



SANDYNET ADVISORY BOARD MEETING

Thursday, November 21, 2024 at 7:00 PM
17175 Meinig Ave and via Zoom

AGENDA

TO ATTEND THE MEETING IN-PERSON:

Come to 39055 Pleasant St., Sandy, OR 97055

TO ATTEND THE MEETING ONLINE VIA ZOOM:

Please use this link: <https://us02web.zoom.us/j/85972327445>

Or by phone: (253) 215-8782; Meeting ID: 859 7232 7445

ROLL CALL

CHANGES TO THE AGENDA

PUBLIC COMMENT

OLD BUSINESS

NEW BUSINESS

1. Master Plan Draft Review

2. Clackamas County IGA for Construction Services

STAFF UPDATES

ADJOURN

Americans with Disabilities Act Notice: Please contact Sandy City Hall, 39250 Pioneer Blvd. Sandy, OR 97055 (Phone: 503-668-5533) at least 48 hours prior to the scheduled meeting time if you need an accommodation to observe and/or participate in this meeting.

SandyNet Master Plan

November 2024



Prepared By



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1. Executive Summary

It is difficult to overstate SandyNet's excellence in the context of municipal ISPs, and ISPs in general. SandyNet provides superb customer service, fast and reliable speeds, and all at some of the lowest costs to customers in the country. SandyNet is an asset that any community in the US would covet, and is poised to strengthen the economic and quality of life of the Sandy Community for decades to come.

Under the surface, however, SandyNet is facing some challenges that are common to ISPs of its current size – challenges that this plan seeks to address. And it must first be said that these are not challenges to be afraid of, nor challenges that should be seen as indictments of SandyNet's management or trajectory until this point. These are solvable challenges that can be mitigated while still maintaining SandyNet's position as one of the most affordable ISPs in the nation delivering exceptional service to the community.

SandyNet has approximately 4,000 subscribers, and growing to 4,000+ subscribers is a challenging initial hurdle for small ISPs for two primary reasons.

First, it requires building a full management team (which is a significant expense) while the total customers are still relatively small. Adding customers from this point on will provide linear revenue growth, while only incurring incremental additional costs, because SandyNet will be able to spread its fixed operational costs over more subscribers.

Second, initial ISP growth often requires utilizing significant capital from outside sources (most often in the form of debt) rather than from internal revenues. ISPs then have to manage those debt service obligations at a more precarious scale. Once ISPs grow beyond 4,000 customers, revenues can increase more substantially as the ISPs leverage more scale. This in turn provides ISPs with more flexibility and cushion on their balance sheets.

SandyNet's current challenges are a particular manifestation of those commonly faced by similarly scaled ISPs. SandyNet has achieved its growth with a significantly leaner staffing model than peer ISPs – which has in turn allowed SandyNet to charge prices that are *significantly* lower than their competitors and peer ISPs. While the staffing shortcuts have enabled incredibly low prices, which in turn have generated sky-high penetration rates within the community, the current staffing levels are not sustainable. Instead, there is significant operational risk due to burnout, turnover, and lack of capability resiliency. At a time when hiring in telecom is perhaps the hardest it has ever been, turnover now could significantly impact network operations and therefore service quality.

In addition, the current pricing structure does not allow SandyNet to adequately address some longer term network asset and operational needs, such as fully accounting for asset

depreciation, and building in some best-practices aspects of network resiliency (namely, a redundant telecom data center, known in the telecom industry as a central office).

While it is difficult, in general, for ISPs to persist for long periods of time at 2,000 or 3,000 subscribers, it is completely possible for an ISP to have a long-term, sustainable business around 4,000 subscribers – just not at the current rates SandyNet is offering. The staffing structure and the asset depreciation challenges are both critical enough that this plan strongly recommends that SandyNet raise its rates to account for these two foundational operational needs. This recommendation was not made lightly. A close review of SandyNet’s operations led to the clear conclusion that SandyNet’s rates are, essentially, artificially low, which is introducing unnecessary risks to the business.

We hope this plan serves as a roadmap for SandyNet through this inflection point in their size, and conveys simultaneously that SandyNet is not in an unstable or dangerous position currently. Instead, we recommend that significant changes and growth should be pursued to make the organization more resilient, ease staffing burdens, and protect SandyNet for the decades to come.

A summary of recommendations in this plan are as follows:

- 1. Better account for asset depreciation of network assets by assuming a seven year replacement cycle on network electronics, and 30 year replacement cycle on fiber.** Doing so suggests that SandyNet should be setting aside approximately \$550,000/year.
- 2. Strengthen the relationship between SandyNet and its advisory board by formalizing reporting structures, goals, and success metrics, to allow the board to provide more rigorous strategic guidance.** A stronger relationship will provide more value and guidance to SandyNet leadership through this process of maturing its operations, staff, accounting, and strategy.
- 3. Mitigate risks of staff burnout, turnover, and lack of redundancy by increasing staff capacity.** Section four of this plan provides specific recommendations for staff to add, roles to differentiate, and that SandyNet establishes stronger recruiting pipelines with regional training programs.
- 4. Adjust SandyNet’s rates to increase the Average Revenue Per User (ARPU) by \$12/month.** This is the threshold estimated to be needed to properly mitigate the critical risks identified in this report.
- 5. Consider consolidating debt to a 30 year revenue bond, which is standard for municipal ISPs.** Given SandyNet is a stable municipal utility, debt consolidation into a debt vehicle that aligns with the life of fiber and minimizes monthly payments could be a strategic way to give

the ISP more cushion in year to year finances and enable organizational investments such as updated facilities for network redundancy and updated office space

6. Pursue customer growth in a structured way outside of Sandy in partnership with CBX or by building using SandyNet backed construction. Scaling beyond 4,000 customers would allow the ISP to spread its fixed costs over more subscribers, strengthen its financial position, and bring more resources into the City of Sandy. This plan provides an analysis of both of these growth philosophies, and considerations and strategies that should be employed while pursuing each.

2. SandyNet’s finances are stable but the enterprise does not generate adequate surplus for long term needs after accounting for debt service payments

Because the recommendations throughout this plan have to be made within the context of the financial health of the SandyNet, this strategic plan begins with a quick summary of the current state of the health of the enterprise.

SandyNet is currently in an acceptable financial position for the near term, generating a modest surplus after current operational expenses and debt service payments.

SandyNet’s budgeted operational costs of approximately \$1.8M/year are very lean – particularly due to the smaller staff size compared to similar ISPs. (See section 4 for a deeper analysis of SandyNet staffing).

On the debt side, SandyNet’s debt is spread across a revenue bond acquired in 2015 and interdepartmental loans from the City. The enterprise is approximately halfway through repayment of the 20 year, \$7.5M revenue bond, with annual payments slated to be approximately \$620,000-\$690,000 for the remainder of the term. SandyNet’s wastewater interfund loan has been fully paid off, and it has retired a little more than half of a transit interfund loan, with a remaining balance of slightly over \$200,000.

On the revenue front, SandyNet has some of the lowest rates of broadband in the country, which has created a loyal base of customers in the city of Sandy, where penetration rates are around 80%. Penetration rates for SandyNet are exceptionally high and likely among the highest for any ISP in the country.

Revenue growth is projected to be modest, as it is unlikely that significantly more customers will subscribe to the network given penetration rates are already so high. Some growth is being achieved through SandyNet’s partnership with Clackamas Broadband Exchange (CBX),

but this partnership does not currently cover a significant number of new homes and businesses.

All told, SandyNet's revenue covers current operational costs and debt service, but does not leave significant if any surplus after payments. This is a stable position from which to operate for the near term, but acting on the strategic changes recommended in this plan – which are essential to ensure the long-term strength and health of the enterprise – will require making adjustments to the rate structure and pursuing additional customer growth.

In addition to exploring options to increase revenue described in later sections, SandyNet may wish to reduce debt pressure and free additional funds in the short term by considering options to refinancing its bond from a 20 year term to a 30 year term. This would allow the enterprise to take a longer term financial view, as is typical for a municipal ISP, and leverage stability and relative predictability of the revenue bond system. SandyNet should engage with the City's finance department and its advisory board to discuss refinancing options.

3. SandyNet should more formally account for network depreciation costs – and budget for a telecom data center upgrade

SandyNet should allocate funds to ensure network resiliency. In particular, SandyNet should prioritize covering expenses related to depreciation, as well as possible future expenditures to harden the network and add redundant facilities.

3.1 SandyNet must account for asset depreciation to ensure continued high quality service

To ensure that SandyNet can continue to provide high quality service, it needs to plan and account for asset depreciation. Depreciation is the gradual decrease in value of network infrastructure and equipment over time due to wear and technological obsolescence. Proper depreciation planning is foundational to best practice ISP operations, and ensures that funds are available to replace aging equipment and maintain service quality. SandNet leadership previously planned and budgeted for equipment replacement costs, but funding was allocated in favor of other operational priorities, such as network expansion.

Going forward, SandyNet should annually funnel revenue into a depreciation fund to cover both its network electronics and fiber optics assets. It should conservatively assume a seven-year service life for network electronics, which is industry standard, though the actual service life may be longer for some of the components. The total estimated cost of electronics in SandyNet's network is \$2.7M. Therefore, using a straight line depreciation schedule, SandyNet should set aside approximately \$386,000 annually for electronics depreciation.

Fiber optic cable is conservatively rated by manufacturers to have a 20 year service life, but in practice lasts much longer. ISPs often assume a depreciation cycle of 30 years on fiber assets (and fiber made within the last 10 years may last more than 30 years). Replacement costs for fiber will be variable based on when the construction occurs, but ISPs can use a rough estimate of \$60,000 per mile for planning purposes. SandyNet's network consists of about 80 miles of fiber, making the total estimated value of fiber assets (including construction costs) approximately \$4.8M. Therefore SandyNet should set aside approximately \$160,000 replacement annually in the depreciation fund.

SandyNet's total yearly target of approximately \$546,000 for their depreciation fund must also scale proportionally with any expansion or upgrades that add to the value of the network.

3.2 SandyNet should consider adding another telecom data center to increase resilience

Establishing a new, redundant, telecom data center (referred to as a central office, or CO, in the telecom industry) for network equipment would increase network resiliency, and should be understood as another demand for additional operational revenue.

Stakeholders interviewed for this plan repeatedly noted that the current location of SandyNet's central office is suboptimal from a network security standpoint and presents a vulnerability as a single point of failure.

Of course, building another central office would be a considerable expense. SandyNet could start planning with a baseline budget of \$500,000 for the facility based on industry averages, not including site acquisition costs. However, network resiliency and security is a major area of concern for ISPs, and mature ISPs all endeavor to have more resiliency by establishing a second CO. Additionally, as SandyNet continues to grow, updated or expanded office space and facilities for personnel will likely become more desirable. If SandyNet chooses to prioritize exploring the feasibility of a new CO, it should consider the possibility of combining the construction with other planned City developments to capture construction efficiencies and lower overall costs.

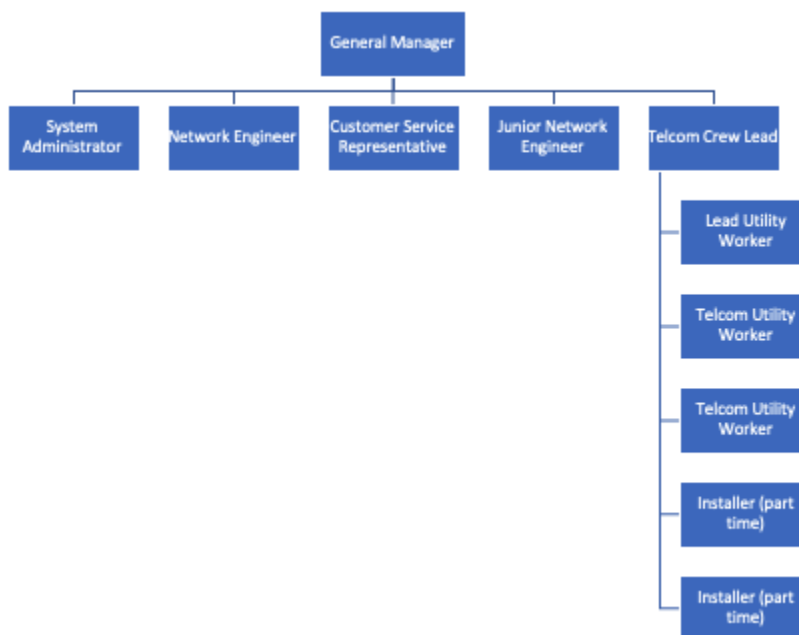
4. SandyNet should add staff to improve operations and reduce risk

SandyNet has enjoyed great success despite operating with an extremely lean staffing structure. Looking ahead, SandyNet should grow its staff to provide greater flexibility, add redundancy, and reduce pressure on key personnel. These changes will improve SandyNet's operations and reduce risk of staff turnover, burnout, or errors.

4.1 Stakeholder interviews and analysis of ISP operations indicates that SandyNet may face challenges if do not increase staff capacity

SandyNet currently operates with a lean staffing structure that presents several challenges to the enterprise, including potential issues with customer service and slowdown of subscriber onboarding in times of peak demand due to lack of installers. Key personnel positions, such as the General Manager role, operate with little redundancy or support handling day to day operational needs. The enterprise generally lacks redundancy for key roles creating potential gaps in critical functions in the event of unexpected staff absence or turn over. The typical staff for an ISP with 3,000-7,000 customers consists of at least 15 employees, and sometimes considerably more depending upon the amount of construction work done in-house. SandyNet currently has 11 staff and pushes the boundaries of what can be sustainably achieved with a staff of that size.

SandyNet Organizational Chart



4.2 Benchmarks from similar ISPs emphasize need for additional staff while stakeholder interviews underscore risk of burnout for current staff

This plan compared the staffing structure of three regional ISPs to SandyNet. Results showed that in addition to operating with fewer staff than typical in the industry, SandyNet has fewer customer service staff than its peers, and fewer staff even than a peer ISP with

fewer subscribers. All of the comparable ISPs also had at least three network engineers, to SandyNet's two.

SandyNet currently has only one customer service representative (CSR) on staff. The enterprise is known for its excellent customer service, but current staff go above and beyond to maintain this excellence with working habits that are not sustainable. For example, SandyNet leadership covers after hours (evenings and weekends) customer service on an on-call basis. The lack of multiple CSRs was flagged by several stakeholders as an issue that could negatively impact customer experience, and one peer ISP manager interviewed stated that SandyNet should have at least four customer service representatives given its size.

Variation in staffing levels and the organization of small ISPs is natural, and depends upon the particular ISP strategies. For example, MINET started out with a relatively large staff that allowed them to add thousands of subscribers without needing to hire additional personnel. Other ISPs may have arrangements with entities that allow them to "borrow" staff as needed. Beacon Broadband only has one full-time network engineer, but their arrangement with Peak Internet, another ISP, gives them access to two additional network engineers when needed. However, SandyNet practices, such as the General Manager also overseeing City IT responsibilities and staff handling after-hours customer service calls reflect a notably lean approach to ISP staffing.

Staffing Structure of Comparable ISPs

Staff Role	SandyNet 3900 subs	MINET 7500 subs	Beacon 3550 subs	Average Salary Ranges in Oregon (in 1000s)
CEO/General Manager	1	1	1	\$107-182
Office Manager			1	\$54-84
Customer Service Representatives (CSRs)	1	8	5	\$38-40
Network Engineers	2	3	1	\$103-143
Systems Administrator	1			\$74-130
Field Technicians	6	11	7	\$53-79
Sales Representatives			2	\$51-91
Marketing Manager		1	1	\$68-122
Accountant/Bookkeeper		1	1	\$55-82
Finance Manager		1	1	\$80-177
Total staff	11	26	20	

Stakeholders consistently highlighted the impressive efforts of SandyNet staff at all levels. However, this model of operating at full capacity with on-call availability poses risks, such as burnout and turnover, particularly given SandyNet's lack of staffing redundancy.

4.3 SandyNet should grow its staff and staff capabilities

As revenues are increased, SandyNet should consider allocating funds to implement the following staffing changes to mitigate challenges identified above. These changes are presented in order of priority, but SandyNet leaders should re-examine and re-prioritize based on updated business or operational concerns.

1. **Hire after-hours customer service function:** Hiring an after-hours customer service function will allow SandyNet to continue delivering the great service it is known for, while at the same time relieving a burden from staff who are already operating at capacity. Service providers like NRTC, AnswerNet, and EPB can be contracted to field customer calls and provide basic troubleshooting, and SandyNet has pursued exploratory conversations with these vendors since 2023. Employing such services will ensure that customers can always speak with a person when they are having service issues without having to rely on existing staff fielding calls on nights and weekends.
2. **Separate the SandyNet General Manager role from City IT role:** SandyNet's GM should be fully focused on running the enterprise. The City would also gain additional leverage from a dedicated IT staff member who could devote their full capacity to City IT needs.
3. **Add two additional customer service staff:** Filling these positions will immediately add resilience by ensuring backup is available for the current CSR role, and bring SandyNet more in line with regional and industry standards. Hiring additional customer service staff will also spread the burden of evening, weekend, and holiday on-call work.
4. **Add one additional network engineer:** Adding a third network engineer will ensure that SandyNet can continue to offer high quality and reliable service, relieve pressure on existing engineers, and bring Sandynet's staffing in line with regional norms.
5. **Add an assistant General Manager and implement more leadership opportunities for staff:** Adding an assistant general manager to oversee daily operations will create a stronger leadership structure that allows the GM to focus on high-level strategic work that is essential to the long term stability of the enterprise. With daily operations covered by an assistant GM, the GM can spend appropriate time on

initiatives such as rate changes, reporting / compliance, financial planning, special projects (like more intentional marketing efforts) and the creation of robust and timely reports for the City Council and Advisory Council.

Freeing up some of the GM’s time will also enable them to better engage with Sandy’s community and function as the public face of the organization (e.g. by regularly attending community events). Developing and maintaining a strong community presence was identified as an essential part of business development by interviewees.

Other staff, with appropriate training, could also be promoted to management roles. For example, a senior network engineer could oversee the engineering team, and a lead utility worker could supervise the utility crew’s day to day operations.

- 6. Contract for external support to develop and implement a marketing campaign:** SandyNet has engaged in limited marketing efforts to date. Though it currently has a high take rate and limited competition, these conditions are not guaranteed in the future. Solidifying brand presence, awareness, and loyalty through marketing will help to capture business customers within the city now, and accelerate customer acquisition. Outsourcing to a professional marketing firm will be most efficient for SandyNet, and the contracted services should scale as the enterprise ramps up its marketing efforts. Sandynet should also consider industry standard marketing “quick wins”, with or without professional marketing support, such as tabling at local events, sponsoring a local youth sports team, or implementing a customer referral program.

SandyNet should also seize opportunities to publicly celebrate its successes. Multiple Sandy stakeholders highlighted SandyNet’s excellent service and value, and indicated that they’d like to see more promotion of SandyNet. This could include large public celebrations of SandyNet milestones, such as achieving 100% coverage in the city, or the completion of other network construction projects.

- 7. Establish talent pipelines to support future staff recruitment:** SandyNet should proactively identify and cultivate talent pipelines to ease the difficulties recruiting qualified technical staff in the future. SandyNet may begin by leveraging the regional educational institutions offering degree programs in fields relevant to the ISP’s staffing needs. The General Manager could pursue connections with program directors, present to classes, and generally make SandyNet’s presence as an employer known to these institutions.

Regional educational institutions with programs relevant to SandyNet staffing

Institution	Link to programs	Relevant Programs
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Chemeketa Community College	Programs and Classes	STEM program
Clackamas Community College	Degree Options	STEM and Industrial Tech
Mt Hood Community College	Degree Options	Computers, Cybersecurity, & Game Development; Engineering & Math
Portland Community College	Computer Information Systems ; Electronic Engineering Technology	Computer Information Systems; Electronic Engineering Technology
Portland State University	Computer Engineering ; Electrical Engineering	Computer Engineering; Electrical Engineering
University of Portland	Management Information Systems	Management Information Systems

SandyNet could also work to build its staff pipeline by developing apprenticeship programs and internships to introduce high school students and early career workers to the industry.

5. Rate adjustments are needed to ensure SandyNet’s long term financial health

This section makes the case that SandyNet should adjust its rates to ensure the financial sustainability of the enterprise, adequately prepare for asset depreciation, and grow its staff.

5.1 SandyNet’s rates lower than comparable ISPs in the Oregon and significantly lower than industry averages

A comparison with other Oregon ISPs (see table below) reveals that SandyNet’s residential service tiers are priced lower than those of its peers. Comparable ISPs were selected based on their provision of fiber services, their similar size to SandyNet in terms of subscribers, and, in the case of municipal ISPs, their focus on operational sustainability rather than profit, thus having the motivation to keep rates low.

SandyNet’s price for its base residential tier is \$10-\$35 lower than those of comparable ISPs. The price of SandyNet’s base tier symmetrical 500 mbps service is also \$10 less than the

15/2 DSL service offered in Sandy by Zply, a large national competitor providing service in and around Sandy.

SandyNet's rates also fall well below national averages. A recent study by the Technology Policy Institute indicates that 1G service plans have an average monthly price between \$105-\$118.

SandyNet, like half of the comparable ISPs, does not differentiate the price of residential and non-SLA business service. However, this is an uncommon practice nationally, where higher rates for business service are the norm. As the table below shows, the ISPs that differentiate business and residential pricing charge significantly more for business service than residential.

Rate Comparison of Oregon ISPs Offering Fiber Service

ISP Name	Approx. Subs	Muni.	Private	Res. Base	Res. Mid	Res. High	Bus. Base	Bus. Mid	Bus. High
SandyNet	3900	X		\$44.95	\$59.95	\$80.00	N/A	N/A	N/A
Beacon Broadband Inc.	3500		X	\$55.00	\$85.00	\$120.00	\$120.00	\$225.00	N/A
HiLight	1500	X		\$55.00	\$125.00	N/A	\$75.00	\$200.00	\$300.00
MINET	7500	X		\$59.99	\$84.99	\$129.99	\$59.99	\$84.99	\$129.99
Molalla Communications Co.	6500		X	\$75.00	\$125.00	N/A	N/A	N/A	N/A
Stayton Coop.Telephone Co.	6500		X	\$80.00	\$90.00	\$130.00	\$80.00	\$90.00	\$130.00

5.2 SandyNet should create separate pricing tiers for non-SLA business customers

SandyNet should consider creating separate pricing tiers for non-SLA business customers, in line with industry standards. Importantly, SandyNet's non-SLA business customers currently get network priority, which represents additional value that they are not currently charged for. Businesses can more readily absorb higher rates as part of their costs, making such increases less burdensome than for residential customers. Creating non-SLA business pricing will likely become an important revenue generation vehicle for SandyNet's long term financial and operational health.

5.3 Rate adjustment models suggest several options to responsibly to increase revenue

RISI created a pricing analysis tool to allow SandyNet to explore the impacts of various price adjustment scenarios. The tool enables SandyNet leadership to make data driven pricing decisions by comparing multiple pricing scenarios, forecasting the impact of rate adjustments on operational revenue, and modeling customer growth.

5.3.1 SandyNet should target a minimum \$12 increase in Average Revenue Per User to account for medium and long term operational needs

SandyNet's average revenue per user (ARPU) is currently \$50. In order to generate adequate revenue to devote appropriate funding to asset depreciation, staffing, and capital projects recommendations in this plan, it should raise its rates to increase ARPU to at least \$62. Though raising rates should never be done lightly, for the sake of Sandy residents and customers, it is imperative that SandyNet raise rates in their current situation to ensure long term operational sustainability. Fortunately, the enterprise's historically low rates have left it with ample room to raise prices while remaining one of the most affordable ISPs in Oregon if not the country.

This plan presents three possible scenarios that raise ARPU by at least \$12. Each scenario includes price differentiation between business and residential customers in line with standard industry best practice. This strategy also shifts costs onto entities deriving greater value from the network (e.g. through network prioritization), rather than onto standard residential consumers. However, there are numerous scenarios available to SandyNet that would achieve the same revenue goals, and it should utilize the pricing tool associated with this plan to test and fine tune options that are acceptable to all relevant stakeholders.

Three possible options for rate adjustment scenario for SandyNet to consider include:

1. **Option 1: Raise all residential tiers by \$12 and all business tiers by \$24.** This would raise SandyNet's ARPU by an estimated \$12.61.
2. **Option 2: Raise entry-level residential and business rates by \$12/month, and raise higher rates by greater amounts.** This scenario results in an estimated ARPU increase of \$14, and would give SandyNet a little more flexibility to pay debt faster, invest in staff, and engage in providing other community benefits.
3. **Option 3: Minimize rate increases for base tier residential users, and raise the rates of higher tiers by greater margins** This option would be similar to option two, but prioritizes keeping the bottom tier residential price increase as low as possible while still achieving the overall target ARPU increase. Notably, because of SandyNet's customer distribution, analysis showed that SandyNet cannot get away with raising their lowest tier less than \$8 while still achieving a \$12 overall increase in ARPU.

The tables below outline the details and impact of these rate adjustment options as modeled in the pricing analysis tool created for this plan.

Residential Pricing Options Input

Service Tier	Current Base Rate Per Month	Addition to Base Rate Option 1	Addition to Base Rate Option 2	Addition to Base Rate Option 3
Base (Half Gig)	\$44.95	\$12.00	\$12.00	\$8.00
Mid (1 Gig)	\$59.95	\$12.00	\$16.00	\$16.00
High (2 Gig)	\$80.00	\$12.00	\$24.00	\$24.00
5 Gig	\$110.00	\$12.00	\$24.00	\$24.00
Base (Half Gig) CBX	\$64.95	\$12.00	\$12.00	\$12.00
Mid (1 Gig) CBX	\$84.95	\$12.00	\$24.00	\$24.00
Wireless base (25/5)	\$39.95	\$12.00	\$12.00	\$12.00
Wireless mid (50/10)	\$49.95	\$12.00	\$24.00	\$24.00

Business Pricing Options Input

Service Tier	Current Base Rate Per Month	Addition to Base Rate Option 1	Addition to Base Rate Option 2	Addition to Base Rate Option 3
Base (Half Gig)	\$44.95	\$24.00	\$24.00	\$36.00
Mid (1 Gig)	\$59.95	\$24.00	\$36.00	\$48.00
High (2 Gig)	\$80.00	\$24.00	\$48.00	\$56.00
5 Gig	\$110.00	\$24.00	\$56.00	\$64.00
Base (Half Gig) CBX	\$64.95	\$24.00	\$24.00	\$36.00
Mid (1 Gig) CBX	\$84.95	\$24.00	\$36.00	\$48.00
Wireless base (25/5)	\$39.95	\$24.00	\$24.00	\$36.00
Wireless mid (50/10)	\$49.95	\$24.00	\$36.00	\$48.00

Combined Residential and Business ARPU output

	Option 1	Option 2	Option 3
ARPU	\$62.64	\$64.12	\$62.23
Difference between current ARPU and APRU with adjusted rates	\$12.61	\$14.09	\$12.20

SandyNet Annual Revenue Projections

Year	2025	2026	2027	2028	2029	Total Revenues and Increase Over Baseline at 5 years
Baseline Revenue Based on Current Rates	\$2,395,484	\$2,280,212	\$2,292,220	\$2,304,227	\$2,316,234	\$11,588,377
Combined Res. and Bus. Revenue Pricing Option 1	\$2,999,352	\$3,021,903	\$3,044,455	\$3,067,006	\$3,089,558	\$15,222,275
Revenue Increase Over Baseline	\$603,868	\$741,691	\$752,235	\$762,779	\$773,324	\$3,633,898
Combined Res. and Bus. Revenue Pricing Option 2	\$3,070,011	\$3,093,094	\$3,116,177	\$3,139,260	\$3,162,342	\$15,580,884
Revenue Increase Over Baseline	\$674,528	\$812,882	\$823,957	\$835,033	\$846,108	\$3,992,507
Combined Res. and Bus. Revenue Pricing Option 3	\$2,979,765	\$3,002,169	\$3,024,573	\$3,046,977	\$3,069,382	\$15,122,866
Revenue Increase Over Baseline	\$584,281	\$721,957	\$732,354	\$742,750	\$753,147	\$3,534,489

5.3.2 SandyNet is well positioned to meet any optics challenges presented by rate adjustments

Though rate adjustments can present customer relations difficulties, SandyNet's historically low rates have left the operation significant room to raise rates while still remaining competitive. Additionally, SandyNet enjoys a sterling reputation in the community and a proven customer service track record that functions as a strong PR base from which to make adjustments. To ease possible challenges around pricing changes, SandyNet may consider employing the following strategies:

- Send mailers with bills and conduct email campaigns before describing the adjustments, before, during, and after changes, starting two months before the increases
- Emphasize both the necessity of rate changes as well as positive changes adjustments will bring. Focus on points such as equipment upgrades / replacements to maintain the reliability and speeds customers love, adding key staff positions to ensure network reliability and resiliency, and keeping pace with inflation
- Review facts and messaging with SandyNet staff, City Councilors, and other City staff so that they are prepared to answer questions about rate changes
- Continually reaffirm SandyNet's commitment to excellent, affordable service through rates that will allow SandyNet to keep serving the community far into the future in all messaging, including website, mailers, and emails

5.4 SandyNet may wish to consider creating a low price tier or subsidy program to replace the defunct federal Affordable Connectivity Program

SandyNet may wish to consider creating an affordable internet package or subsidy program to replace the ACP in line with its mission to remove barriers to broadband access. SandyNet facilitated a \$30/month discount (paid by the federal government) for qualifying households when the ACP program was active, and the City currently offers reduced water and wastewater rates to qualifying customers. While some version of a federal internet affordability program may emerge in the future, if SandyNet were to enact its own program similar to that of the Water Department's, it could ensure that low-income residents have access to subsidized high quality internet service, while avoiding the administrative burden that comes with federal oversight.

SandyNet had relatively few (+/- 50) customers using ACP while the program was active. Assuming the same number of customers and the same \$30 discount that the ACP provided, it would cost approximately \$18,000 per year to run the program. Implementing the rate changes discussed above should provide enough additional revenue to support a subsidy program of this modest size.

The City currently qualifies customers for its discounted water and sewer rates, and may be able to qualify SandyNet customers as well. If SandyNet must qualify customers themselves, they could tie eligibility to participation in Federal aid programs (e.g. SNAP, WIC, Medicaid), and require customers to furnish copies of participation documentation annually. Alternatively, SandyNet could engage an outside agency to conduct qualification and verification work on a contract basis.

6. Improving SandyNet’s governance practices will benefit operations, aid in strategic decision making, and increase alignment with municipal leadership and functions.

As an enterprise fund targeting financial sustainability, SandyNet should strive to approach governance and operational decision making with a more structured business and financial lens. This section outlines recommendations concerning SandNet’s advisory board and leadership.

6.1 SandyNet’s advisory board should require more advanced financial reporting, and provide more rigorous advisory support with that reporting

SandyNet's advisory board currently serves as a consultative body, providing advice and feedback to the management team. However, the organization could benefit from a more structured and reciprocal relationship with the board, akin with the practices of a corporate board of directors, while still maintaining the advisory board's official advisory capacity and ultimate decision making authority with the city council. To achieve this, the following steps are recommended:

- **Provide regular reports:** SandyNet leadership should deliver comprehensive financial and operational reports to the board at defined intervals. The board should specify the format and content of these reports to ensure they are aligned with the organization's strategic needs
- **Ensure regular meetings:** The board should meet on a regular basis to review the reports, discuss organizational strategy, and develop formal recommendations for the City Council
- **Establish a relationship of mutual accountability:** SandyNet leadership should be accountable to the advisory board, responding to concerns and recommendations in

a consistent and timely manner. Strong accountability exercises may include regular goal setting across finances and operations and tracking progress against goals.

SandyNet should also target retaining and adding advisory board members with financial, legal, engineering, and operational expertise. It is best practice for municipal utilities to staff their advisory boards with subject matter experts, as these experts can use their knowledge in service of the ISP while obviating the need for housing some of this expertise in the organization or with city policy makers, such as the council. The council should still ideally provide strategic input for the advisory board such as clear long term goals. This structure and board make up will allow SandyNet to bring fully formed and vetted strategies to the city council, minimizing back-and-forth and solidifying the council's confidence in SandyNet's processes.

7. SandyNet should continue to prioritize resources to ensure compliance with relevant Federal and State regulations

ISPs must comply with varied and complex State and Federal reporting and regulatory requirements. SandyNet currently contracts with Logicom, a telecommunications regulation consultant for some of their compliance needs. SandyNet should consider growing this expert consulting relationship to ensure full compliance with Federal and State regulation.

This section highlights federal and state reporting and compliance requirements for SandyNet's consideration. SandyNet should consult qualified legal counsel for ultimate direction on how to comply with state and federal regulations.

7.1 Federal requirements for SandyNet's awareness

Broadband Consumer Labels: Similar to nutritional labels on food products, the FCC requires broadband consumer labels to clearly disclose the specifics of the broadband service provided. This initiative aims to enhance transparency for consumers, detailing what they can expect from their internet service. Smaller ISPs with fewer than 100,000 subscribers must adhere to this requirement by October 10, 2024.

SandyNet is currently working on its first Broadband Consumer Labels.

Broadband Data Collection (BDC) Filings: Broadband providers must annually report broadband data to ensure compliance with regulatory standards. Specific data as of December 31st must be submitted by the following March 1st, and data as of June 1st is due

by September 1st. Failure to comply can result in significant financial penalties. More information is available on the [BDC FAQ](#) website.

SandyNet currently does its own BDC filings.

Communications Assistance for Law Enforcement Act (CALEA) System Security and Integrity (SSI) Plan: This plan outlines how telecom providers comply with law enforcement assistance requirements and is filed annually. Carriers must detail in their SSI Plan the specific measures taken to comply with CALEA, such as the technological and procedural steps implemented. The plan, which is not disclosed publicly, includes carrier contact information and a compliance certification. Filings are now required to be submitted electronically through the CALEA Electronic Filing System (CEFS), streamlining the process and enhancing security. For more information see the [Sample SSI Plan Checklist](#) provided by the FCC.

Logicom provided SandyNet with a protocol to follow in the event they need to respond to a subpoena or other law enforcement contact, and completes the required annual filing for SandyNet.

Customer Proprietary Network Information (CPNI) Certification: All Voice over Internet Protocol (VoIP) providers must obtain CPNI certification. This details the measures providers take to protect customer information, ensuring privacy and data security. The complexity of complying with CPNI regulations often necessitates legal guidance.

Logicom created SandyNet's CPNI policy and protocol, and handles the annual attestation renewal. If customers are able to sign up for service completely online (i.e. without any interaction with customer service staff), there may be implications for CPNI compliance, and SandyNet should consider updating its CPNI practices with Logicom.

Digital Discrimination Annual Certification: Introduced in 2023, this new certification requires ISPs to affirmatively state their compliance with non-discrimination standards in broadband deployment. This annual certification aims to ensure that broadband services are offered equitably across different communities without biased restrictions. Although specific reporting requirements for this certification are still under development, Oregon is part of a 15 state coalition advocating for exemption from these regulations, arguing that they are redundant and overlap with existing reporting mandates.

Logicom has provided SandyNet with a client alert regarding this requirement. Though no action is needed at this time, SandyNet should monitor this requirement.

Digital Millennium Copyright Act (DMCA): The DMCA protects ISPs from liability for copyright infringement by their users, contingent upon the ISPs meeting specific statutory requirements. Under Section 512 of the DMCA, ISPs are obligated to implement a notice-and-takedown process, which enables copyright owners to report alleged

infringements. Upon receiving such notices, ISPs must promptly remove the reported content to benefit from "safe harbor" protections. Additionally, ISPs are required to publicly disclose these operational policies and may need to submit annual compliance reports detailing their adherence to these rules. For more information, visit the [DMCA website](#) and the [Overview of Section 512](#).

Logicom has provided SandyNet with a policy and protocol for responding to claims. SandyNet should ensure that they respond to all DMCA claims.

Emergency Alert System (EAS) Reporting: ISPs and other participants in the national EAS must annually file with the EAS Test Reporting System (ETRS), coordinated by the FCC and the Federal Emergency Management Agency (FEMA).

This requirement only applies to ISPs that offer video services, and SandyNet's third party video provider should be responsible for complying with EAS reporting regulations.

SandyNet should confirm the division of responsibility and full compliance on the part of the third party provider.

Network Outage Reporting System (NORS): The FCC mandates that telecom providers use NORS to report significant network outages, ensuring reliable communications infrastructure. Providers must submit an initial outage report within three calendar days of discovering the outage. A final, detailed report is due no later than 30 days after the outage is identified.

NORS has specific criteria for what triggers the need to report an outage. However, it is possible that the FCC may expand the criteria and require ISPs to report even minor outages in the future.

SandyNet should monitor NORS-related developments, review current reporting criteria, and review past outages to ensure correct reporting.

Universal Service Administrative Company (USAC) Filings: Telecom providers must contribute to the Universal Service Fund (USF), which is managed by the Universal Service Administration Company (USAC). Providers must register with USAC, annually file Form 499 to report their revenues, and thereby determine their required contribution to the USF. Exemptions apply under the De Minimis Rule for providers whose projected contributions would be less than \$10,000 annually, although they must still file annual reports. The FCC regularly adjusts the contribution factor rules, and state-level universal service programs may have different requirements. Providers are advised to consult with legal counsel and the FCC for the most current guidance. Logicom currently handles SandyNet's quarterly and annual USAC filings.

Form 499-A must be filed annually by April 1st. Form 499-Q (quarterly filings) are due on February 1st, May 1st, August 1st, and November 1st

7.2 Non-federal requirements for SandyNet's awareness

SandyNet management should coordinate with City management to ensure compliance with following Oregon requirements and other reporting best practices:

Annual Fee Payment and Statement: ISPs that hold a Certificate of Authority from the PUC must annually pay a regulatory fee and submit an accompanying fee statement to the Oregon Public Utility Commission (PUC) by April 1st. A late fee is imposed starting April 2nd, with additional penalties accruing each month. The statement must be filed online or via mail with an original signature.

Oregon Annual Reporting Forms: ISPs must file Form C: Annual Report Interexchange Carriers, Form L: Annual Report Local Exchange Carriers, and Form O: Annual Report to the Commission by April 1st and Form I by October 31st annually. These reports require detailed operational data, and failure to comply may lead to the cancellation of the Certificate of Authority. All forms must be submitted electronically

Oregon Universal Service Fund (OUSF) Contributions: ISPs must file the OUS1 Worksheet annually by February 10th and the OUS2 Contribution Worksheet quarterly. These worksheets detail the ISP's contributions to the fund, supporting universal service across Oregon. Late filings incur a \$100 fee, and delayed payments are subject to a 9% daily interest on the balance due.

OUSF Quarterly Filing Deadlines:

- May 28th (Quarter 1: January 1 - March 31)
- August 28th (Quarter 2: April 1 - June 30)
- November 28th (Quarter 3: July 1 - September 30)
- February 28th (Quarter 4: October 1 - December 31)

Residential Service Protection Fund (RSPF): Contributions are due monthly by the 21st, supporting programs that ensure service affordability and availability. Late filings and payments attract a \$100 fee and a 9% daily interest penalty, respectively.

For further details and forms, see the [Oregon PUC Telecommunications page](#) or refer to the PUC's [Regulatory Requirements Chart](#).

Data Retention Policy: SandyNet should ensure that the City's data retention policy specifically references SandyNet.

Disability Access: SandyNet should conduct a full review of their inclusion in City accessibility policies as well as broadband-specific accessibility requirements (e.g. the [21st](#)

[Century Communications and Video Accessibility Act](#)). It should also implement policies to thoroughly document (e.g. via meeting minutes) internal discussions on systems or platform changes, how they impact customers with disabilities, and what determinations were made to mitigate those impacts

8. Network expansion will strengthen SandyNet and bring additional resources into the community

SandyNet is close to achieving 100% coverage within city limits, with only a few apartment buildings remaining to be connected. Once that significant milestone is met, strategic expansion outside of the City can bring additional revenue to the enterprise, and if structured well, will bring financial resources into the Sandy community.

This section outlines how SandyNet can evaluate growth opportunities outside city limits in a responsible manner to ensure fiscal sustainability while increasing financial and social benefits for the City.

8.1 Expanding the fiber network will help SandyNet to add customers, increase revenue, and grow sustainably

SandyNet should look to expansion of the physical fiber network and the concomitant customer growth to increase revenue. Growth is key to a successful operating model for municipally-owned ISPs at Sandy's scale and in line with SandyNet's mission.

At just under 4,000 customers, SandyNet has the foundational management staff and systems in place to allow for efficient scaling. This is a typical inflection point for ISPs where new subscribers can grow revenue linearly but only add costs incrementally. SandyNet's high penetration rate within city limits does not allow for much growth inside their current footprint, making expansion of the fiber network a more viable path to growth. Relatively modest growth will still help SandyNet reach its revenue targets, and successful expansion outside of city limits will provide reputational benefits to the ISP and City, increasing Sandy's center of gravity in the region.

8.2 Expansion to date

SandyNet has been focused on working inside city limits with great success. Currently it is on the cusp of achieving 100% service in Sandy proper and is finishing construction to bring fiber to the remaining homes in Sandy that are not served. This is a tremendous milestone. Additionally, Sandy's municipal code requires broadband to be expanded to future developments in the city, ensuring continued universal coverage.

Clackamas Broadband Exchange (CBX) recently engaged SandyNet to bring broadband access outside the city. Fiber has currently been deployed to the east and northeast of Sandy, and construction is underway southwest of the city. To date, CBX has decided where to build based on available grant funding, identification of under- and unserved areas, interest expressed by potential customers, and proximity to their existing fiber network. In this model CBX funds and builds out the fiber infrastructure, and SandyNet serves as the ISP, connecting customers' homes and businesses to the fiber and providing customer support.

The partnership has been beneficial to the City as SandyNet has not had to devote resources to construction - a complex and expensive endeavor - and the ISP is compensated on a per-customer basis. Since CBX covers fiber construction costs, there are no losses to SandyNet if customers aren't added to the network. SandyNet currently captures between 60-70 percent of revenues from customers added to the CBX network without any outlay of funds. CBX is also an open access network, meaning that SandyNet may experience varying levels of competition from other ISPs in CBX territories. Overall, there is little risk and much benefit to SandyNet participating in the CBX partnership.

In addition to construction, CBX also handles maintenance and repairs to the fiber, and has demonstrated a commitment to doing so in a way that upholds SandyNet's commitment to excellent service.

8.3 Frameworks for future expansion

There are two primary paths for expansion: continued partnership with CBX, and SandyNet building infrastructure itself. This section outlines considerations for both options.

8.3.1 Considerations if SandyNet were to grow their partnership with CBX

Though modest in its current scale, the partnership with CBX has been successful, and the amount of revenue flowing back to Sandy has increased over time. SandyNet should keep filling the role of ISP if CBX remains a strong operational partner and continues to expand its fiber network throughout Clackamas County.

Under this model, SandyNet likely will still need to follow CBX's lead on location and pacing of new construction. This may lead to the *perception* that expansion is scattershot, but such work still supports SandyNet's mission and brings in revenue to fund other goals and increase SandyNet's operational and financial health. Additionally, CBX has historically been dependent on grants to fund network expansion. Under this model, if grant funding is not available, expansion may not be able to progress at the desired rate. The Broadband Equity, Access, and Deployment (BEAD) program may provide a funding opportunity, with CBX as the infrastructure builder and SandyNet as operator, but beyond that program, it is not clear that much grant funding will be available to fuel CBX's expansion.

8.3.2 Considerations if SandyNet were to expand outside of Sandy as the infrastructure builder, owner, and operator

There are several advantages to SandyNet to building, owning, and operating their own fiber infrastructure outside of Sandy:

- SandyNet would fully control location and pace of expansion
- The infrastructure would count as an asset that can be used to leverage debt
- Operational logistics would be simplified since SandyNet would have end to end control of the system.
- Ownership of the fiber, rather than operation in an open access environment, could prevent possible encroachment by competitive ISPs

ISPs - municipal or otherwise - that pursue any amount of meaningful expansion almost always use debt of some kind to achieve their goals. Use of debt for expansion would be a viable and ordinary path for SandyNet, but it should only be pursued after the following conditions are met:

- Staffing is stable and comparable with that of other ISPs of similar size, ensuring that SandyNet has the capacity to grow
- Sufficient data has been collected on take rates of CBX infrastructure to allow for confidence in modeling anticipated take rates outside of the city
- The business case for expansion has been fully developed, and revenue projections indicate that debt service coverage ratios are strong enough to satisfy financiers
- Financial practices throughout the enterprise are strengthened so that financiers have confidence in SandyNet's ability to track risks and make adjustments to their operating model to maintain debt service coverage

When these conditions are met and the expansion analysis is favorable, SandyNet should consider pursuing revenue bonds as debt financing for expansion. 30 year revenue bonds are safe, stable, and predictable. As essentially a public utility, there is no need for SandyNet to strain to make debt service payments on lending vehicles that are shorter and have greater principle and interest obligations.

SandyNet could consider various strategies around the sequencing of expansion, such as:

- Connecting homes and businesses along existing fiber routes outside city boundaries. For example, SandyNet could add customers along a fiber route already

built to service a large commercial customer like a water treatment facility. Creating a business case for adding customers along existing fiber should not prove difficult, and this type of expansion is generally considered low hanging fruit for ISPs because of the minimal construction expense required.

- Building out fiber to the Urban Reserve Boundary (URB) areas identified in the 2017 Urban Growth Boundary Expansion Analysis. The URB contains areas of varying residential density as well as industrial areas, representing a potential mix of residential and business customers. Some areas of the URB, especially those southwest of the current Urban Growth Boundary, are not currently served by fiber networks. SandyNet should first develop a strong business case for serving these areas, with the ultimate goal of serving the entire URB. The ISP should pay attention to any possible equity issues that might arise if this strategy is followed, and make plans to mitigate such issues.
- Prioritizing the un- and underserved areas in proximity to Sandy. SandyNet would gain the first mover advantage by building in these areas. RISI's Rural Broadband Map (<https://rural-broadband-map.ruralinnovation.us/>) indicates that there are over 400 un- and underserved locations in the areas surrounding Sandy. Business modeling may be most accurate in these areas as there are no competitors offering fiber service. Building in un- and underserved areas also presents a strong equity case that could have reputational benefits for the ISP.

In these scenarios SandyNet would also need to mitigate the optics challenges inherent in choosing one area to build ahead of another. ISPs navigate this by ensuring that their plans are defensible, and communicate expansion plans clearly with sensitive messaging around how the plans were made.

8.4 SandyNet should be a strong driver for economic development before and after expansion

Growing bodies of academic research show that widespread broadband access has positive economic impacts,¹ including increases in regional GDP², consumer surplus, and business startup rates.³ Each of these conditions result in more money flowing into- and staying in- local economies. Expansion of SandyNet's footprint will garner economic benefits for the

¹ Kessler et al. 2021 "How will expanding broadband access benefit Knox County, TN?" UT Knoxville, Boyd Center for Business and Economic Research.

² Qiang, C.Z. & C.M. Rossotto 2009 "Economic Impacts of Broadband." In Information and Communications for Development 2009: Extending Reach and Increasing Impact. Washington DC: World Bank, p.35-50

³ Deller et al. 2021 "Rural broadband speeds and business startup rates." American Journal of Agricultural Economics 104(3):999-1025

City and help Sandy to meet Goal 2 of its Economic Development Strategic Plan to “leverage our investments in technology to maximize economic benefits.”

Even without expansion, there is significant precedent for municipal ISPs driving economic development via the quality of the infrastructure on its own. Access to quality broadband connections has positive correlations with increased real estate values and home sales. Municipal provision of such services also signals that a community is a great place to live, with strong, forward thinking public sector leadership. Access to fast, reliable broadband enhances quality of life and fosters connections across multiple social domains like families, businesses, educational institutions, and the health care system. When a community recognizes this - as Sandy has - and strives to provide broadband access, it clearly demonstrates their commitment to making that community a prime destination for people to live, conduct business, and visit.

Quality broadband access is a necessary precondition for remote work as well. Expansion outside of the city may also help to attract remote workers who would prefer to live in the environs rather than the city proper. Such workers would still provide economic benefit to Sandy as they will patronize city businesses. The economic benefits of expansion would be further catalyzed through intentional strategies centered on business development, entrepreneurship support, and workforce expansion. Bringing businesses into communities provides a multiplier effect, as the businesses not only spend money in the community, but also establish it as a desirable place for other businesses to locate.

SandyNet can also take an active role in economic development by supporting and implementing programming that promotes internet usage and can help drive the creation of quality jobs that is part of Sandy’s strategic plan. There are numerous national examples of initiatives undertaken by municipal and cooperative ISPs to stimulate economic development in creative ways beyond simply providing connectivity. A few examples include:

- Paul Bunyan Communications, a cooperative ISP in Bemidji, Minnesota hosts the annual Gigazone Gaming Championship and TechXpo. This event draws thousands of participants to Bemidji each year. In addition to the gaming competitions, the event also serves to connect tech businesses with the general public and potential employees, promoting internet use and tech career opportunities.
- Greenlight Community Broadband, a municipal ISP in Wilson, North Carolina supported the development of the GigEast Exchange, an innovation hub and co-working space. GigEast hosts the RIoT Accelerator Program, which provides intensive business coaching and other services to early-stage startups and supports tech entrepreneurship.

- NextLight, a municipal ISP in Longmont, Colorado, supports Longmont Startup Week by providing fiber internet connectivity to the event’s “base camps.” The event is a week-long convening of entrepreneurs, investors, and experts designed to nurture Longmont’s entrepreneurial ecosystem and provide support for early-stage startups.

If SandyNet chooses to develop and implement similar programming, it would provide benefits to both the enterprise and Sandy at large by helping to address the goals and strategies outlined in Sandy’s Economic Development Strategic Plan.

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND THE CITY OF SANDY**

THIS AGREEMENT (“Agreement”) is entered into and between Clackamas County (“County”), a political subdivision of the State of Oregon, and the City of Sandy (“City”), a political subdivision of the State of Oregon, pursuant to ORS Chapter 190 (Cooperation of Governmental Units), collectively referred to as the “Parties” and each a “Party.”

RECITALS

WHEREAS, authority is conferred under ORS Chapter 190 to local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform; and

WHEREAS, the County desires to contract out work to the City to perform on-call or as needed fiber drop construction and management services for the Colorado and Gunderson Rd Fiber-to-the-home project (“Project”); ~~and~~

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Term.** This Agreement shall be effective upon execution by both Parties, and shall expire twelve (12) months from the Agreement execution, or as otherwise terminated by the parties.
2. **Scope.** The Parties acknowledge and agree that they have entered into other IGAs involving fiber services. However, this Agreement is limited solely to the Project. Any rights or obligations between the Parties are mutually exclusive from any other existing projects, agreements, or IGAs.
3. **Access.**
 - A. **County ROW.** County permits City and its employees and contractors to access County ROW in connection with City’s completion of the Project.
 - B. **Private Property.** City and County recognize that City be required to enter onto certain private property or properties in order to fully complete the Project. County will be fully responsible for obtaining all needed easements, rights of entry, or other access agreements needed to permit County, City, and City’s employees and contractors to enter onto the private property in connection with the Project, and City’s performance of the Project will be conditioned on the same.
 - ~~B.C.~~ **General Access.** All other easements, leases, licenses, franchise authorities, authorizations, or other agreements needed to secure access rights in connection with the performance of this Agreement are the sole responsibility of County.
4. **Rights and Obligations of the City.**
 - A. Upon written request from the County and acceptance by the City, City shall construct the necessary underground fiber-to-the-home infrastructure from County right-of-way (ROW) to the subscriber premises as part of the Project (“FTTH Construction”). The County shall remain the owner of any infrastructure constructed by the City. The City shall be reimbursed for any work that is performed in accordance with Section ~~65~~, below. Infrastructure shall be installed per County requirements, in a good workmanlike manner, and in accordance with

applicable law. Prior to City performing the FTTH Construction, City will consult with County to ensure that the specifications of the infrastructure are compatible with the County's systems and requirements. Prior to the City performing the FTTH Construction, the County shall ensure the following construction and installation requirements are satisfied at each property:

- a. A path acceptable to the City is provided from the County infrastructure/ROW to the site demarcation point for service. A path acceptable to the City is provided for the fiber optic cable from the point of entry into the site to the termination panel or CSP (Customer Splice Point) and into the home demarcation that complies with all applicable building, electrical, fire and related codes.
 - b. The City and its employees, agents, lessees, officers and its authorized vendors, upon reasonable notice, have reasonable ingress and egress into and out of the properties and buildings in connection with the provision and construction of service.
- B. Following construction and County inspection and acceptance of the installation of such infrastructure, the City shall no longer maintain and or repair any FTTH Construction, except as expressly set forth in Section C below.
 - C. City shall be responsible for correcting any FTTH Construction that is defective in workmanship for one (1) year following City's installation thereof. As used herein, "defective" means any work not completed in accordance with County's specifications or applicable law. City shall repair or replace, at its sole cost, any defective FTTH Construction during such time period. City shall not be responsible for future maintenance to the FTTH Construction following such time period.
 - D. The City reserves the right to deny to perform any Project-related work that it considers in its sole discretion to not be in the interest of the City, including but not limited to factors such as: cost, environment, complexity, or safety.
 - E. The City shall not enter any subcontract for any of the work scheduled under this Contract without obtaining the prior written approval of the County.
 - F. The City shall notify the County at least two weeks prior to scheduled vacation or other time away that will result in the City's inability to perform requested work. Notification of time unavailable shall be sent by email to the County's designated liaison.
5. **Rights and Obligations of the County.**

A. From time to time, the County may request that the City complete certain FTTH Construction work by a written request setting forth a scope of work, project site(s), project complexities, timelines, and any other necessary information that County believes is needed for City to appropriately assess the FTTH Construction work. City shall review the request and either accept or reject the requested FTTH Construction work. All provisions and covenants contained in said accepted written requests are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth. Any conflict between this Agreement and accepted written requests (if any) shall be resolved first in favor of this Agreement.

~~A.B.~~ The County shall be the owner of all FTTH Construction following successful inspection and acceptance of work.

~~B.C.~~ Upon completion by City of [the respective FTTH Construction milestones, as further identified in Exhibit A, work](#), the City shall invoice the County for reimbursement in accordance with Section [65](#), below. County shall issue payment within 30 days of receiving an invoice.

~~C.D.~~ County may provide materials or equipment for City to utilize during the project. Any materials or equipment not directly procured by the County shall be approved by County prior to City purchase. County shall reimburse City upon invoice for purchased materials and equipment.

~~D.E.~~ The County and City shall mutually agree on dates which [the respective FTTH Construction](#) work will be performed. Once dates are agreed upon and publicized, they cannot be changed without the written consent of the County.

6. **Consideration.** The maximum amount County may pay City for performing FTTH Construction, from available and authorized funds, shall not exceed the sum of \$120,000. Consideration is on a time and materials basis in accordance with the schedule of fees attached hereto as [Exhibit A](#) and incorporated by this reference herein. Because the FTTH Construction is on-call or as-needed, and exact amount of FTTH Construction is unknown, nothing herein shall be construed as a promise by County to pay City the entire \$120,000 authorized by this Agreement.

7. Representations and Warranties.

- A. *City representations and warranties:* City represents and warrants to County that City has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of City enforceable in accordance with its terms.
- B. *County Representations and Warranties:* County represents and warrants to City has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
- C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

8. Termination.

- A. The County and City, by mutual written agreement, may terminate this Agreement [or any individual accepted request for FTTH Construction work](#) at any time.
- B. Either Party may terminate for its convenience, upon thirty (30) days advance written notice to the other Party. Upon termination for convenience, the terminating Party shall pay the non-terminating Party any undisputed amounts incurred as of the date of notice of termination.
- C. Either the County or City may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, or other time as may be agreed between the parties in writing, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day

period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period. Upon termination for breach, each Party shall have all rights and remedies available to it at law, in equity, or under this Agreement.

- D. The County or City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- E. Either Party may terminate this Agreement in the event the Party fails to receive expenditure authority sufficient to allow that Party, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Agreement is prohibited, or a Party is prohibited from paying for such work from the planned funding source.
- F. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

9. **Indemnification.**

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend City, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.
- B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, City agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon the negligent or willful acts of City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which City has a right to control.

10. **Insurance.** The Parties agree to maintain insurance levels sufficient to cover the obligations agreed to in this Agreement.

11. **Party Contacts**

- A. Duke Dexter or his designee will act as liaison for the County.

Contact Information:

Duke Dexter
 121 Library Court
 Oregon City, Oregon 97045
ddexter@clackamas.us
 Fax: 503-655-8255

Greg Brewster or his designee will act as liaison for City.

Contact Information:

Greg Brewster
39250 SE Pioneer Blvd
Sandy, Oregon 97055
gbrewster@ci.sandy.or.us
503-489-0937

- B. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.
- C. Any notice required to be provided under this Agreement shall be provided to the Party Contact at the address specified herein. Notices shall be made by personal service, in which case they are effective on the date of service, or by certified mail, in which case they are effective on the date of delivery, or if delivery is refused, upon the date of delivery refusal.

12. **FEDERAL CONTRACTING REQUIREMENTS.** County intends that all or a portion of the consideration paid to City is eligible for reimbursement by one or more federal agencies. This Agreement is subject to the additional terms and conditions, required by federal law for a federal award, set in Exhibit B, attached hereto and incorporated by this reference herein. All terms and conditions required under applicable federal law for a federal reward including, but no limited to, 2 C.F.R. § 200.326 and 2 C.F.R. § Pt. 200, App. II, are hereby incorporated by this reference herein.

13. **General Provisions**

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon without giving effect to the conflict of law provisions thereof. Any claim between County and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by either Party of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. City, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of

any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** The Parties shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. The Parties shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period each Party shall permit the other Parties’ authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and any debt limitations contained in any City or County charter, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties regarding its subject matter. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **Safety and Health Requirements.** Work performed under this Agreement shall comply with all federal Occupational Safety and health Administration (“OSHA”) requirements and with all Oregon safety and health requirements, including those of the State Workers’ Compensation Division.

- K. **Project Information.** The Parties will attempt, in good faith, to jointly agree upon any news or press release related to the Project.
- L. **No Third-Party Beneficiary.** City and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- M. **Assignment.** Neither Party shall assign or transfer any of its interest in this Agreement, by operation of law or otherwise, without obtaining prior written approval from the other Party, which shall be granted or denied in that Party's sole and absolute discretion. One Party's consent to any assignment shall not relieve the other Party of any of its duties or obligations under this Agreement.
- N. **Counterparts.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- O. **Survival.** The provisions of Sections 6, 8, and 12 (A), (B), (C), (D), (E), (F), (G), (H), (L), (O), (Q), (S), and (T), shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- Q. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- R. **Force Majeure.** Neither City nor County shall be held responsible for delay or default caused by events outside of City's or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, strikes, pandemics, or war.
- S. **Confidentiality.** The Parties and their employees or agents may, in the course of this Agreement, be exposed to or acquire material identified as confidential information. Such information shall be deemed confidential information of the Party identifying it as such ("Confidential Information"). Subject to Oregon public records laws and regulations, the Parties agree to hold Confidential Information in strict confidence, using at least the same degree of care that each Party uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement or required by law.
- T. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

[Signatures on Following Page]

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

Clackamas County

City of Sandy

Chair, Board of County Commissioners

By:
Its:

Date

Date

Recording Secretary

Approved as to Form:
