Council Business Meeting

October 16, 2018

Agenda Item	Contract Approval - AFN Bandwidth	
From	Donald Kewley	AFN Operations Manager
Contact	donald.kewley@ashland.or.us 541-552-2316	

SUMMARY

The City of Ashland's Internet Bandwidth contract with Hunter Communications expires October 31, 2018. The current contract provides AFN with 10 Gbps Direct Internet Access Connection (DIA) via the Headend located at 90 N Mountain Avenue. The City Council is being asked to authorize the City Administrator to enter into a contract with Hunter Communications for 20 Gbps Internet Bandwidth and 10 Gbps Transport.

On August 13, 2018 AFN released a Request for Proposal (RFP) for Internet Bandwidth. The RFP provided the City of Ashland with an opportunity to achieve cost savings for Internet Bandwidth, carrier diversity, physical path diversity and improve its infrastructure.

POLICIES, PLANS & GOALS SUPPORTED

This contract award for Bandwidth will support the City's goal of reducing costs and achieving carrier & physical path diversity and operational efficiency.

Council Goals Supported
17. Market and further develop the Ashland Fiber Network.
17.1 Complete and implement the AFN business plan.
15.1 Support film industry growth.
16.1 Position ourselves as a location where high-tech businesses want to grow.

PREVIOUS COUNCIL ACTION

October 3, 2017 the City Council approved extending the existing for Internet Bandwidth contract with Hunter Communications until October 31, 2018. Initially, Hunter Communications was awarded a contract resulting from a Request for Proposal (RFP) for an initial term of two years (November 1, 2015 to November 1, 2017) with the option to extend the contract for up to three (3) additional years for a total of five (5) years.

BACKGROUND AND ADDITIONAL INFORMATION

The sourcing method used to acquire these services is a formal Competitive Sealed Proposal (Request for Proposal). The City received a record number six (6) proposals in response to this RFP. The proposals were evaluated in accordance with the evaluation process and criteria established in the RFP and all six (6) proposals were deemed to be responsive by a five-person evaluation committee.

To meet increasing consumer demand and successfully compete against the large national Multiple System Operators (MSO's) for customers, AFN needs to proactively pursue the most cost-effective means of procuring

CITY OF
ASHLAND

internet bandwidth (Transit and Transport). To facilitate this process, AFN adopted a carrier approach to obtaining internet connectivity in FY 2015. The carrier approach allows AFN to participate in higher capacity connections and take advantage of wholesale pricing opportunities. Reduced Internet bandwidth costs help facilitate AFN's continued financial success and improves its ability to provide high-speed Internet to businesses and residences in the City of Ashland.

FISCAL IMPACTS

Fiscal Year	Proposed Cost
FY 2019	$134,416
FY 2020	$118,800
FY 2021	$118,800

The current budget for 10 Gbps of Internet Bandwidth is $170,000 per year. The new contracts would provide 20 Gbps Internet Bandwidth and 10 Gbps Transport for approximately $118,000 per year. Cost savings in the first year would be approximately $35,584 as the current Hunter contract ends in the middle of a fiscal year. Cost savings for year two is approximately $51,200 per year.

The proposed solution will benefit AFN's subscriber base (City of Ashland, City of Medford, Ashland School District, businesses, residences, etc.), with increased reliability and provide safeguards for cataclysmic events.

STAFF RECOMMENDATION
Staff recommends approving the contracts for AFN's Internet Bandwidth and Transport to Hunter Communications, LS Networks and Cogent

ACTIONS, OPTIONS & POTENTIAL MOTIONS
I move to approve a contract for AFN Internet Bandwidth and transport contracts with Hunter Communications, LS Networks and Cogent.

REFERENCES & ATTACHMENTS
Attachment 1: Internet Bandwidth Service Agreement – Cogent Communications, Inc.
Attachment 2: Internet Bandwidth Service Agreement – LS Networks
Attachment 3: Internet Bandwidth Service Agreement – Hunter Communications
Attachment 4: RFP Internet Bandwidth Evaluation Summary

CITY OF
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City of Ashland
Internet Bandwidth Service Agreement

Internet Service Agreement

Internet Service Agreement ("Agreement") dated November 1, 2018, between the City of Ashland, hereinafter referred to as "City," and Cogent Communications Inc., hereinafter referred to as "Provider."

1. **Services.** City shall purchase and Provider shall provide to City:
    1.1. Data Services. Data Services access by City to Provider's telecommunications system to receive 10Gbps Direct Internet Access (DIA) at the point of delivery indicated below:

   - Pittock Internet Exchange 921 SW Washington, Portland, OR 97205

   The point of delivery is the location where the network and City's system are interconnected. The data services provided shall meet all the service standards of section 4.

    1.2. Installation Services. Installation services consist of coordinating with City the necessary engineering, site survey, system configuration and other services necessary to provide City Data Services. These services shall be provided up to the date that the service testing is completed based on Provider's customary testing procedures and the service is available to the City ("the service acceptance date"). In addition, Provider will provide the equipment (collectively referred to as "Provider facilities") necessary to connect City's facilities to the network.

2. **Term**. This Agreement will be effective upon the date executed by Provider and shall continue for two (2) years, unless sooner terminated as provided in this Agreement. This Agreement shall be subject to quarterly financial reviews, the first of which shall occur three (3) months from the date executed by Provider. The final financial review will be completed prior to extension of this Agreement. As part of the quarterly financial review, Provider will provide to City all applicable information necessary for review, including but not limited to:

   - City's Bandwidth Consumption,
   - Service rates,
   - Provider bandwidth costs, and
   - Provider support costs.

City has the option at the time of the final financial review to renegotiate the Agreement pricing and renew for an additional twelve (12) month term. To renew the Agreement for an additional twelve (12) month term, both parties must agree to the extension in writing. This Agreement may be renewed for a maximum of three (3) additional twelve (12) month terms.

3. **Charges**. City agrees to pay for Provider's services in accordance with the Fee Schedule attached as Exhibit A and incorporated herein by this reference.

    3.1. Data Services Rates. From the service start-up date, City shall pay the rates specified Exhibit A. If data service does not begin on the first day of a billing cycle, then

payments for the first month shall be prorated on a daily basis. All accounts will be invoiced on the first day of each month, and all sums shall be paid within 20 days after the date of the monthly billing for services (the "due date"). Provider shall include detailed usage and pricing on each invoice submitted to the City for payment.

3.2. Installation Services Charge. City shall pay the installation charges specified in Exhibit A for the installation services provided by Provider and approved by the City. Such charges shall be due and payable upon onsite installation of the fiber terminating hardware. Installation shall establish the due date of the installation charges and the service acceptance date. Upon service acceptance by the City, the prorated data service charges of subsection 3.1 shall apply. The City maintains the right to refuse installation and service if, in the City's discretion, the service will not meet all standards of section 4.

3.2.1. Uninterruptible Power Supply. City shall provide a form of uninterruptible power for the fiber termination hardware and any of Provider's facilities or equipment at the City's location. If the City does not provide an uninterruptible power source, Provider will provide one in accordance with Exhibit A.

3.3. Late Payment, Deposit. Payments received after the due date may be subjected to a charge of 1% per month on the unpaid balance at the discretion of Provider. Provider may require City to pay a deposit before providing any service. Provider shall hold any such deposit in a non-interest bearing account and deposited funds shall be used to satisfy (in whole or in part) any obligation of City under this Agreement.

3.4. Taxes, Fees, Government Charges. City agrees to pay any applicable taxes, franchise fees or other governmental charges imposed upon Provider by governing body with jurisdictional authority over this service or for use of public right of ways and easements.

3.5. Cost Savings. To encourage Provider to innovate and take advantage of new technologies that may can provide cost savings to the City, this Agreement and Exhibit A may be changed by an addendum at any time during the term of this Agreement to provide for an allocation of the cost savings between City and Provider for mutual benefit.

4. Service Requirements and Performance Standards.

4.1. Minimum Requirements. Provider agrees to provide data services and equipment to City that meet the following minimum requirements:

(a) Minimum single link speed of 10 gigabits per second,

(b) Packet delay not to exceed 12ms at 10 gigabits per second network loading per link to Provider's upstream network interfaces,

(c) BGP4 routing management of AFN's Autonomous System Number,

4.2. Performance Standards. Provider agrees to provide data services that meet the following standards:
(a) Internet bandwidth must be fully operational 99.9% of the time it is scheduled to be

so,

(b) Internet bandwidth must maintain packet delay not to exceed 12 milliseconds at 10 gigabits per second,

(c) Provider shall have a specific process in place specifically for City use to process/execute work orders,

(d) Provider shall have expert staff available and accessible via the designated toll-free numbers 99% of the time, and

(e) Provider shall follow the Outage Notification and Resolution Protocol in section 6.

5. Provider Facilities and Equipment. Provider shall, at its expense, undertake all necessary preparations to install and maintain its equipment upon City's premises or in other locations that are required for Provider to deliver data services, except for any costs agreed upon by City pursuant to subsection 7.1. Any Provider facilities and/or equipment installed on City's premises shall be, and remain, the property of Provider and may be repaired or replaced, in coordination with the City, at any time and removed at the termination of service. The City will not charge rent to Provider for placing or maintaining mutually agreed facilities and/or equipment upon City's premises for the exclusive purpose of providing Data Service to City under the terms and conditions of this Agreement. Provider shall be entitled, at any time coordinated with the City, to affix to Provider facilities or equipment a label indicating the interest of Provider.

5.1. Removal. City will use reasonable efforts to ensure that Provider facilities and/or equipment are not removed or caused to be removed by any person, other than Provider or without Provider's prior written consent.

5.2. Proper Environment. City shall use reasonable efforts to keep the location of Provider's facilities and/or equipment in the proper environment as specified by Provider and agreed to by the City.

5.3. Damage. City agrees to exercise due care and caution to protect Provider's facilities and equipment from the weather, vandalism and other potential problems. City shall be liable for any loss or damage to Provider's facilities and/or equipment at any location arising from City's negligence, intentional act, unauthorized maintenance or other cause within the reasonable control of City, its employees or agents. In the event of any loss or damage to Provider's facilities or equipment for which City is liable, City shall reimburse Provider for the lesser of the reasonable cost of repair or the actual cost of replacement.

6. Outage Notification and Resolution Protocol.

6.1. Degradation of Service Requirements and Performance Standards. Provider shall notify City within three (3) hours of when Provider knows or should have known about any degradation of its data services. Degradation occurs when Provider is providing data services, but those services fail to meet the service requirements and performance standards in section 4. Failure to resolve the degradation in accordance within the time periods in subsection 9.3 shall result in liquidated damages, and such continued failure may result in

termination pursuant to section 9.

6.2. Outage. Provider shall notify City within one (1) hour if Provider is unable to provide data services due to an outage that is not due to a force majeure. Provider shall restore data services within eight (8) hours. Failure to restore data services in accordance with this section and subsection 9.3 shall result in liquidated damages and may result in termination pursuant to section 9.

6.3. Emergency. Provider shall notify City immediately if Provider is unable to provide data services due to a force majeure.

7. Rights and Obligations of City.

7.1. Installation. City shall provide necessary consent for the installation and use of its property by Provider's facilities and/or equipment, including consent to necessary alterations of City buildings. City shall provide a suitable and safe working environment for Provider's personnel in City facilities, including an environment safe from environmental hazards. City agrees to make other accommodations that are mutually agreed upon prior to execution of this contract.

7.2. Premises Access. City shall provide Provider or other persons authorized by Provider with access (on both a routine and emergency basis) for the implementation of all service. City will provide Provider reasonable access to the City premises where any Provider facilities or equipment are installed as coordinated by the City and Provider. Provider shall not be responsible for any failure to perform the provisions of this Agreement to the extent that Provider, in good faith, attempts to access facilities and/or equipment necessary to remedy the failure that are located on City property if City fails to provide access to such location.

(a) During implementation, Provider will normally carry out work required to install and/or repair Provider's facilities and equipment during its normal working hours but may, on reasonable notice, require access at other times. At City's request, Provider will carry out work to install Provider's facilities and equipment outside Provider's regular working hours, in which event City agrees to pay the difference between the overtime rate and the standard rate and any other appropriate charges agreed between the parties.

(b) Any out-of-pocket costs, reasonably incurred by Provider as a consequence of the denial of access by City to any of City's locations, shall be paid by City. Provider shall advise City of any such costs on a case-by-case basis.

7.3. City's Connection to Data Services.

(a) Upon notice from Provider that any equipment or software not provided by Provider is causing or is likely to cause a hazard, interference, or service obstruction to data services, Provider and City shall coordinate the elimination of the hazard, interference, or service obstruction.

(b) City will only connect to the network to receive data services using industry standard equipment that has compatible standards with the service specifications set forth in applicable technical publications. Provider may suspend the provision of data services to any connection so affected if service to the City would directly and solely cause the cessation of Provider's network

to function. Following remedial action by City satisfactory to Provider, Provider will reinstate data service provided through that connection as soon as possible.

(c) City will cooperate with Provider in setting the initial configuration for its equipment interface with the network.

(d) Provider may from time to time issue technical instructions on the use of the network to ensure the proper functioning of the services or the protection of the network from damage or deterioration. City will observe technical instructions.

7.4. System Integrity. City must cure any violation (other than failure to pay) of the provisions of this Agreement within 30 days after receiving notice from Provider.

7.5. Provider Equipment Movement. City is obligated to obtain written approval from Provider prior to moving any of Provider's equipment. Moving of equipment without authorization may cause damages and/or an outage. A City-caused outage, due to the moving of equipment without written authorization, will be the sole responsibility of the City. Costs for repairs performed by Provider technicians as a result of damages due to movement of Provider equipment shall be borne by the City. No deductions to billing will be made for City-caused outages.

8. Provider's Acceptable Use Policy for Provider IP Products and Services.

Provider's use policy, if any, shall be attached as Exhibit B and is incorporated herein by this reference.

9. Termination.

9.1 For Cause. Either party may terminate this Agreement for cause, provided written notice is given to the other party specifying the cause for termination and requesting correction within 10 days for failure to pay a sum due, or within 30 days for any other cause, and such cause is not corrected within the applicable period. Cause is any material breach of the terms of this Agreement, including the failure to pay any amount when due, the filing of a petition in bankruptcy by or against either party, City's inability to meet obligations when due, or failure of Provider. Provider will furnish copies of such policies upon request.

9.2 Without Cause. Either party may terminate this Agreement without cause, provided written notice is given to the other party at least 120 days prior to the proposed termination date.

9.3. Operation Standards of Performance/Liquidated Damages.
Specific functions and performance described in the RFP must operate at or above levels specified in the RFP; and all functions, whether or not described in the RFP, must operate and perform at or above levels meeting the requirements of this Agreement, and, those of section 4. The Parties acknowledge that operation and support of the solution depend upon cooperation and diligence by the City as well as Provider. In the event of unsatisfactory performance by Provider in providing operations and support of Internet bandwidth and Provider's inability to enable the honoring of the sale of services through no fault of the City, Provider shall be

responsible for the direct payment to the City for any liquidated damages as provided in this Agreement. Fault of the City shall include, without limitation, delays beyond the time allocated or mutually agreed upon between the Parties for the City to provide information, work input, or approvals necessary for the Provider to proceed. The maximum liability of the Provider for liquidated damages and other damages provided for in this Agreement, shall not exceed the total value (three-month average monthly cost of service times duration of contract) of the Agreement. Provider shall pay the City the following amounts in connection with the following deficiencies. When unsatisfactory performance by Provider affects more than one of the following deficiencies (subparagraphs 9.3(a)(1) through 9.3(a)(7)) and where one of the deficiencies is clearly the cause of the other(s), Provider shall be liable to pay only the amount of the damage for the deficiency resulting in the greatest amount of damages.

(a) As to noncompliance with standards below, such damages shall accrue from the date(s) that unsatisfactory performance has occurred and will continue through the resolution of such deficiency provided the City gives written notice of such deficiency as soon as reasonably practicable, but no later than sixty (60) business days after Provider's provision of information to the City by which the City can determine Provider's compliance/noncompliance with said standards. If the City gives written notice more than sixty (60) business days after Provider's provision of such information, then such damages shall accrue (Paragraph #. A. notwithstanding) from the date of Provider's receipt of written notice from the City of noncompliance with said standards; unless the damages are waived in writing by the City or excused by force majeure.

(b) As to noncompliance with standards, such damages shall accrue from the date(s) that unsatisfactory performance has occurred and will continue through the resolution of such deficiency provided the City gives written notice of such deficiency as soon as reasonably practicable, but no later than ten (10) business days after the actual occurrence of noncompliance. Actual occurrence of noncompliance will be defined by the City, but no sooner than the agreed delivery of services and work products. If the City gives written notice more than ten (10) business days after the actual occurrence of noncompliance, then such damages shall accrue (Paragraph #. A. notwithstanding) from the date of Provider's receipt of written notice from the City of noncompliance with said standards, unless the damages are waived in writing by the City or excused by force majeure.

(1) <u>Bandwidth Availability.</u> Internet bandwidth must be fully operational 99.9% of the time it is scheduled to be so. Outage periods for maintenance will not be counted against this performance level if agreed to, in advance, by both parties. If the bandwidth is nonfunctional or inaccessible more than 0.5% in any 90-day period, the Provider shall be liable to the City for $1500.00 for each quarter of such occurrence. For each full or partial one-tenth of a percentage point over .5% that the solution is nonfunctional or inaccessible, the Provider shall be liable to the City for an additional $500.00 for each month. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the solution is nonfunctional or inaccessible due to a general failure of public telecommunications or other force majeure.

(2) <u>Provider Availability.</u> The Provider must have expert staff available and accessible via the designated toll-free numbers 99% of the time. Provider must also have staff capable of responding to 90 N. Mountain, Ashland, Oregon, within thirty (30) minutes if necessary to

resolve the problem. If the Provider's staff are inaccessible more than 1.0% in any month, the Provider shall be liable to the City for $500.00 that month. For each full or partial one-tenth of a percentage point over 1.0% that the system is nonfunctional or inaccessible, the Provider shall be liable to the City for an additional $250.00 for each such fraction of a percentage per month. The Provider will provide measured results of the occurrence of periods where no staff are available. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the inaccessibility of the Call Center Website is attributable to a general failure of public telecommunications or other force majeure.

(3) <u>Internet bandwidth</u>. Service must provide no less than 10 gigabits per second speed 99.9% of the time. If the bandwidth performance drops below 99.9% in any 7-day period, the Provider shall be liable to the City for $2000.00 for each occurrence. For each full or partial one-tenth percentage point over .1% that the solution does not perform to this standard, the Provider shall be liable to the City for an additional $500.00 for each 7-day period. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the solution is nonfunctional or inaccessible due to a general failure of public telecommunications or other force majeure.

(4) <u>Response Time</u>. Internet bandwidth must maintain packet delay to not exceed 12 milliseconds at 10 gigabits per second. If the packet delay performance rises above this threshold in any 7-day period, the Provider shall be liable to the City for $2000.00 for each occurrence. For each hour that the solution exceeds the performance threshold, the Provider shall be liable to the City for an additional $50.00 per hour for each full millisecond over 12 milliseconds. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the solution is nonfunctional or inaccessible due to a general failure of public telecommunications or other force majeure.

(5) <u>Provider Response.</u> City staff must receive correct, reliable information about the solution in a timely fashion, as well as answers to questions they have regarding any aspect of its operation as they relate to equipment or any problems caused by the solution to operate in accordance with the Agreement using the contact information and order provided by the Provider. If more than 5% of such calls for assistance remain unresolved for more than two (2) days, the City shall notify Provider of such event as soon as is practicable, explain the specific unresolved complaint, and determine if a violation has occurred for which liquidated damages would be payable. If so, and if within two (2) business days after receipt of such notice, the Provider has failed to satisfactorily resolve said complaint by taking appropriate action to repair/replace hardware or software, or reasonably assist with diagnosing other problems not within the control of the Provider, and to the extent compensation for such damages is not provided for elsewhere in the Agreement. For each full percentage point over 5%, the Provider shall be liable to the City for an additional $250 per day. In no event shall the Provider be liable for failure to remedy a problem not within Provider's control, unless the Provider has not provided reasonable assistance in diagnosing other localized problems not within the control of the Provider or provides an incorrect diagnosis due to negligence on the part of the Provider.

(6) <u>Storage of Data.</u> Specific customer data from the City's services shall not be saved or utilized by the Provider for any purpose or reason. If data is saved, shared, or used in violation of this requirement, the Provider will be liable to the City for $100,000. Provided however, the

Provider shall have no liability to the City under the provisions of this Paragraph for usage of metadata in the administration of the network and bandwidth, as well as if specific data is required by law, the direct order of a court of law and law enforcement, or other force majeure.

(7) The Provider shall have a specific process in place to process/execute work orders. This process shall account for thorough analysis, design, test, and implementation any changes. If, through no fault of the City, a work order is not accepted by the City as completed within two weeks of its scheduled completion date, the Provider shall be liable to the City for $1,000 per day until the work order is delivered by the Provider and accepted by the City. The Provider shall be liable to the City for an additional $200 for each full or partial day of delay beyond the 15th day of the scheduled change or update.

(b)   The Provider shall provide notice pursuant to subsection 10.5 of its performance relative to the standards described in section 4, as well as all noncompliant performance, upon discovery of such noncompliance.

(c)   The Parties agree that damages from breach of this Agreement are difficult to prove or estimate, and the amount of liquidated damages specified herein represents a reasonable estimation of damages that will be suffered by the City from late performance, including costs of additional inspection and oversight and lost opportunity for additional efficiencies that would have attended on-time completion of performance.

(d) The rights and remedies granted to City under this section constitute City's sole and exclusive remedy against Provider, it's agents, officials and employees for any and all claims arising under statutory or common law or otherwise. There are no third-party beneficiaries of this Agreement. City agrees that Provider shall have no liability for the negligence, products, services or websites of City; of affiliates; of developers or consultants identified or referred to City by Provider; or of any other third party, including but not limited to liability for the content, quality and accuracy of the foregoing which are accessible by use of the system or services of Provider.

10. Miscellaneous Provisions.

10.1 Indemnification. To the extent legally possible, Provider shall indemnify and hold City, its officers, agents and employees, harmless from and against any and all claims, actions, liabilities, costs, including costs of defense, arising out of or in any way related to any act, failure to act, or negligence by Provider or its employees, agents, officers and contractors in connection with this Agreement.

10.2 Non-waiver. Waiver by either party of strict performance of any provision of this Agreement shall not waive or prejudice the party's right to require strict performance of the same provision or any other provision in the future. No waiver, consent, modification, or change of the terms of this Agreement shall bind either party unless in writing and signed by all parties. Such waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.

10.3 Litigation and Attorneys' Fees. In the event that liquidated damages are not specified for the default that occurs, the City may elect to pursue an action in a court of competent jurisdiction. If any litigation is commenced between the parties to this Agreement concerning this Agreement, or the rights and duties of either party, the prevailing party in that litigation shall be entitled, in addition to any other relief that may be granted in the litigation, to a reasonable sum for that party's attorneys' fees, including attorneys' fees on appeal. The amount of the fees shall be determined by the court in that litigation or in a separate action brought for that purpose.

10.4 Contract Administration. This Agreement shall be administered by the Information Technology Department through its AFN Operations Manager and by Provider through the representative listed in subsection 10.5. Either party may change its representative by providing the other party written notice of the new representative=s name and address.

10.5 Notices. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to a party of this Agreement shall be in writing and shall be deemed duly served and given when personally delivered to the party, any managing employee of the party, or, in lieu of personal service, when deposited in the United States mail, first class postage prepaid, addressed to the appropriate party as follows:

CITY	**PROVIDER**
City of Ashland	Cogent Communications Inc.
Attn: AFN Operations Manager	Attn: Deputy General Counsel/VP
90 N. Mountain Ave.	2450 N St. NW
Ashland, OR 97520	Washington, DC 20037

10.6 Amendments and Assignment. No amendment to this Agreement, or assignment of this Agreement will be effective unless it is in writing and signed by both parties.

10.7 No Warranties. To the extent permitted by applicable law, Provider is providing the services and the system (including but not limited to the Provider facilities and/or equipment and any access to the network). Provider agrees, to the extent feasible, that all equipment provided by Provider shall function to permit City access to the bandwidth purchased hereunder. Except for the obligations assumed by Provider under the terms and conditions of this Agreement, Provider hereby disclaims all other warranties, if any, either implied, statutory or otherwise, with respect to any of the system and services provided or to be provided under this Agreement, including but not limited to warranties of merchantability, fitness for a particular purpose, or lack of viruses. Provider makes no warranty of title, quiet enjoyment or lack of infringement with respect to the system or services.

10.8 Force Majeure. Neither party shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations under this Agreement by reason of severe weather and storms; earthquakes or other natural occurrences; strikes or other labor unrest; power failures; nuclear or other civil or military emergencies; acts of legislative; judicial;

executive or administrative authorities; or any other circumstances which are not within its reasonable control.

10.9 Governing Law. This Agreement, and all matters relating to this Agreement, shall be governed by the laws of the State of Oregon in force at the time any need for interpretation of this Agreement or any decision or holding concerning this Agreement arises.

10.10 Severability. If any provision of this Agreement is held by a court, governmental agency, or regulatory body of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect unimpaired by the holding. The invalidity of a section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses as long as the parties can legally, commercially and practicably continue without the invalid provision.

10.11 Entire Agreement. This Agreement and any attachments constitute the entire and sole agreement between the City and Provider. Any agreements or representations respecting internet service or any related matters discussed in this Agreement not expressly set forth or incorporated into this Agreement are null and void.

INTENDING TO BE BOUND, the parties have executed this Agreement as of the date written below.

City of Ashland:

_____ Date: _____
Kelly Madding, City Administrator

Provider: Cogent Communications Inc.

_____ Date: _____
John Chang, Deputy General Counsel/VP

City of Ashland
Internet Bandwidth Service Agreement

Internet Service Agreement

Internet Service Agreement ("Agreement") dated November 1, 2018, between the City of Ashland, hereinafter referred to as "City," and LS Networks, hereinafter referred to as "Provider."

1. **Services.** City shall purchase and Provider shall provide to City:

    1.1. Data Services. Data Services access by City to Provider's telecommunications system to receive 10 Gbps Unprotected Wavelength Transport from location A to Location Z as indicated below:

- Location A – Pittock Internet Exchange 921 SW Washington, Portland, OR 97205
- Location Z - Ashland fiber Network 90 North Mountain Ave Ashland, OR 97520

    The point of delivery is the location where the network and City's system are interconnected. The data services provided shall meet all the service standards of section 4.

    1.2. Installation Services. Installation services consist of coordinating with City the necessary engineering, site survey, system configuration and other services necessary to provide City Data Services. These services shall be provided up to the date that the service testing is completed based on Provider's customary testing procedures and the service is available to the City ("the service acceptance date"). In addition, Provider will provide the equipment (collectively referred to as "Provider facilities") necessary to connect City's facilities to the network.

2. **Term**. This Agreement will be effective upon the date executed by Provider and shall continue for two (2) years, unless sooner terminated as provided in this Agreement. This Agreement shall be subject to quarterly financial reviews, the first of which shall occur three (3) months from the date executed by Provider. The final financial review will be completed prior to extension of this Agreement. As part of the quarterly financial review, Provider will provide to City all applicable information necessary for review, including but not limited to:

- City's Bandwidth Consumption,
- Service rates,
- Provider bandwidth costs, and
- Provider support costs.

City has the option at the time of the final financial review to renegotiate the Agreement pricing and renew for an additional twelve (12) month term. To renew the Agreement for an additional twelve (12) month term, both parties must agree to the extension in writing. This Agreement may be renewed for a maximum of three (3) additional twelve (12) month terms.

3. **Charges**. City agrees to pay for Provider's services in accordance with the Fee Schedule attached as Exhibit A and incorporated herein by this reference.

3.1. Data Services Rates. From the service start-up date, City shall pay the rates specified Exhibit A. If data service does not begin on the first day of a billing cycle, then payments for the first month shall be prorated on a daily basis. All accounts will be invoiced on the first day of each month, and all sums shall be paid within 20 days after the date of the monthly billing for services (the "due date"). Provider shall include detailed usage and pricing on each invoice submitted to the City for payment.

3.2. Installation Services Charge. City shall pay the installation charges specified in Exhibit A for the installation services provided by Provider and approved by the City. Such charges shall be due and payable upon onsite installation of the fiber terminating hardware. Installation shall establish the due date of the installation charges and the service acceptance date. Upon service acceptance by the City, the prorated data service charges of subsection 3.1 shall apply. The City maintains the right to refuse installation and service if, in the City's discretion, the service will not meet all standards of section 4.

3.2.1. Uninterruptible Power Supply. City shall provide a form of uninterruptible power for the fiber termination hardware and any of Provider's facilities or equipment at the City's location. If the City does not provide an uninterruptible power source, Provider will provide one in accordance with Exhibit A.

3.3. Late Payment, Deposit. Payments received after the due date may be subjected to a charge of 1% per month on the unpaid balance at the discretion of Provider. Provider may require City to pay a deposit before providing any service. Provider shall hold any such deposit in a non-interest bearing account and deposited funds shall be used to satisfy (in whole or in part) any obligation of City under this Agreement.

3.4. Taxes, Fees, Government Charges. City agrees to pay any applicable taxes, franchise fees or other governmental charges imposed upon Provider by governing body with jurisdictional authority over this service or for use of public right of ways and easements.

3.5. Cost Savings. To encourage Provider to innovate and take advantage of new technologies that may can provide cost savings to the City, this Agreement and Exhibit A may be changed by an addendum at any time during the term of this Agreement to provide for an allocation of the cost savings between City and Provider for mutual benefit.

4. Service Requirements and Performance Standards.

4.1. Minimum Requirements. Provider agrees to provide data services and equipment to City that meet the following minimum requirements:

(a) Minimum single link speed of 10 gigabits per second,

(b) Packet delay not to exceed 12ms at 10 gigabits per second network loading per link to Provider's upstream network interfaces,

(c) BGP4 routing management of AFN's Autonomous System Number,

4.2. Performance Standards. Provider agrees to provide data services that meet the

following standards:

(a) Internet bandwidth must be fully operational 99.9% of the time it is scheduled to be so,

(b) Internet bandwidth must maintain packet delay not to exceed 12 milliseconds at 10 gigabits per second,

(c) Provider shall have a specific process in place specifically for City use to process/execute work orders,

(d) Provider shall have expert staff available and accessible via the designated toll-free numbers 99% of the time, and

(e) Provider shall follow the Outage Notification and Resolution Protocol in section 6.

5. Provider Facilities and Equipment. Provider shall, at its expense, undertake all necessary preparations to install and maintain its equipment upon City's premises or in other locations that are required for Provider to deliver data services, except for any costs agreed upon by City pursuant to subsection 7.1. Any Provider facilities and/or equipment installed on City's premises shall be, and remain, the property of Provider and may be repaired or replaced, in coordination with the City, at any time and removed at the termination of service. The City will not charge rent to Provider for placing or maintaining mutually agreed facilities and/or equipment upon City's premises for the exclusive purpose of providing Data Service to City under the terms and conditions of this Agreement. Provider shall be entitled, at any time coordinated with the City, to affix to Provider facilities or equipment a label indicating the interest of Provider.

5.1. Removal. City will use reasonable efforts to ensure that Provider facilities and/or equipment are not removed or caused to be removed by any person, other than Provider or without Provider's prior written consent.

5.2. Proper Environment. City shall use reasonable efforts to keep the location of Provider's facilities and/or equipment in the proper environment as specified by Provider and agreed to by the City.

5.3. Damage. City agrees to exercise due care and caution to protect Provider's facilities and equipment from the weather, vandalism and other potential problems. City shall be liable for any loss or damage to Provider's facilities and/or equipment at any location arising from City's negligence, intentional act, unauthorized maintenance or other cause within the reasonable control of City, its employees or agents. In the event of any loss or damage to Provider's facilities or equipment for which City is liable, City shall reimburse Provider for the lesser of the reasonable cost of repair or the actual cost of replacement.

6. Outage Notification and Resolution Protocol.

6.1. Degradation of Service Requirements and Performance Standards. Provider shall notify City within three (3) hours of when Provider knows or should have known about any degradation of its data services. Degradation occurs when Provider is providing data services, but those services fail to meet the service requirements and performance standards in

section 4. Failure to resolve the degradation in accordance within the time periods in subsection 9.3 shall result in liquidated damages, and such continued failure may result in termination pursuant to section 9.

6.2. Outage. Provider shall notify City within one (1) hour if Provider is unable to provide data services due to an outage that is not due to a force majeure. Provider shall restore data services within eight (8) hours. Failure to restore data services in accordance with this section and subsection 9.3 shall result in liquidated damages and may result in termination pursuant to section 9.

6.3. Emergency. Provider shall notify City immediately if Provider is unable to provide data services due to a force majeure.

7. Rights and Obligations of City.

7.1. Installation. City shall provide necessary consent for the installation and use of its property by Provider's facilities and/or equipment, including consent to necessary alterations of City buildings. City shall provide a suitable and safe working environment for Provider's personnel in City facilities, including an environment safe from environmental hazards. City agrees to make other accommodations that are mutually agreed upon prior to execution of this contract.

7.2. Premises Access. City shall provide Provider or other persons authorized by Provider with access (on both a routine and emergency basis) for the implementation of all service. City will provide Provider reasonable access to the City premises where any Provider facilities or equipment are installed as coordinated by the City and Provider. Provider shall not be responsible for any failure to perform the provisions of this Agreement to the extent that Provider, in good faith, attempts to access facilities and/or equipment necessary to remedy the failure that are located on City property if City fails to provide access to such location.

(a) During implementation, Provider will normally carry out work required to install and/or repair Provider's facilities and equipment during its normal working hours but may, on reasonable notice, require access at other times. At City's request, Provider will carry out work to install Provider's facilities and equipment outside Provider's regular working hours, in which event City agrees to pay the difference between the overtime rate and the standard rate and any other appropriate charges agreed between the parties.

(b) Any out-of-pocket costs, reasonably incurred by Provider as a consequence of the denial of access by City to any of City's locations, shall be paid by City. Provider shall advise City of any such costs on a case-by-case basis.

7.3. City's Connection to Data Services.
(a) Upon notice from Provider that any equipment or software not provided by Provider is causing or is likely to cause a hazard, interference, or service obstruction to data services, Provider and City shall coordinate the elimination of the hazard, interference, or service obstruction.

(b) City will only connect to the network to receive data services using industry standard equipment that has compatible standards with the service specifications set forth in applicable

technical publications. Provider may suspend the provision of data services to any connection so affected if service to the City would directly and solely cause the cessation of Provider's network to function. Following remedial action by City satisfactory to Provider, Provider will reinstate data service provided through that connection as soon as possible.

(c) City will cooperate with Provider in setting the initial configuration for its equipment interface with the network.

(d) Provider may from time to time issue technical instructions on the use of the network to ensure the proper functioning of the services or the protection of the network from damage or deterioration. City will observe technical instructions.

7.4. System Integrity. City must cure any violation (other than failure to pay) of the provisions of this Agreement within 30 days after receiving notice from Provider.

7.5. Provider Equipment Movement. City is obligated to obtain written approval from Provider prior to moving any of Provider's equipment. Moving of equipment without authorization may cause damages and/or an outage. A City-caused outage, due to the moving of equipment without written authorization, will be the sole responsibility of the City. Costs for repairs performed by Provider technicians as a result of damages due to movement of Provider equipment shall be borne by the City. No deductions to billing will be made for City-caused outages.

8. Provider's Acceptable Use Policy for Provider IP Products and Services.

Provider's use policy, if any, shall be attached as Exhibit B and is incorporated herein by this reference.

9. Termination.

9.1 For Cause. Either party may terminate this Agreement for cause, provided written notice is given to the other party specifying the cause for termination and requesting correction within 10 days for failure to pay a sum due, or within 30 days for any other cause, and such cause is not corrected within the applicable period. Cause is any material breach of the terms of this Agreement, including the failure to pay any amount when due, the filing of a petition in bankruptcy by or against either party, City's inability to meet obligations when due, or failure of Provider. Provider will furnish copies of such policies upon request.

9.2 Without Cause. Either party may terminate this Agreement without cause, provided written notice is given to the other party at least 120 days prior to the proposed termination date.

9.3. Operation Standards of Performance/Liquidated Damages.
Specific functions and performance described in the RFP must operate at or above levels specified in the RFP; and all functions, whether or not described in the RFP, must operate and perform at or above levels meeting the requirements of this Agreement, and, those of section 4. The Parties acknowledge that operation and support of the solution depend upon cooperation and diligence by the City as well as Provider. In the event of unsatisfactory performance by

Provider in providing operations and support of Internet bandwidth and Provider's inability to enable the honoring of the sale of services through no fault of the City, Provider shall be responsible for the direct payment to the City for any liquidated damages as provided in this Agreement. Fault of the City shall include, without limitation, delays beyond the time allocated or mutually agreed upon between the Parties for the City to provide information, work input, or approvals necessary for the Provider to proceed. The maximum liability of the Provider for liquidated damages and other damages provided for in this Agreement, shall not exceed the total value (three-month average monthly cost of service times duration of contract) of the Agreement. Provider shall pay the City the following amounts in connection with the following deficiencies. When unsatisfactory performance by Provider affects more than one of the following deficiencies (subparagraphs 9.3(a)(1) through 9.3(a)(7)) and where one of the deficiencies is clearly the cause of the other(s), Provider shall be liable to pay only the amount of the damage for the deficiency resulting in the greatest amount of damages.

    (a) As to noncompliance with standards below, such damages shall accrue from the date(s) that unsatisfactory performance has occurred and will continue through the resolution of such deficiency provided the City gives written notice of such deficiency as soon as reasonably practicable, but no later than sixty (60) business days after Provider's provision of information to the City by which the City can determine Provider's compliance/noncompliance with said standards. If the City gives written notice more than sixty (60) business days after Provider's provision of such information, then such damages shall accrue (Paragraph #. A. notwithstanding) from the date of Provider's receipt of written notice from the City of noncompliance with said standards; unless the damages are waived in writing by the City or excused by force majeure.

    (b) As to noncompliance with standards, such damages shall accrue from the date(s) that unsatisfactory performance has occurred and will continue through the resolution of such deficiency provided the City gives written notice of such deficiency as soon as reasonably practicable, but no later than ten (10) business days after the actual occurrence of noncompliance. Actual occurrence of noncompliance will be defined by the City, but no sooner than the agreed delivery of services and work products. If the City gives written notice more than ten (10) business days after the actual occurrence of noncompliance, then such damages shall accrue (Paragraph #. A. notwithstanding) from the date of Provider's receipt of written notice from the City of noncompliance with said standards, unless the damages are waived in writing by the City or excused by force majeure.

(1) Bandwidth Availability. Internet bandwidth must be fully operational 99.9% of the time it is scheduled to be so. Outage periods for maintenance will not be counted against this performance level if agreed to, in advance, by both parties. If the bandwidth is nonfunctional or inaccessible more than 0.5% in any 90-day period, the Provider shall be liable to the City for $1500.00 for each quarter of such occurrence. For each full or partial one-tenth of a percentage point over .5% that the solution is nonfunctional or inaccessible, the Provider shall be liable to the City for an additional $500.00 for each month. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the solution is nonfunctional or inaccessible due to a general failure of public telecommunications or other force majeure.

(2) Provider Availability. The Provider must have expert staff available and accessible via the

designated toll-free numbers 99% of the time. Provider must also have staff capable of responding to 90 N. Mountain, Ashland, Oregon, within thirty (30) minutes if necessary to resolve the problem. If the Provider's staff are inaccessible more than 1.0% in any month, the Provider shall be liable to the City for $500.00 that month. For each full or partial one-tenth of a percentage point over 1.0% that the system is nonfunctional or inaccessible, the Provider shall be liable to the City for an additional $250.00 for each such fraction of a percentage per month. The Provider will provide measured results of the occurrence of periods where no staff are available. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the inaccessibility of the Call Center Website is attributable to a general failure of public telecommunications or other force majeure.

(3) ~~Internet bandwidth. Service must provide no less than 10 gigabits per second speed 99.9% of the time. If the bandwidth performance drops below 99.9% in any 7-day period, the Provider shall be liable to the City for $2000.00 for each occurrence. For each full or partial one-tenth percentage point over .1% that the solution does not perform to this standard, the Provider shall be liable to the City for an additional $500.00 for each 7-day period. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the solution is nonfunctional or inaccessible due to a general failure of public telecommunications or other force majeure.~~

(4) ~~Response Time. Internet bandwidth must maintain packet delay to not exceed 12 milliseconds at 10 gigabits per second. If the packet delay performance rises above this threshold in any 7-day period, the Provider shall be liable to the City for $2000.00 for each occurrence. For each hour that the solution exceeds the performance threshold, the Provider shall be liable to the City for an additional $50.00 per hour for each full millisecond over 12 milliseconds. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the solution is nonfunctional or inaccessible due to a general failure of public telecommunications or other force majeure.~~

(5) Provider Response. City staff must receive correct, reliable information about the solution in a timely fashion, as well as answers to questions they have regarding any aspect of its operation as they relate to equipment or any problems caused by the solution to operate in accordance with the Agreement using the contact information and order provided by the Provider. If more than 5% of such calls for assistance remain unresolved for more than two (2) days, the City shall notify Provider of such event as soon as is practicable, explain the specific unresolved complaint, and determine if a violation has occurred for which liquidated damages would be payable. If so, and if within two (2) business days after receipt of such notice, the Provider has failed to satisfactorily resolve said complaint by taking appropriate action to repair/replace hardware or software, or reasonably assist with diagnosing other problems not within the control of the Provider, and to the extent compensation for such damages is not provided for elsewhere in the Agreement. For each full percentage point over 5%, the Provider shall be liable to the City for an additional $250 per day. In no event shall the Provider be liable for failure to remedy a problem not within Provider's control, unless the Provider has not provided reasonable assistance in diagnosing other localized problems not within the control of the Provider or provides an incorrect diagnosis due to negligence on the part of the Provider.

(6) Storage of Data. Specific customer data from the City's services shall not be saved or

utilized by the Provider for any purpose or reason. If data is saved, shared, or used in violation of this requirement, the Provider will be liable to the City for $100,000. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph for usage of metadata in the administration of the network and bandwidth, as well as if specific data is required by law, the direct order of a court of law and law enforcement, or other force majeure.

(7) The Provider shall have a specific process in place to process/execute work orders. This process shall account for thorough analysis, design, test, and implementation any changes. If, through no fault of the City, a work order is not accepted by the City as completed within two weeks of its scheduled completion date, the Provider shall be liable to the City for $1,000 per day until the work order is delivered by the Provider and accepted by the City. The Provider shall be liable to the City for an additional $200 for each full or partial day of delay beyond the 15th day of the scheduled change or update.

(b)   The Provider shall provide notice pursuant to subsection 10.5 of its performance relative to the standards described in section 4, as well as all noncompliant performance, upon discovery of such noncompliance.

(c)   The Parties agree that damages from breach of this Agreement are difficult to prove or estimate, and the amount of liquidated damages specified herein represents a reasonable estimation of damages that will be suffered by the City from late performance, including costs of additional inspection and oversight and lost opportunity for additional efficiencies that would have attended on-time completion of performance.

(d) The rights and remedies granted to City under this section constitute City's sole and exclusive remedy against Provider, it's agents, officials and employees for any and all claims arising under statutory or common law or otherwise. There are no third-party beneficiaries of this Agreement. City agrees that Provider shall have no liability for the negligence, products, services or websites of City; of affiliates; of developers or consultants identified or referred to City by Provider; or of any other third party, including but not limited to liability for the content, quality and accuracy of the foregoing which are accessible by use of the system or services of Provider.

10. Miscellaneous Provisions.

10.1 Indemnification. To the extent legally possible, Provider shall indemnify and hold City, its officers, agents and employees, harmless from and against any and all claims, actions, liabilities, costs, including costs of defense, arising out of or in any way related to any act, failure to act, or negligence by Provider or its employees, agents, officers and contractors in connection with this Agreement.

10.2 Non-waiver. Waiver by either party of strict performance of any provision of this Agreement shall not waive or prejudice the party's right to require strict performance of the same provision or any other provision in the future. No waiver, consent, modification, or change of the terms of this Agreement shall bind either party unless in writing and signed by all

parties. Such waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.

10.3 Litigation and Attorneys' Fees. In the event that liquidated damages are not specified for the default that occurs, the City may elect to pursue an action in a court of competent jurisdiction. If any litigation is commenced between the parties to this Agreement concerning this Agreement, or the rights and duties of either party, the prevailing party in that litigation shall be entitled, in addition to any other relief that may be granted in the litigation, to a reasonable sum for that party's attorneys' fees, including attorneys' fees on appeal. The amount of the fees shall be determined by the court in that litigation or in a separate action brought for that purpose.

10.4 Contract Administration. This Agreement shall be administered by the Information Technology Department through its AFN Operations Manager and by Provider through the representative listed in subsection 10.5. Either party may change its representative by providing the other party written notice of the new representative=s name and address.

10.5 Notices. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to a party of this Agreement shall be in writing and shall be deemed duly served and given when personally delivered to the party, any managing employee of the party, or, in lieu of personal service, when deposited in the United States mail, first class postage prepaid, addressed to the appropriate party as follows:

CITY	**PROVIDER**
City of Ashland	LS Networks
Attn: AFN Operations Manager	Attn: Chief Executive Officer
90 N. Mountain Ave.	921 Washington Street, Suite 370
Ashland, OR 97520	Portland, OR 97205

10.6 Amendments and Assignment. No amendment to this Agreement, or assignment of this Agreement will be effective unless it is in writing and signed by both parties.

10.7 No Warranties. To the extent permitted by applicable law, Provider is providing the services and the system (including but not limited to the Provider facilities and/or equipment and any access to the network). Provider agrees, to the extent feasible, that all equipment provided by Provider shall function to permit City access to the bandwidth purchased hereunder. Except for the obligations assumed by Provider under the terms and conditions of this Agreement, Provider hereby disclaims all other warranties, if any, either implied, statutory or otherwise, with respect to any of the system and services provided or to be provided under this Agreement, including but not limited to warranties of merchantability, fitness for a particular purpose, or lack of viruses. Provider makes no warranty of title, quiet enjoyment or lack of infringement with respect to the system or services.

10.8 Force Majeure. Neither party shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations under this Agreement by reason of severe weather and storms; earthquakes or other natural occurrences; strikes or other labor unrest; power failures; nuclear or other civil or military emergencies; acts of legislative; judicial; executive or administrative authorities; or any other circumstances which are not within its reasonable control.

10.9 Governing Law. This Agreement, and all matters relating to this Agreement, shall be governed by the laws of the State of Oregon in force at the time any need for interpretation of this Agreement or any decision or holding concerning this Agreement arises.

10.10 Severability. If any provision of this Agreement is held by a court, governmental agency, or regulatory body of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect unimpaired by the holding. The invalidity of a section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses as long as the parties can legally, commercially and practicably continue without the invalid provision.

10.11 Entire Agreement. This Agreement and any attachments constitute the entire and sole agreement between the City and Provider. Any agreements or representations respecting internet service or any related matters discussed in this Agreement not expressly set forth or incorporated into this Agreement are null and void.

INTENDING TO BE BOUND, the parties have executed this Agreement as of the date written below.

City of Ashland:

_____   Date: _____
Kelly Madding, City Administrator

Provider: LS Networks

_____   Date: _____
Leif Hanson, Chief Executive Officer

City of Ashland
Internet Bandwidth Service Agreement

Internet Service Agreement

Internet Service Agreement ("Agreement") dated November 1, 2018, between the City of Ashland, hereinafter referred to as "City," and Hunter Communications, hereinafter referred to as "Provider."

1. Services. City shall purchase and Provider shall provide to City:

    1.1. Data Services. Data Services access by City to Provider's telecommunications system to receive 10Gbps Direct Internet Access (DIA) at the point of delivery indicated below:

- Ashland fiber Network 90 North Mountain Ave Ashland, OR 97520

    The point of delivery is the location where the network and City's system are interconnected. The data services provided shall meet all the service standards of section 4.

    1.2. Installation Services. Installation services consist of coordinating with City the necessary engineering, site survey, system configuration and other services necessary to provide City Data Services. These services shall be provided up to the date that the service testing is completed based on Provider's customary testing procedures and the service is available to the City ("the service acceptance date"). In addition, Provider will provide the equipment (collectively referred to as "Provider facilities") necessary to connect City's facilities to the network.

2. Term. This Agreement will be effective upon the date executed by Provider and shall continue for two (2) years, unless sooner terminated as provided in this Agreement. This Agreement shall be subject to quarterly financial reviews, the first of which shall occur three (3) months from the date executed by Provider. The final financial review will be completed prior to extension of this Agreement. As part of the quarterly financial review, Provider will provide to City all applicable information necessary for review, including but not limited to:

- City's Bandwidth Consumption,
- Service rates,
- Provider bandwidth costs, and
- Provider support costs.

City has the option at the time of the final financial review to renegotiate the Agreement pricing and renew for an additional twelve (12) month term. To renew the Agreement for an additional twelve (12) month term, both parties must agree to the extension in writing. This Agreement may be renewed for a maximum of three (3) additional twelve (12) month terms.

3. Charges. City agrees to pay for Provider's services in accordance with the Fee Schedule attached as Exhibit A and incorporated herein by this reference.

    3.1. Data Services Rates. From the service start-up date, City shall pay the rates specified Exhibit A. If data service does not begin on the first day of a billing cycle, then

payments for the first month shall be prorated on a daily basis. All accounts will be invoiced on the first day of each month, and all sums shall be paid within 20 days after the date of the monthly billing for services (the "due date"). Provider shall include detailed usage and pricing on each invoice submitted to the City for payment.

3.2. Installation Services Charge. City shall pay the installation charges specified in Exhibit A for the installation services provided by Provider and approved by the City. Such charges shall be due and payable upon onsite installation of the fiber terminating hardware. Installation shall establish the due date of the installation charges and the service acceptance date. Upon service acceptance by the City, the prorated data service charges of subsection 3.1 shall apply. The City maintains the right to refuse installation and service if, in the City's discretion, the service will not meet all standards of section 4.

3.2.1. Uninterruptible Power Supply. City shall provide a form of uninterruptible power for the fiber termination hardware and any of Provider's facilities or equipment at the City's location. If the City does not provide an uninterruptible power source, Provider will provide one in accordance with Exhibit A.

3.3. Late Payment, Deposit. Payments received after the due date may be subjected to a charge of 1% per month on the unpaid balance at the discretion of Provider. Provider may require City to pay a deposit before providing any service. Provider shall hold any such deposit in a non-interest bearing account and deposited funds shall be used to satisfy (in whole or in part) any obligation of City under this Agreement.

3.4. Taxes, Fees, Government Charges. City agrees to pay any applicable taxes, franchise fees or other governmental charges imposed upon Provider by governing body with jurisdictional authority over this service or for use of public right of ways and easements.

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(e) Provider shall follow the Outage Notification and Resolution Protocol in section 6.

5. Provider Facilities and Equipment. Provider shall, at its expense, undertake all necessary preparations to install and maintain its equipment upon City's premises or in other locations that are required for Provider to deliver data services, except for any costs agreed upon by City pursuant to subsection 7.1. Any Provider facilities and/or equipment installed on City's premises shall be, and remain, the property of Provider and may be repaired or replaced, in coordination with the City, at any time and removed at the termination of service. The City will not charge rent to Provider for placing or maintaining mutually agreed facilities and/or equipment upon City's premises for the exclusive purpose of providing Data Service to City under the terms and conditions of this Agreement. Provider shall be entitled, at any time coordinated with the City, to affix to Provider facilities or equipment a label indicating the interest of Provider.

5.1. Removal. City will use reasonable efforts to ensure that Provider facilities and/or equipment are not removed or caused to be removed by any person, other than Provider or without Provider's prior written consent.

5.2. Proper Environment. City shall use reasonable efforts to keep the location of Provider's facilities and/or equipment in the proper environment as specified by Provider and agreed to by the City.

5.3. Damage. City agrees to exercise due care and caution to protect Provider's facilities and equipment from the weather, vandalism and other potential problems. City shall be liable for any loss or damage to Provider's facilities and/or equipment at any location arising from City's negligence, intentional act, unauthorized maintenance or other cause within the reasonable control of City, its employees or agents. In the event of any loss or damage to Provider's facilities or equipment for which City is liable, City shall reimburse Provider for the lesser of the reasonable cost of repair or the actual cost of replacement.

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6.1. Degradation of Service Requirements and Performance Standards. Provider shall notify City within three (3) hours of when Provider knows or should have known about any degradation of its data services. Degradation occurs when Provider is providing data services, but those services fail to meet the service requirements and performance standards in section 4. Failure to resolve the degradation in accordance within the time periods in subsection 9.3 shall result in liquidated damages, and such continued failure may result in

termination pursuant to section 9.

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7.1. Installation. City shall provide necessary consent for the installation and use of its property by Provider's facilities and/or equipment, including consent to necessary alterations of City buildings. City shall provide a suitable and safe working environment for Provider's personnel in City facilities, including an environment safe from environmental hazards. City agrees to make other accommodations that are mutually agreed upon prior to execution of this contract.

7.2. Premises Access. City shall provide Provider or other persons authorized by Provider with access (on both a routine and emergency basis) for the implementation of all service. City will provide Provider reasonable access to the City premises where any Provider facilities or equipment are installed as coordinated by the City and Provider. Provider shall not be responsible for any failure to perform the provisions of this Agreement to the extent that Provider, in good faith, attempts to access facilities and/or equipment necessary to remedy the failure that are located on City property if City fails to provide access to such location.

(a) During implementation, Provider will normally carry out work required to install and/or repair Provider's facilities and equipment during its normal working hours but may, on reasonable notice, require access at other times. At City's request, Provider will carry out work to install Provider's facilities and equipment outside Provider's regular working hours, in which event City agrees to pay the difference between the overtime rate and the standard rate and any other appropriate charges agreed between the parties.

(b) Any out-of-pocket costs, reasonably incurred by Provider as a consequence of the denial of access by City to any of City's locations, shall be paid by City. Provider shall advise City of any such costs on a case-by-case basis.

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(a) Upon notice from Provider that any equipment or software not provided by Provider is causing or is likely to cause a hazard, interference, or service obstruction to data services, Provider and City shall coordinate the elimination of the hazard, interference, or service obstruction.

(b) City will only connect to the network to receive data services using industry standard equipment that has compatible standards with the service specifications set forth in applicable technical publications. Provider may suspend the provision of data services to any connection so affected if service to the City would directly and solely cause the cessation of Provider's network

to function. Following remedial action by City satisfactory to Provider, Provider will reinstate data service provided through that connection as soon as possible.

(c) City will cooperate with Provider in setting the initial configuration for its equipment interface with the network.

(d) Provider may from time to time issue technical instructions on the use of the network to ensure the proper functioning of the services or the protection of the network from damage or deterioration. City will observe technical instructions.

7.4. System Integrity. City must cure any violation (other than failure to pay) of the provisions of this Agreement within 30 days after receiving notice from Provider.

7.5. Provider Equipment Movement. City is obligated to obtain written approval from Provider prior to moving any of Provider's equipment. Moving of equipment without authorization may cause damages and/or an outage. A City-caused outage, due to the moving of equipment without written authorization, will be the sole responsibility of the City. Costs for repairs performed by Provider technicians as a result of damages due to movement of Provider equipment shall be borne by the City. No deductions to billing will be made for City-caused outages.

8. Provider's Acceptable Use Policy for Provider IP Products and Services.

Provider's use policy, if any, shall be attached as Exhibit B and is incorporated herein by this reference.

9. Termination.

9.1 For Cause. Either party may terminate this Agreement for cause, provided written notice is given to the other party specifying the cause for termination and requesting correction within 10 days for failure to pay a sum due, or within 30 days for any other cause, and such cause is not corrected within the applicable period. Cause is any material breach of the terms of this Agreement, including the failure to pay any amount when due, the filing of a petition in bankruptcy by or against either party, City's inability to meet obligations when due, or failure of Provider. Provider will furnish copies of such policies upon request.

9.2 Without Cause. Either party may terminate this Agreement without cause, provided written notice is given to the other party at least 120 days prior to the proposed termination date.

9.3. Operation Standards of Performance/Liquidated Damages.
Specific functions and performance described in the RFP must operate at or above levels specified in the RFP; and all functions, whether or not described in the RFP, must operate and perform at or above levels meeting the requirements of this Agreement, and, those of section 4. The Parties acknowledge that operation and support of the solution depend upon cooperation and diligence by the City as well as Provider. In the event of unsatisfactory performance by Provider in providing operations and support of Internet bandwidth and Provider's inability to enable the honoring of the sale of services through no fault of the City, Provider shall be

responsible for the direct payment to the City for any liquidated damages as provided in this Agreement. Fault of the City shall include, without limitation, delays beyond the time allocated or mutually agreed upon between the Parties for the City to provide information, work input, or approvals necessary for the Provider to proceed. The maximum liability of the Provider for liquidated damages and other damages provided for in this Agreement, shall not exceed the total value (three-month average monthly cost of service times duration of contract) of the Agreement. Provider shall pay the City the following amounts in connection with the following deficiencies. When unsatisfactory performance by Provider affects more than one of the following deficiencies (subparagraphs 9.3(a)(1) through 9.3(a)(7)) and where one of the deficiencies is clearly the cause of the other(s), Provider shall be liable to pay only the amount of the damage for the deficiency resulting in the greatest amount of damages.

(a) As to noncompliance with standards below, such damages shall accrue from the date(s) that unsatisfactory performance has occurred and will continue through the resolution of such deficiency provided the City gives written notice of such deficiency as soon as reasonably practicable, but no later than sixty (60) business days after Provider's provision of information to the City by which the City can determine Provider's compliance/noncompliance with said standards. If the City gives written notice more than sixty (60) business days after Provider's provision of such information, then such damages shall accrue (Paragraph #. A. notwithstanding) from the date of Provider's receipt of written notice from the City of noncompliance with said standards; unless the damages are waived in writing by the City or excused by force majeure.

(b) As to noncompliance with standards, such damages shall accrue from the date(s) that unsatisfactory performance has occurred and will continue through the resolution of such deficiency provided the City gives written notice of such deficiency as soon as reasonably practicable, but no later than ten (10) business days after the actual occurrence of noncompliance. Actual occurrence of noncompliance will be defined by the City, but no sooner than the agreed delivery of services and work products. If the City gives written notice more than ten (10) business days after the actual occurrence of noncompliance, then such damages shall accrue (Paragraph #. A. notwithstanding) from the date of Provider's receipt of written notice from the City of noncompliance with said standards, unless the damages are waived in writing by the City or excused by force majeure.

(1) Bandwidth Availability. Internet bandwidth must be fully operational 99.9% of the time it is scheduled to be so. Outage periods for maintenance will not be counted against this performance level if agreed to, in advance, by both parties. If the bandwidth is nonfunctional or inaccessible more than 0.5% in any 90-day period, the Provider shall be liable to the City for $1500.00 for each quarter of such occurrence. For each full or partial one-tenth of a percentage point over .5% that the solution is nonfunctional or inaccessible, the Provider shall be liable to the City for an additional $500.00 for each month. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the solution is nonfunctional or inaccessible due to a general failure of public telecommunications or other force majeure.

(2) Provider Availability. The Provider must have expert staff available and accessible via the designated toll-free numbers 99% of the time. Provider must also have staff capable of responding to 90 N. Mountain, Ashland, Oregon, within thirty (30) minutes if necessary to

resolve the problem. If the Provider's staff are inaccessible more than 1.0% in any month, the Provider shall be liable to the City for $500.00 that month. For each full or partial one-tenth of a percentage point over 1.0% that the system is nonfunctional or inaccessible, the Provider shall be liable to the City for an additional $250.00 for each such fraction of a percentage per month. The Provider will provide measured results of the occurrence of periods where no staff are available. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the inaccessibility of the Call Center Website is attributable to a general failure of public telecommunications or other force majeure.

(3) Internet bandwidth. Service must provide no less than 10 gigabits per second speed 99.9% of the time. If the bandwidth performance drops below 99.9% in any 7-day period, the Provider shall be liable to the City for $2000.00 for each occurrence. For each full or partial one-tenth percentage point over .1% that the solution does not perform to this standard, the Provider shall be liable to the City for an additional $500.00 for each 7-day period. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the solution is nonfunctional or inaccessible due to a general failure of public telecommunications or other force majeure.

(4) Response Time. Internet bandwidth must maintain packet delay to not exceed 12 milliseconds at 10 gigabits per second. If the packet delay performance rises above this threshold in any 7-day period, the Provider shall be liable to the City for $2000.00 for each occurrence. For each hour that the solution exceeds the performance threshold, the Provider shall be liable to the City for an additional $50.00 per hour for each full millisecond over 12 milliseconds. Provided however, the Provider shall have no liability to the City under the provisions of this Paragraph if the solution is nonfunctional or inaccessible due to a general failure of public telecommunications or other force majeure.

(5) Provider Response. City staff must receive correct, reliable information about the solution in a timely fashion, as well as answers to questions they have regarding any aspect of its operation as they relate to equipment or any problems caused by the solution to operate in accordance with the Agreement using the contact information and order provided by the Provider. If more than 5% of such calls for assistance remain unresolved for more than two (2) days, the City shall notify Provider of such event as soon as is practicable, explain the specific unresolved complaint, and determine if a violation has occurred for which liquidated damages would be payable. If so, and if within two (2) business days after receipt of such notice, the Provider has failed to satisfactorily resolve said complaint by taking appropriate action to repair/replace hardware or software, or reasonably assist with diagnosing other problems not within the control of the Provider, and to the extent compensation for such damages is not provided for elsewhere in the Agreement. For each full percentage point over 5%, the Provider shall be liable to the City for an additional $250 per day. In no event shall the Provider be liable for failure to remedy a problem not within Provider's control, unless the Provider has not provided reasonable assistance in diagnosing other localized problems not within the control of the Provider or provides an incorrect diagnosis due to negligence on the part of the Provider.

(6) Storage of Data. Specific customer data from the City's services shall not be saved or utilized by the Provider for any purpose or reason. If data is saved, shared, or used in violation of this requirement, the Provider will be liable to the City for $100,000. Provided however, the

Provider shall have no liability to the City under the provisions of this Paragraph for usage of metadata in the administration of the network and bandwidth, as well as if specific data is required by law, the direct order of a court of law and law enforcement, or other force majeure.

(7)   The Provider shall have a specific process in place to process/execute work orders. This process shall account for thorough analysis, design, test, and implementation any changes. If, through no fault of the City, a work order is not accepted by the City as completed within two weeks of its scheduled completion date, the Provider shall be liable to the City for $1,000 per day until the work order is delivered by the Provider and accepted by the City. The Provider shall be liable to the City for an additional $200 for each full or partial day of delay beyond the 15th day of the scheduled change or update.

(b)   The Provider shall provide notice pursuant to subsection 10.5 of its performance relative to the standards described in section 4, as well as all noncompliant performance, upon discovery of such noncompliance.

(c)   The Parties agree that damages from breach of this Agreement are difficult to prove or estimate, and the amount of liquidated damages specified herein represents a reasonable estimation of damages that will be suffered by the City from late performance, including costs of additional inspection and oversight and lost opportunity for additional efficiencies that would have attended on-time completion of performance.

(d) The rights and remedies granted to City under this section constitute City's sole and exclusive remedy against Provider, it's agents, officials and employees for any and all claims arising under statutory or common law or otherwise. There are no third-party beneficiaries of this Agreement. City agrees that Provider shall have no liability for the negligence, products, services or websites of City; of affiliates; of developers or consultants identified or referred to City by Provider; or of any other third party, including but not limited to liability for the content, quality and accuracy of the foregoing which are accessible by use of the system or services of Provider.

10. Miscellaneous Provisions.

10.1 Indemnification. To the extent legally possible, Provider shall indemnify and hold City, its officers, agents and employees, harmless from and against any and all claims, actions, liabilities, costs, including costs of defense, arising out of or in any way related to any act, failure to act, or negligence by Provider or its employees, agents, officers and contractors in connection with this Agreement.

10.2 Non-waiver. Waiver by either party of strict performance of any provision of this Agreement shall not waive or prejudice the party's right to require strict performance of the same provision or any other provision in the future. No waiver, consent, modification, or change of the terms of this Agreement shall bind either party unless in writing and signed by all parties. Such waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.

10.3   Litigation and Attorneys' Fees. In the event that liquidated damages are not specified for the default that occurs, the City may elect to pursue an action in a court of competent jurisdiction. If any litigation is commenced between the parties to this Agreement concerning this Agreement, or the rights and duties of either party, the prevailing party in that litigation shall be entitled, in addition to any other relief that may be granted in the litigation, to a reasonable sum for that party's attorneys' fees, including attorneys' fees on appeal. The amount of the fees shall be determined by the court in that litigation or in a separate action brought for that purpose.

10.4   Contract Administration. This Agreement shall be administered by the Information Technology Department through its AFN Operations Manager and by Provider through the representative listed in subsection 10.5. Either party may change its representative by providing the other party written notice of the new representative=s name and address.

10.5   Notices. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to a party of this Agreement shall be in writing and shall be deemed duly served and given when personally delivered to the party, any managing employee of the party, or, in lieu of personal service, when deposited in the United States mail, first class postage prepaid, addressed to the appropriate party as follows:

<u>**CITY**</u>	<u>**PROVIDER**</u>
City of Ashland	Hunter Communications
Attn: AFN Operations Manager	Attn: President/CEO
90 N. Mountain Ave.	801 Enterprise Drive
Ashland, OR 97520	Central Point, OR 97502

10.6   Amendments and Assignment. No amendment to this Agreement, or assignment of this Agreement will be effective unless it is in writing and signed by both parties.

10.7   No Warranties. To the extent permitted by applicable law, Provider is providing the services and the system (including but not limited to the Provider facilities and/or equipment and any access to the network). Provider agrees, to the extent feasible, that all equipment provided by Provider shall function to permit City access to the bandwidth purchased hereunder. Except for the obligations assumed by Provider under the terms and conditions of this Agreement, Provider hereby disclaims all other warranties, if any, either implied, statutory or otherwise, with respect to any of the system and services provided or to be provided under this Agreement, including but not limited to warranties of merchantability, fitness for a particular purpose, or lack of viruses. Provider makes no warranty of title, quiet enjoyment or lack of infringement with respect to the system or services.

10.8   Force Majeure. Neither party shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations under this Agreement by reason of severe weather and storms; earthquakes or other natural occurrences; strikes or other labor unrest; power failures; nuclear or other civil or military emergencies; acts of legislative; judicial;

AFN - Internet Bandwidth Agreement, Page 9

executive or administrative authorities; or any other circumstances which are not within its reasonable control.

10.9 Governing Law. This Agreement, and all matters relating to this Agreement, shall be governed by the laws of the State of Oregon in force at the time any need for interpretation of this Agreement or any decision or holding concerning this Agreement arises.

10.10 Severability. If any provision of this Agreement is held by a court, governmental agency, or regulatory body of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect unimpaired by the holding. The invalidity of a section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses as long as the parties can legally, commercially and practicably continue without the invalid provision.

10.11 Entire Agreement. This Agreement and any attachments constitute the entire and sole agreement between the City and Provider. Any agreements or representations respecting internet service or any related matters discussed in this Agreement not expressly set forth or incorporated into this Agreement are null and void.

INTENDING TO BE BOUND, the parties have executed this Agreement as of the date written below.

City of Ashland:

_____   Date: _____
Kelly Madding, City Administrator

Provider: Hunter Communications

_____   Date: _____
Richard Ryan, President/CEO

Evaluation Criteria	Points	Capcon Networks					Cogent Communications					Hunter Communications					LS Networks					Network Computing Architects, Inc.					Spectrum Enterprise				
		#1	#2	#3	#4	#5	#1	#2	#3	#4	#5	#1	#2	#3	#4	#5	#1	#2	#3	#4	#5	#1	#2	#3	#4	#5	#1	#2	#3	#4	#5
Letter of Introduction, Table of Contents and Proposal Submission Form (Exhibit A)	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	3	5	5	5	5	5	5	5	5	5	5	5
Qualifications and Experience	25	20	20	20	15	10	25	25	25	25	25	25	25	23	25	23	25	25	24	22	25	20	20	18	18	20	25	25	23	25	25
Proposed Services (Requirements Criteria and Alternative Solutions, Designs and/or Systems)	25	20	15	18	20	15	20	21	25	25	24	22	25	21	25	25	25	25	23	22	25	25	25	20	22	20	20	20	21	20	23
Activation Plan	10	8	5	7	7	8	7	6	7	10	10	8	10	9	8	8	10	8	9	10	10	8	8	7	5	5	8	7	7	10	10
New Technologies and/or Additional Services	10	0	0	7	0	0	6	5	7	0	0	8	8	7	8	8	8	10	9	10	10	10	10	5	0	10	6	5	8	10	10
Sample Reports	5	4	5	5	5	2	5	5	5	5	2	5	5	5	3	2	4	5	5	5	2	4	4	5	5	2	4	5	5	5	2
References	15	15	15	10	15	15	15	15	14	15	15	15	15	14	15	15	15	15	15	15	15	15	15	11	15	15	15	15	14	15	15
Contract Terms and Conditions and Certificate of Compliance (Exhibit C & Exhibit E)	5	5	5	5	5	5	2	5	4	5	5	5	5	5	3	5	5	5	4	5	5	3	5	5	5	5	3	4	3	5	5
SUBTOTAL	100	77	70	77	72	60	85	87	92	90	86	93	98	89	92	91	97	98	94	92	97	90	92	76	75	82	86	86	86	95	95
Cost Proposal and Performance Measures Matrix (Exhibit B)		9.29	9.29	9.29	9.29	9.29	7.14	7.14	7.14	7.14	7.14	13.24	13.24	13.24	13.24	13.24	10.74	10.74	10.74	10.74	10.74	10.40	10.40	10.40	10.40	10.40	3.28	3.28	3.28	3.28	3.28
TOTAL		86.29	79.29	86.29	81.29	69.29	92.14	94.14	99.14	97.14	93.14	106.24	111.24	102.24	105.24	104.24	107.74	108.74	104.74	102.74	107.74	100.40	102.40	86.40	85.40	92.40	89.28	89.28	89.28	98.28	98.28

Cost Proposals		Capcon Networks				Cogent Communications				Hunter Communications				LS Networks				Network Computing Architects, Inc.				Spectrum Enterprise			
		Monthly Pricing	Calculation	%	Points	Monthly Pricing	Calculation	%	Points	Monthly Pricing	Calculation	%	Points	Monthly Pricing	Calculation	%	Points	Monthly Pricing	Calculation	%	Points	Monthly Pricing	Calculation	%	Points
10 gig Transport to the Pittock Internet Exchange	3.57	$ -	0	0%	0.00	$ -	$0	0%	0.00	$ 4,800	$3,400/$4,800	70.8%	2.53	$ 3,400	$3,400/$3,400	100.0%	3.57	$ -	0	0%	0.00	$ 8,369	$3,400/$8,369	40.6%	1.45
10 gig IP Transit at the Pittock Internet Exchange	3.57	$ 2,500	$2,000/$2,500	80%	2.86	$ 2,000	$2,000/$2,000	100%	3.57	$ -	0	0%	0.00	$ 5,000	$2,000/$5,000	40%	1.43	$ 2,400	$2,000/$2,400	83.3%	2.98	$ -	0	0.0%	0.00
10 gig Transport to the Raging Wire Data Center	3.57	$ -	0	0%	0.00		$0	0%	0.00	$ 6,000	$6,000/$6,000	100%	3.57	$ -	0	0%	0.00	$ -	0	0%	0.00	$ -	0	0.0%	0.00
10 gig Transit at Raging Wire	3.57	$ 2,500	$2,000/$2,500	80%	2.86	$ 2,000	$2,000/$2,000	100%	3.57	$ -	0	0%	0.00	$ -	0	0%	0.00	$ 2,400	$2,000/$2,400	83%	2.98	$ -	0	0.0%	0.00
10 gig IP Transit Delivered to one of the three Rogue Valley locations	3.57	$ -	0	0%	0.00	$ -	0	0%	0.00	$ 4,500	$4,500/$4,500	100%	3.57	$ 7,400	$4,500/$7,400	61%	2.17	$ 8,768	$4,500/$8,768	51%	1.83	$ 8,768	$4,500/$8,768	51.3%	1.83
10 gig Transport between the Pittock and Raging Wire	3.57	$ 2,375	$2,375/$2,375	100%	3.57	$ -	0	0%	0.00	$ -	0	0%	0.00	$ -	0	0%	0.00	$ 3,249	$2,375/$3,249	73%	2.61	$ -	0	0.0%	0.00
Optional	3.57	$ -	0	0%	0	$ -	0	0%	0	$ 3,800.00		100%	3.57	$ 6,150.00		100%	3.57	$ -	0	0%	0.00	$ -	0	0%	0.00
Total Points	25.0		9.29				7.14				13.24				10.74				10.40				3.28		

25 Total Points available divided by 7 levels of service =3.57 possible per service level. 3.571429

	Capcon	Cogent	Hunter	LS N	NCA	Spectrum
Technical Proposal Score	71.20	88.00	92.60	95.60	83.00	89.60
Cost Proposal Score	9.29	7.14	13.24	10.74	10.40	3.28
Total Score	80.49	95.14	105.84	106.34	93.40	92.88