

State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street – Room 120
Concord, New Hampshire 03301

16A *cbm*

LINDA M. HODGDON
Commissioner
(603) 271-3201

JOSEPH B. BOUCHARD
Assistant Commissioner
(603) 271-3204

January 15, 2014

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Administrative Services and the Department of Safety to amend the State's Contract with Enhanced Communications of Northern New England, Inc. d/b/a Fairpoint Internet, (VC 174027), of Portland, ME, originally approved by Governor and Council on March 10, 2010 item #34, and amended on February 20, 2013, item #13E, to extend the provision of internet connectivity services by one year, with the option of a thirty day cancellation also included, with a corresponding increase in the contract price limitation by \$76,279.20, from \$305,116.80 to \$381,396.00, effective upon Governor and Council approval for the period of February 28, 2014 through February 28, 2015. This extension represents the exercise of the second of two options to extend the contract for a period of one year. Funding Source: 58.4% Revolving, 27.7% Agency Income, 13.5% Highway Funds and 0.4% Federal Funds

Funding is available in the following account(s): Dept of Safety, 500180 Telecommunications

Account	FY2014	FY2015
02-023-023-236510-18700000	\$14,005.20	\$28,010.40
02-023-023-236510-40010000	\$2,855.30	\$5,710.58
02-023-023-234010-40080000	\$1,713.18	\$3,426.36
02-023-023-236510-13960000	\$2,284.24	\$4,568.44
02-023-023-236010-27400000	\$285.53	\$571.08
02-023-023-238010-50020000	\$285.53	\$571.08
02-023-023-237010-40650000	\$285.53	\$571.08
02-023-023-234010-50010000	\$285.53	\$571.08
02-023-023-233015-23110000	\$1,713.18	\$3,426.35
02-023-023-233015-23120000	<u>\$1,713.18</u>	<u>\$3,426.35</u>
	\$25,426.40	\$50,852.80

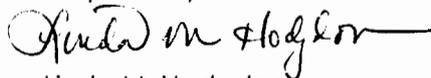
Contract TOTAL: \$76,279.20

EXPLANATION

On March 10, 2010 (Item #34) Governor and Executive Council approved a contract with Enhanced Communications of Northern New England d/b/a Fairpoint Internet for internet connectivity services to the State. The approved contract provided for two one year extensions for the provision of services. The first one year extension was approved on February 20, 2013 (Item 13E) by Governor and Executive Council. Bid 1554-14 was published on August 22, 2013 and opened on September 12, 2013 to award a new contract. The bid solicitations are currently still under review and a new award will not be ready by February 28, 2014, the date of the current contract expiration. The intent is to use the thirty day cancellation with Fairpoint when the new contract is awarded. The Department of Administrative Services is requesting a one year extension to finish evaluation and award bid 1554-14. After consultation with the Department of Information Technology and the Department of Safety, a decision was made to extend the contract, subject to the requisite approval of Governor and Executive Council.

Based on the foregoing, I am respectfully recommending approval of the amendment to the contract with Fairpoint Internet.

Respectfully submitted,



Linda M. Hodgdon
Commissioner

**SECOND AMENDMENT
TO
Contract # 8000691 with Enhanced Communications of Northern New England Inc.**

It is hereby agreed that the Internet Service Provision Contract approved by Governor & Executive Council on March 10, 2010 (Item #34), and herein referred to as the "Agreement" between Enhanced Communications of Northern New England, Inc. d/b/a Fairpoint Internet as "Contractor" and the Department of Administrative Services as "State" is amended as follows:

Background

The State and the Contractor entered into an agreement for internet services on March 10, 2010, and was amended on February 20, 2013 by Governor and Executive Council; the Agreement is set to expire February 28, 2014.

Amendment

WHEREAS, pursuant to Section 18 of the Agreement, the Agreement may be amended by an instrument in writing executed by both parties;

NOW, THEREFORE, for and in consideration of the mutual promises set forth in this Amendment and the underlying Agreement, the parties do mutually agree as follows:

1. Delete in its entirety Form Number P-37, item 1.8 Price Limitation and substitute the following:

1.8 Price Limitation: \$381,396.00

2. Delete in its entirety Form Number P-37, item 1.7 Completion Date and substitute the following:

1.7 February 28, 2015

3. Delete in its entirety Form Number P-37, item 1.6 Account Number and substitute the following:

500221 Telecommunications

Account	FY2014	FY2015
230010-18700000	\$14,005.20	\$28,010.40
230010-40010000	\$ 2,855.30	\$ 5,710.58
230010-40080000	\$ 1,713.18	\$ 3,426.36
230010-13960000	\$ 2,284.24	\$ 4,568.44
230010-27400000	\$ 285.53	\$ 571.08
230010-50020000	\$ 285.53	\$ 571.08
230010-40650000	\$ 285.53	\$ 571.08
230010-50010000	\$ 285.53	\$ 571.08

230010-23110000	\$	1713.18	\$	3,426.35
230010-23120000	\$	1713.18	\$	3,426.35

2. All other provisions of the Agreement, approved by Governor and Council on March 10, 2010, shall remain in full force and effect.

Enhanced Communicatios of Northern New England Inc.

STATE OF NEW HAMPSHIRE

By: [Signature]
Shirley J. Linn
(Print Name)

By: [Signature]
Linda M. Hodgdon
(Print Name)

Title: Executive Vice President and General Counsel

Title: Commissioner Department of Administrative Services

Date: 1-10-14

Date: _____

NOTARY PUBLIC/JUSTICE OF THE PEACE

OFFICE OF THE ATTORNEY GENERAL

On the 10th day of January, 2014
There appeared before me, the state and county foresaid a person who satisfactorily identified herself as

Shirley J. Linn

By: [Signature]
Rosemary Wiant
(Print Name)

Title: Assistant Attorney General
Date: 1-30-14

And acknowledge that she executed this document indicated above.

The foregoing contract was approved by the Governor and Council of New Hampshire on

In witness thereof, I hereunto set my hand and official seal.

[Signature]
M. Tyler Helms, Notary Public

Signed: _____
(Print Name)

My commission expires:
02/28/2017
(Date)

Title: _____





STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Peter C. Hastings
Commissioner

February 3, 2014

Linda M. Hodgdon, Commissioner
State of New Hampshire
Department of Administrative Services
25 Capitol Street
Concord, NH 03301

Dear Commissioner Hodgdon:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract amendment with Enhanced Communications of Northern New England, Inc. d.b.a. Fairpoint Internet as described below and referenced as DoIT No. 2013-056B.

This is a request to amend the statewide Internet Service Provider Contract #80000691 with Fairpoint that enables the State to connect to the internet through a primary circuit as well as to provide a backup circuit in the event of an outage. Funding shall be increased by \$76,279.20 from \$305,116.80 to a total price limitation of \$381,396.00. The contract ending date shall be increased by one year to February 28, 2015. The amendment shall become effective upon Governor and Council.

A copy of this letter should accompany the Department of Administrative Services' submission to Governor and Executive Council for approval.

Sincerely,

Peter C. Hastings

PCH/ltn
Contract #2013-056B

cc: Leslie Mason, DoIT
David Perry, DoIT
Paul Rhodes, DAS

State of New Hampshire Department of State

CERTIFICATE

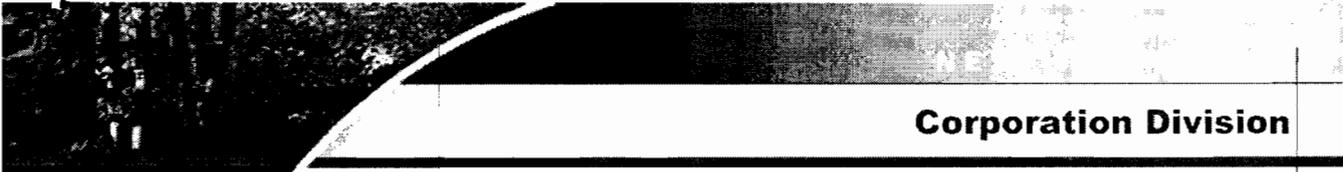
I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Enhanced Communications of Northern New England Inc. a(n) Delaware corporation, is authorized to transact business in New Hampshire and qualified on March 27, 2007. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 8th day of January, A.D. 2014

A handwritten signature in cursive script, appearing to read "Wm Gardner".

William M. Gardner
Secretary of State


Corporation Division

[Search](#)
[By Business Name](#)
[By Business ID](#)
[By Registered Agent](#)
[Annual Report](#)
[File Online](#)
[Guidelines](#)
[Name Availability](#)
[Name Appeal Process](#)

Date: 1/30/2014 **Filed Documents**
 (Annual Report History, View Images, etc.)

Business Name History

Name	Name Type
FairPoint Communications, Inc.	Legal
FairPoint Communications, Inc.	Home State

Corporation - Foreign - Information

Business ID: 581978
Status: Good Standing
Entity Creation Date: 8/1/2007
State of Business.: DE
Principal Office Address: 521 EAST MOREHEAD STREET SUITE 500
 CHARLOTTE NC 28202
Principal Mailing Address: 908 W. Frontview
 Dodge City KS 67801
Last Annual Report Filed Date: 1/13/2014
Last Annual Report Filed: 2014

Registered Agent

Agent Name: C T Corporation System
Office Address: 9 Capitol Street
 Concord NH 03301

Mailing Address:

Important Note: The status reflected for each entity on this website only refers to the status of the entity's filing requirements with this office. It does not necessarily reflect the disciplinary status of the entity with any state agency. Requests for disciplinary information should be directed to agencies with licensing or other regulatory authority over the entity.



State of New Hampshire

Department of State

Corporations Division
107 North Main Street
Concord, N.H. 03301-4989
603-271-3244

Filed
Date Filed: 03/22/2013
Effective Date: 04/29/2013
Business ID: 595677
William M. Gardner
Secretary of State

APPLICATION FOR RENEWAL OF TRADE NAME
First Notice

FairPoint Internet
521 E. Morehead Ste 250
Charlotte, NC 28202

Business ID #: 595677
Expiration Date: 04/29/2013
Filing Fee: \$ 50.00

Check here if business address has changed and indicate change below.

c/o FairPoint Communications, Inc., 770 Elm Street, Manchester, NH 03101

Street / PO BOX City / Town State Zip

Check here if mailing address has changed and indicate change below.

521 E. Morehead Street, Suite 500, Charlotte, NC 28202

Street / PO BOX City / Town State Zip

The following registrant(s) is / are doing business under the above listed Trade Name.
You must contact this office if there is a change in Registrants:

Registered By No. & Street City / Town State Zip
Enhanced Communications One Verizon Way Basking Ridge NJ 07920
of Northern New England Inc.

Check here if registrant address has changed and indicate change below.

c/o FairPoint Communications, Inc., 521 E. Morehead Street, Suite 500, Charlotte, NC 28202

Registrant new address # Street / PO BOX City / Town State Zip

Nature of Business: Communications and data services

Signed: (Must be signed by all listed Registrants. Note business entities must include title for authorized person signing.)

[Signature]

Susan L. Sowell, Vice President and
Assistant General Counsel

Disclaimer: All documents
for public inspection in

State of New Hampshire
Form TN 3 - Application for Reregistration of Trade Name 1 Page(s)

and will be available



T1308427067

ACTION BY UNANIMOUS WRITTEN CONSENT
OF THE BOARD OF DIRECTORS OF
ENHANCED COMMUNICATIONS OF NORTHERN NEW ENGLAND INC.

The undersigned, being all of the directors of Enhanced Communications of Northern New England Inc. (the "Company"), a Delaware corporation, hereby adopt the following resolutions by their unanimous written consent and declare them to be in full force and effect as if they were adopted at a special meeting of the Board of Directors duly called, noticed and held:

AUTHORIZATION OF SIGNATORIES

WHEREAS, the Board of Directors has the discretion to manage, control and make decisions affecting the business and affairs of the Company and to take actions as it deems necessary or appropriate to accomplish the purposes of the Company; and

WHEREAS, it is desirable for the Company to authorize certain representatives of the Company to enter into and execute contracts on behalf of the Company with the State of New Hampshire including, without limitation, the Department of Administrative Services of the State of New Hampshire;

NOW THEREFORE BE IT RESOLVED, that the following individuals be, and hereby are, authorized to make, enter into, sign and deliver contracts on behalf of the Company with the State of New Hampshire:

Shirley J. Linn
Anthony A. Tomae

RESOLVED FURTHER, that the department or agency of the State of New Hampshire to which a copy of these resolutions has been delivered by the Company be, and hereby is, authorized and entitled to rely upon such resolutions for all purposes until it shall have received written notice of the revocation or amendment of these resolutions by the Board of Directors.

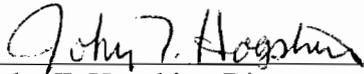
FURTHER ACTIONS

RESOLVED FURTHER, that the officers of the Company, acting together or alone, be, and each of them hereby is, authorized and directed in the name and on behalf of the Company (a) to do and perform or cause to be done and performed all such acts and things as such officer or officers shall deem necessary, advisable or appropriate to give effect to the intent and purposes of the foregoing resolutions and (b) to execute and deliver all such agreements, amendments, certificates, directions, representations, transfers, assurances and other instruments and documents of every character and to do and perform or cause to be done and performed such other and further acts and things as such officer or officers shall deem necessary, advisable or appropriate to give effect to the intent and purposes of the foregoing resolutions;

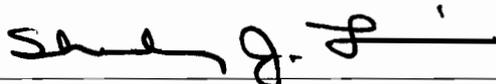
RESOLVED FURTHER, that any actions previously taken by the directors and officers of the Company in connection with the transactions contemplated as described above are hereby approved, ratified and confirmed; and

RESOLVED FURTHER, that the undersigned hereby waive any and all irregularity of notice in the time and place of meeting and consent to the transaction of all business represented by this Action by Unanimous Written Consent.

IN WITNESS WHEREOF, this Action by Unanimous Written Consent shall be deemed effective as of the 10th day of January, 2014.



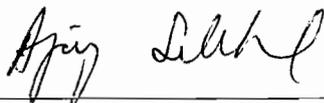
John T. Hogshire, Director



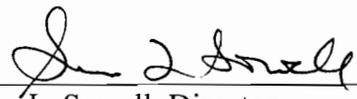
Shirley J. Linn, Director



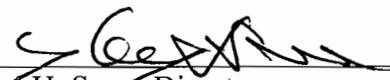
Peter G. Nixon, Director



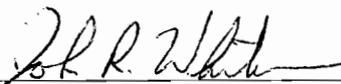
Ajay Sabherwal, Director



Susan L. Sowell, Director



Paul H. Sund, Director



John R. Whitener, Director



State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street - Room 120
Concord, New Hampshire 03301

*Mike C
Fairpoint
13E
Bob Lewis*

LINDA M. HODGDON
Commissioner
(603) 271-3201

JOSEPH B. BOUCHARD
Assistant Commissioner
(603) 271-3204

January 31, 2013

Her Excellency, Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

2/20/2013

REQUESTED ACTION

Authorize the Department of Administrative Services and the Department of Safety to exercise the first of two options to extend for one year the State's Contract with Enhanced Communications of Northern New England, Inc. d/b/a Fairpoint Internet, (VC 174027), of Portland, ME, originally approved by Governor and Executive Council on March 10, 2010 item # 34, for the provision of internet connectivity services, with a corresponding increase in contract price limitation by \$76,279.20 from \$228,837.60 to \$305,116.80. Effective upon Governor and Executive Council approval through February 28, 2014. Source of funds:

Funds are available in the following appropriation in SFY 2013 and anticipated to be available in SFY 2014 with the authority to adjust amounts between fiscal years with prior authority of the budget office

02-23-23-230010 Dept of Safety Office of the Commissioner
020-500221 Telecommunications

Account	FY2013	FY2014
02-23-23-230010-18700000	\$14,005.20	\$28,010.40
02-23-23-230010-40010000	\$2,855.30	\$5,710.58
02-23-23-230010-40080000	\$1,713.18	\$3,426.36
02-23-23-230010-13960000	\$2,284.24	\$4,568.44
02-23-23-230010-27400000	\$285.53	\$571.08
02-23-23-230010-50020000	\$285.53	\$571.08
02-23-23-230010-40650000	\$285.53	\$571.08
02-23-23-230010-50010000	\$285.53	\$571.08
02-23-23-230010-23110000	\$1,713.18	\$3,426.35
02-23-23-230010-23120000	\$1,713.18	\$3,426.35
	\$25,426.40	\$50,852.80

TOTAL:

\$76,279.20

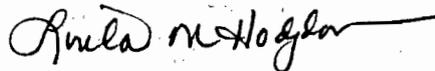
Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301
Page 2 of 2

EXPLANATION

On March 10, 2010 (Item #34) Governor and Executive Council approved a contract with Enhanced Communications of Northern New England d/b/a Fairpoint Internet for internet connectivity services to the State. The approved contract provided for two one year extensions for the provision of services. After consultation with the Department of Information Technology and the Department of Safety, a decision was made to extend the contract, subject to the requisite approval of Governor and Executive Council. This decision was based upon the fact that Fairpoint has successfully provided the subject services to the State. In addition, upon review of the bids received under the original solicitation, and consultation between the agencies referenced above, a conclusion was drawn that the offered rates represent significant value to the State for these services.

Based on the foregoing, I am respectfully recommending approval of the amendment to the contract with Fairpoint Internet.

Respectfully submitted,



Linda M. Hodgdon
Commissioner

STATE OF NH
DEPT OF JUSTICE
2014 JAN 30 AM 9:11

RFB # 2010-023

State of NH Internet Service Provider

Table A1 – Circuit Option Pricing

Circuit Option	Circuit	Monthly Bid Price		
		FairPoint	SegTel	G-4
Option 1	State Primary and Standby Circuits	\$3,501.30	\$12,290.00	\$9,995.00
Option 2	DOS Primary and Standby Circuits	\$2,855.30	\$9,490.00	\$5,995.00
Option 3	State Primary and Standby, DOS Primary and Standby	\$6,356.60	\$21,780.00	\$15,000.00

Table A-2A Pricing for expanded bandwidth for Primary and Secondary Circuit.

Item Pricing	Monthly Cost 12/1/09 through 11/30/12		
	FairPoint	SegTel	G-4
60 Mb/s	\$ 2,115.30	\$5,495.00	\$4,000.00
80 Mb/s	2,416.30	\$6,595.00	5,000.00
100 Mb/s	2,591.30	\$7,395.00	6,000.00
120 Mb/s	3,103.00	\$8,495.00	7,000.00
140 Mb/s	3,616.10	\$9,595.00	8,000.00
160 Mb/s	3,874.40	\$10,695.00	9,000.00
180 Mb/s	4,355.30	\$11,795.00	10,000.00
200 Mb/s	4,439.30	\$12,895.00	11,000.00

Table A-2B Pricing for Hot Standby Circuit

Item Pricing	Monthly Cost 12/1/09 through 11/30/12		
	FairPoint	SegTel	G-4
30 Mb/s	\$ 740.00	\$3,995.00	\$ 2000.00
50 Mb/s	910.00	\$4,895.00	3000.00
60 Mb/s	1,092.00	\$5,372.00	3500.00
70 Mb/s	1,294.00	\$5,849.00	4000.00
80 Mb/s	1,356.00	\$6,326.00	4500.00
90 Mb/s	1,548.00	\$6,803.00	5000.00
100 Mb/s	1,570.00	\$7,280.00	5500.00

Table A-5 Support for non-covered services

IT SERVICES		SFY 09	SFY 10	SFY11	SFY12
Hourly Rate	FairPoint	\$45.00	\$45.00	\$45.00	\$45.00
Hourly Rate	SegTel	\$155.00	\$155.00	\$155.00	\$155.00
Hourly Rate	G-4	\$175.00	\$175.00	\$175.00	\$175.00



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY

27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doi

S. William Rogers
Commissioner

August 8, 2012

Linda M. Hodgdon, Commissioner
State of New Hampshire
Department of Administrative Services
25 Capitol Street
Concord, NH 03301

Dear Commissioner Hodgdon:

The Department of Information Technology (DoIT) requests that the Department of Administrative Services, Bureau of Purchase and Property extend Statewide Contract # 8000691 with Fairpoint Internet, of Manchester, NH (Vendor #174027). The current contract expires on February 28, 2013 and may be extended for two (2) additional periods of one (1) year each at the sole discretion of the State. During the current term of the contract, Fairpoint has successfully provided the required primary and backup circuits to the Departments of Safety and Information Technology.

Your consideration of this request is appreciated.

Sincerely,

S. William Rogers

SWR/ltn

cc: Leslie Mason
Robert Stowell
Paul Rhodes



State of New Hampshire

Department of Safety
Division of Emergency Services and Communications
Bureau of Emergency Communications
James H. Hayes Safety Building
33 Hazen Drive
Concord, New Hampshire 03305



John J. Barthelmes
Commissioner, Department of Safety

Bruce G. Cheney, ENP
Director, Division of Emergency Services

Earl M. Sweeney
Assistant Commissioner, Department of Safety

Peter A. DeNutte, ENP
Assistant Director, Bureau of Emergency Communications

Enhanced 9-1-1
Commission Members:

Chairman
Chief Douglas M. Aiken
NH Association of Fire Chiefs

August 10, 2012.

Vice Chairman
Captain George Valliere
NH Police Officer

Secretary
William Wood
NH Division of Fire Standards
and Training & EMS

Kathryn Bailey
NH Public Utilities Commission

Marc Violette
NH Telephone Association

Karen Mead
FairPoint Communications

David Caron
NH Municipal Association

Vacant
NH Sheriff's Association

Vacant
NH Department of Safety

Richard Bernard
Public Member

Derek Martel
NH Firefighter

Chief James Valiquet
NH Association of Police Chiefs

Commissioner Linda M. Hodgdon
Department of Administrative Services

Retired Chief Paul Szoc
NH Federation of Mutual Aids

Sandra Teti
NH Disabled Community

Robert D Girard
Mobile Telecommunications Carriers Industry

Paul Rhodes
Purchasing Agent
Department of Administrative Services
25 Capitol Street
Concord, NH 03301

RE: FairPoint Internet Services Contract

Mr. Rhodes;

The State entered into a contract with Enhanced Communications of Northern New England, Inc, d.b.a. FairPoint Internet under contract number 8000691, approved by Governor and Executive council on March 10, 2010. The contract expires on February 28, 2013. Paragraph 4.1 Period of Performance allows for two additional one year contract extensions. I am requesting that the State take advantage of the existing rates for a quality service by extending the contract for one year. This will allow the state to continue enjoying uninterrupted ISP services.

Thank you for your consideration.

Respectfully,

Bruce Cheney
Director

**FIRST AMENDMENT
TO**

Contract # 8000691 with Enhanced Communications of Northern New England Inc.

It is hereby agreed that the Internet Service Provision Contract approved by Governor & Executive Council on March 10, 2010 (Item #34), and herein referred to as the "Agreement" between Enhanced Communications of Northern New England Inc. d/b/a Fairpoint Internet as "Contractor" and the Department of Administrative Services as "State" is amended as follows:

Background

The State and the Contractor entered into an agreement for internet services on March 10, 2010; the Agreement is set to expire February 28, 2013.

Amendment

WHEREAS, pursuant to Section 18 of the Agreement, the Agreement may be amended by an instrument in writing executed by both parties;

NOW, THEREFORE, for and in consideration of the mutual promises set forth in this Amendment and the underlying Agreement, the parties do mutually agree as follows:

1. Delete in its entirety Form Number P-37, item 1.8 Price Limitation and substitute the following:
1.8 Price Limitation: \$305,116.80
2. Delete in its entirety Form Number P-37, item 1.7 Completion Date and substitute the following:
1.7 February 28, 2014
3. Delete in its entirety Form Number P-37, item 1.6 Account Number and substitute the following:
500221 Telecommunications

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230010-40010000	\$ 2,855.30	\$ 5,710.58
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230010-50010000	\$ 285.53	\$ 571.08

230010-23110000	\$	1713.18	\$	3,426.35
230010-23120000	\$	1713.18	\$	3,426.35

2. All other provisions of the Agreement, approved by Governor and Council on March 10, 2010, shall remain in full force and effect.

Enhanced Communications of Northern New England Inc.

STATE OF NEW HAMPSHIRE

By: Shirley J. Linn
Shirley J. Linn
(Print Name)

Title: Executive Vice President and General Counsel

Date: 1-29-13

By: Linda M. Hodgdon
Linda M. Hodgdon
(Print Name)

Title: Commissioner Department of Administrative Services

Date: 2/6/13

NOTARY PUBLIC/JUSTICE OF THE PEACE

State of North Carolina
Mecklenburg County

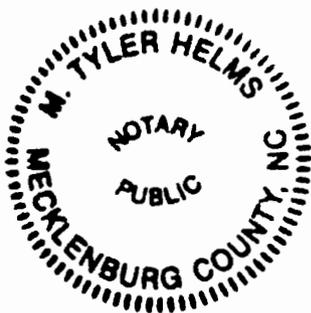
On the 29th day of January, 2013,
There appeared before me, the state and county foresaid a person who satisfactorily identified herself as Shirley J. Linn, Executive Vice President and General Counsel of Enhanced Communications of Northern New England Inc.

And acknowledge that she executed this document indicated above.

In witness thereof, I hereunto set my hand and official seal.

M. Tyler Helms
M. Tyler Helms, Notary Public

My commission expires:
2 / 28 / 2017
(Date)



OFFICE OF THE ATTORNEY GENERAL

By: Rosemary Wiant
Rosemary Wiant
(Print Name)

Title: Assistant Attorney General

Date: 2-8-13

The foregoing contract was approved by the Governor and Council of New Hampshire on

Signed: _____

(Print Name)
Title: _____

State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street - Room 120
Concord, New Hampshire 03301

OK 34

LINDA M. HODGDON
Commissioner
(603) 271-3201

JOSEPH B. BOUCHARD
Assistant Commissioner
(603) 271-3204

February 8, 2010

MAR 10 2010

His Excellency, Governor John H. Lynch
And the Honorable Council
State House
Concord, New Hampshire 03301

Contract
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B

REQUESTED ACTION

Authorize the Department of Administrative Services and the Department of Safety to enter into a contract with Enhanced Communications of Northern New England, Inc. d/b/a FairPoint Internet, (VC 174027), of Portland, ME for a total price not to exceed \$228,840.00, for internet services. The contract shall begin upon Governor and Executive Council approval and expire on February 28, 2013, unless extended in accordance with the contract documents. 100% Revolving Funds from the Telephone Clearing Account.

Funds are available in the following accounts for FY 2010 and FY 2011 with the authority to adjust encumbrances in each of the State fiscal years if needed and justified. Funding for FY 2012 and FY 2013 is contingent upon availability and continued appropriation of funds with the authority to adjust encumbrances in each of the State fiscal years if needed and justified.

<u>Account</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
01 14 14 140010 2066 Department of Admin Services – Telecommunications				
500221 - Telecommunication				
Primarily Data	\$17,507	\$42,016	\$42,016	\$24,509
01 23 23 230010 4008 Department of Safety				
500221 - Telecommunication				
Primarily Data	\$14,277	\$34,264	\$34,264	\$19,987

Page 2

His Excellency, Governor John H. Lynch

And the Honorable Council

February 8, 2010

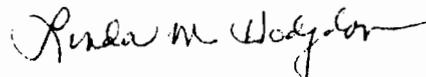
EXPLANATION

Approval of the attached service contract will authorize FairPoint Internet to establish internet connectivity services for the State. Primary internet connectivity must be handed off to the State no later than thirty days after contract acceptance by Governor and Executive Council. The contract will establish four circuits: a State primary circuit (100 Mb/s) with a 50 Mb/s hot standby failover circuit; a Department of Safety (DOS) primary circuit (60 Mb/s) with a 30 Mb/s hot standby failover circuit; the DOS primary and DOS backup circuits which will originate from different central office locations.

This bid will enable the State to expand circuit bandwidth at the sole option of the State during the time period covered by this contract.

On September 4, 2009 the Bureau of Purchase and Property released a solicitation for an internet service provider. ~~Three vendors submitted bids with the lowest bid being from FairPoint Internet.~~ The Office of Information Technology verified that the subject vendor met all of the requirements of the bid. This bid was advertised in a statewide newspaper and on the Purchase and Property website. Attached are the results of the bid.

Respectfully Submitted,



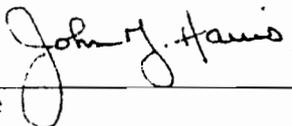
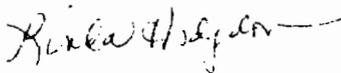
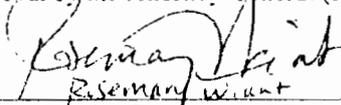
Linda M. Hodgdon
Commissioner

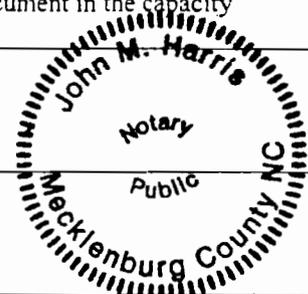
AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Administrative Services		1.2 State Agency Address 25 Capitol St., Room 102 Concord, NH 03301	
1.3 Contractor Name Enhanced Communications of Northern New England, Inc. d/b a/ FairPoint Internet; ("FairPoint Internet")		1.4 Contractor Address 45 Forest Avenue Portland, ME 04101	
1.5 Contractor Phone Number 207 648-3200	1.6 Account Number 10 023 40080000 500221 10 014 20060000 500221	1.7 Completion Date February 28, 2013	1.8 Price Limitation \$228,837.60
1.9 Contracting Officer for State Agency Robert Lawson		1.10 State Agency Telephone Number 603 271-3147	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Peter G. Nixon President	
1.13 Acknowledgement: State of <u>North Carolina</u> , County of <u>Mecklenburg</u> On <u>January 22, 2010</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u>John M. Harris, Notary</u> <u>My commission expires on March 5, 2012</u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <u>Linda H. [unclear]</u> <u>Administrative Support Specialist</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>2-24-10</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			



2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

~~3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.~~

4. CONDITIONAL NATURE OF AGREEMENT.

~~Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.~~

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no

event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS, EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire, or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to

bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt

from the requirements of N.H. RSA chapter 281-A ("Workers' Compensation").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. **CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. **SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

1. INTRODUCTION

The State of New Hampshire ("State") desires to contract with Enhanced Communications of Northern New England Inc. d/b/a/ FairPoint Internet, a Delaware corporation to procure Internet service provider Services.

The Contract price is not to exceed \$228,837.60.

TERMS AND DEFINITIONS

Capitalized terms used in the Contract will have the meanings given below.

AS	Autonomous System
BGP	Border Gateway Protocol
Bureau of Purchase and Property	The State of New Hampshire, Department of Administrative Services, Purchasing Division
Contract	A binding agreement between the State of New Hampshire and FairPoint
Contract Documents	Documents that comprise this Contract (See Contract Documents Section 2.)
Bursting	The ability to temporarily exceed the circuit speed
Deliverables	Any written, software, or non-software Deliverable (letter, report, manual, book, other). provided by FairPoint to the State under the terms of the Contract.
DoIT	Department of Information Technology, an agency of the State of New Hampshire
Governor and Executive Council	The Governor for the State of New Hampshire and the Governor's Council. This body has the authority and responsibility over the administration of the affairs of the State as defined in the New Hampshire Constitution and the New Hampshire statutes.
Hot Standby Failover Circuit	A redundant router that is not only turned on and warmed up, but is active and prepared to immediately assume the responsibilities of the primary router in the event it suffers a catastrophic failure.
ISP	Internet Service Provider
Primary Circuit	First Choice Active circuit
Secondary Circuit	Second choice circuit designated in a failover event
Services	The work to be performed by FairPoint and Subcontractors as described in the Contract.
State	State of New Hampshire, Department of Information Technology (DoIT) and Purchasing Agency End User as applicable

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

Subcontractor	A person, partnership, or company contracted by FairPoint to perform under the Contract.
Tier 1 ISP	An Internet Service Provider with a direct connection to the Internet.
Tier 2 ISP	A Tier 2 Network is an Internet Service Provider who engages in the practice of peering with other networks, but who still purchases IP transit to reach some portion of the Internet.
Term	The Contract period of time.

2. CONTRACT DOCUMENTS

This Contract consists of the following documents ("Contract Documents") in order of precedence:

- a. *State of New Hampshire Terms and Conditions, General Provisions Form P-37*
- b. Exhibit A Statement of Work
- c. Exhibit B Payment Schedule
- d. Exhibit C Special Provisions

3. SCOPE OF SERVICES

FairPoint shall provide the State the Services, and Deliverables described in this Contract, and the Contract Documents. In general, this Non-Exclusive Contract may include, but is not limited to Internet service, Internet service support and Internet service installation.

4. TERM

4.1 Period of Performance

The Contract shall take effect after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council approval.

The Contract will begin upon Governor and Executive Council approval (the Effective Date) and extend through February 28, 2013. The Term may be extended for two (2) additional periods of one (1) year, ("Extended Term") at the sole option of the State, subject to the parties prior written agreement on applicable fees for each Extended Term.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

4.2 Termination for Convenience

Notwithstanding the foregoing, the State may terminate this Contract, at its sole discretion, for any reason upon thirty (30) days written notice to FairPoint. Upon termination for convenience, FairPoint shall refund any unused portion of the Contract to the State.

5. CONTRACT ADMINISTRATION

5.1 FAIRPOINT CONTRACT MANAGER

FairPoint shall designate a Contract Manager who shall be responsible for all contractual authorization and administration under the Contract. This person is:

Darren Hamre
FairPoint Communications, Inc.
45 Forest Ave.
Portland, ME 04101
Tel: 207 648-3216
Email: dhamre@fairpoint.com

5.2 STATE CONTRACT MANAGER

The State shall designate a Contract Manager who shall function as the State's representative with regard to Contract administration. This person is:

Robert Lawson
Department of Administrative Services
25 Capital St
Concord, NH 03301
Tel: 603-271-3147
Fax: 603-271-7564
Email: bob.lawson@nh.gov

6. STATEMENT OF WORK-REQUIREMENTS AND DELIVERABLES

FairPoint shall perform the Services and provide the Deliverables described in this Contract, *including but not limited to*, the FairPoint quote of October 5, 2009.

The purpose of this bid invitation is to establish Internet connectivity fully configured, tested and meeting all requirements of the bid solicitation. Primary Internet connectivity must be handed off to the State no later than thirty days after Contract acceptance by Governor and Executive Council. The Contract will establish four circuits: a State Primary Circuit (100 Mb/s) with a 50 Mb/s Hot Standby Failover Circuit, and a Department of Safety (DOS) Primary Circuit (60 Mb/s) with a 30 Mb/s Hot Standby Failover Circuit. The State requires that the DOS Primary and DOS Backup Circuits originate from different Central Office locations.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

Because the State anticipates need for increased bandwidth throughout the Contract the State will seek prices for up to double the bandwidth for each circuit. This bid will enable the State to expand circuit bandwidth at the sole option of the State during the time period covered by this Contract.

6.1 CIRCUIT DESCRIPTIONS

- 6.1.1 State Primary Circuit.**- a minimum 100 Mb/s (Primary Circuit), full duplex, delivered to its location at the Data Center, 27 Hazen Drive, Concord, NH.
- 6.1.2 DOS Primary Circuit,** a minimum of 60 Mb/s, full duplex, delivered to its location at the Department of Safety 33 Hazen Drive, Concord, NH
- 6.1.3 State Backup Circuit,** a minimum 50 Mb/s Hot Standby Failover Circuit delivered to its location at 110 Smokey Bear Blvd, Concord NH.
- 6.1.4 DOS Backup Circuit,** a minimum 30 Mb/s Hot Standby Failover Circuit delivered to its location at 110 Smokey Bear Blvd, Concord NH and routed through a different central office than the DOS Primary Circuit.

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK

6.2 REQUIREMENTS

TABLE 2 REQUIREMENTS

Req #	Requirements Description
Business Requirements Descriptions	
1	The State of New Hampshire must be able to access the Internet to conduct its business as defined in the State statues (RSAs). This includes, but is not limited to, e-mail, access to federal and other state government web sites, video/voice applications, file downloads from various sources, web hosting, reliable transport of data between the State and its citizenry, transport of emergency communications as required, and the on-going demands of e-government. A block of 32 IP addresses for DOS Primary and Backup Circuits will be required.
2	Hot Standby Failover Circuits shall be available should the Primary Circuit fail. Switchover to the Hot Standby Circuit must not require any intervention by the State or FairPoint with zero-downtime during the switch.
3	Contract Price includes Bursting of up to 15 Mbp/s for each circuit over the contracted data rate.
4	FairPoint must be at the minimum, a Tier 2 ISP (Internet Service Provider) with alternate transit paths to separate next Tier 1 ISP Providers.
5	Primary Circuit and Backup circuits must be on different equipment in FairPoint's AS. FairPoint must work with the State to advertise the State ASN using BGP and use BGP attributes to control the path to the State of New Hampshire within their AS.
6	Internet access service will be provided and guaranteed at 99.99% or better availability (24hrs/day by 7days/week), at the throughput rate provisioned, through the end of this Contract. Internet access service is defined as all services that are provided by FairPoint which are, directly or indirectly, related to the connectivity to the State's network router from the ISP at the availability and throughput defined above. FairPoint is responsible to pay for any repairs and/or Services needed to maintain and meet the described requirements.
7	FairPoint will be required to provide ISP Services beginning thirty days after the date the Contract resulting from FairPoint's bid is signed by Governor and Council and to continue this Service for a three-year period thereafter, with options for renewals.
8	The State has the right to exercise at its option, to extend this Contract on a month-to-month basis, for up to two years beyond the initial three-year Contract period.
9	FairPoint will provide 24/7 monitoring and contact, via pager or mobile phone, a State representative within ten minutes in the event of communication failure between the State and ISP, regardless of reason or fault causing such occurrence.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

10	FairPoint must provide first level Internet related problem determination assistance at no fee. At minimum, FairPoint(s) must demonstrate any related problem is not due to FairPoint's Services equipment. Any fees that would be billed to the State regarding problem determination, or other Services, must be specifically identified in FairPoint's response.
11	FairPoint must provide configuration technical support to the State while the State implements the new Service. Any charges for this Service must be incorporated into the rate structure.
12	FairPoint must provide configuration technical support to the State for any upgrades or additional features purchased from the successful FairPoint(s). Any additional charges for this Service must be incorporated into the rate structure.
13	FairPoint must provide and pay for all labor, materials, equipment, tools, construction equipment, storage of same, and transportation necessary for the proper execution and completion of this Contract, whether temporary or permanent and whether or not incorporated or to be incorporated in the equipment as defined item 17.
Technical Requirements Descriptions	
15	For all circuits, the State requires guaranteed Internet connectivity via a high-speed full duplex connection with a minimum end-to-end rate equal to that specified for the circuit in each direction to its head end location as described in Table 1. This is the effective data rate, not a line speed designation.
16	The DOS Primary Circuit must originate in a different Central Office than the State Primary Circuit
17	FairPoint will provide the State with Ethernet connections as the uplink to the ISP. Acceptable Ethernet connections to connect to the State's network routing equipment are limited to the following: 1000Mb/s (gigabit Ethernet) RJ-45 terminated copper media; or 1000Mb/s (gigabit Ethernet) SC-terminated fiber-optic media. Bids must specify the type of physical connection and WAN media used/required and/or options (ex. 1000 Base-LX GBIC over single-mode fiber, RJ-45, etc). In addition, Bids must specify: <ul style="list-style-type: none"> - All types of communications between the State and the equipment at the ISP - All protocol specification requirements (e.g. Ethernet is full duplex 100Mb/s; ATM is 622Mb/s VBR- RT).
18	FairPoint must provide Border Gateway Protocol propagation to the State for the States primary 100Mbs/50Mbs circuits. The State requires that the ISP will propagate the State's ASN to the Internet backbones. The State requires that the ISP will send a full BGP routing table to the State owned BGP neighbor. The State has the option of specifying that a defaultless BGP routing table be sent to the State by the ISP. Any additional charges for BGP Services must be outlined by FairPoint.
19	Service must be 65 millisecond (maximum) latency guarantee between network hops for Tier 1 providers. 85 millisecond (maximum) across backbone for non-Tier 1 providers.
20	FairPoint will not block any ports or traffic between the State connection and the Internet.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

21	FairPoint must provide monthly reports detailing availability, latency, delivery and bandwidth. Reports should be provided via email or web based and accessible in real time, along with historical data for a minimum of one year.
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6.3. DELIVERABLES

FairPoint Deliverables are listed in Table 3. All Deliverables are required. All Deliverables are included in the rate structure which is established in Exhibit B: Pricing Payment Terms.

TABLE 3 Deliverables

Del #	Item	Due
1	<p>Primary Internet Service at a Minimum 100 Mb/s, full duplex, Internet Backbone to State termination, delivered to its location at the Data Center, 27 Hazen Drive, Concord, NH, NH.</p> <p>Hot Standby Internet Service at a Minimum 50 Mb/s, full duplex, Internet Backbone to State termination, delivered to 110 Smokey Bear Blvd. Concord, NH.</p> <p>Primary Internet Service at a Minimum 60 Mb/s, full duplex, Internet Backbone to State termination, delivered to its location at the Data Center, 33 Hazen Drive, Concord, NH, NH.</p> <p>Hot Standby Internet Service at a Minimum 30 Mb/s, full duplex, Internet Backbone to State termination, delivered to 110 Smokey Bear Blvd. Concord, NH. Service must originate from a different central office than the Primary Circuit.</p>	Thirty calendar days after G&C signs the Contract. To close this Deliverable, the State must certify and accept this Service
2	The hot standby Service must be configured to become active upon failure of the State's primary ISP and to assume State Internet traffic dynamically, without the need for manual intervention.	Continuous throughout the Term of the Contract and extensions
3	The hot standby Service must be active during periods of Primary Circuit outage at no increase in price.	Continuous throughout the Term of the Contract and extensions
4	BGP4 Support and announcement of the State's ASN for the states 100Mbs 50Mbs circuit pair.	Continuous throughout the Term of the Contract and extensions
5	Post-Implementation Review	Within 5 business days after the State has accepted the Service

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

6	Test Plans defining how FairPoint will assist the State in troubleshooting any problems with this connection	Within 5 business days after the State has accepted the Service
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6.4. FAIRPOINT TRANSIT PATHS

FairPoint will be required to be at the minimum, a Tier 2 ISP (Internet Service Provider) with alternate transit paths to separate next Tier 1 ISP Providers. Primary Circuit and Backup circuit must be on separate equipment in FairPoint's Autonomous System (AS). FairPoint must work with the State to advertise the State ASN using BGP and use BGP attributes to control the path to State within their AS. FairPoint must provide a backup circuit that will be available should the Primary circuit fail. Switchover to the Backup circuit should not require any intervention by the State or FairPoint and there should be zero-downtime during the switch. Circuit pairs for DOS must originate from separate Central Offices for the Primary and Standby circuits. Circuit pairs for the State of NH may originate from separate Central Offices for the Primary and Standby circuits.

7. FORCE MAJEURE

Neither FairPoint nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, block outs, riots, acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

8. INTERNAL ESCALATION PROCEDURE FOR DISPUTES

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted by this Agreement.

The parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties, at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

Dispute Resolution Responsibility and Schedule Table

Level	FairPoint	The State	Cumulative allotted time
First	Darren Hamre	Robert Lawson	5 Business Days
Second	Karen Romano	Michael Connor	10 Business Days
Third	Jeffrey Allen, VP Executive NNE	Linda Hodgdon, Commissioner	15 Business Days

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

The allotted time for the first level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the original Invoking Party's notice is received by the other party.

9. ASSIGNMENT, DELEGATION and SUBCONTRACTS

- 9.1 FairPoint shall not assign, delegate or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the other party. Such consent will not be unreasonably withheld. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void.
- 9.2 FairPoint shall remain wholly responsible for performance of the entire Contract regardless of whether assignees, delegates, Subcontractors or other transferees ("Successor") are used, unless otherwise agreed to in writing by the State and the Successor fully assumes in writing any and all obligations and liabilities under the Contract. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract or other transfer shall not relieve FairPoint of any of its obligations under the Contract; not affect any remedies available to the State against FairPoint that may arise from any event of default of the provisions of the Contract; and the State will consider FairPoint to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

10. THE CONTRACTOR'S RELATION TO THE STATE

In the performance of the Contract, FairPoint is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither FairPoint, nor any of its officers, employees, agents, or members shall have authority to bind the State or receive any benefits, worker's compensation or other emoluments provided by the State to its employees.

11. WARRANTY

11.1 Services

The FairPoint shall warrant that all Services to be provided under the Contract will be provided expeditiously and in a professional manner by product certified personnel in accordance with the RFB; and that ISP Services will comply with bid requirements.

11.2 Personnel

The FairPoint shall warrant that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly certified and licensed, and otherwise authorized, to do so under all applicable laws.

11.3 System

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

The FairPoint shall warrant that the System and its related software, in whole or part, shall operate at or above the specified rate and with a 99.99% or better up time.

11.4 Warranty Services

The FairPoint shall agree to maintain, repair, upgrade, and correct deficiencies in the System at no additional cost to the State, in accordance with the specifications and terms and requirements of the Contract, including without limitation, correcting all errors, destructive programming; and replacing incorrect, defective or deficient Software and documentation. Such warranty Services shall include without limitation the following:

- a. Repair, or any portion or upgrade the System that is Deficient;
- b. Maintain the System in accordance with the Specifications and terms and requirements of the Contract;
- c. The FairPoint shall have available to the State on-call telephone assistance, with issue tracking available to the State, twenty four (24) hours per day and seven (7) days a week with a telephone response within fifteen (15) minutes of request, with assistance response dependent upon issue severity;
- d. ~~On-site additional Services within four (4) business hours of a request;~~
- e. ~~Maintain a record of the activities related to warranty repair or maintenance activities performed for the State;~~
- f. For all warranty Services calls, the State expects the following information to be collected and maintained: 1) nature of the deficiency; 2) current status of the deficiency; 3) deficiency resolution information and 4) the duration of any outage;
- g. The FairPoint must work with the State to identify and troubleshoot potentially large-scale system and software failures of deficiencies by collecting the following information: 1) mean time between reported deficiencies with the software; 2) diagnosis of root cause of problem; and 3) identification of repeat calls or repeat software problems and 4) the duration of any outage caused by the software deficiency;

In the event the FairPoint fails to correct the deficiency within the allotted period of time (see above), the State shall have the right, at its option: 1) declare the FairPoint in default, terminate the Contract, in whole or in part, without penalty or liability to the State; 2) and to pursue its remedies available at law or in equity.

Notwithstanding any provision of the Contract, the State's option to terminate the Contract and pursue the remedies above will remain in effect until satisfactory completion of the full warranty period (see section 2.9.3: *Warranty Period*, below).

11.4 Warranty Period

Stability and responsiveness to problems is essential. The FairPoint must guarantee to provide the Deliverables as required by this RFB within the time agreed upon and for

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT A
STATEMENT OF WORK**

the period of the Contract. Should it fail to do so, and the failure was not caused by the acts or omissions of the State, then the FairPoint will be liable for all additional costs to the Department of Information Technology to assure that the systems are up and operating. This includes the addition and replacement of equipment, additional personnel, and additional costs to the Department of Information Technology for its day-to-day operation above the anticipated cost had the systems been available and operating as planned.

11.5 Warranty Problems

All problems reported during the Warranty Period shall be corrected by the FairPoint within 2 business days, at no additional cost to the State.

12. TERMINATION

Either party may terminate this Contract at any time if the other party is in default of its obligations under this Contract and such default remains unremedied for a period of 30 days from the date of receipt of notice of default by the non-defaulting party. Such right of termination shall be in addition to all other rights and remedies to which the parties are entitled. Events of default shall include, without limitation: FairPoint's breach of or failure to perform any warranty or other obligation contained in the Contract; or FairPoint ceasing to conduct Maintenance and Support Services.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT B
PAYMENT SCHEDULE**

1. DELIVERABLE PAYMENT SCHEDULE

All charges by FairPoint under this Contract shall be at a fixed price in accordance with the rates set forth in Table 1 below. The rates shall include all materials, equipment, labor and transportation necessary for the successful completion of the Service required and to perform said Service in complete compliance with the terms and conditions of the Contract. No reimbursement by the State for travel time or mileage shall be allowed.

2. FAIRPOINT CIRCUIT PAYMENT SCHEDULE

Table B-1 – Circuit Pricing

Description	Primary State Internet	Backup State Internet	DOS Crypto Head End	Backup DOS Internet	
Circuit	State Primary	State Standby	DOS Primary	DOS Standby	Monthly Bid Price
Item Description					
State Primary and Standby Circuits	100	50			\$3,501.30
DOS Primary and Standby Circuits			60	30**	\$2,855.30
Total Monthly Rate					\$6,356.60
Total Three Year Maximum Price					\$228,837.60

** Must originate from different Central Office than the DOS Primary

Notwithstanding any other provision of this Contract, in no event shall the total payment made by the State exceed \$228,837.60.

STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT B
PAYMENT SCHEDULE

3. FAIRPOINT PRICING FOR OPTIONAL EXPANDED BANDWIDTH

Table B-2A Pricing for expanded bandwidth for Primary and Secondary Circuit.

Item Pricing	Monthly Cost 12/1/09 through 11/30/12
60 Mb/s	\$2115.30
80 Mb/s	2416.30
100 Mb/s	2591.30
120 Mb/s	3103.00
140 Mb/s	3616.10
160 Mb/s	3874.40
180 Mb/s	4355.30
200 Mb/s	4439.30

Table B-2B Pricing for Hot Standby Circuit

Item Pricing	Monthly Cost 12/1/09 through 11/30/12
30 Mb/s	\$ 740.00
50 Mb/s	910.00
60 Mb/s	1092.00
70 Mb/s	1294.00
80 Mb/s	1356.00
90 Mb/s	1548.00
100 Mb/s	1570.00

Table B-3 Support for non-covered Services

IT SERVICES -	SFY 09	SFY 10	SFY11	SFY12
Hourly Rate	\$45.00	\$45.00	\$45.00	\$45.00

4. INVOICING

Invoices shall be submitted monthly. FairPoint shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted must meet with the approval of the State and said approval shall not be unreasonably withheld. The FairPoint shall only submit invoices for Services as permitted by the Contract. Invoices must be in a format as determined

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT B
PAYMENT SCHEDULE**

by the State and contain detailed information, including without limitation: itemization of each Service and identification of the Service for which payment is sought.

5. PAYMENTS

Invoices shall be submitted monthly. FairPoint shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted must meet with the approval of the State and said approval shall not be unreasonably withheld. The FairPoint shall only submit invoices for Services as permitted by the Contract. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization of each Service and identification of the Service for which payment is sought.

State of NH Internet Service Provider

Table A1 – Circuit Option Pricing

Circuit Option	Circuit	Monthly Bid Price		
		FairPoint	SegTel	G-4
Option 1	State Primary and Standby Circuits	\$3,501.30	\$12,290.00	\$9,995.00
Option 2	DOS Primary and Standby Circuits	\$2,855.30	\$9,490.00	\$5,995.00
Option 3	State Primary and Standby, DOS Primary and Standby	\$6,356.60	\$21,780.00	\$15,000.00

Table A-2A Pricing for expanded bandwidth for Primary and Secondary Circuit.

Item Pricing	Monthly Cost 12/1/09 through 11/30/12		
	FairPoint	SegTel	G-4
60 Mb/s	\$ 2,115.30	\$5,495.00	\$4,000.00
80 Mb/s	2,416.30	\$6,595.00	5,000.00
100 Mb/s	2,591.30	\$7,395.00	6,000.00
120 Mb/s	3,103.00	\$8,495.00	7,000.00
140 Mb/s	3,616.10	\$9,595.00	8,000.00
160 Mb/s	3,874.40	\$10,695.00	9,000.00
180 Mb/s	4,355.30	\$11,795.00	10,000.00
200 Mb/s	4,439.30	\$12,895.00	11,000.00

Table A-2B Pricing for Hot Standby Circuit

Item Pricing	Monthly Cost 12/1/09 through 11/30/12		
	FairPoint	SegTel	G-4
30 Mb/s	\$ 740.00	\$3,995.00	\$ 2000.00
50 Mb/s	910.00	\$4,895.00	3000.00
60 Mb/s	1,092.00	\$5,372.00	3500.00
70 Mb/s	1,294.00	\$5,849.00	4000.00
80 Mb/s	1,356.00	\$6,326.00	4500.00
90 Mb/s	1,548.00	\$6,803.00	5000.00
100 Mb/s	1,570.00	\$7,280.00	5500.00

Table A-5 Support for non-covered services

IT SERVICES		SFY 09	SFY 10	SFY11	SFY12
Hourly Rate	FairPoint	\$45.00	\$45.00	\$45.00	\$45.00
Hourly Rate	SegTel	\$155.00	\$155.00	\$155.00	\$155.00
Hourly Rate	G-4	\$175.00	\$175.00	\$175.00	\$175.00

STATE OF NEW HAMPSHIRE
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE INTERNET SERVICE PROVIDER
CONTRACT NUMBER 2010-023
CONTRACT EXHIBIT C
SPECIAL PROVISIONS

Exhibit C to P-37

1. Section 8.2.5 as follows has been added to the State of New Hampshire Terms and Conditions (P37):

The Contractor's and the State's monetary liability to one another shall not exceed two times the total Contract price, and shall not include consequential damages. This limitation shall not apply to Contractor's indemnification obligations under Paragraph 13 of the General Provisions (Form P-37) or the following:

- (a) death or bodily injury and physical damage to real or intangible personal property;
- (b) misappropriation or infringement of any intellectual property including but not limited to any patent or copyright or any unauthorized use of any trade secret;
- (c) losses accruing to any and all contractors, subcontractors, materials, men, laborers and any other person, firm, or corporation furnishing or supplying work, Services, materials or supplies to Contractor in connection with the performance of this Agreement;
- (d) personal injury;
- (e) disclosure of confidential information; or
- (f) failure to meet applicable statutes, regulations, codes or guidelines.

This provision shall not be subject to any modification; however, the State may modify the cap on liability presently set at two times the Contract price for a particular project and any such modifications shall appear in the Request for Bid.

Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this Agreement.

2. SPECIAL PROVISIONS

- 2.1 Delete Paragraph 14.1.1 and substitute the following: comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$1,500,000 per incident and no less than \$1,000,000 in excess umbrella liability each occurrence; and
- 2.2 There are no other special provisions for this contract.