

**TELEVISION HEAD-END SYSTEM LEASE AGREEMENT AND CONTRACT  
BETWEEN  
CITY OF ASHLAND, OREGON  
AND  
ASHLAND HOME NET  
Amendment #1**

TELEVISION HEAD-END SYSTEM LEASE AGREEMENT AND CONTRACT ("Agreement") entered this 1st day of January, 2011, between the City of Ashland, Oregon, ("City") by and through its Ashland Fiber Network division ("AFN"), and Ashland Home Net, a Nevada Corporation, hereinafter referred to as "Home Net".

WHEREAS, in November, 2010, AFN issued a request for proposals ("RFP," attached hereto as Exhibit A) for the lease of the television head-end (as defined below) and the provision of cable television services; and

WHEREAS, Operator submitted a proposal in response to the RFP issued by AFN (the "Proposal," attached hereto); and

WHEREAS, after reviewing Home Net's proposal, the RFP Evaluation Committee selected Home Net to as the successful proposer to lease AFN's television head-end and provide television services as described in the RFP; and

WHEREAS, Home Net wishes to provide services to the Ashland, Oregon, community as described in the RFP for the incentives negotiated with AFN; and

WHEREAS, this Agreement serves as a lease for the television head-end and contract for services between AFN and Home Net; and

WHEREAS, Home Net must execute a Franchise Agreement with the City because AFN is not a cable television operator and will not maintain a cable television franchise; and

WHEREAS, AFN and Home Net entered into the Agreement February 10, 2011, and changes in the cable television industry have rendered certain parts of the original agreement no longer feasible, and both parties now desire to amend the Agreement;

NOW, THEREFORE, THE CITY AND ASHLAND HOME NET HEREBY AGREE TO AMEND THE AGREEMENT AS FOLLOWS:

- 1. LEASE OF TELEVISION HEAD-END:** Is left without amendment.
- 2. LEASE FEES**

**2.1 BASE OPERATING FEES:** Home Net pay to AFN, as rent and for the cost of basic operations of the television head-end, a set monthly fee effective retroactive back to January 1, 2012. However, an amount of \$75,000 outstanding from the original agreement is hereby reduced to \$37,500 and is agreed to be paid to the City in monthly installments or lump sum by July 31, 2012. Future Base Operating Fees will be \$1750 per month with an annual charge of \$200 for security for a total of \$21,200.

**2.2 MISCELLANEOUS CHARGES AND FEES:** Home Net shall pay AFN for services rendered per the table in this section. Payments for services are due and payable no later than thirty (30) days after the billing period, or per date listed on invoices sent by AFN. Payments shall be made by Home Net without deduction or setoff of any kind, and be addressed to AFN at the address set forth in this Agreement. Fees, hourly rates, and miscellaneous charges will apply

from the effective date of this Agreement and last through June 30, 2012, after which they may be amended by AFN provided AFN gives Home Net 60-days prior notice.

- 2.2.1 Traps.** Home Net shall pay for cable television traps (“filters”).
- 2.2.2 Signal Filings.** AFN shall pay for annual aeronautical signal leak detection and fly-over examinations, which shall be filed accordingly with the FCC by AFN.
- 2.2.3 Waivers & Discounts.** At its discretion, AFN may waive Miscellaneous Charges and Fees or charge reduced rates.

Description of Services	RATE
Installation Fee (Additional charges for parts and supplies apply.)	[\$20.00]
Disconnect Fee	[\$50.00]
Standard Outlet Fee	[\$20.00]
Add/Remove Trap Fee	[\$10.00]
Field Technician Hourly Rate (Non-standard work such as advanced troubleshooting, nonstandard outlets, wall fishing, etc.)	[\$40.00]
Consulting and Technical Support – Hourly Rate (Charge applies to support for issues not related to AFN infrastructure performance and reliability.)	[\$70.00]
Staff Screening Fee (Charge for each employee submitted for authorization to access AFN and City Service Center facilities.)	[\$150.00]

**2.3 REVENUE SHARING:** Revenue sharing payments shall be due and paid monthly no later than the twenty fifth (25<sup>th</sup>) day of the following month. Revenue sharing shall be for the following services and calculated and described:

- 2.3.1 Non-Advertising Revenue** are revenues from all services other than advertising sales. Revenue share shall be paid by Home Net to AFN at 7% of all Non-Advertising Revenues, with a minimum of \$75,000 per year, beginning January 1, 2012, and excluding the amount in Section 2.1.
- 2.3.2 Advertising Revenues** are those revenues generated from the sale of advertising time and/or services. Home Net shall pay AFN 0% of its Advertising-related Revenues for the first three years of the original agreement (January 1, 2011, through December 31, 2013, after which AFN will receive 5% of revenues.

**3. SPECIAL EXAMINATIONS:** Is left without amendment.

**4. TERM OF AGREEMENT:** The term of the original Agreement is revised as noted above and continue through the following dates (with other terms noted):

Dates	Term	Base Operating Fee	Technical Review Basis	Operating Review Basis
January 1, 2012, to December 31, 2014	Three years	\$1750/month plus 7% of applicable revenue	Services & Compliance	Financial & Marketing
January 1, 2015, to December 31, 2015	One-year extension or Fifth Year of the original agreement as amended by this agreement	To be negotiated	Services & Compliance	Financial & Marketing

**4.1** AFN may, at its sole discretion, extend the term of this Agreement for one additional one year term. The extension shall be communicated in writing by AFN and sent to Home Net at least ninety (90) days prior to the end date of this Agreement.

**4.2** The terms of the 5<sup>th</sup> Year will be negotiated.

- 5 **USE OF PROPERTY:** Is left without amendment.
- 6 **STORE-FRONT LOCATION:** Is left without amendment.
- 7 **WHOLESALE TELEVISION PRODUCTS:** Is left without amendment.
- 8 **BILLING, ACCOUNTING, AND CONTRACTS:** Is left without amendment.
- 9 **CONDITIONS OF USE:**
  - 9.1 -9.7: Is left without amendment.
  - 9.8 **Minimum Customers.** This section is deleted.
  - 9.9 **New Customers.** This section is deleted.
  - 9.10 **Customer Churn.** This section is deleted.

All other sections and terms of the original agreement remain in force.

**IN WITNESS WHEREOF**, the parties have executed this Agreement at Ashland, Oregon, on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

By: City of Ashland

By: Ashland Home Net

\_\_\_\_\_  
Lee Tuneberg, ACA/Finance Director

\_\_\_\_\_  
Jim Teece, President & CEO

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**ORDER**

The governing body hereby approves and authorizes the terms of this lease as set forth above.

\_\_\_\_\_  
Mayor/Mayor's Designee, City of Ashland

\_\_\_\_\_  
Date

**TELEVISION HEAD-END SYSTEM LEASE AGREEMENT AND CONTRACT  
BETWEEN  
CITY OF ASHLAND, OREGON  
AND  
ASHLAND HOME NET**

TELEVISION HEAD-END SYSTEM LEASE AGREEMENT AND CONTRACT ("Agreement") entered this 10<sup>th</sup> day of February, 2011, between the City of Ashland, Oregon, ("City") by and through its Ashland Fiber Network division ("AFN"), and Ashland Home Net, a Nevada Corporation, hereinafter referred to as "Home Net".

WHEREAS, in November, 2010, AFN issued a request for proposals ("RFP," attached hereto as Exhibit A) for the lease of the television head-end (as defined below) and the provision of cable television services; and

WHEREAS, Operator submitted a proposal in response to the RFP issued by AFN (the "Proposal," attached hereto); and

WHEREAS, after reviewing Home Net's proposal, the RFP Evaluation Committee selected Home Net as the successful proposer to lease AFN's television head-end and provide television services as described in the RFP; and

WHEREAS, Home Net wishes to provide services to the Ashland, Oregon, community as described in the RFP for the incentives negotiated with AFN; and

WHEREAS, this Agreement serves as a lease for the television head-end and contract for services between AFN and Home Net; and

WHEREAS, Home Net must execute a Franchise Agreement with the City because AFN is not a cable television operator and will not maintain a cable television franchise; and

WHEREAS, AFN and Home Net wish to enter into this Agreement to clarify the lease terms and to ensure that the Agreement reflects the intent and current practices of the parties;

NOW, THEREFORE, THE CITY AND ASHLAND HOME NET HEREBY AGREE AS FOLLOWS:

1. **LEASE OF TELEVISION HEAD-END:** AFN hereby leases to Home Net its television head-end and all the associated equipment located at the City of Ashland Service Center, 90 N. Mountain Avenue, Ashland, Oregon 97520, as set forth in the RFP and attached hereto, and 450 MHz and 860 MHz WAN bandwidth provided by and through AFN's hybrid fiber-coax network (the "Network") as required to provide cable television service to residents of the City of Ashland, subject to the limitations set forth herein (hereinafter referred to as the "television head-end"). The television head-end does not include the outside plant. Home Net holds and maintains ownership rights to television subscribers and cable television from the head-end and into the customer premises.
2. **LEASE FEES**
  - 2.1. **BASE OPERATING FEES:** Home Net shall pay AFN, as rent and for the cost of basic operations of the television head-end, the sum of two hundred thousand dollars (\$200,000 USD), which shall be due and payable in quarterly installments paid no later than the twenty fifth (25<sup>th</sup>) day of March, June, September, and December of each year. This Base Operating Fee shall be paid in arrears for the previous three-month period, without deduction or setoff of any kind, and be addressed to AFN at the address set forth in this Agreement.

- 2.2. MISCELLANEOUS CHARGES AND FEES:** Home Net shall pay AFN for services rendered per the table in this section. Payments for services are due and payable no later than thirty (30) days after the billing period, or per date listed on invoices sent by AFN. Payments shall be made by Home Net without deduction or setoff of any kind, and be addressed to AFN at the address set forth in this Agreement. Fees, hourly rates, and miscellaneous charges will apply from the effective date of this Agreement and last through December 31, 2011, after which they may be amended by AFN provided AFN gives Home Net 60-days prior notice.
- 2.2.1. Traps.** Home Net shall pay for cable television traps (“filters”).
- 2.2.2. Signal Filings.** AFN shall pay for annual aeronautical signal leak detection and fly-over examinations, which shall be filed accordingly with the FCC by AFN.
- 2.2.3. Waivers.** At its discretion, AFN may waive Miscellaneous Charges and Fees.

Description of Services	RATE
Installation Fee (Additional charges for parts and supplies apply.)	\$20.00
Disconnect Fee	\$50.00
Standard Outlet Fee	\$20.00
Add/Remove Trap Fee	\$10.00
Field Technician Hourly Rate (Non-standard work such as advanced troubleshooting, nonstandard outlets, wall fishing, etc.)	\$40.00
Consulting and Technical Support – Hourly Rate (Charge applies to support for issues not related to AFN infrastructure performance and reliability.)	\$70.00
Staff Screening Fee (Charge for each employee submitted for authorization to access AFN and City Service Center facilities.)	\$150.00

- 2.3. REVENUE SHARING:** Revenue sharing payments shall be due and payable in quarterly installments paid no later than the twenty fifth (25<sup>th</sup>) day of March, June, September, and December of each year, for the previous quarter’s total. Revenue sharing shall be for the following services and calculated in the following manner:
- 2.3.1. Non-Advertising Revenues** are revenues from all services other than advertising sales. Revenue share shall be paid by Home Net to AFN as a percentage of all Non-Advertising Revenues, calculated from overall average revenue per customer.
- 2.3.1.1.** For customers 1 to 3000, Home Net shall pay AFN 0% of Non-Advertising Revenues.
- 2.3.1.2.** For customers 3001 to 3500, Home Net shall pay AFN 5% of Non-Advertising Revenues.
- 2.3.1.3.** For customers 3501 to 4000, Home Net shall pay AFN 3% of Non-Advertising Revenues.
- 2.3.1.4.** For customers 4001 and above, Home Net shall pay AFN 1% of Non-Advertising Revenues.
- 2.3.2. Advertising Revenues** are those revenues generated from the sale of advertising time and/or services. Home Net shall pay AFN 0% of its Advertising-related Revenues for the first three years of this agreement, after which AFN will receive 1% of revenues.
- 3. SPECIAL EXAMINATIONS:** Home Net agrees that the City may initiate a special examination of its finances to confirm accuracy of payments at any time after giving reasonable notice to Home Net. Special examination shall not exceed one per year. In the event of a special examination, Home Net must and shall make all files, materials, and staff fully available to AFN, or its assigned independent contractors or agents.
- 3.1. Reporting.** At least annually, Home Net shall submit a current financial report reviewing the financial status of the company and its operations.

- 3.2. **Scope.** The scope of any special examinations will be limited to services contracted and/or proposed in Home Net's response to the RFP.
  - 3.3. **Selection.** AFN shall select contractors or agents with the necessary qualifications to review Home Net's financial report.
  - 3.4. **Cost.** Special examinations shall be paid for equally by Home Net and the City if the selected contractor determines payments by Home Net do not exceed three percent ( $\leq 3\%$ ) less than was due to AFN. If payments to AFN by Home Net exceed three percent ( $> 3\%$ ) less than was due to AFN and the errors were not inadvertent, Home Net agrees to pay the full cost of the special examination.
4. **TERM OF AGREEMENT:** The initial term of this Agreement shall commence on the date noted above and continue through the following dates (with other term noted):

Dates	Term	Base Operating Fee	Technical Review Basis	Operating Review Basis
January 1, 2011, to December 31, 2014	Four years	\$200,000 (Year 1-4)	Services & Compliance	Financial & Marketing
January 1, 2015, to December 31, 2015	Possible one-year extension; Fifth year	\$205,000 (Year 5)	Services & Compliance	Financial & Marketing

- 4.1. AFN may, at its sole discretion, extend the term of this Agreement for one additional one year term. The extension shall be communicated in writing by AFN and sent to Home Net at least ninety (90) days prior to the end date of this Agreement.
  - 4.2. The 5<sup>th</sup> Year will be automatically awarded if Home Net has  $\geq 3,000$  television customers as of December 1, 2014.
5. **USE OF PROPERTY:** Home Net shall be granted use of and access to the AFN television head-end for the provision of television services to residents of Ashland, OR, pursuant to the RFP, Proposal, and Cable Franchise. As used herein, "television services" means: (A) the transmission to subscribers of analog video programming, and (B) the one-way transmission to subscribers of digital video programming. Home Net is not permitted under this Agreement to use the television head-end to provide any non-television services or use the television head-end to provide any other services or for any other purposes except as specifically granted under this Agreement.
6. **STORE-FRONT LOCATION:** Home Net agrees to maintain a commercial storefront location within the City of Ashland's urban growth boundary throughout the term of this Agreement. Said offices shall be equipped and staffed to handle on-site customer visits for connects, disconnects, and equipments and parts pick-up.
- 6.1. **Hours of Operation.** Store-front facility shall be open to the public standard business days and hours, except for national and State of Oregon holidays.
  - 6.2. **Service Standard.** Customer support staff must be courteous and professional.
7. **WHOLESALE TELEVISION PRODUCTS:** Home Net agrees to make its television products available to AFN and its partners at reduced wholesale prices.
- 7.1. **Packages and Prices.** Home Net agrees to make available for resale its television packages for at least a 10% discount from its retail prices. These packages will be made available only to AFN and its designated partners.
  - 7.2. **Management of Wholesale Purchases.** Vendors shall be able to purchase television services directly from Home Net by a process Home Net defines and manages.
  - 7.3. **Notification.** Home Net shall notify AFN, customers of its services, and vendors purchasing its products at wholesale rates of any related prices or product changes. Notifications must be sent at least sixty (60) days prior to price and product changes taking effect, unless required in a shorter timeframe by law.
8. **BILLING, ACCOUNTING, AND CONTRACTS:** Home Net shall independently manage its commitments and operations as they relate to the services under this contract. Home Net agrees it carries complete and sole liability for its billing, accounting, contracts, and related processes.
9. **CONDITIONS OF USE:**

- 9.1. **Disposition of Customers.** Without exception, Home Net agrees it and AFN share mutual interest in all customers obtained under the duration of this Agreement and for the services specified.
  - 9.1.1. Home Net shall share customer data openly, fully, and exclusively. Customer data shall be maintained in a secure fashion and shall not be shared, transmitted, or otherwise revealed to third parties without the consent of AFN.
  - 9.1.2. Home Net shall not sell or otherwise transfer customer accounts, nor sell or transition customers to alternative services, without mutual agreement and addendum to this Agreement.
- 9.2. **Cable Franchise.** Without exception, Home Net must obtain and maintain a valid Cable Franchise Agreement with the City of Ashland for the duration of this Agreement. Further, Home Net agrees to fully accept revisions to the City Code affecting administration of the City's rights-of-way and telecommunications franchise agreements. Failure to comply with these requirements and obligations may result in termination of this Agreement pursuant to the termination provisions set forth herein.
- 9.3. **Business License.** Without exception, Home Net must obtain and maintain a valid Business License with the City of Ashland for the duration of this Agreement, as well as any extensions. Failure to comply with these requirements and obligations may result in termination of this Agreement pursuant to the termination provisions set forth herein.
- 9.4. **Co-Marketing.** Home Net agrees to cooperatively market all services and products under this Agreement with AFN. This includes inclusion of the AFN logo and brand in all marketing efforts and providing AFN management opportunity to review and control use of its logo and brand. Failure to comply with these requirements and obligations may result in termination of this Agreement pursuant to the termination provisions set forth herein.
- 9.5. **Use of Facilities.** Home Net's use of the television head-end shall be conditioned upon its compliance with the requirements and obligations set forth in the RFP, Proposal, Agreement, and Cable Franchise Agreement. Failure to comply with these requirements and obligations may result in termination of this Agreement pursuant to the termination provisions set forth herein. AFN agrees to provide all information, documents, materials and services that are within its possession or control and are required by Home Net for performance of the requirements and obligations set forth in the RFP, Proposal and Cable Franchise.
- 9.6. **Reliability.** Home Net's lease and contract (Agreement) shall be conditioned upon maintaining access for subscribers to channels and content at least [99.9%] of all available hours.
- 9.7. **Compliance.** Home Net's lease and contract (Agreement) shall be conditioned upon receiving no more than [36] notices of violation from the Federal Communications Commission (FCC), Public Utilities Commission (PUC), or other regulating bodies.
- 9.8. **Minimum Customers.** Home Net's lease and contract (Agreement) shall be conditioned upon maintaining market penetration of no less than two thousand (2000) customer accounts in Ashland, Oregon.
  - 9.8.1. **Customer Accounts.** For all purposes in this Agreement, Customer Accounts are defined and will be calculated as unique customer addresses, as determined by Ashland Electric Department utility billing records.
  - 9.8.2. **Year 1 Minimum.** By the end of the first year of the Agreement, Home Net shall acquire customers to meet or exceed two thousand three hundred fifty (2350) customer accounts.
  - 9.8.3. **Year 2 Minimum.** By the end of the second year of the Agreement, Home Net shall acquire customers to meet or exceed two thousand six hundred (2600) customer accounts.
  - 9.8.4. **Year 3 Minimum.** By the end of the third year of the contract, Home Net shall acquire customers to meet or exceed two thousand eight hundred fifty (2850) customer accounts.
- 9.9. **New Customers.** Home Net's Lease Agreement and Contract shall be conditioned upon acquiring at least 100 New Customers per year in Ashland, Oregon. For all purposes in this

Agreement, a "New Customer" is defined and will be calculated as one switching to television entertainment services with Home Net and who had not purchased those services from Home Net either directly or indirectly in the previous twelve calendar months, and who remains a customer of Home Net for no less than six full calendar months.

- 9.10. Customer Churn.** Home Net's Lease Agreement and Contract shall be conditioned upon achieving a Customer Churn (turnover rate) of no more than 20% per year in Ashland, Oregon. For all purposes in this Agreement, Customer Churn is defined as deactivated customer accounts in the twelve months preceding the date of an inquiry.
- 9.11. Maintenance of Assets.** Home Net shall, at its own expense, operate, maintain, and repair the television head-end and keep it in proper operating condition during the term of this Agreement.
- 9.12. Customer Service Surveys.** Home Net shall conduct at least one (1) periodic customer service survey per year, which shall be reviewed and approved by AFN prior to sending to subscribers. Home Net's Lease Agreement and Contract shall be conditioned upon maintaining a customer satisfaction rating of at least 75% of customer ratings overall services and "Good" to "Excellent".
- 9.13. Taxes.** Home Net shall be responsible for all applicable taxes including, but not limited to, franchise fees and PEG fees due pursuant to the Cable Franchise. Home Net shall not deduct from Lease Fees due under this Agreement any such taxes or fees paid by Home Net.
- 9.14. Permits and Licenses.** Home Net shall obtain all necessary permits and licenses required to operate the television head-end and to provide cable television services over the television head-end.
- 9.15. Coordination of Use.** Home Net acknowledges that the television head-end is located in the same facility as AFN's network and that the network capacity provided to Home Net under this Agreement is also used by AFN to provide internet access services over its Network. Home Net acknowledges and agrees that the terms of this Agreement do not limit AFN's access to that facility for any purpose associated with the operation, maintenance, repair or use of the Network, nor does it grant Home Net the exclusive use of the Network or otherwise place any limitations on AFN's use of the Network.
- 9.16. Other Conditions.** Home Net further agrees to the following conditions on access to and use of the television head-end:
- 9.16.1.** The City of Ashland and its agents shall at all times (upon reasonable notice to Home Net) have access to television head-end equipment for the purposes of inspecting and assessing its condition and state of repair.
- 9.16.2.** Home Net may not operate the television head-end in a manner that fails to maintain the signal integrity of AFN's network or to meet ingress and signal to noise specifications set by AFN.
- 9.16.3.** Notwithstanding the grant of use, Home Net shall not be permitted to erect, install, construct, repair, replace, reconstruct and retain the television head-end, or any part thereof, without AFN's written permission.
- 9.16.4.** Home Net may upgrade the television head-end pursuant to the RFP, provided that any alteration, improvement, or addition(s) to the television head-end shall be conducted by Home Net with AFN's prior written permission. Such changes, additions or alterations shall be at the sole expense of Home Net. All alterations, improvements, or additions to the television head-end shall become property of AFN after installation.
- 9.16.5.** Home Net shall only allow access to the television head-end by designated staff who have passed background checks by the City of Ashland or other entities as deemed necessary by the City's Information Technology Department.
- 9.16.6.** Home Net shall not store any equipment or supplies on City property without prior approval by the City's Information Technology Department, and shall not park vehicles on City property other than in authorized parking spaces.



- 9.16.7. Home Net shall not access the network equipment or any other area within City's property, or use City property for any reason other than as permitted herein or in the RFP.
- 9.16.8. AFN shall invest at least \$25,000 in advertising per year and will co-market Ashland Home Net's services and products in its materials whenever possible.
- 9.16.9. The City of Ashland will offer television services to customers signing up for utilities with the City.
  - 9.16.9.1. AFN will communicate that the City's television partner is "Ashland Home Net."
  - 9.16.9.2. The City will provide prominent space and presence for Home Net to provide its products and services information. This will be in the area where customers visit to sign up for utilities.
  - 9.16.9.3. AFN will include Home Net's products and services as primary sales options on AFN's website.
  - 9.16.9.4. AFN will allow magnetic signage from Home Net on AFN vehicles. Signage must fit the vehicle areas designated and be approved by AFN management.
  - 9.16.9.5. AFN will include Home Net's logo on the apparel of its installation technicians at Home Net's election.
  - 9.16.9.6. Home Net will be allowed at least two staffers per year to be included with utility bills. Home Net shall pay production costs for its included materials and those materials shall meet the City's specifications for size, weight, and professionalism.
  - 9.16.9.7. For its compensation to the City under this contract, Home Net shall be the exclusive television provider allowed to present its products and services advertisements in the City's utility sign-up areas.

**10. ADDITIONAL SERVICES:** Ashland Home Net will render the following value-added services at the stipulated revenue sharing.

- 10.1. **DVR**—Home Net agrees to offer Ashland residents digital video recording products. AFN shall have no additional revenue share from this service.
- 10.2. **Internet Connectivity**—Home Net shall purchase its Internet connectivity products exclusively from AFN for customers in Ashland's urban growth boundary. Home Net agrees to purchase AFN connectivity products at the rates approved by City Council and shall resell those products to the community at retail prices it deems appropriate. AFN shall have no additional revenue share from this service above its revenue from connectivity wholesale purchases.
- 10.3. **ESPN 3/ESPN 360**—Home Net shall offer specialized online ESPN content services to its customers. AFN shall endeavor, to the extent feasible, to manage its network in a way that supports the services. AFN shall have no additional revenue share from the online ESPN services.
- 10.4. **Phone Service**—Home Net shall offer phone services to its customers. AFN shall have no additional revenue share from this service so long as Home Net's revenues from phone services remain under \$5,000 per year. AFN and Home Net must agree to a revenue sharing arrangement if revenues meet or exceed \$5,001 per year.
- 10.5. **Support**—Home Net agrees to provide computer and networking support services to AFN on a per-call fee basis at AFN's request. Cost of support shall not exceed \$15 per call, or shall follow a price agreement added to this contract as an addendum. AFN revenue share is not applicable to this service.

**11. EFFECT ON PREVIOUS AGREEMENTS AND FRANCHISE AGREEMENT:** Upon execution of this Agreement by both parties, this Agreement shall supersede and render null and void all previous leases, agreements, and contracts between AFN and Home Net for television services.

**12. COMPLIANCE WITH LAWS:**

- 12.1. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon. Home Net shall promptly observe and comply with all present and future laws, orders,

regulations, rules and ordinances of federal, state and local governments with respect to the lease of the television head-end and the requirements and obligations of the RFP and Proposal, including but not limited to provisions of ORS 279B.220, 279B.230 and 279B.235.

**12.2.** Home Net is a "subject employer" as defined in ORS 656.005 and shall comply with ORS 656.017. If it has not already done so as required by the Cable Services Agreement, within 10 business days of the execution of this Agreement, Home Net shall certify to City that it has workers' compensation coverage required by ORS Chapter 656. If Home Net is a carrier insured employer, Home Net shall provide City with a certificate of insurance. If Home Net is a self-insured employer, Home Net shall provide City with a certification from the Oregon Department of Insurance and Finance as evidence of Home Net's status.

**13. INSURANCE:**

**13.1.** Home Net shall, at its own expense, and at all times during the term of this Agreement, maintain in force:

**13.1.1.** A comprehensive general liability policy including coverage for contractual liability for obligations assumed under this contract, blanket contractual liability, products and completed operations and owner's and contractor's protective insurance; and

**13.1.2.** A comprehensive automobile liability policy including owned and non-owned automobiles.

**13.2.** The coverage under each liability insurance policy shall be equal to or greater than the limits for claims made under the Oregon Tort Claims Act with minimum coverage of \$1,000,000, or higher, per occurrence (combined single limit for bodily injury and property damage claims) or \$500,000, or higher, per occurrence for bodily injury and \$100,000, or higher, per occurrence for property damage. Liability coverage shall be provided on an "occurrence" basis. "Claims made" coverage is not acceptable, except for the automobile liability policy coverage required by paragraph 13.1.2.

**13.3.** Certificates of insurance acceptable to City shall be filed with City within 10 business days of the execution of this Agreement, if not already on file with City. Each certificate shall state that coverage afforded under the policy cannot be cancelled or reduced in coverage until at least thirty (30) days prior written notice has been given to City. A certificate that states merely that the issuing company "will endeavor to mail" written notice is unacceptable.

**14. INDEMNIFICATION:** Home Net shall defend, indemnify and hold City, its officers, agents, and employees harmless from any and all claims, actions, costs, judgments, damages or other expenses resulting from injury to any person (including injury resulting in death), or damage to property (including loss or destruction), of whatsoever nature arising out of, or incident to, the negligent performance of this Agreement by Home Net. Home Net's indemnification of the City and AFN includes, but is not limited to, the negligent acts or omissions of Home Net's employees, agents and others designated by Home Net to access the television head-end, provide cable television services, perform work or services attendant to this Agreement, and/or maintain the security of customer data. Home Net shall not be held responsible for any claims, actions, costs, judgments, damages or other expenses, directly and proximately caused by the direct negligence of City.

**15. DEFAULT:**

**15.1.** There shall be a default under this Agreement if either party fails to perform any act or obligation required by this Agreement within ten (10) days after the other party gives written notice specifying the nature of the breach with reasonable particularity. If the breach specified in the notice is of such a nature that it cannot be completely cured within the 10 day period, no default shall occur if the party receiving the notice begins performance of the act or obligation within the 10 day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

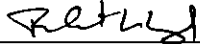
**15.2.** Misrepresentations of experience, staff, references, or other qualification of material importance to accurately rating the ability of proposers in the RFP process shall be considered a default and shall constitute grounds for terminating this Agreement.

- 15.3. Notwithstanding Section 13.1, either party may declare a default by written notice to the other party, without allowing an opportunity to cure, if the other party repeatedly breaches the terms of this Agreement.
- 15.4. If a default occurs, the party injured by the default may elect to terminate this Agreement and pursue any equitable or legal rights and remedies available under Oregon law. All remedies shall be cumulative.
- 15.5. Any litigation arising out of this Agreement shall be conducted in Circuit Court of the State of Oregon for Jackson County.
16. **TERMINATION FOR PUBLIC INTEREST:** In addition to the right to terminate this Agreement under Section 15, City may terminate this Agreement and Contract by giving Home Net sixty (60) days prior written notice if it determines termination is required for the interests of the community. If City terminates under this Section, Home Net shall be paid all fees earned and costs incurred prior to the termination date set forth in the notice. Home Net shall not be entitled to be compensated for lost profits.
17. **WAIVER:** Failure of City or Home Net in any one or more instances to insist upon the performance of any of the terms of this Agreement, or to exercise any right or privilege conferred herein, or the waiver of any breach of any term of this Agreement should not thereafter be construed as a waiver of such term, which shall continue in force as if no waiver had occurred.
18. **NOTICES:** Any notice required to be given under this Agreement or any notice required to be given by law shall be in writing and may be given by personal delivery or by registered or certified mail, or by any other manner prescribed by law.
- 18.1. Notices to City shall be sent to:  
CIO/Director of Information Technology  
City of Ashland  
90 N. Mountain Avenue  
Ashland, Oregon 97520
- With a copy to:  
City Administrator  
City of Ashland  
20 East Main Street  
Ashland, Oregon 97520.
- 18.2. Notices to Ashland Home Net shall be sent to:  
Ashland Home Net  
c/o Jim Teece  
607 Siskiyou Boulevard  
Ashland, OR 97520
19. **ASSIGNMENT:** City and Home Net and the respective successors, administrators, assigns and legal representatives of each are bound by this Agreement to the other party and to the partners, successors, administrators, assigns and legal representatives of the other party. Home Net shall not assign or subcontract Home Net's rights or obligations under this Agreement without prior written consent of City. Except as stated in this Section, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City or Home Net.
20. **MODIFICATION:** No modification of this Agreement shall be valid unless in writing and signed by the parties.

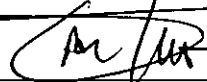
**IN WITNESS WHEREOF**, the parties have executed this Agreement at Ashland, Oregon, on this 10th day of February, 2011.

By: City of Ashland

By: Ashland Home Net



Rob Lloyd, CIO/Director



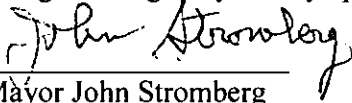
Jim Teece, President & CEO

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**ORDER**

The governing body hereby approves and authorizes the terms of this lease as set forth above.



Mayor John Stromberg

2/16/2011

Date