

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF COVINA AND FRONTIER COMMUNICATIONS**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into this 18th day of July, 2023 (“Effective Date”), between FRONTIER COMMUNICATIONS, a Corporation and the CITY OF COVINA, a California municipal corporation, hereinafter called “CITY.”

RECITALS

1. Frontier Communications (also referred to as “Frontier”) was issued City Encroachment Permit No. ENG22-270 to complete excavation and construction work in various City public rights-of-way.
2. The conditions of approval for City Encroachment Permit No. ENG22-270 provide that Frontier Communications must slurry seal (Type II) all areas affected by its encroachment into the City’s rights-of way.
3. In lieu of Frontier completing the above-mentioned slurry seal work, Frontier Communications desires to contribute an amount not to exceed Four Hundred Thirty-One Thousand One Hundred Forty-Six and Eighty Cents (\$431,146.80) to the City so that the City can complete said slurry seal work in the affected City rights-of-way on behalf of Frontier.
4. Both Frontier Communications and CITY desire to enter into an agreement to repave asphalt roadways on streets that were impacted by Frontier Communication’s excavation and construction project in the City of Covina hereinafter called “PROJECT”. A depiction and map of the Project area to be repaved is shown in **Exhibit A**, attached herein and incorporated by reference.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1. **ROADWAY RESURFACING.** In exchange for Frontier’s in-lieu payment of Four Hundred Thirty-One Thousand One Hundred Forty-Six and Eighty Cents (\$431,146.80), City shall construct and install and/or cause to be constructed and installed all roadway resurfacing within the PROJECT area identified in **Exhibit A**.
2. **PAYMENT OF CONSTRUCTION COSTS.** Frontier Communications shall submit payment to the City of Covina for Four Hundred Thirty-One Thousand One Hundred Forty-Six and Eighty Cents (\$431,146.80) pursuant to this MOU, within thirty (30) days following the execution of the MOU. Once the City has successfully received full payment of \$431,146.80, Frontier shall be deemed to have completed the requirement set forth in the condition of approval requiring slurry sealing in Encroachment Permit No. ENG22-270.
3. **TERM.** This MOU shall be deemed to have become effective on the Executed Date of

the MOU and shall expire 90 days after payment is received.

4. **NOTICE.** Any notice required or permitted to be sent to each party shall be sent by regular mail, addressed as follows:

Frontier Communications
7242 Slater Avenue
Huntington Beach, CA 92647
ATTN: Mack Gibson, Director of Construction Engineering

City of Covina
125 E. College Street
Covina, CA 91723
ATTN: Rafael M. Fajardo, City Engineer

5. **GOVERNING LAW/VENUE.** This MOU shall be governed by the laws of the State of California. Any action or proceeding between the Parties concerning the interpretation of this MOU shall be instituted and prosecuted in the Los Angeles County Superior Court, Pomona Courthouse.
6. **INTEGRATION; AMENDMENTS.** This MOU (including the attached Exhibit “A”) represents the entire and integrated contract between the Parties, and supersedes all prior oral or written negotiations, representations or contracts on this subject matter. This MOU may not be amended, nor any provision or breach waived, except in a writing signed by the Parties’ duly authorized representatives or their respective successors and assigns.
7. **NO PRESUMPTION IN DRAFTING.** The Parties to this MOU agree that the general rule than an agreement is to be interpreted against the Party drafting it, or causing it to be prepared, shall not apply.
8. **WAIVER.** The delay or failure of either Party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this MOU shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.
9. **SEVERABILITY.** If any provision of this MOU is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this MOU, based upon the substantial benefit of the bargain for any Party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both Parties agree to

substitute such provision(s) through good faith negotiations.

10. **COUNTERPARTS**. This MOU may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be executed by and through their respective authorized officers, as of the date first above written.

Frontier Communications, a Corporation

Date: _____

By _____
Mary Pat Rodriguez, SVP Network

APPROVED AS TO FORM:

ATTEST:

City of Covina, a Municipal Corporation

Date _____

By _____
Chris Marcarello, City Manager

APPROVED AS TO FORM:

ATTEST:

Candice K. Lee, City Attorney

Andrew Aleman, City Clerk

EXHIBIT "A"

Map of Roadway Resurfacing Project Area

City	Project#	SQFT	Permit
Covina	5298294	73,174	ENG22-267 Approved & ENG23-41 Pending
Covina	5298312	98,344	ENG22-176 - Approved
Covina	5298321	34,080	ENG22-265 - Approved
Covina	5298295		ENG22-259 - Approved
Covina	5298297	59,537	ENG22-256 - Approved
Covina	5298313		ENG22-172 - Approved
Covina	5298302	0	ENG22-254 - Approved
Covina	5298301	603,212	ENG22-270 - Approved
Covina	5298319		ENG22-228 - Approved