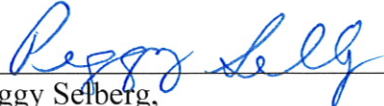


Beth Wytoski
Mayor

11/12/2014

Date of Signing

ATTESTED BY:



Peggy Selberg,
City Recorder

11/13/2014

Date of Enactment

ACCEPTANCE

City Recorder
City of Dayton
PO Box 339
416 Ferry Street
Dayton, OR 97114

This is to advise the City of Dayton, Oregon that Astound Broadband (the "Grantee") hereby accepts the terms and provisions of Ordinance No. 622, passed by the City Council on November 3, 2014 (the "Franchise") granting a Franchise for ten (10) years to Grantee. The Grantee agrees to abide by each and every term of the Franchise.

Astound Broadband LLC

BY: _____

TITLE: _____

DATE: _____

This Acceptance was received by the City of Dayton on 11/19, 2014.

City Recorder