13/000552

2013-117

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION WAIVING REQUIREMENTS OF THE COUNTY PURCHASING ACT FOR SPECIAL PURCHASE OF LIT FIBER SERVICES

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2012), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2012), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-3109(3) (Reissue 2012), the County can waive bidding requirements of the County Purchasing Act; and

WHEREAS, the Board has approved the special purchase procedure pursuant to Neb. Rev. Stat. § 23-3109(3) (Reissue 2012), see Resolution number 2013-113; and

WHEREAS, the Papillion-LaVista School District has funded a project with Unite Private Networks (Unite) to link the schools in the district with fiber optic cable with a substantial portion of the work being done along the 84th Street Corridor; and

WHEREAS, since Unite is constructing the School District project in proximity to County owned and County serviced facilities, they have offered lower pricing to the County to install fiber optic cable to the aforementioned facilities; and

WHEREAS, taking advantage of this unique opportunity would result is substantial savings over the purchase of a separate private network project to get the same services.

WHEREAS, pursuant to Neb. Rev. Stat. § 23-3109(3) (Reissue 2012) the County published notice on April 24, 2013 of its intention to make such a special purchase, stating the items considered and inviting informal quotes; and

WHEREAS, having considered the special purchase offer and any informal quotes received, the Board wishes to proceed with the special purchase of the offer for service as detailed by Unite in the attached Service Order.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that the County Board waives the bidding requirements of the County Purchasing Act; and

BE IT FURTHER RESOLVED, that based upon the recommendation by the Purchasing Department and Information Systems and upon the comparison of costs with like services privately acquired, a special purchase for lit fiber services as detailed in the attached offer for service by Unite Private Networks is hereby authorized and accepted; and

BE IT FURTHER RESOLVED that the Chairman of this Board, together with the County Clerk, is hereby authorized to sign the service agreement with Unite Private Networks, on behalf of this Board a copy of which is attached, and any other related documents, the same being approved by the Board.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 30th day of April 2013.

Attest
SEAL

DEBRA L. HOUGHTALING, COUNTY CLERK
SEAL
SARPY COUNTY, NEBRASKA

Sarpy County Board Chairman

County Clerk

Service Order

Lit Services- (ST)

Contact Information	
Unite Private Networks Salesperson:	**Sarpy County ("Customer")**
COMPANY CONTACT: **Matthew Simons**	**COMPANY CONTACT:** Beth Garber
PHONE:402.326.5039	**PHONE:** (402) 593-4476
EMAIL: matthew.simmons@upnll.com	**EMAIL: bcunard@sarpy.com**
PAYMENT ADDRESS: Unite Private Networks 950 W. 92 Highway, Suite 203 Kearney, MO 64060	**BILLING ADDRESS:** 1210 Golden Gate Drive Papillion, NE 68046

Billing Information And Service Commitment Period	
Order Type:	SF4677
UPN Service Order ID:	SF4677
Customer ID:	
Service Type/s: mew	~~MOE~~/Internet
Service Term Length:	60 Month
Service Order Monthly Recurring Charge:	$1750.00
Service Order Non-Recurring Charge:	$1750.00
Service Other Charges:	

A Location		Z Location	
Site Name: Court House	**Market: Nebraska**	**Site Name:**	**Market:**
Address: 1210 Golden Gate Drive Papillion, NE 68046		**Address:**	
Site Contact: Mark Walters	**Phone:** 402.659.0583	**Site Contact:**	**Phone:**
Bldg Mgr Contact:	**Phone: 402.659.0583**	**Bldg Mgr Contact:**	**Phone:**
Point of Demarcation: Sarpy County Dmark in side building		**Point of Demarcation:**	
Medium (optical or copper): Optical		**Medium (optical or copper):**	
Optical Type: (single or multi)		**Optical Type: (single or multi)**	
Connector Type: Multi		**Connector Type:**	
NOTES: We will bring fiber into the Sarpy County Demark inside Sarpy County Data Center		**NOTES:**	

Qty	Service	Term	Monthly Recurring Charge	Non-Recurring Charge
1	70Mb Internet	60 Month	$1750.00	$1750.00
8	IP's			
		Total =	$1750.00	$

Comments:

Customer Requested Install Date: Anticipated installation date shall occur approximately one hundred and twenty (120) days after the full exectution of this Service Order and the acquisition of all necessary permits, licenses, pole attachment agreements, needed sold fiber installations and rights of way to complete the project.

Service Order

Lit Services- (ST)

Unite Private Networks, LLC	Customer SARPY County
Date: 05/06/2013	Date: 4/30/2013
Signature: Matthew Van Hoesen	Signature: Jim Warren
Print Name: Matthew Van Hoesen	Print Name: Jim Warren
Title: General Counsel & CFO	Title: Chairman, Sarpy County Board

Additional Terms and Conditions Applying to Services

1. Service Orders: Both Parties shall be bound by this Service Order once (i) this paper Service Order is executed by an authorized representative of each Party; or (ii) this properly executed Service Order is submitted electronically by Customer and is executed by an authorized representative of UPN. Upon being bound pursuant to the preceding sentence, Customer shall be committed to payments required hereunder.

2. Provisioning and Acceptance: UPN shall try, but is not obligated, to provide telecom service(s) provided by UPN under this Service Order ("Services") by the requested or otherwise committed delivery dates. UPN shall issue a Service Commencement Letter promptly upon completing the installation and testing of a Service. Customer shall either accept or reject the Service within forty-eight (48) hours of UPN issuing the associated Service Commencement Letter. If Customer rejects a Service, Customer shall provide a written description reasonably detailing failure of the Service. UPN shall re-test the Service and follow the process above issuing another Service Commencement Letter. In the event that Customer fails to accept or properly reject a Service within the designated 48 hours, Customer shall be deemed to have accepted the Service.

3. Porting: Subject to UPN's prior written approval, Customer may cancel a Service and UPN shall waive any applicable early termination charges, other than for those for an Off-Net circuit, provided that the Customer issues an order for a replacement Service that is (i) of a term equal to or greater than the term remaining on the terminated Service; (ii) for the same or greater monthly services charges as the Service being terminated; and (iii) the replacement Service is ordered within thirty (30) days following UPN's written approval.

4. Monthly Service Invoice: UPN will invoice Customer in advance, on or about the first day of each month, for each Service's Monthly Recurring Charge ("MRC") using UPN's standard form of invoice. For any Service accepted after the first of the month, the initial month's MRCs will be pro-rated.

5. Non-Recurring Charge Invoice: UPN will invoice Customer for any Non-Recurring Charge ("NRC") and any special construction charges associated with a Service, upon the effectiveness of a Service Order pursuant to Section 1.

6. Payment: Customer agrees to pay all undisputed portions of any invoices within thirty (30) days from the date the invoice is issued by UPN ("Due Date"). Any undisputed portion of an invoice not paid by the Due Date shall be overdue and Customer shall incur a fee of 1.5% per month, or the maximum amount permitted by law, until the undisputed portions of the invoice are paid in full. Additionally, the Customer must maintain a current payment balance in order to retain any agreed-upon discounts or waived fees that have been applied to the Service Order. Customer shall be liable to UPN for all fees and expenses, including reasonable attorney's fees and court costs that UPN incurs to collect, or attempt to collect, charges owed by Customer to UPN.

7. Disputed Bills: If Customer disputes any portion of an invoice, Customer must pay the undisputed portion of the invoice by the Due Date and submit a written claim reasonably documenting the reasons the remaining amount is disputed. After receipt of such claim, the Parties will undertake a good faith investigation of the disputed charges. At the conclusion of the investigation, any amount mutually agreed by the Parties to be correctly charged will become immediately due and payable by Customer. Amounts agreed by the parties to have been owed by Customer will be subject to the fee noted in Section 6. Unless such a claim is submitted in this manner and received by UPN within 45 days from the date the invoice is issued, the Customer waives all rights to dispute such charges, unless otherwise provided by law.

Service Order

Lit Services- (ST)

8. Taxes and Fees: The MRC, NRC and special construction charges, if any, do not include, and Customer is responsible for paying, all applicable taxes, governmental assessments, surcharges, regulatory charges, Universal Service Fund contributions (state and federal) and other charges attributable to the Customer's ordering and use of the Services. For the sake of clarity, taxes shall not include taxes on UPN's income.

9. Access Charges: Notwithstanding any term contained herein to the contrary, in the event that charges to access any premises where Customer shall receive the Services or where Customer's facilities are located are imposed upon UPN by a third party after the acceptance of a Service Order by UPN, UPN shall pass along all such charges to Customer without mark-up by UPN and Customer shall pay the same to UPN, and for the sake of clarity, such charges may be in addition to the NRC, MRC and special construction charges provided for in an accepted Service Order. The terms of payment of Section 6 shall apply to the same.

10. Security Deposit: UPN may require a security deposit of up to two (2) months estimated charges as a condition of accepting an order or, for a) usage-based Services at any time; or b) non-usage based Service if Customer fails to timely pay UPN hereunder or UPN reasonably determines that Customer has had an adverse change in financial condition.

11. Internet Data Flow: Customer acknowledges and agrees that because the flow of data to or from and through the Internet is dependent upon the performance of services provided or controlled by third parties, UPN cannot guarantee uninterrupted Service for Internet access and use, and UPN warrants that it will use commercially reasonable efforts to remedy impairment or disruption of Customer's access to the Internet through UPN's Equipment, provided however, that any such interruption or impairment is directly attributable to UPN's Equipment. Customer also acknowledges and agrees that the actual transmission speeds for Internet transmissions delivered by UPN may vary from the transmission speeds otherwise expected by Customer based on such factors as the length and gauge of the line servicing Customer, and other operational characteristics of facilities used by UPN and/or Customer. UPN DOES NOT WARRANT THAT INTERNET SERVICE WILL BE UNITERRUPTED, UNIMPARIED, ERROR FREE, OR SECURE, AND UPN DISCLAIMS ALL WARRANTIES, EXCEPT FOR THE WARRANTY FROM THIS SECTION TO USE COMMERCIALLY REASONABLE EFFORTS TO REMEDY IMPARIMENT OR DISRUPTION, EITHER EXPRESSED OR IMPLIED OR BY OPERATION OF LAW INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE FOR INTERNET SERVICE.

12. Acceptable Use: Customer represents and warrants that it shall comply with all relevant laws pertaining to the Services and Customer's use thereof. Customer further represents and warrants that at all times Customer shall conform its use of the Service to the current version of the UPN Acceptable Use Policy, which shall be provided to the Customer by UPN.

13. Protection: Customer must not cause or allow any facility, equipment, software, hardware, system, or material that is owned, leased, or otherwise operated or maintained by UPN ("UPN Equipment") to be rearranged, tampered with, moved, removed, disconnected, altered, maintained or repaired without UPN's prior written consent. Customer is responsible for providing and maintaining at no charge to UPN an appropriate operating environment consistent with generally accepted industry standards for any UPN Equipment at Customer's premises.

14. Access: Customer is responsible for granting or obtaining permission for UPN employees, contractors, representatives, agents and/or suppliers to enter premises where Customer receives services or locates Customer's facilities as reasonably necessary to install, inspect, maintain, and repair Services and any UPN Equipment. Any charges associated with such permission shall be paid by Customer.

15. Liens: Customer may not create or allow any liens or other encumbrances to be placed on any UPN Equipment. In the event that any such lien is placed upon UPN Facilities and which lien is attributable either directly or indirectly to Customer, Customer shall immediately remove such lien by a surety bond.

16. Title: Customer shall have no title, ownership right or interest in any UPN Equipment of any Service. For any goods sold to Customer as part of a Service, title to such goods shall only vest in Customer upon payment in full for the same.

17. Maintenance: UPN will perform routine network maintenance for network improvements and preventive maintenance. UPN will use commercially reasonable efforts to provide seven (7) days' notice to Customer of all such maintenance that is expected to result in a service outage. For Emergency Maintenance, UPN shall notify Customer as soon as is commercially practical under the circumstances. If routine network maintenance exceeds the time scheduled and results in a service outage, Customer will be entitled to outage credits as specified below. Unless otherwise agreed to between the parties, routine network maintenance is performed during UPN's standard maintenance windows. Maintenance windows are as follows: 12 a.m. – 7 a.m. Local Time, Monday through Friday. If planned service outages are expected during these specified times, Customer will be notified via email to the contact designated by the Parties. This notification will inform the Customer of the anticipated time, duration and reason for the network maintenance. While the specified maintenance window is seven (7) hours in length, it is rare that a given maintenance would require use of this entire window.

18. Termination By Either Party: Either party is entitled to terminate this Agreement: (i) if the other party breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice of the same (except as otherwise provided in this Section 18); (ii) immediately if the other party becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors; or (iii) if the other party becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, and such petition or proceeding is not dismissed within sixty (60) days of filing.

19. Termination for Nonpayment: After written notice to Customer that its account is past due, UPN may terminate the associated Service, or the Service Order at UPN's sole and absolute discretion, pursuant to such notice if Customer fails to cure such breach within ten (10) days after receipt of such notice.

20. Termination For Violations of Law: UPN reserves the right to terminate an associated Service or the Service Order immediately (i) if the provision or Customer's use a Service will violate any law or cause UPN to violate any law or (ii) to prevent and protect against Customer fraud or acts or omissions that may cause immediate harm to third parties, UPN Equipment or any Services.

Service Order

Lit Services- (ST)

21. Payment Obligations when Customer Terminates For Cause: If Customer terminates any Service pursuant to Section 18, Customer shall be liable for payment of such Services through the date that UPN receives Customer's notice of termination. Invoicing and payment terms of Section 6 shall apply to payments for the terminated Services.

22. Intrastate Traffic. Customer acknowledges and certifies that for the duration of this Service Order, the interstate traffic (including Internet and international traffic) will constitute ten percent (10%) or less of the total traffic on the private line that has been provided by UPN.

23. Early Termination Charges: In the event that Customer or UPN terminates any Service for any reason other than through Customer's rights granted under Sections 18, Customer shall pay to an early termination fee to UPN which shall be (i) 100% of the monthly recurring charge for one-half of the Service Order term or 24 months, whichever is less; thereafter fifty-percent (50%) of the remaining monthly recurring charges, plus (ii) any waived or otherwise unpaid non-recurring charge or special construction charges, plus (iii) any fees payable to third parties and attributable to the terminated Services, if any, to the extent such fees are not captured by the amounts in subsection (i) of this section, (the "ETL"). This ETL shall be due and payable within ten (10) days of the date of an invoice for the same, notwithstanding Section 6. The parties agree that the ETL provided for under this Section 23 is a reasonable estimate of damages and is a liquidated damage and is not a penalty.

24. Resumption of Service: If Service has been cancelled or terminated, and Customer requests that Service be restored, UPN has the sole and absolute discretion to restore such Services and may condition restoration upon satisfaction of such conditions as UPN determines is reasonably necessary for its protection, including passing UPN's credit approval, and/or to make advance payments and payment of an NRC to restore Services.

25. Warranties: EXCEPT AS OTHERWISE EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, UPN DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED OR BY OPERATION OF LAW INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

26. Limitations of Liability: NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY IN THIS AGREEMENT, AND EXCEPT FOR CUSTOMER'S PAYMENT OBLIGATIONS, EITHER PARTY'S MAXIMUM AGGREGATE LIABILITY TO THE OTHER PARTY RELATED TO OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY CUSTOMER TO UPN, IN THE PRIOR SIX (6) MONTH PERIOD, UNDER SERVICE ORDERS ENTERED INTO PURSUANT TO THIS AGREEMENT AND EFFECTIVE AS OF THE DATE THAT THE LIABILITY WAS INCURRED. IN NO EVENT SHALL EITHER PARTY OR ANY OF ITS RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, MEMBERS, PARTNERS, TRUSTEES, SERVANTS, REPRESENTATIVES, AGENTS, AFFILIATES OR PARENT COMPANY BE LIABLE FOR LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF DATA, THE COST OF REPLACEMENT SERVICES, OR FOR ANY CONSEQUENTIAL, INCIDENTIAL, INDIRECT, SPECIAL, RELIANCE, PUNATIVE OR EXEMPLARY DAMAGES OR LOSSES, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF THIS PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IN THE EVENT OF ANY CLAIM THAT MAY BE BROUGHT BY CUSTOMER, CUSTOMER COVENANTS TO SEEK SATISFACTION OF SUCH CLAIM AGAINST ONLY UPNAND NOT AGAINST ANY TRUSTEE OF UPN.

27. Indemnification: Each party shall indemnify, defend and hold harmless (the "Indemnifying Party") the other party, its directors, officers, employees, representatives, members, partners, trustees and affiliates (collectively the "Indemnified Party") from and against any and all costs, liabilities, losses and expenses (including, but not limited, reasonable attorneys' fees) resulting from any claim, demand, suit, action, judgment, loss or proceeding brought against the Indemnified Party for (a) personal injury including death; (b) the damage to any personal or real property; (c) any unauthorized use of the facilities of the Indemnified Party; or (d) a violation of any United States intellectual property right including patents, copyrights, trademarks, or service marks all of which must be established under United States law, arising directly or indirectly from the negligence or intentional acts or omissions of the Indemnifying Party or its directors, officers, employees, contractors, representatives or agents. Customer shall indemnify, defend and hold harmless UPN, its directors, officers, employees, representatives, members, partners, trustees and affiliates from and against any and all costs, liabilities, losses and expenses (including, but not limited, reasonable attorneys' fees) resulting from any claim, demand, suit, action, judgment, loss or proceeding brought against UPN or its directors, officers, employees, representatives, trustees and affiliates for any breach of UPN's AUP.

28. Force Majeure: Other than with respect to failure to make payments due hereunder, neither Party shall be responsible or liable under this Agreement for any delay, failure to perform, damages, losses or destruction, or malfunction, or any consequence thereof due to circumstances beyond its reasonable control including, but not limited to, acts of God, acts of nature, utility curtailments, power failures, civil disturbances, or emergency governmental actions. In the event a Party asserts a force majeure event, that Party shall be obligated to use its commercially reasonable efforts to mitigate the consequences of the force majeure event.

29. Assignment or Transfer of Service: Except as specified in this Agreement and except for an assignment of this Agreement in whole as part of a corporate reorganization, of which Customer must provide UPN prior and timely written notification, Customer shall not assign, transfer, or delegate this Agreement or any of its rights or duties in connection with this Agreement either in whole or in part without the prior written consent of UPN, which shall not be unreasonably withheld or delayed. Any attempted assignment, transfer, or delegation in contravention of this prohibition will be null and void. Any assignment, transfer and delegation approved by UPN will not affect or diminish Customer's rights and obligations which arose prior to the assignment, transfer, or delegation. UPN may assign with Customer approval, which shall not be reasonably withheld, its rights and duties in whole or in part and UPN is entitled to pledge this Agreement as collateral for financing upon notice to Customer. This Agreement and the rights and obligations created hereunder shall bind and inure to the benefit of each party's successors and permitted assigns.

30. Governing Law: This Agreement shall, in all respects, be construed and enforced in accordance with the laws of the State of Nebraska, excluding its choice of law provisions. The parties hereby agree and consent to the exclusive jurisdiction of the state courts of the State of Nebraska with respect to any matter arising under this Agreement or in connection herewith.

31. Notices: Any notice or communication required or permitted to be given hereunder shall be in writing and may be delivered by hand, deposited with a nationally recognized overnight courier, sent by confirmed facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving party indicated below, or to such other address as either party may notify the other in writing from time to time. Such notice will be deemed to have been given as of the date given by hand or facsimile confirmation, the day after deposit with a nationally recognized overnight courier, or five (5) days after it

was mailed. Notices to UPN shall be sent to the following address: 950 W. 92 Highway, Kearney, MO 64060, Attention: Legal. Notices to Customer shall be sent to the following: Customer billing contact name and address listed on the applicable Service Order.

32. Severability: If any provision of this Agreement shall for any reason be held illegal, invalid or unenforceable, such provision shall be deemed separable from the remaining provisions of this Agreement and shall in no way impair the validity or enforceability of the remaining provisions of this Agreement.

33. Entire Agreement: This Agreement represents the entire agreement between the parties and supersedes all prior agreements, promises, understandings, statements, proposals, and inducements whether written or oral. Each party agrees that it has been represented by counsel in negotiating and entering into this Agreement and further agrees that no provision of this Agreement shall be interpreted in favor of one party to the detriment of the other party.

34. Dispute Resolution: Any dispute which arises out of or in relation to the terms of this Agreement shall be resolved first by good faith discussions between designated representatives of UPN and of Customer. If the matter is not resolved within fifteen (15) days, it shall be escalated to an executive officer of each Party within fifteen (15) days of a written request by either Party to the other. If the matter is not resolved within 45 days then either Party may pursue an action or other relief in a court of competent jurisdiction consistent with Section 30.

Acceptable Use Policy

Introduction

Unite Private Networks ("UPN") is at all times committed to complying with the laws and regulations governing use of the Internet and data transmissions with the intent of preserving for all of its Customers the ability to use UPN's network and the Internet without interference or harassment from other users. The UPN AUP ("AUP") was created to help achieve these goals.

By using IP Service(s), as defined below, Customer(s) agrees to comply with this Acceptable Use Policy and to remain responsible for its users. UPN reserves the right to change or modify the terms of the AUP at any time, effective when posted on UPN's web site at www.upn.com/aup. Customer's use of the IP Service(s) after changes to the AUP are posted shall constitute acceptance of any changed or additional terms.

Scope of the AUP

The AUP applies to all UPN services that provide (or include) access to the Internet, (collectively "IP Services").

Prohibited Activities

General Prohibitions: UPN prohibits use of the IP Services in any way that is unlawful, harmful to or interferes with use of UPN's network or systems, or the network of any other provider, interferes with the use or enjoyment of services received by others, infringes intellectual property rights, results in the publication of threatening or offensive material, or constitutes Spam/E-mail abuse, a security risk or a violation of privacy.

Failure to adhere to the rules, guidelines or agreements applicable to search engines, subscription Web services, chat areas, bulletin boards, Web pages, applications, or other services is a violation of this AUP.

Unlawful Activities: IP Services shall not be used in connection with any criminal, civil or administrative violation of any applicable local, state, provincial, federal, national or international law, treaty, court order, ordinance, regulation or administrative rule.

Violation of Intellectual Property Rights: IP Service(s) shall not be used to publish, submit/receive upload/download, post, use, copy or otherwise reproduce, transmit, re-transmit, distribute or store any content/material or to engage in any activity that infringes, misappropriates or otherwise violates the intellectual property rights or privacy or publicity rights of UPN or any individual, group or entity, including but not limited to any rights protected by any copyright, patent, trademark laws, trade secret, trade dress, right of privacy, right of publicity, moral rights or other intellectual property right now known or later recognized by statute, judicial decision or regulation.

Threatening Material or Content: IP Services shall not be used to host, post, transmit, or re-transmit any content or material (or to create a domain name or operate from a domain name), that harasses, or threatens the health or safety of others.

Security Violations

Customers are responsible for ensuring and maintaining security of their systems and the machines that connect to and use IP Service(s), including implementation of necessary patches and operating system updates.

IP Services may not be used to interfere with, gain unauthorized access to, or otherwise violate the security of UPN's (or another party's) server, network, network access, personal computer or control devices, software or data, or other system, or to attempt to do any of the foregoing. Examples of system or network security violations include but are not limited to:

- unauthorized monitoring, scanning or probing of network or system or any other action aimed at the unauthorized interception of data or harvesting of e-mail addresses;
- hacking, attacking, gaining access to, breaching, circumventing or testing the vulnerability of the user authentication or security of any host, network, server, personal computer, network access and control devices, software or data without express authorization of the owner of the system or network;
- impersonating others or secretly or deceptively obtaining personal information of third parties (phishing, etc.);
- using any program, file, script, command or transmission of any message or content of any kind, designed to interfere with a terminal session, the access to or use of the Internet or any other means of communication;
- distributing or using tools designed to compromise security (including but not limited to SNMP tools), including cracking tools, password guessing programs, packet sniffers or network probing tools (except in the case of authorized legitimate network security operations);
- knowingly uploading or distributing files that contain viruses, spyware, Trojan horses, worms, time bombs, cancel bots, corrupted files, root kits or any other similar software or programs that may damage the operation of another's computer, network system or other property, or be used to engage in modem or system hi-jacking;
- engaging in the transmission of pirated software;
- with respect to dial-up accounts, using any software or device designed to defeat system time-out limits or to allow Customer's account to stay logged on while Customer is not actively using the IP Services or using such account for the purpose of operating a server of any type;
- using manual or automated means to avoid any use limitations placed on the IP Services;
- providing guidance, information or assistance with respect to causing damage or security breach to UPN's network or systems, or to the network of any other IP Service provider;
- failure to take reasonable security precautions to help prevent violation(s) of this AUP.

Customer Responsibilities

Customers remain solely and fully responsible for the content of any material posted, hosted, downloaded/uploaded, created, accessed or transmitted using the IP Services. UPN has no responsibility for any material created on the UPNs network or accessible using IP Services, including content provided on third-party websites linked to the UPN network. Such third-party website links are provided as Internet navigation tools for informational purposes only, and do not constitute in any way an endorsement by UPN of the content(s) of such sites.

Customers are responsible for taking prompt corrective action(s) to remedy a violation of AUP and to help prevent similar future violations.

AUP Enforcement and Notice

Customer's failure to observe the guidelines set forth in this AUP may result in UPN taking actions anywhere from a warning to a suspension or termination of Customer's IP Services. When feasible, UPN may provide Customer with a notice of an AUP violation via e-mail or otherwise allowing the Customer to promptly correct such violation.

UPN reserves the right, however, to act immediately and without notice to suspend or terminate affected IP Services in response to a court order or government notice that certain conduct must be stopped or when UPN reasonably determines, that the conduct may: (1) expose UPN to sanctions, prosecution, civil action or any other liability, (2) cause harm to or interfere with the integrity or normal operations of UPN's network or networks with which UPN is interconnected, (3) interfere with another UPN Customer's use of IP Services or the Internet (4) violate any applicable law, rule or regulation, or (5) otherwise present an imminent risk of harm to UPN or UPN Customers.

UPN has no obligation to monitor content of any materials distributed or accessed using the IP Services. However, UPN may monitor content of any such materials as necessary to comply with applicable laws, regulations or other governmental or judicial requests; or to protect the UPN network and its customers.

Incident Reporting

Any complaints (other than claims of copyright or trademark infringement) regarding violation of this AUP by an UPN Customer (or its user) should be directed to 1-866-963-4237. Where possible, include details that would assist UPN in investigating and resolving such complaint (e.g. expanded headers, IP address(s), a copy of the offending transmission and any log files).

Contact Information: Any notification that UPN sends to its Customers pursuant to this AUP will be sent via e-mail to the e-mail address on file with UPN, or may be in writing to Customer's address of record. It is Customer's responsibility to promptly notify UPN of any change of contact information.

Effective Date: January 1, 2012

Sarpy County Purchasing Department

SARPY COUNTY COURTHOUSE
1210 GOLDEN GATE DRIVE
PAPILLION, NE 68046

Brian Hanson, Purchasing Agent
(402) 593-2349
Debby Peoples, Asst. Purchasing Agent
(402) 593-4164
Beth Garber, Senior Buyer/Contract Administrator
(402) 593-4476
Lois Spethman, Supply Clerk/Purchaser
(402) 593-2102

Memo

To: Sarpy County Board of Commissioners

From: Beth Garber

Re: Dark Fiber & Internet Service Agreements

On April 23, 2013 the County Board authorized the procedure for a special purchase of dark fiber and internet services. Following this authorization an advertisement was placed in the paper inviting proposals for the same statement of work that will be provided from Unite. The County has not yet received any proposals from this publication. However, pricing was obtained through several companies to compare and verify there would be a significant cost savings through entering into a contract with Unite for fiber and internet service.

Upgrading of the existing wireless network would cost somewhat less than the proposal from Unite, but Mark Walters feels that the wireless solution is inferior because of reliability and bandwidth issues. Therefore based on the comparison of pricing that verified a significant cost savings for the County for fiber installation, it is recommended that the County Board waive the bidding requirements and approve the agreements for Dark Fiber and Internet Services with Unite Private Networks. Please let me know if you have any questions.

April 25, 2013

Beth Garber

Cc: Deb Houghtaling
Mark Wayne
Scott Bovick
Brian Hanson
Mark Walters

Sarpy County, Nebraska
Fiber Optic Connectivity Comparisons
April 2, 2013

Location	Description	Unit Cost	# Units	Extended Price				
Unite Private Networks								
Courthouse to La Vista	1 pair fiber monthly cost	$ 650	120	$ 78,000				
Courthouse to Papillion	1 pair fiber monthly cost	$ 650	120	$ 78,000				
Courthouse to JJC	1 pair fiber monthly cost	$ 750	120	$ 90,000				
Courthouse	70 Mb Internet mo. Cost	$ 1,750	60	$ 105,000				
Courthouse to La Vista	1 pair fiber one time cost	$ 900	1	$ 900				
Courthouse to Papillion	1 pair fiber one time cost	$ 900	1	$ 900				
Courthouse to JJC	1 pair fiber one time cost	$ 900	1	$ 900				
Courthouse	70 Mb Internet one time cost	$ 1,750	1	$ 1,750				
Various Locations	Current Internet contracts cost $2,042 per month. New cost will be $1,750 per month for a savings of $292 per mont for about four years.	$ (292)	48	$ (14,016)				
All locations	Equipment required for connectivity	$ 10,000	1	$ 10,000				
All locations	Labor required for connectivity.	$ -	0	$ -				
Projected Cost: 10 years fiber and 5 years Internet.				$ 351,434				
We need a better/more detailed description of the fiber.								
TJ Cable & Underground Services								
All three locations	24 count backbone installation	$ 510,523	1	$ 510,523				
All locations	Equipment required for connectivity	$ 10,000	1	$ 10,000				
All locations	Labor required for connectivity.	$ -	0	$ -				
Various locations	60Mb down and 15Mb up Internet service.	$ 2,042	60	$ 122,520				
Projected Cost: 10 years fiber and 5 years Internet.				$ 643,043				
Cox Business								
Sarpy County Courthouse	300Mb fiber (aggregate of 3 below)	$ 1,823	120	$ 218,760	Cox declined to provide budgetary numbers for 10 Years			
City of Papillion	100Mb fiber	$ 1,013	120	$ 121,560	Cox declined to provide budgetary numbers for 10 Years			
City of La Vista	100Mb fiber	$ 1,013	120	$ 121,560	Cox declined to provide budgetary numbers for 10 Years			
City of La Vista	Installation Costs			$ -				
Juvenile Justice Center	100Mb	$ 1,013	120	$ 121,560	Cox declined to provide budgetary numbers for 10 Years			
Juvenile Justice Center	Installation Costs			$ -				
Various locations	60Mb down and 15Mb up Internet service.	$ 2,042	60	$ 122,520				
Projected Cost: 10 years fiber and 5 years Internet.				$ 705,960				
Updated Wireless Equipment								
Sarpy County Courthouse	Equipment Description*	$ -	0	$170,757.00				
City of Papillion	Equipment Description	$ -	0	$ -				
City of La Vista	Equipment Description	$ -	0	$ -				
Juvenile Justice Center	Equipment Description	$ -	0	$ -				
Various locations	60Mb down and 15Mb up Internet service.	$ 2,042	60	$ 122,520				
Projected Cost: 10 years fiber and 5 years Internet.				$ 293,277				
*Equipment will have to be replaced twice during the 10 year period at $85,378 each time.								