

# STATE OF NEBRASKA SERVICE CONTRACT AMENDMENT

State Purchasing Bureau  
301 Centennial Mall South, 1st Floor  
Lincoln, Nebraska 68508  
OR  
P.O. Box 94847  
Lincoln, Nebraska 68509-4847  
Telephone: (402) 471-2401  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**42221 04**

PAGE 1 of 4	ORDER DATE 12/05/11
BUSINESS UNIT 65060026	BUYER MARY LANNING (AS)
VENDOR NUMBER: 1227904	
VENDOR ADDRESS:  WINDSTREAM CORPORATION DBA WINDSTREAM COMMUNICATIONS BUS SALES 401 S 21ST ST STE 100 LINCOLN NEBRASKA 68510-1017	

THE CONTRACT PERIOD IS:

**FEBRUARY 04, 2010 THROUGH JUNE 30, 2012**

THIS SERVICE CONTRACT HAS BEEN AMENDED PER THE FOLLOWING INFORMATION:

THIS CONTRACT IS NOT AN EXCLUSIVE CONTACT TO FURNISH THE SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR SERVICES FROM THE OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE VENDOR/CONTRACTOR AND THE STATE OF NEBRASKA.

Original Contract/Bid Document 3128 Z1

Contract to provide Internet Service for Network Nebraska-Education to the State of Nebraska for a period effective February 4, 2010 through June 30, 2012 with the option to renew in there (3) additional one (1) year periods as mutually agreed upon by all parties.

The State may request that payment be made electronically instead of by state warrant. ACH/EFT Enrollment Form can be found at: <http://www.das.state.ne.us/accounting/forms/achenrol.pdf>

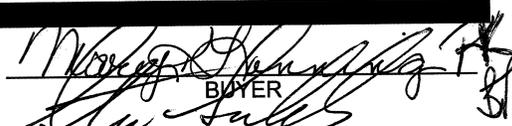
The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system mean the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at: [www.das.state.ne.us](http://www.das.state.ne.us).
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation require to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

The contract shall incorporate the following previously submitted documents:

1. Contract Award;
2. Any Contract Amendments, in order of significance;
3. Any Request for Proposal Addenda and/or Amendments to include Questions and Answers;
4. The original RFP document;
5. The signed Request for Proposal form; and
6. The Contractor's Proposal.

  
BUYER  
MATERIEL ADMINISTRATOR

# STATE OF NEBRASKA SERVICE CONTRACT AMENDMENT

State Purchasing Bureau  
 301 Centennial Mall South, 1st Floor  
 Lincoln, Nebraska 68508  
 OR  
 P.O. Box 94847  
 Lincoln, Nebraska 68509-4847  
 Telephone: (402) 471-2401  
 Fax: (402) 471-2089

**CONTRACT NUMBER**  
**42221 04**

PAGE 2 of 4	ORDER DATE 12/05/11
BUSINESS UNIT 65060026	BUYER MARY LANNING (AS)
VENDOR NUMBER: 1227904	

Vendor Contact: Pam Pinkerton  
 Phone: 402-437-7242  
 Fax: 402-437-7295

AMENDMENT ONE (1): Added line 22

(120511sz)

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	Internet Srvs Lincoln & Omaha July 1, 2010-June 30, 2011 ~ Total aggregated 1,900 Mbps ~	43,200.0000	EA	6.1000	263,520.00
2	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 100Mbps aggregated ~	1.0000	EA	28.0000	28.00
3	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 200Mbps aggregated ~	1.0000	EA	21.0000	21.00
4	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 300Mbps aggregated ~	1.0000	EA	19.0000	19.00
5	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 400Mbps aggregated ~	1.0000	EA	17.0000	17.00
6	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 500Mbps aggregated ~	1.0000	EA	15.0000	15.00
7	Internet Service Grand Island July 1, 2010-June 30, 2012 ~	1.0000	EA	13.0000	13.00

*MJL*  
 BUYER INITIALS

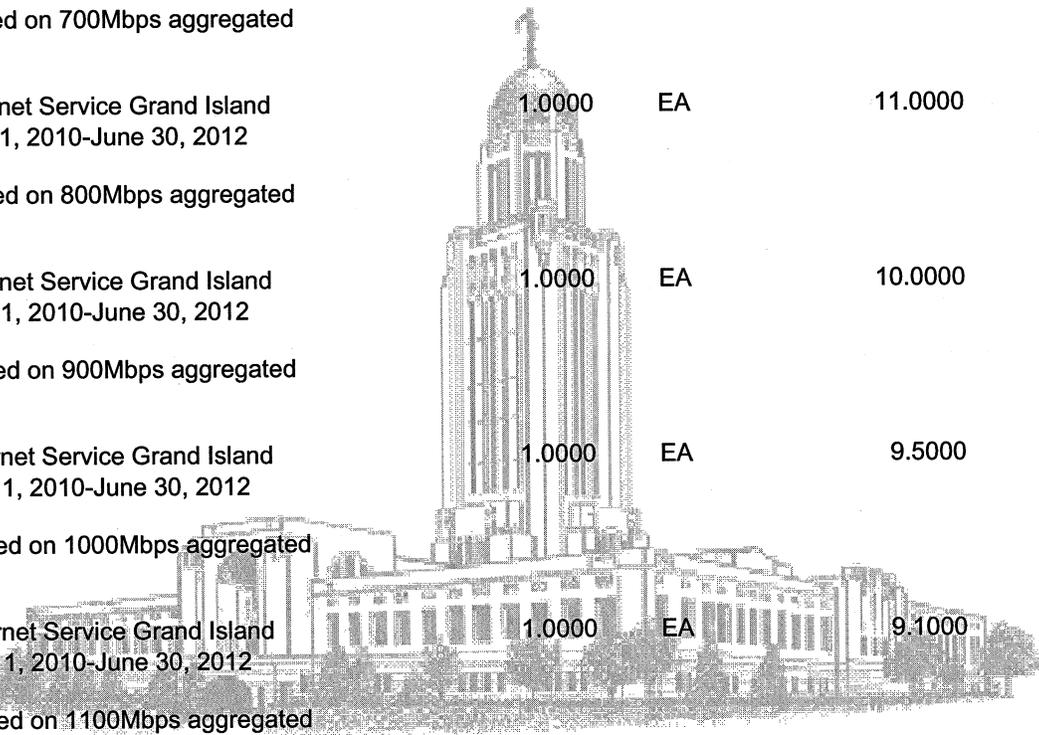
# STATE OF NEBRASKA SERVICE CONTRACT AMENDMENT

State Purchasing Bureau  
 301 Centennial Mall South, 1st Floor  
 Lincoln, Nebraska 68508  
 OR  
 P.O. Box 94847  
 Lincoln, Nebraska 68509-4847  
 Telephone: (402) 471-2401  
 Fax: (402) 471-2089

**CONTRACT NUMBER**  
**42221 04**

PAGE 3 of 4	ORDER DATE 12/05/11
BUSINESS UNIT 65060026	BUYER MARY LANNING (AS)
VENDOR NUMBER: 1227904	

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
	Based on 600Mbps aggregated ~				
8	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 700Mbps aggregated ~	1.0000	EA	12.0000	12.00
9	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 800Mbps aggregated ~	1.0000	EA	11.0000	11.00
10	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 900Mbps aggregated ~	1.0000	EA	10.0000	10.00
11	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 1000Mbps aggregated ~	1.0000	EA	9.5000	9.50
12	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 1100Mbps aggregated ~	1.0000	EA	9.1000	9.10
13	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 1200Mbps aggregated ~	1.0000	EA	8.8000	8.80
14	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 1300Mbps aggregated ~	1.0000	EA	8.5000	8.50
15	Internet Service Grand Island July 1, 2010-June 30, 2012	1.0000	EA	8.2000	8.20



*ML*  
 BUYER INITIALS

# STATE OF NEBRASKA SERVICE CONTRACT AMENDMENT

State Purchasing Bureau  
301 Centennial Mall South, 1st Floor  
Lincoln, Nebraska 68508

OR  
P.O. Box 94847  
Lincoln, Nebraska 68509-4847  
Telephone: (402) 471-2401  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**42221 04**

PAGE 4 of 4	ORDER DATE 12/05/11
BUSINESS UNIT 65060026	BUYER MARY LANNING (AS)
VENDOR NUMBER: 1227904	

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
	~ Based on 1400Mbps aggregated ~				
16	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 1500Mbps aggregated ~	1.0000	EA	8.0000	8.00
17	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 1600Mbps aggregated ~	1.0000	EA	7.8000	7.80
18	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 1700Mbps aggregated ~	1.0000	EA	7.6000	7.60
19	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 1800Mbps aggregated ~	1.0000	EA	7.4000	7.40
20	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 1900Mbps aggregated ~	1.0000	EA	7.2000	7.20
21	Internet Service Grand Island July 1, 2010-June 30, 2012 ~ Based on 2000Mbps aggregated ~	1.0000	EA	7.0000	7.00
22	INTERNET SERVICE LINCOLN&OMAHA JULY 1, 2011-JUNE 30, 2012	43,200.0000	EA	6.0000	259,200.00
<b>Total Order</b>					<b>522,955.10</b>

*M L*  
BUYER INITIALS

# STATE OF NEBRASKA SERVICE CONTRACT AWARD

State Purchasing Bureau  
301 Centennial Mall South, 1st Floor  
Lincoln, Nebraska 68508

OR

P.O. Box 94847  
Lincoln, Nebraska 68509-4847  
Telephone: (402) 471-2401  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**42221 04**

PAGE 1 OF 4	ORDER DATE 02/04/10
BUSINESS UNIT 65060026	BUYER TODD DLOUHY
VENDOR NUMBER: 1227904	
VENDOR ADDRESS: WINDSTREAM CORPORATION DBA WINDSTREAM COMMUNICATIONS BUS SALES 401 S 21ST ST STE 100 LINCOLN NE 68510-1017	

AN AWARD HAS BEEN MADE TO THE VENDOR/CONTRACTOR NAMED ABOVE FOR THE SERVICES AS LISTED BELOW FOR THE PERIOD:

**FEBRUARY 04, 2010 THROUGH JUNE 30, 2012**

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE VENDOR/CONTRACTOR AND THE STATE OF NEBRASKA.

Original/Bid Document 3128 Z1

Contract to provide Internet Service for Network Nebraska-Education to the State of Nebraska for a period effective February 4, 2010 through June 30, 2012 with the option to renew in there (3) additional one (1) year periods as mutually agreed upon by all parties.

The State may request that payment be made electronically instead of by state warrant. ACH/EFT Enrollment Form can be found at: <http://www.das.state.ne.us/accounting/forms/achenrol.pdf>

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system mean the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at: [www.das.state.ne.us](http://www.das.state.ne.us).
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation require to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

The contract shall incorporate the following previously submitted documents:

1. Contract Award;
2. Any Contract Amendments, in order of significance;
3. Any Request for Proposal Addenda and/or Amendments to include Questions and Answers;
4. The original RFP document;
5. The signed Request for Proposal form; and
6. The Contractor's Proposal.

Vendor Contact: Pam Pinkerton

  
BUYER  
  
MATERIEL ADMINISTRATOR

# STATE OF NEBRASKA SERVICE CONTRACT AWARD

State Purchasing Bureau  
301 Centennial Mail South, 1st Floor  
Lincoln, Nebraska 68508

OR  
P.O. Box 94847  
Lincoln, Nebraska 68509-4847  
Telephone: (402) 471-2401  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**42221 04**

PAGE 2 OF 4	ORDER DATE 02/04/10
BUSINESS UNIT 65060026	BUYER TODD DLOUHY
VENDOR NUMBER: 1227904	

Line	Description	Qty	Unit of Measure	Unit Price	Extended Price
Phone: 402-437-7242 Fax: 402-437-7295					

Line	Description	Qty	Unit of Measure	Unit Price	Extended Price
1	Internet Srvs Lincoln & Omaha July 1, 2010-June 30, 2011	43200	EA	6.1000	263,520.00
Total aggregated 1,900 Mbps					
2	Internet Service Grand Island July 1, 2010-June 30, 2012	1	EA	28.0000	28.00
Based on 100Mbps aggregated					
3	Internet Service Grand Island July 1, 2010-June 30, 2012	1	EA	21.0000	21.00
Based on 200Mbps aggregated					
4	Internet Service Grand Island July 1, 2010-June 30, 2012	1	EA	19.0000	19.00
Based on 300Mbps aggregated					
5	Internet Service Grand Island July 1, 2010-June 30, 2012	1	EA	17.0000	17.00
Based on 400Mbps aggregated					
6	Internet Service Grand Island July 1, 2010-June 30, 2012	1	EA	15.0000	15.00
Based on 500Mbps aggregated					
7	Internet Service Grand Island July 1, 2010-June 30, 2012	1	EA	13.0000	13.00
Based on 600Mbps aggregated					

  
BUYER INITIALS

# STATE OF NEBRASKA SERVICE CONTRACT AWARD

State Purchasing Bureau  
301 Centennial Mail South, 1st Floor  
Lincoln, Nebraska 68508

OR  
P.O. Box 94847  
Lincoln, Nebraska 68509-4847  
Telephone: (402) 471-2401  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**42221 04**

PAGE 3 OF 4	ORDER DATE 02/04/10
BUSINESS UNIT 65060026	BUYER TODD DLOUHY
VENDOR NUMBER: 1227904	

Line	Description	Qty	Unit of Measure	Unit Price	Extended Price
8	Internet Service Grand Island July 1, 2010-June 30, 2012 Based on 700Mbps aggregated	1	EA	12.0000	12.00
9	Internet Service Grand Island July 1, 2010-June 30, 2012 Based on 800Mbps aggregated	1	EA	11.0000	11.00
10	Internet Service Grand Island July 1, 2010-June 30, 2012 Based on 900Mbps aggregated	1	EA	10.0000	10.00
11	Internet Service Grand Island July 1, 2010-June 30, 2012 Based on 1000Mbps aggregated	1	EA	9.5000	9.50
12	Internet Service Grand Island July 1, 2010-June 30, 2012 Based on 1100Mbps aggregated	1	EA	9.1000	9.10
13	Internet Service Grand Island July 1, 2010-June 30, 2012 Based on 1200Mbps aggregated	1	EA	8.8000	8.80
14	Internet Service Grand Island July 1, 2010-June 30, 2012 Based on 1300Mbps aggregated	1	EA	8.5000	8.50
15	Internet Service Grand Island July 1, 2010-June 30, 2012 Based on 1400Mbps aggregated	1	EA	8.2000	8.20
16	Internet Service Grand Island	1	EA	8.0000	8.00

  
BUYER INITIALS

# STATE OF NEBRASKA SERVICE CONTRACT AWARD

State Purchasing Bureau  
301 Centennial Mail South, 1st Floor  
Lincoln, Nebraska 68508

OR

P.O. Box 94847  
Lincoln, Nebraska 68509-4847  
Telephone: (402) 471-2401  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**42221 04**

PAGE 4 OF 4	ORDER DATE 02/04/10
BUSINESS UNIT 65060026	BUYER TODD DLOUHY
VENDOR NUMBER: 1227904	

Line	Description	Qty	Unit of Measure	Unit Price	Extended Price
	July 1, 2010-June 30, 2012				
	Based on 1500Mbps aggregated				
17	Internet Service Grand Island	1	EA	7.8000	7.80
	July 1, 2010-June 30, 2012				
	Based on 1600Mbps aggregated				
18	Internet Service Grand Island	1	EA	7.6000	7.60
	July 1, 2010-June 30, 2012				
	Based on 1700Mbps aggregated				
19	Internet Service Grand Island	1	EA	7.4000	7.40
	July 1, 2010-June 30, 2012				
	Based on 1800Mbps aggregated				
20	Internet Service Grand Island	1	EA	7.2000	7.20
	July 1, 2010-June 30, 2012				
	Based on 1900Mbps aggregated				
21	Internet Service Grand Island	1	EA	7.0000	7.00
	July 1, 2010-June 30, 2012				
	Based on 2000Mbps aggregated				
	<b>Total Order</b>				<b>263,755.10</b>

  
BUYER INITIALS

**Attachment 1**  
**CONTRACT 42221 O4**  
**RFP 3128Z1**

The Parties to Contract 42221 O4, which Contract has resulted from RFP 3128Z1, hereby amend the Contract by incorporating into the RFP document the following mutually agreed-upon clarifications and amendments

1. Section II.J Contractor Personnel  
Windstream agrees with the following understanding: Windstream respectfully submits that as an independent contractor Windstream has sole authority and approval over its employees. Windstream agrees to assign qualified personnel as required and give reasonable consideration to the State's requests regarding such assignment.
2. Section III.K State of Nebraska Personnel Recruitment Prohibition  
Windstream agrees to the extent that this request is consistent with the applicable laws of the state of Nebraska.
3. Section III.L Conflict of Interest Shall be amended to include the following language:  
The State and the bidder acknowledge that bidder is a local exchange carrier, and as such, may have existing relationships with the State and other parties, and may pursue such relationships in the future. Both parties acknowledge that each relationship established between the bidder and the State was made or will be made independently of any other relationship so as not to create any conflict of interest affecting the performance of any service by bidder for the State.
4. Section III. P Assignment by the State  
The State and the Windstream understand that there would be no charges specifically with respect to reassignment or transfer of the contract.
5. Section III.Q Assignment by the Contractor shall be amended to read as follows:  
The Contractor may not assign the Contract or any of its rights or obligations hereunder (including without limitation rights and duties of performance) to any third party who is not a certified provider under the auspices of the Universal Service Administrative Company (USAC) with an eligible Service Provider Identification Number (SPIN) without the prior written consent of the State, in the sole exercise of its discretion. Company may assign the Contract without prior consent to a purchaser or acquirer of all or substantially all of its assets, that is a certified provider under the auspices of the USAC with a SPIN. In the event that the acquirer of the contract cannot honor the pricing in the existing contract, the State requests that the acquirer honor the current pricing to finish out the remainder of that current E-rate funding year (until June 30), and then the State may cancel the contract upon prior written notice and without any contract liability or penalty.
6. Section III.T Attorney's Fees shall be amended to read as follows:  
In the event of any litigation, appeal or other legal action to enforce any provision of the contract, each party agrees to pay its own expenses of such action, as permitted by law, including attorney's fees and costs, unless so ordered by a

court or administrative body of competent jurisdiction to pay such costs of the prevailing party.

7. Section III.V State Property shall be amended to read as follows:  
The contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the contractor's use during the performance of the contract. The contractor shall reimburse the State for any loss or damage of such property, to the extent that such loss or damage is a result of the Contractor's negligence or misconduct, Normal wear and tear excepted."
8. Section III.Y Early Termination item 3.i shall be amended to read as follows:  
A Second or subsequent "Vendor Performance Report" is received by the State Purchasing Bureau. For purposes of this provision, a vendor performance report is a report documenting situations involving delivered products which fail to meet the terms of the purchase order, specifications, or other Contract requirements, transmitted to the State Purchasing Bureau for resolution. The report becomes a permanent part of the record of the vendor."
9. Section III.Z Funding Out Clause or Loss of Appropriations  
The State and Windstream understand Windstream maintains the right to recover equipment delivered, installed, or invoiced, but for which payment has not or will not be received from the State.
10. Section III.AA Breach By Contractor shall be amended to read as follows:  
State may terminate the contract, in whole or in part, if the contractor fails to perform its obligations under the contract in a timely and proper manner. The State shall, by providing a written notice of default to the contractor, allow the contractor to cure a failure or breach of contract within a period of thirty (30) days (or longer at State's discretion considering the gravity and nature of the default). Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery. Allowing the contractor time to cure a failure or breach of contract does not waive the State's right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the contractor, the State may contract the service from other sources and hold the contractor responsible for any excess cost occasioned thereby.
11. Section III.CC Penalty shall be amended to read as follows:  
In the event that the contractor fails to perform any substantial obligation for services for initial installation under the contract, the State may withhold all monies due and payable to the contractor, without penalty, until such failure is cured or otherwise adjudicated. Failure to meet the dates stipulated in the contract for the deliverables may result in an assessment of penalty due the State of \$600.00 dollars per day until the deliverables are approved. Contractor will be notified in writing when penalty will commence. Contractor reserves all rights to oppose any penalty, including that such penalty is unlawful.
12. Section III.EE Force Majeure  
Windstream rescinds the exception in their proposal response to RFP 3128Z1.

13. Section III.FF Prohibition Against Advance Payment

Acceptance is defined as follows: Acceptance is achieved when an agent of the State has completed final testing of the Contractor-provided Internet bandwidth in question and has determined that the Contractor's responsibilities for installation and reliability have been met.

14. Section III.GG Payment

The State and Windstream understand that the Contract includes appropriate schedule of payments as work is performed and equipment installed and accepted according to the parties' agreed-upon definition of "Acceptance" herein.

15. Section III.II Audit Requirements shall be amended to read as follows and Windstream and the State understand that this applies as is consistent with Nebraska Law

All contractor books, records and documents relating to work performed or monies received under the contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by the State. These records shall be maintained for a period of five (5) full years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles.

In addition to, and in no way in limitation of any obligation in the contract, the contractor shall agree that it will be held liable for any State audit exceptions, and shall return to the State all payments made under the contract for which an exception has been taken or which has been disallowed because of such an exception after the contractor has had the opportunity to dispute the audit findings and a body having appropriate jurisdiction has determined that the claimed exception is valid. The contractor agrees to correct immediately any material weakness or condition reported to the State in the course of an audit.

16. Section III.JJ Taxes

The State and Windstream understand that this is a sale of internet access service, not equipment. Windstream will be responsible for property tax payable for equipment on site that Windstream owns.

The credits due for any individual circuit are capped at one month's monthly recurring fees for that "incident."

17. Section III.LL Changes in Scope/Change Orders shall be amended to have the following inserted after the second paragraph

Changes in scope or change orders initiated by the State must be mutually agreed upon between the State and the Contractor, but may not conflict with conditions for Early Termination by the State, Section Y.(3h) ("Contractor has or announces it will discontinue support of the deliverable."). If the parties cannot agree upon the changes, either party has the right to terminate the contract without liability."

18. Section III.TT Indemnification Item 1 General shall be amended to read as follows:

The Contractor agrees to defend, indemnify, hold, and save harmless the State and its employees, volunteers, agents, and its elected and appointed officials (Indemnified Parties) from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses (Claims), sustained or asserted against the State arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Contractor, its employees, subcontractors, consultants, representatives, and agents, provided the Contractor shall not be liable hereunder to indemnify the State against liability for damages arising out of bodily injury to people or damage to property caused by or resulting from the gross negligence or willful misconduct of the State, its agents, or employees. To the extent allowable by Nebraska law, the Contractor will have no indemnification obligation with respect to consequential or incidental damages that the State may claim as accruing from the Contract.

Item 2 Intellectual Property

The State and Windstream understand that the State's prior written consent will not be conditioned, delayed, or withheld unreasonably.

19. The pricing provided by Windstream per location for a given bandwidth at that location shall apply equally to the aggregate of bandwidth of the Omaha and Lincoln locations. For example, if Omaha has 500 Meg and Lincoln has 100 Meg, the price per Meg for both will be set at the 600 Meg level for traffic from both locations.

The price per Meg for a given school year is set based upon the aggregate of the E-rate filings for that school year. Any additions to or increase in bandwidth requested after E-rate filing during the subsequent school year shall have no effect upon the price per Meg bandwidth during that school year. Windstream shall provide aggregate bandwidth in excess of 2 Gig at the 2 Gig per Meg rate. Total bandwidth at either Omaha or Lincoln shall not exceed 2 Gig; total aggregate bandwidth, therefore, shall not exceed 4 Gig.

Windstream

By: Cheryl Kuyper

Title: AVP Business

Date: 2/1/10

State of Nebraska

By: Stuart Subb

Title: Administrator

Date: 2/4/2010