Contract Number T11-PCH-525

for

Secondary Transport Ethernet Services

between

The Department of Information Services

and

Capacity Provisioning, Inc.

Effective Date: _____

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Exhibit A: DIS Request for Proposal/Quotations T11-RFP-005 for Secondary Transport Ethernet Services
Exhibit B: Contractor's Response

Note: ***Exhibits A and B are not attached. Exhibit A and the non- proprietary, non-confidential portions of Exhibit B are available upon request from the DIS Contract Administrator***

CONTRACT NUMBER T11-PCH-525

for

Secondary Transport Ethernet Services

PARTIES

This Contract ("Contract") is entered into by and between the state of Washington acting through the **Department of Information Services,** an agency of Washington State government (hereinafter "DIS"), and **Capacity Provisioning, Inc.,** licensed to conduct business in the state of Washington, (hereinafter "Contractor") for the provisioning of Secondary Transport Ethernet Services to the State.

RECITALS

The state of Washington, acting by and through DIS, issued a Request for Proposal (RFP) dated August 20, 2010 (Exhibit A) for the purpose of establishing Contracts for Secondary Transport Ethernet Services in accordance with its authority under chapter 43.105 RCW.

Capacity Provisioning, Inc. submitted a timely Response to DIS' RFP (Exhibit B).

DIS evaluated all properly submitted Responses to the above-referenced RFP and has identified Capacity Provisioning, Inc. as an apparently successful Vendor.

DIS has determined that entering into a Contract with Capacity Provisioning, Inc. will meet the State's needs and will be in the State's best interest.

NOW THEREFORE, DIS awards to Capacity Provisioning, Inc. this Contract, the terms and conditions of which shall govern Contractor's furnishing to Purchasers the Secondary Transport Ethernet Services. This Contract is not for personal use.

This Contract is an optional-use contract that neither financially binds the State nor otherwise obligates the State to purchase any Services hereunder. Nor does the Contract prevent the State from purchasing the same or similar Services from other sources, *provided that*, all legal acquisition requirements are satisfied.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

1. Definition of Terms

The following terms as used throughout this Contract shall have the meanings set forth below.

"Acceptance" shall mean that the service passed Acceptance Testing and shall be formalized in a written notice from Purchaser to Contractor; or, if there is no Acceptance Testing, Acceptance shall occur when the services are delivered.

"Acceptance Date" shall mean the date on which the Purchaser accepts delivery of the Service.

"Acceptance Testing" shall mean the process for ascertaining that the Services meet the standards set forth in the section titled **Technical Requirements,** prior to Acceptance by Purchaser.

"Business Days and Hours" shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

"Confidential Information" shall mean information that may be exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, Purchaser source code or object code, or Purchaser or State security information. Confidential Information also includes any Personal Information under the provisions of RCW 19.255.010 and RCW 42.56.590.

"Contractor" shall mean Capacity Provisioning, Inc., its employees and agents. Contractor also includes any firm, provider, organization, individual, or other entity performing the business activities under this Contract. It shall also include any Subcontractor retained by Contractor as permitted under the terms of this Contract.

"Contractor Account Manager" shall mean a representative of Contractor who is assigned as the primary contact person with whom the DIS Contract Administrator shall work throughout the duration of this Contract, unless replaced, with advance approval of the DIS Contract Administrator, and as further defined in the section titled **Contractor Account Manager**.

"Contractor Project Manager" shall mean a representative of Contractor who is assigned to each Purchaser installation project as the coordinator of activities and the primary point of contact, as further defined in the section titled Contractor Project Manager.

"Delivery Date" shall mean the date Contractor notifies Purchaser that Service is available for use.

"DIS" shall mean the Washington State Department of Information Services.

"DIS Contract Administrator" shall mean the Contract Administrator, designated by DIS as responsible for the maintenance and administration of this Contract, notices, reports and any other pertinent documentation or information. The DIS Contract Administrator may also conduct periodic performance or financial audits related to this Contract.

"DWDM" shall mean Dense Wave Division Multiplexing – A carrier service whereby multiple individual coherent light waves (lambdas) are used to carry digital information on a single fiber optic strand/cable.

"End-to-End Monitoring" shall mean The Contractor's monitoring area of responsibility will be between the Contractor's electronic equipment serving the Nodes at Location 1 and Location 2.

"Ethernet Transport" shall mean Ethernet based Secondary Transport aggregated to a regional node site.

"Effective Date" shall mean the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

"Exhibit A" shall mean the RFP.

"Exhibit B" shall mean Contractor's Response.

"Help Desk" shall mean a service provided by Contractor for the support of Contractor's service. Purchaser shall report warranty or maintenance problems to Contractor's Help Desk for initial trouble-shooting and possible resolution of the problems or for the initiation of repair or replacement services.

"Installation Date" shall mean the date by which all Ethernet Circuits ordered hereunder shall be in place, in good working order and ready for Acceptance Testing.

"Contract" shall mean this document, all schedules and exhibits, all amendments hereto and all Orders hereunder.

"Node Site(s)" shall mean A DIS or state institution operated backbone telecommunications facility in one of six (6) designated cities. Nodes participate fully in the NGN ring architecture. Node sites include Olympia, Pullman, Seattle, Spokane, Vancouver, and Yakima.

"Order" or **"Order Document"** shall mean any official document and attachments thereto specifying the Services to be purchased from Contractor under this Contract.

"Price" shall mean charges, costs, rates, and/or fees charged for the Services under this Contract and shall be paid in United States dollars.

"Project" shall mean the installation and provision of Ethernet service to a single end site for a specific term.

"Proprietary Information" shall mean information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

"Purchaser" or **"Authorized Purchaser"** shall mean the state of Washington, DIS, and those entities listed as Authorized Purchasers in the list of Authorized Purchasers attached as Schedule D hereto, and any division, section, office, unit or other entity of Purchaser or any of the officers or other officials lawfully representing Purchaser.

"RCW" shall mean the Revised Code of Washington.

"RFP" shall mean the Request for Proposal used as a solicitation document to establish this Contract, including all its amendments and modifications, Exhibit A hereto.

"Response" shall mean Contractor's Response to the RFP for Secondary Transport Ethernet Services, Exhibit B hereto.

"Schedule A: *Authorized Service and Price List*" shall mean the attachment to this Contract that identifies the authorized Services and Prices available under this Contract.

"Schedule B: *Supplemental Work Order Template*" shall mean the attachment to this Contract that provides example terms and conditions for a Supplemental Work Order.

"Schedule C: *Escalation Procedures*" shall mean the attachment to this Contract that identifies Contractor's escalation procedures.

"Schedule D: *Authorized Purchasers*" shall mean the attachment to this Contract that identifies entities authorized to make purchases off of this contract.

"Specifications" shall mean the technical and other specifications set forth in the, RFP, Exhibit A, any additional specifications set forth in Contractor's Response, Exhibit B, and the specifications set forth in Contractor's service documentation, whether or not Contractor produces such documentation before or after this Contract's Effective Date.

"State" shall mean the state of Washington.

"Supplemental Work Order" or **"SWO"** shall mean a separate statement of the work to be accomplished by Contractor under the terms and conditions of this Contract. A template SWO is attached as Schedule B.

"Subcontractor" shall mean one not in the employment of Contractor, who is performing all or part of the business activities under this Contract under a separate contract with Contractor. The term "Subcontractor" means Subcontractor(s) of any tier.

"Contractor Demarcation Point" shall mean a physical location at the Purchaser's site where the Contractor's service physically terminates and is cross-connected to the State or Purchaser's equipment.

Contract Term

2. Term

2.1. This Contract's initial term shall be approximately three and one half (3.5) years, commencing upon the Effective Date and expiring on June 30, 2014.

2.2. This Contract's term may be extended by three (3) additional one (1) year terms, provided that the extensions shall be upon mutual agreement and shall be effected by DIS giving written notice of its intent to extend this Contract to Contractor not less than thirty (30) calendar days prior to the then current Contract term's expiration and Contractor accepting such extension prior to the then current Contract term's expiration. No change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing.

2.3. Term of Supplemental Work Order (SWO). The term of any SWO executed pursuant to this Contract shall be set forth in the SWO. The service term indicated in any SWO shall survive the expiration of the contract. The SWO may be terminated in accordance with the termination sections of this Contract or as agreed between the parties.

3. Survivorship

All purchase transactions executed pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled **Overpayments to Contractor;; Contractor Commitments, Warranties and Representations; Protection of Purchaser's Confidential Information; Warranty; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Review of Contractor's Records; Patent and Copyright Indemnification; Contractor's Proprietary Information; Disputes;** and **Limitation of Liability**, shall survive the termination of this Contract.

Pricing, Invoice and Payment

4. Pricing

4.1. Contractor agrees to provide the Services to Purchasers at the prices set forth in the *Authorized Service and Price List* attached as Schedule A to this Contract. Such prices

may not be increased during the term of this Contract. Services may also be ordered based on subsequent site specific price quotes provided by Contractor.

4.2. Contractor may participate in the Federal Communication Commission's E-rate discount program established pursuant to the Telecommunications Act of 1996, in accordance with the Schools and Libraries Division (SLD) of the Universal Service Administration Corporation (USAC) requirements. Contractor's Service Provider Identification Number (SPIN) is 143025189.

5. Tariffs

5.1. Contractor agrees to make all State or Federal tariff filings that are required by law or regulation and that are necessary for contract performance. .

5.2. If necessary, Contractor shall make any initial filing required to implement the contract within ten (10) business days after the Effective Date of this Contract. If such initial filing is not permitted to become effective by the appropriate regulatory body (30) calendar days after the date of contract award, the DIS shall have the right partially or entirely to terminate the contract without liability.

5.3. Upon request, DIS shall have access to Contractor's current tariffs which pertain to the provision of the Service described herein.

5.4. If any ruling, order or determination of any regulatory agency or court of competent jurisdiction shall materially and adversely affect the Contractor's ability to offer Services under the terms and conditions of this Contract, Contractor agrees to immediately develop a proposal that provides comparable service to DIS at rates equal to or less than those set forth in the contract, and under terms and conditions identical to those set forth in the contract, to the extent permissible under applicable legal and regulatory requirements. Such service may be provided under other existing tariffs (if this can be done at such tariffs' then effective rates without further revision) or under newly filed tariffs. If Contractor is unwilling or unable to develop such a proposal within ten (10) days of any such event, the DIS will have the right partially or entirely to terminate the contract without liability.

6. Advance Payment Prohibited

No advance payment shall be made for the Services furnished by Contractor pursuant to this Contract.

7. Taxes

7.1. Purchaser will pay sales and use taxes, if any, imposed on the Services acquired hereunder. Contractor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. Purchaser, as an agency of Washington State government, is exempt from property tax.

7.2. Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

7.3. All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Contractor or Contractor's staff shall be Contractor's sole responsibility.

8. Invoice and Payment

8.1. Contractor will submit properly itemized invoices on a monthly basis to the person identified by Purchaser at the address provided by Purchaser. Invoices shall provide and itemize, as applicable:

End-Site Name (provided by Purchaser)

Contract number T11-PCH-525 and Order Number YY-YY;

Contractor account number

Contractor circuit identifier

Contractor name, address, phone number, and Federal Tax Identification Number;

Description of Services provided;

Monthly Recurring Charges for Service;

Date(s) of delivery of Services

Multiplexing charges (if applicable)

Installation cost (if applicable)

Applicable taxes and fees;

Other applicable charges;

Any service credits, including without limitation Out of Service credits issued pursuant to this Contract;

Total invoice amount; and

Payment terms including any available prompt payment discounts.

8.2. Contractor shall complete registration with the Washington Statewide Vendor Payment Registration system prior to issuing any invoices for services. Registration may be completed at: http://www.ofm.wa.gov/accounting/vendors.asp.

8.3. Payments shall be due and payable within thirty (30) calendar days after receipt and Acceptance of Services or thirty (30) calendar days after receipt of properly prepared invoices, whichever is later.

8.4. Incorrect or incomplete invoices will be returned by Purchaser to Contractor for correction and reissue.

8.5. The DIS Contract number T11-PCH-525 and SWO number [YY-YY] must appear on all bills of lading, packages, and correspondence relating to this Contract.

8.6. Purchaser shall not honor drafts, nor accept goods on a sight draft basis.

8.7. If Purchaser fails to make timely payment, Contractor may invoice Purchaser one percent (1%) per month on the amount overdue or the maximum allowable by law. Payment will not be considered late if payment is deposited electronically in Contractor's bank account or if a check or warrant is postmarked within thirty (30) calendar days of Acceptance of the Equipment or receipt of Contractor's properly prepared invoice, whichever is later.

8.8. If there are any good faith disputes related to an invoice, Purchaser may pay only the undisputed portion of the invoice on a timely basis and notify Contractor in writing of Purchaser's basis for withholding payment of the disputed amount. Upon receipt of Purchaser's dispute notice, Contractor and Purchaser agree to work together in good faith to resolve such dispute in a prompt and mutually acceptable manner. If the dispute is not resolved within ninety (90) days after Contractor's receipt of Purchaser's dispute notice, the parties shall resolve the issue pursuant to the Disputes and Remedies provisions herein.

9. Overpayments to Contractor

Contractor shall refund to Purchaser the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days' written notice. If Contractor fails to make timely refund, Purchaser may charge Contractor one percent (1%) per month on the amount due, until paid in full.

Contractor's Responsibilities

10. Transition Planning

For those Purchasers receiving services from Contractor at the same existing locations pursuant to other DIS-administered contracts, Contractor agrees, at the sole option of DIS, to provide Services pursuant to the terms and subject to the conditions of this Contract without assessing any transition or termination penalty or obligation on behalf of Purchasers.

11. Contractor Implementation and Installation Requirements

11.1. Test Service Implementations

DIS and Contractor hereby agree that for a mutually agreed-upon test period specified in the Supplemental Work Order, to install evaluation service at no cost to Purchaser. At the successful conclusion of the test period, at DIS discretion, the service may be moved into production and Contractor may commence billing for the service. The Contractor agrees to assume sole responsibility for all costs associated with the service during the Test Service Implementation.

Contractor agrees to install test circuit(s) provided pursuant to this Section within 45 days of execution of a Supplemental Work order where facilities already exist or 90 days of execution of a Supplemental Work Order where facilities do not exist.

11.2. Notifications

Contractor must notify end user customers of scheduled installations at least 24 hours prior to arrival at the site.

Contractor must notify and work with the DIS Network Control Center (NCC) when testing/completing installation of service for all DIS-related service.

11.3. Coordination With Local Telephone Company

Contractor agrees to coordinate with the Local Telephone Company (ies), Interexchange Carriers (IXC), and other transport service providers to connect existing and new circuits to the Node Site. All coordination pursuant to this Section shall be Contractor's sole responsibility.

11.4. Acquisition of Permits

The Contractor will be solely responsible for the acquisition of any required city, county, or state permits.

11.5. Coordination of Installation

Contractor agrees to coordinate Service installation with the Purchaser Digital Transport Services Manager and conduct installation between the hours of 6:00 a.m. and 6:00 p.m., Pacific Time on Business Days.

12. Service Availability

Contractor's secondary transport ethernet service must be available twenty-four (24) hours per day, three hundred sixty five (365) calendar days per year.

13. Service Performance

The Contractor's service must perform at a minimum ninety-nine point nine percent (99.90%) of the time during a calendar month.

14. Service Latency

Contractor's five (5) minute average end-to-end packet latency must be < 15ms. End-to-end is defined as packets traversing Purchased circuit from egress port on customer device to ingress customer device on other end of purchased circuit.

Latency is defined as the time taken for a packet to traverse a network from one destination to another.

15. Packet Loss

Contractor's five minute average for packet loss must be < .1% of the total packet throughput on service path. Service path is defined as Purchased circuit from egress port on customer device to ingress port on customer device on other end of purchased circuit.

16. Service Interface & Termination Requirements

Service Interface to Purchaser's Equipment:

Unless otherwise specified by Purchaser, the interfaces provided to Purchaser locations must be administratively configured for use as a fixed full duplex 100 or 1000 Mbps interface per the resulting work order or site agreement.

Service Capacities (Rate Limiting):

Contractor must be able to provide rate limiting/bandwidth metering at the Purchaser location.

Termination Requirements:
Contractor is responsible for all access and fiber/cabling to the point of service handoff at the customer premise equipment/switch/router.

16.1 DIS Node site connectivity requirements

All DIS node sites require an IEEE 802.1q trunk with a fiber handoff

16.2 Customer site connectivity requirements

Customer sites will require a standard Ethernet connection or an IEEE 802.1q trunk depending on the customer requirement. Customer sites will require either a fiber or copper handoff depending on their requirements.

16.3 Link Aggregation

Contractor's Ethernet services must provide support at the end site and node site for link aggregation (LACP) via the IEEE 802.3ad standard. This service will be implemented at Customer request if there are two or more aggregation circuits at a node site.

17. Equipment Space and Power

Contractor shall be responsible for the purchase, installation, configuration and maintenance of all equipment required to provide Ethernet services to Purchaser. Following receipt of a work order Contractor must disclose whether Contractor owned equipment is required on Purchaser premises in order to deliver the required interface. If so, Contractor must disclose the type of equipment and the space and power requirements necessary to serve Contractor's equipment. Contractor must supply an uninterruptable power supply capable of providing at least 4 hours of backup power and use this to power their equipment.

18. Extended D-mark

If Purchaser requests extended d-mark – Contractor is responsible for installing, maintaining and servicing of the extended d-mark including any work done by a subcontractor.

19. Ethernet Standards

Contractor's Ethernet interface provided at the Purchaser's point-of-presence must adhere to IEEE 802.3 standards for 10 Mbps, 100 Mbps, 1,000 Mbps, or 10,000 Mbps Ethernet depending on the service purchased at the location by the Purchaser.

20. VLAN

Contractor's Ethernet services must provide support for virtual local area network (VLAN) via the IEEE 802.1Q standard.

21. Marking of Traffic

Contractor may not mark or remark any traffic without approval from Purchaser. All traffic leaving a Purchaser site will arrive after traversing the vendor network with the same markings it left with (QoS, Multicast, etc.).

22. Service Reports

22.1 Trouble Logs

Contractor will provide a weekly trouble log summary and error statistic reports to the Purchaser.

- Emergency Repair/Trouble log contents as defined in Section 23.3.
- Error Statistics report contents as defined in Section 23.5.

22.2 Reason For Outage

Contractor will provide a per incident Reason for Outage (RFO). Preliminary RFOs shall be provided within 2 hours after an outage has been resolved with complete RFOs provided within 24 hours. For incidents requiring additional carrier research the RFO is to be updated every 24 hours until such time as a final determination has been made.

23. Service Repair and Trouble Reporting

23.1 Response to Trouble Reports

Contractor must respond to all trouble reports twenty-four (24) hours a day, 365 days per year within 4 hours.

23.2 Toll-Free Trouble Reporting Number

Contractor must provide a toll-free trouble reporting number.

23.3 Trouble Reporting

For all service problems the Contractor must provide periodic status report (type of problem, estimated time to repair, vendor ticket number) to the Purchaser.

Contractor must maintain a repair log listing the date of the repair occurrence, problem found, action taken to resolve the problem, and the total out-of-service time. Only issues affecting Purchaser's service need be logged.

23.4 End-to-End Service Monitoring and Test Capability

Contractor must have the capability of monitoring the service End-to-End and have the ability to perform remote site testing as necessary to troubleshoot problems with their service.

23.5 Error Statistics Reporting

Contractor must be able to provide continuous End-to-End Monitoring and error statistics for services they provide to the Purchaser.

24. Service Maintenance

24.1 Scheduled Routine Maintenance/Testing

Contractor and Purchaser will develop an agreed upon a maintenance window of days and times for scheduled maintenance and testing of the Purchaser's services.

24.2 Emergency Repair/Maintenance/Testing

Contractor must notify the Purchaser immediately if emergency maintenance or testing is going to occur that could potentially disrupt State network customer traffic.

25. Credit for Service Outages

In the event of an Out of Service Condition, as defined in Sections 12 and 13, where Contractor fails to restore Service to full capability within fifteen (15) minutes one hour after initiation of the Out of Service Condition, Contractor agrees to grant Purchasers a credit against its basic Monthly Service Charge. Such credit shall be calculated as a 5% discount on the Purchaser's monthly bill for the affected transport path(s) for each Out of Service occurrence.

Each distinct outage will be considered a separate event. Contractor agrees to provide credits for all events occurring during a billing period. The credits will be applied to the billing for the month following the month in which the outage occurred. Award of the credit in no way relieves the Contractor of responsibility to correct the Out of Service Condition(s) and does not constitute an exclusive remedy for such Out of Service Condition(s).

26. Circuit Administration

The Ethernet circuits shall be administered by Purchaser.

27. Service Installation

Contractor must agree to have the service installed, tested and ready for DIS' acceptance at the sites on or before forty five (45) days, where facilities already exist and wiring beyond the demarcation is not required, or ninety (90) days, where facilities do not exist, from the placement of an order. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate delivery, installation, testing, and making operational all items necessary to provide the services described. Contractor must notify end user customers of scheduled installations prior to arrival at the site. Contractors must notify the DIS Network Control Center (NCC) when testing/completing installation of service.

Contractors must notify end user customers of scheduled installations at least 24 hours prior to arrival at the site.

Contractors must notify and work with the DIS Network Control Center (NCC) when testing/completing installation of service.

28. RFP Mandatory Requirements

The RFP mandatory requirements are essential substantive terms of this Contract. Services provided under this Contract shall meet or exceed all the mandatory requirements of the RFP.

29. Supplemental Work Order

29.1. All Services shall be performed pursuant to the terms of this Contract and shall be documented in an SWO or other order document established between Purchaser and Contractor.

29.2. The terms and conditions of any SWO/order document cannot conflict with the terms and conditions of this Contract. In the event of any conflict, the Contract shall prevail.

29.3. Contractor agrees that within ten (10) business days of the initial receipt of a SWO, Contractor shall either sign and return such SWO, or notify the DIS Contract Administrator of the need for additional time. No work shall be performed by Contractor until a SWO is executed by Contractor and Purchaser and is received by Contractor.

30. Site Security

While on Purchaser's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, and security regulations.

31. Acceptance Testing

The evaluation and acceptance of the Services will be conducted by Purchaser network technicians and management and requires thirty (30) days of continuous service and will be restarted after every failure. The occurrence of three (3) "Out of Service" Occurrences as defined in Sections 12-13will constitute grounds for immediate termination of the Contract or SWO, which shall be exercisable at DIS' sole option.

32. Contractor Commitments, Warranties and Representations

Any written commitment by Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its Response or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to Purchaser.

33. Protection of Purchaser's Confidential Information

33.1. Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of Confidential Information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information..

33.2. Immediately upon expiration or termination of this Contract, Contractor shall, at Purchaser's option: (i) certify to Purchaser that Contractor has destroyed all Confidential

Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Contractor to protect Purchaser's Confidential Information.

33.3. Purchaser reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

33.4. Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

Purchaser's Authority and Responsibilities

34. Purchaser Use of Contract

34.1. The optional-use nature of this Contract relieves Purchaser of the need to conduct individual competitive activities as specific requirements arise. When acquiring service to specific sites, Purchaser may to solicit price quotes from multiple Contractor(s) capable of serving the sites. Purchaser may consider criteria other than financial in their selection of a Contractor to provide the service. Additional criteria may include, but is not limited to, service quality, past performance, installation speed, labor resources available, and Contractor experience.

34.2. For a project with a total cost, as identified in the Supplemental Work Order (SWO) exceeding $250,000, the Purchaser must solicit quotations from at least three (3) Contractors holding a Contract, or other Vendors. The SWO must identify at least two (2) Contractors that submitted a quotation, but were not awarded the work. The Contractor shall not execute a Supplemental Work Order for a project in excess of this amount unless this requirement has been satisfied.

34.3. This Contract may not be used for any project with a total cost that is in excess of $1.5 million ($1,500,000.00). Projects that exceed $1.5 million must be competitively bid in a separate competition.

34.4. Purchaser may elect to conduct formal Second Tier Competions among contracted vendors to solicit price quotes for service to specific sites.

Contract Administration

35. Legal Notices

35.1. Any notice or demand or other communication required or permitted to be given under this Contract or applicable law shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, to the parties at the addresses provided in this section. For purposes of complying with any provision in this Contract or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form.

To Contractor at:	**To DIS at:**	
Capacity Provisioning, Inc.	State of Washington Department of Information Services	
Attn: Bob Jensen	**Attn:** Contract Administrator	
116 ½ West 8th Street	***If by US Postal Service:***	***If by Overnight Courier:***
Port Angeles, WA 98362	PO Box 42445 Olympia, WA 98504	1110 Jefferson St. S.E. Olympia, WA 98504
Phone: 360-565-8400 E-mail: bob@cpifiber.com	Phone: 360-725-4200 E-mail: mcadmin@dis.wa.gov	

or to **Purchasers** at the address listed on their purchase order.

35.2. Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

35.3. In the event that a subpoena or other legal process commenced by a third party in any way concerning the Services provided pursuant to this Contract is served upon Contractor or Purchaser, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process.

36. Contractor Account Manager

Contractor shall appoint an Account Manager for the State's account under this Contract who will provide oversight of Contractor activities conducted hereunder. Contractor's Account Manager will be the principal point of contact for DIS concerning Contractor's performance under this Contract. Contractor shall notify the DIS Contract Administrator, in writing, when there is a new Contractor Account Manager assigned to this Contract. The Contractor Account Manager information is:

Contractor Account Manager:

Address: Craig Johnson

Phone: 360-565-8400 Fax: 360-565-1170 E-mail: Craig@cpifiber.com

37. Contractor Project Manager

Contractor shall assign a Contractor Project Manager for each Purchaser project. Purchaser shall have approval rights over the Contractor Project Manager, or any replacements thereof. The Contractor Project Manager shall be the principal point of contact for Purchaser and shall coordinate Contractor's activities. The Contractor Project Manager shall produce and maintain a complete plan for all Contractor-related activities concerning installation.

38. Section Headings, Incorporated Documents and Order of Precedence

38.1. The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.

38.2. Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.

Schedules A, B, C and D;

DIS' RFP (Exhibit A);

Contractor's Response to DIS' RFP (Exhibit B);

The terms and conditions contained on Purchaser's Order Documents, if used; and

All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to Purchaser and used to effect the sale of Services to Purchaser.

38.3. In the event of any inconsistency in this Contract, the inconsistency shall be resolved in the following order of precedence:

Applicable federal and state statutes, laws, and regulations;

Sections of this Contract;

Schedules A, B, C and D;

DIS' RFP (Exhibit A);

Contractor's Response to DIS' RFP (Exhibit B);

The terms and conditions contained on Purchaser's Order Documents, if used; and

All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to Purchaser and used to effect the sale of Services to Purchaser.

39. Entire Agreement

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section titled **Contractor Commitments, Warranties and Representations**, understandings, agreements, representations, or warranties not contained in this Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, Price, quality, or Specifications of this Contract will be effective without the written consent of both parties.

40. Authority for Modifications and Amendments

No modification, amendment, alteration, addition, or waiver of any section or condition of this Contract shall be effective or binding unless it is in writing and signed by DIS and Contractor

41. Additional Services

Contractor may submit new Services with associated discounts or prices to the DIS Contract Administrator. New or changed Services submitted by Contractor shall meet all mandatory

requirements of the RFP. Additional Services that are determined by DIS to be appropriate to the scope of this Contract, may be added to Schedule A of this Contract by an instrument in writing, signed by both Contractor and DIS. Such writing shall include a specific description of the additional Services, pricing, and additional terms and conditions as relevant.

42. Independent Status of Contractor

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW (State Civil Service Law) or Title 51 RCW (Industrial Insurance).

43. Governing Law

This Contract shall be governed in all respects by the law and statutes of the state of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County or the county in which Purchaser is located within the state of Washington.

44. Rule of Construction as to Ambiguities

Each party to this Contract acknowledges that such party has reviewed this Agreement and participated in its drafting and agrees that no provision of this Contract shall be construed against or interpreted to the disadvantage of a party by reason of such party having or being deemed to have drafted, structured or dictated such provision or provisions.

45. Subcontractors

Contractor may, with prior written permission from DIS, which consent shall not be unreasonably withheld, enter into subcontracts with third parties for its performance of any part of Contractor's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor to Purchaser for any breach in the performance of Contractor's duties. For purposes of this Contract, Contractor agrees that all Subcontractors shall be held to be agents of Contractor. Contractor shall be liable for any loss or damage to Purchaser, including but not limited to personal injury, physical loss, harassment of Purchaser employees, or violations of the **Patent and Copyright Indemnification, Protection of Purchaser's Confidential Information**, and sections of this Contract occasioned by the acts or omissions of Contractor's Subcontractors, their agents or employees. The **Patent and Copyright Indemnification**, **Protection of Purchaser's Confidential Information**, , **Publicity** and **Review of Contractor's Records** sections of this Contract shall apply to all Subcontractors.

46. Assignment

46.1. With the prior written consent of DIS, which consent shall not be unreasonably withheld, Contractor may assign this Contract including the proceeds hereof, provided that such assignment shall not operate to relieve Contractor of any of its duties and obligations

hereunder, nor shall such assignment affect any remedies available to Purchaser that may arise from any breach of the sections of this Contract, or warranties made herein including but not limited to, rights of setoff.

46.2. DIS may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the state of Washington, provided that such assignment shall not operate to relieve Purchaser of any of its duties and obligations hereunder.

46.3. Notwithstanding the above, either party may assign this Contract without the other party's prior written consent: (a) in connection with the sale of all or substantially all of its assets; (b) to the surviving entity in any merger or consolidation; (c) to an Affiliate; or (d) to satisfy a regulatory requirement imposed upon a party by a governmental body with appropriate authority; provided such party gives the other party 30 days' prior written notice of such assignment. Any other assignment will require the prior written consent of the other party.

47. Publicity

47.1. The award of this Contract to Contractor is not in any way an endorsement of Contractor by DIS or Purchaser and shall not be so construed by Contractor in any advertising or other publicity materials.

47.2. Contractor agrees to submit to DIS, all advertising, sales promotion, and other publicity materials relating to this Contract or services furnished by Contractor wherein DIS' or Purchaser's name is mentioned, language is used, or Internet links are provided from which the connection of DIS' or Purchaser's name with Contractor's Services may, in DIS' or Purchaser's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of DIS or Purchaser *prior* to such use.

48. Review of Contractor's Records

48.1. Contractor and its Subcontractors shall maintain books, records, documents and other evidence relating to this Contract, including but not limited to protection and use of Purchaser's Confidential Information, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Contract. Contractor shall retain all such records for six (6) years after each payment under the expiration or termination of this Contract. Records involving matters in litigation related to this Contract shall be kept for either one (1) year following the termination of litigation, including all appeals, or six (6) years from the date of expiration or termination of this Contract, whichever is later.

48.2. All records directly related to this contract shall be subject at reasonable times and upon prior notice to examination, inspection, copying, or audit by personnel so authorized by the DIS Contract Administrator and/or the Office of the State Auditor and federal officials so authorized by law, rule, regulation or contract, when applicable, at no additional cost to the Stateeither party. During this Contract's term, Contractor shall provide access to these items within Thurston County or the county where Purchaser is located.

48.3. Contractor shall incorporate in its subcontracts this section's records retention and review requirements.

48.4. It is agreed that books, records, documents, and other evidence of accounting procedures and practices related to Contractor's cost structure, including overhead, general and administrative expenses, and profit factors shall be excluded from Purchaser's review unless the cost or any other material issue under this Contract is calculated or derived from these factors.

General Provisions

49. Patent and Copyright Indemnification

49.1. Contractor, at its expense, shall defend, indemnify, and save DIS and Purchaser harmless from and against any claims against DIS or Purchaser that any CPI Service supplied hereunder, or Purchaser's use of CPI's Service within the terms of this Contract, infringes any patent, copyright, trade secret, trademark, or other similar proprietary right of a third party worldwide. Contractor shall pay all costs of such defense and settlement and any penalties, costs, damages and reasonable attorneys' fees awarded by a court or incurred by DIS or Purchaser provided that DIS or Purchaser:

Promptly notifies Contractor in writing of the claim, but DIS' or Purchaser's failure to provide timely notice shall only relieve Contractor from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Contractor; and

Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations;

49.2. If such claim has occurred, or in Contractor's opinion is likely to occur, DIS and Purchaser agree to permit Contractor, at its option and expense, either to procure the right to continue using the Service or to replace or modify the same so that they become noninfringing and functionally equivalent. If use of the Service is enjoined by a court and Contractor determines that none of these alternatives is reasonably available, Contractor, will terminate the service. at its risk and expense, will take back the Service and provide Purchaser a refund.

50. Save Harmless

Contractor shall defend, indemnify, and save DIS and Purchaser harmless from and against any claims, including reasonable attorneys' fees resulting from such claims, by third parties for any or all injuries to persons or damage to property of such third parties arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents.

51. Insurance

51.1. Contractor shall, during the term of this Contract, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the state of Washington and

having a rating of A-, Class VII or better, in the most recently published edition of *Best's Reports*. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Contract, Contractor shall provide written notice of such to DIS within one (1) Business Day of Contractor's receipt of such notice. Failure to buy and maintain the required insurance may, at DIS' sole option, result in this Contract's termination.

51.2. The minimum acceptable limits shall be as indicated below, for each of the following categories:

Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than $1 million per occurrence/$2 million general aggregate;

Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than $1 million per accident;

Employers Liability insurance covering the risks of Contractor's employees' bodily injury by accident or disease with limits of not less than $1 million per accident for bodily injury by accident and $1 million per employee for bodily injury by disease;

Umbrella policy providing excess limits over the primary policies in an amount not less than $3 million; and

Professional Liability Errors and Omissions, with a deductible not to exceed $25,000, and coverage of not less than $1 million per occurrence/$2 million general aggregate.

51.3. Contractor shall pay premiums on all insurance policies. DIS shall be named as an additional insured on all general liability, automobile liability, and umbrella policies, and Contractor shall provide a copy of the policy endorsement(s) designating DIS as an additional named insured. Such policies shall also reference this Contract number T11-PCH-525 and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to DIS by the insurer.

51.4. All insurance provided by Contractor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State but only for the actions of Contractor and for those for whom Contractor is responsible and shall include a severability of interests (cross-liability) provision.

51.5. Contractor shall include all Subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein appropriate to the work performed. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

51.6. Contractor shall furnish to DIS copies of certificates and endorsements of all required insurance within thirty (30) calendar days of this Contract's Effective Date and copies of renewal certificates and endorsements of all required insurance within thirty (30) days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at DIS sole option, result in this Contract's termination.

51.7. By requiring insurance herein, DIS does not represent that coverage and limits will be adequate to protect Contractor. Such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to DIS in this Contract.

52. Industrial Insurance Coverage

Prior to performing work under this Contract, Contractor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Contract. DIS or Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Contractor, or any Subcontractor or employee of Contractor, which might arise under the industrial insurance laws during the performance of duties and services under this Contract.

53. Licensing Standards

Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements and standards necessary in the performance of this Contract. (See, for example, chapter 19.02 RCW for state licensing requirements and definitions.)

54. Antitrust Violations

Contractor and Purchaser recognize that in actual economic practice overcharges resulting from antitrust violations are usually borne by Purchaser. Therefore, Contractor hereby assigns to Purchaser any and all claims for such overcharges as to goods and services purchased in connection with this Contract, except as to overcharges not passed on to Purchaser resulting from antitrust violations commencing after the date of the bid, quotation, or other event establishing the Price under this Contract.

55. Compliance with Civil Rights Laws

During the performance of this Contract, Contractor shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 *et seq.*; the Americans with Disabilities Act (ADA); and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under the **Termination for Default** sections, and Contractor may be declared ineligible for further contracts with the State.

56. Severability

If any term or condition of this Contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Contract are declared severable.

57. Waiver

Waiver of any breach of any term or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written instrument signed by the parties.

58. Treatment of Assets

58.1. Nothing contained in this Contract shall be construed to transfer title to any property furnished by Purchaser.

58.2. Any Purchaser property furnished to Contractor shall, unless otherwise provided herein or approved by Purchaser, be used only for the performance of this Contract.

58.3. Contractor shall be responsible for any loss of or damage to property of Purchaser that results from Contractor's negligence or that results from Contractor's failure to maintain and administer that property in accordance with sound management practices.

58.4. Upon loss or destruction of, or damage to any Purchaser property, Contractor shall notify Purchaser thereof and shall take all reasonable steps to protect that property from further damage.

58.5. Contractor shall surrender to Purchaser all Purchaser property prior to completion, termination, or cancellation of this Contract.

58.6. All reference to Contractor under this section shall also include Contractor's employees, agents, or Subcontractors.

59. Contractor's Proprietary Information

Contractor acknowledges that DIS and Purchaser are subject to chapter 42.56 RCW and that this Contract shall be a public record as defined in chapter 42.56 RCW. Any specific information that is claimed by Contractor to be Proprietary Information, must be clearly identified as such by Contractor. To the extent consistent with chapter 42.56 RCW, DIS and Purchaser shall maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Contractor's Proprietary Information, DIS or Purchaser will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DIS or Purchaser will release the requested information on the date specified.

Disputes and Remedies

60. Disputes

60.1. In the event a bona fide dispute concerning a question of fact arises between Contractor and Purchaser and it cannot be resolved between the parties or by the DIS Contract Administrator, either party may initiate the dispute resolution procedure provided herein.

60.2. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within five (5) Business Days. The initiating party shall have five (5) Business Days to review the

response. If after this review a resolution cannot be reached, both parties shall have five (5) Business Days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after five (5) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within five (5) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the dispute resolution panel within the next five (5) Business Days.

The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and its attorneys' fees and share equally the cost of the third panel member. Both parties agree to be bound by the determination of the Dispute Resolution Panel.

60.3. Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible. Unless irreparable harm will result, neither party shall commence litigation against the other before the Dispute Resolution Panel has issued its decision on the matter in dispute.

60.4. Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

60.5. If the subject of the dispute is the amount due and payable by Purchaser for Services being provided by Contractor, Contractor shall continue providing Services pending resolution of the dispute provided Purchaser pays Contractor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

61. Attorneys' Fees and Costs

61.1 If any litigation is brought to enforce any term, condition, or section of this Contract, or as a result of this Contract in any way, the prevailing party shall be awarded its reasonable attorneys' fees together with expenses and costs incurred with such litigation, including necessary fees, costs, and expenses for services rendered at both trial and appellate levels, as well as subsequent to judgment in obtaining execution thereof.

61.2 In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

62. Non-Exclusive Remedies

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

63. Failure to Perform

If Contractor fails to perform any substantial obligation under this Contract, DIS or Purchaser shall give Contractor written notice of such Failure to Perform. If after thirty (30) calendar days from the date of the written notice Contractor still has not performed, then DIS or Purchaser may withhold all monies due and payable to Contractor, without penalty to DIS or Purchaser, until such Failure to Perform is cured or otherwise resolved.

64. Limitation of Liability

64.1. The parties agree that Contractor, DIS and Purchaser shall not be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages or for any lost profits or revenue relating to the Service or this contract, except a claim related to bodily injury or death, or a claim or demand based on a patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled **OSHA/WISHA**, **Termination for Default**, and **Review of Contractor's Records** are not consequential, incidental, indirect, or special damages as that term is used in this section.

64.2. Contractor, DIS and Purchaser shall not be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Contractor, DIS or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than DIS or Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, fiber or cable cuts not caused by Contractor, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of Contractor, DIS, Purchaser, or their respective Subcontractors.

64.3. If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

64.4. Neither Contractor, DIS nor Purchaser shall be liable for death or personal injury to the other party or damage to the other party's property except personal injuryor damage to property proximately caused by such party's respective fault or negligence.

Contract Termination

65. Termination for Default

65.1. If Contractor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its material obligations under this Contract, then the DIS Contract Administrator or Purchaser shall give Contractor written notice of such failure or violation, and the failure or violation shall be corrected by Contractor within thirty (30) calendar days or as otherwise agreed. If such breach is not capable of cure within thirty (30) days, Contractor must commence cure within such thirty (30) day period and diligently pursue completion of such cure. If Contractor's failure or violation is not so

corrected, this Contract may be terminated immediately by written notice from DIS to Contractor, or an Order may be terminated by written notice to Contractor from Purchaser.

65.2. In the event of termination of a Supplemental Work Order or this Contract by DIS, Purchaser or DIS shall have the right to procure the Services that are the subject of this Contract on the open market and Contractor shall be liable for all damages, including, but not limited to: (i) the cost difference between the original Contract/SWO price for the Services and the replacement costs of such Services acquired from another vendor; (ii) if applicable, all administrative costs directly related to the replacement of the SWO or Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, staff time costs; and, (iii) any other direct costs to Purchaser or DIS resulting from Contractor's breach. DIS and Purchasers shall have the right to deduct from any monies due to Contractor, or that thereafter become due, an amount for damages that Contractor will owe DIS or Purchasers for Contractor's default.

65.3. If either DIS or Purchaser violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then Contractor shall give DIS or Purchaser, as appropriate, written notice of such failure, which shall be corrected by DIS or Purchaser within thirty (30) calendar days, or as otherwise agreed. If such failure to perform is not so corrected, Purchaser's Order may be terminated by written notice from Contractor to Purchaser or, if appropriate, this Contract may be terminated by written notice from Contractor to DIS.

65.4. This section shall not apply to any failure(s) to perform that results from the willful or negligent acts or omissions of the aggrieved party.

65.5 Purchaser will remain liable for charges accrued but unpaid as of the termination date. If, prior to the conclusion of the Term, Service and/or this Contract is terminated either by Contractor for default or by DIS for any reason other than default, then Purchaser will also be liable for any termination charges ("Termination Charge").

65.6 Prior to the conclusion of the Term, if Service and/or this Contract is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by DIS for any reason other than default, then DIS will also be liable for and pay Contractor the following Termination Charge:

(a) all accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

(b) a termination charge of 20% of the balance of the Monthly Reacurring Charges (MRCs) for the unexpired portion of then current Contract term for the terminated Service and/or a charge of 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus

(c) any and all third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.

66. Termination for Withdrawal of Authority

66.1. In the event that DIS or Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract or any Order and prior to normal completion, DIS may terminate this Contract, or a Purchaser may terminate its Order(s), by thirty (30) Business Days written notice to Contractor. No termination charge shall accrue to DIS and Purchasers in the event this section shall be exercised. This section shall not be construed to permit DIS to terminate this Contract, or a Purchaser to terminate its Order(s) in order to acquire similar Services from a third party. If this Contract is terminated pursuant to this Section, Purchaser is liable only for payments required by the terms of this Contract for charges accrued but unpaid prior to the effective date of termination.

66.2. In the event that DIS' end user customer's authority to perform any of their duties related to receiving services from DIS through this contract is withdrawn, reduced, or limited in any way after the commencement of a SWO and prior to normal completion, DIS may terminate or amend SWO(s) or individual circuits in Service under this Contract and its associated SWO(s) without penalty upon thirty (30) days prior written notice. This section shall not be construed to permit DIS or its end user customer to terminate SWO(s) in order to acquire similar Services from a third party. If a SWO is terminated pursuant to this Section, DIS is liable only for payments required by the terms of this Contract for charges accrued but unpaid prior to the effective date of termination.

67. Termination for Non-Allocation of Funds

67.1. If funds are not allocated to DIS or Purchaser to continue this Contract or Order in any future period, DIS may terminate this Contract or individual circuits in service under this Contract by thirty (30) Business Days written notice to Contractor. DIS or Purchasers will not be obligated to pay any further charges for Services including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. DIS or Purchaser agrees to notify Contractor in writing of such non-allocation at the earliest possible time. No termination charge shall accrue to DIS or Purchasers in the event this section shall be exercised. This section shall not be construed to permit DIS to terminate this Contract, or a Purchaser to terminate its Order(s) in order to acquire similar Services from a third party. If a circuit is terminated pursuant to this Section, Purchaser is liable only for payments required by the terms of this Contract for charges accrued but unpaid prior to the effective date of termination.

67.2. If funds are not allocated to DIS' end user customer to continue with Service under SWO(s) associated with this Contract in any future period, DIS may amend or terminate the applicable SWO(s) or individual circuits in Service under this Contract. Purchaser will not be obligated to pay any further charges for Services including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. Purchaser agrees to notify Contractor in writing of such non-allocation at the earliest possible time. No termination charge shall accrue to Purchaser in the event this section shall be exercised. This section shall not be construed to permit DIS or its end user customer to terminate SWO(s) in order to acquire similar Services from a third party. If a SWO is terminated pursuant to this Section, Purchaser is liable only for payments required by the terms of this Contract for Services charges accrued but unpaid prior to the effective date of termination.

68. Termination for Conflict of Interest

DIS may terminate this Contract, or Purchaser its Order(s), by written notice to Contractor if DIS or Purchaser determines, after due notice and examination, that any party has violated chapter 42.52 RCW, Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract or any Order is so terminated, DIS and Purchasers shall be entitled to pursue the same remedies against Contractor as it could pursue in the event Contractor breaches this Contract or any Order.

69. Termination Procedure

69.1. In addition to the procedures set forth below, if DIS terminates this Contract, Contractor shall follow any procedures DIS specifies in DIS' Notice of Termination.

69.2. Unless otherwise provided herein, Purchaser shall pay to Contractor the agreed-upon Price, if separately stated, for the Services received by Purchaser, provided that in no event shall Purchaser pay to Contractor an amount greater than Contractor would have been entitled to if this Contract or Order had not been terminated. Failure to agree with such determination shall be a dispute within the meaning of the **Disputes** section of this Contract. Purchaser may withhold from any amounts due Contractor such sum as Purchaser determines to be.necessary to protect Purchaser from potential loss or liability .

69.3. Contractor shall pay amounts due Purchaser or DIS as the result of termination within thirty (30) calendar days of notice of the amounts due. If Contractor fails to make timely payment, Purchaser or DIS may charge interest on the amounts due at one percent (1%) per month until paid in full.

70. Covenant Against Contingent Fees

70.1. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, *except* bona fide employees or a bona fide established commercial or selling agency of Contractor.

70.2. In the event Contractor breaches this section, Purchaser shall have the right to either annul this Contract without liability to Purchaser, or, in Purchaser's discretion, deduct from payments due to Contractor, or otherwise recover from Contractor, the full amount of such commission, percentage, brokerage, or contingent fee.

Contract Execution

71. Authority to Bind

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

72. Counterparts

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

73. Facsimile Execution

The parties agree that this Contract may be executed by facsimile signature, and shall be effective as of the date of such facsimile signature. If executed by facsimile, the parties agree to provide original signature pages within ten (10) business days of facsimile execution.

In Witness Whereof, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Approved	**Approved**
State of Washington Department of Information Services	Capacity Provisioning, Inc.
Signature	*Signature*
Michael Martel 30 Nov 2010 *Print or Type Name* *Date*	Bob Jensen 11-19-10 *Print or Type Name* *Date*
Assistant Director Telecommunication Services Division *Title*	Sec *Title*

Contractor Information
Contractor's UBI Number: 602112999
Minority or Woman Owned Business Enterprise Yes _____ No ☒ (Certification Number)

Schedule A
Authorized Service and Price List

as of 11/24/2010

for
Contract Number T11-PCH-525
with
Capacity Provisioning, Inc.

Contractor is authorized to sell only the Services listed below under this Contract.

Monthly Recurring Charge (MRC) for 10 Mb ethernet service.	**Maximum MRC 10 Mb**

Port Angeles offices, In the City of Port Angeles	$420.00
Sequim offices, In the City of Sequim	$520.00
Forks offices, In the City of Forks	$720.00

3 or more offices connected to CPI central office(NOC), per site discount -$34.00
Increase to 100mb for only $100 more per site in Sequim and PA.

	100 Mb Ethernet Trunk Charge MRC	1 Gig. Ethernet Trunk Charge MRC
Olympia Node	$4,157.00	$7,000.00
Seattle Node	$3,057.00	$6,850.00

*Does not include $3300 installation charge per node

Schedule B
Supplemental Work Order Template

This Supplemental Work Order YY-YY (SWO) is made and entered by and between the State of Washington, Department of Information Services ("DIS" or "Purchaser"), and Capacity Provisioning, Inc. ("Contractor"), pursuant to Section 29 of that certain contract No. T11-PCH-525, for Secondary Transport Ethernet Services.

Recitals

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows. Unless otherwise defined, capitalized terms in this SWO have the meanings ascribed to them in the Contract.

1. Definitions

In addition to the definitions contained in the Contract, the following definitions shall apply to this SWO:

"Secondary Transport Ethernet Contract" shall mean that contract for Ethernet Services between Contractor and DIS, with reference number T11-PCH-525

"Minimum Service Commitment" shall mean the minimum period in which Purchasers agree to keep circuits in service.

"Node Router" shall mean Customer Router to which vendor delivers an aggregated bundle of VLANS.

"Service Installation Date" shall mean the date on which Services are actually installed, tested, and ready for Purchaser acceptance as defined in Section 6.

2. Term:

This SWO shall be effective as of the date executed by DIS (the "Effective Date") and continue in full force and effect for a _____ (X) year term measured from the latest Service Installation Date for the end sites covered under this SWO.

3. Incorporation of the Contract:

The terms and conditions of the Ethernet Contract are hereby restated and incorporated by reference in their entirety.

4. Service Delivery Locations.

Contractor agrees to provide, at all times during the Term of this SWO, Ethernet Services at the throughput, price, and between the endpoints specified in Attachment 1.

5. **Service Order and Installation**

Contractor agrees, to have the service installed, tested and ready for Purchaser's Acceptance Testing (pursuant to Section 19 of the Contract) on or before forty five (45) days where facilities exist and wiring beyond the demarcation point is not required and ninety (90) days where facilities do not exist from the date that an order is placed. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate the delivery of, install or arrange installation of, test and make operational all items necessary to provide the services described. Contractor agrees to provide written notification to DIS' Contract Manager and DIS' WAN Manager upon service Installation, the date of which shall be the "Service Installation Date."

6. **Term of Service – Individual Circuits**

Circuits ordered for each site during the first year following the Effective Date of this SWO shall have a Minimum Service Commitment of twelve (12) months, commencing on the Service Installation Date for the service. The list of circuits covered by this SWO is incorporated by reference and attached hereto.

7. **Termination Liability**

Prior to the conclusion of the Term, if Service or this SWO is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by Purchaser for any reason other than default, then as the sole and exclusive remedy for termination of any Services or decreased bandwidth prior to the end of the term, Purchaser agrees to pay to Contractor a termination charge as follows:

- All accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

- For termination during the Minimum Service Commitment, Termination Charge shall be an amount equal to 100% of the monthly recurring cost of the Services terminated times the number of months remaining in the Minimum Service Commitment period and/or a charge of 100% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment, and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- For termination after the Minimum Service Commitment, Termination charge shall be an amount equal 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- All third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.
- Any termination charges shall be due in a lump sum, which shall be invoiced on the last month's invoice for the terminated service.

8. **Service Interface & Termination Requirements**

Contractor agrees to provide, at all times during the Term of this SWO, via a full duplex Ethernet Interface with auto negotiation at the capacities, interfaces, and Purchaser locations specified in Appendix 1. Contractor is solely responsible for all access and fiber/cabling infrastructure to the point of service handoff. For buildings owned by third parties and prior to commencing any work; Purchaser will provide Contractor with written authorization from the building owner granting all rights and access enabling Contractor to place fiber/cabling infrastructure to the point of service handoff as needed.

9. **Management VLANs**

Contractor agrees to provide, at all times during the Term of this SWO, a management VLAN for the Advanced Transport Services that allows Purchasers to check status of routes or network segments DIS will provide IP addresses to be used for secondary addressing as necessary at each network element. Where Contractor is providing only a single VLAN to DIS, Contractor may satisfy this requirement by providing an additional port on the existing VLAN.

10. **SNMP Access**

Contractor agrees to provide, at all times during the Term of this SWO, for those portions of the services which utilize routers, Purchasers with SNMP (SNMPv2 minimum, SNMPv3 preferred) access to each network element in the path dedicated exclusively to Purchaser traffic.

In Witness Whereof, the parties hereto, having read this SWO *[YY-YY]* to Contract Number *T11-PCH-525* in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
State of Washington *Department of Information Services*	*[Contractor]*
Signature	*Signature*
Print or Type Name	*Print or Type Name*
Title *Date*	*Title* *Date*

Schedule C
Escalation Procedures

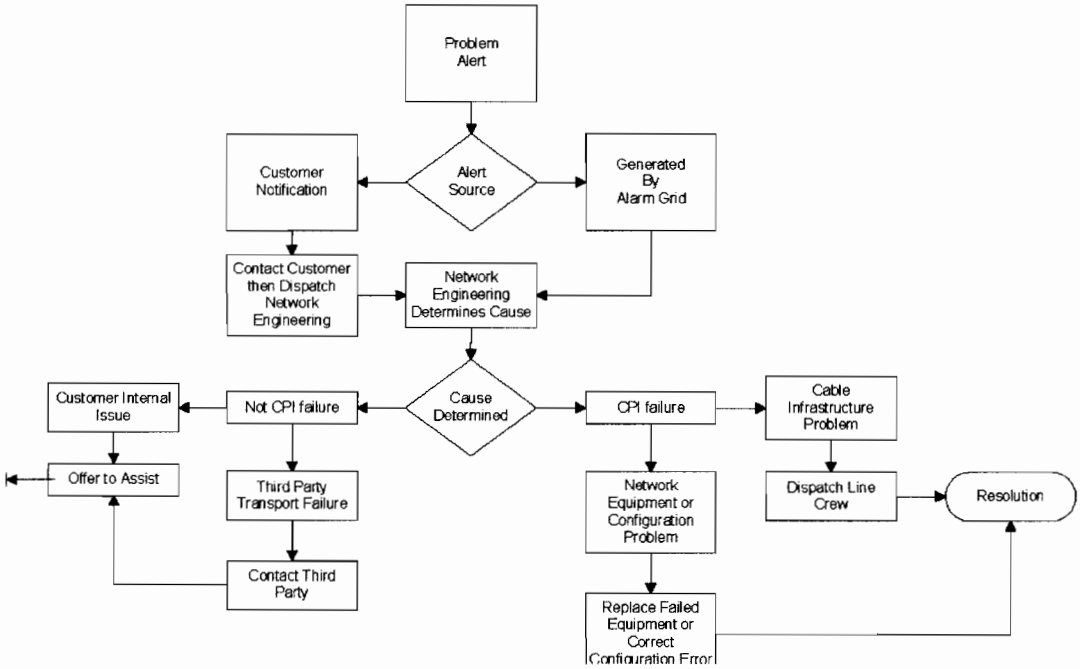
for
Contract Number T11-PCH-525
with
Capacity Provisioning, Inc.

CPI's Escalation Procedure is very straightforward because all calls, normal and emergency, are handled by either a senior officer or most commonly by a senior engineer. We are highly confident that our extensive monitoring and trouble reporting will alert us to any problem, in almost all cases, before the end user is even aware of it.

Trouble is reported by a battery of monitors and alerting systems and includes device polling and active notification. We monitor end user premise devices for availability, and edge and core devices for link failures, port conditions, fan and temperature thresholds and security-related data. We monitor our environments for temperature, humidity and unauthorized access. Our monitoring systems run both industry standard and proprietary software that processes the results of this monitoring and alerts us in a variety of ways to assure that notifications are delivered via diverse, complimentary systems. These systems include email, SMS, and voice alerts that are delivered via both cellular and land-line telephones. Monitoring and alerting are active 24/365 and are delivered to at least two CPI employees.

Our escalation procedure is best outlined in our trouble-processing flow-chart below. We basically receive a trouble notification from our system or, rarely, from a customer reporting it. Once the alert has been acknowledged, engineering (who will receive the alert in nearly every case) will process the alert to determine whether it is being caused by a failure or error on the CPI network, isolated to a customer site, or occurring beyond the CPI border. If a customer or 3rd party provider problem is determined, we will offer to assist the customer or provider in solving the problem. If it is a CPI issue, we will further investigate to determine if it is being caused by equipment failure, configuration error, malicious attacks (Denial of Service, virus activity), etc. and if so take the necessary steps to correct it. If the grid reports outages that would indicate a fiber break, line crews will be dispatched to assess the damage and make emergency repairs as necessary.

Escalation of normal work would follow a similar path if necessary. Normal work generally would have the customer's IT engineer or project implementer in direct contact with CPI's senior engineer making any escalation unnecessary (we've truly never had a problem). In virtually every case our time to completion is on or ahead of schedule, and our timeline for completion is generally much shorter than that of other service providers.
Below is our trouble-processing and escalation flow chart:


Problem Alert
Customer Notification
Alert Source
Generated By Alarm Grid
Contact Customer then Dispatch Network Engineering
Network Engineering Determines Cause
Customer Internal Issue
Not CPI failure
Cause Determined
CPI failure
Cable Infrastructure Problem
Offer to Assist
Third Party Transport Failure
Network Equipment or Configuration Problem
Dispatch Line Crew
Resolution
Contact Third Party
Replace Failed Equipment or Correct Configuration Error

Schedule D
Authorized Purchasers

for
Contract Number T11-PCH-527
with
Capacity Provisioning Inc.

Washington State Department of Information Services;

K20 Network Connected Institutions;

Washington State Public Baccalaureate Institutions;

Washington State Community and Technical Colleges;

Washington State Public School Districts;

Washington State Educational Service Districts (ESD);

Washington State Public Library Systems;

Washington State Cities and Counties

Amendment Number 11-01
to
Contract Number T11-PCH-525
for Ethernet Transport Services

In accordance with Provision 40 (Authority of Modifications and Amendments) of Contract Number T11-PCH-525 ("Contract"), this Amendment Number 11-01 is entered into by and between the State of Washington, Department of Information Services (DIS) and Capacity Provisioning, Inc. ("Contractor").

The parties hereby agree to the following:

1. Schedule D, *Authorized Purchasers,* is amended to add the following public entities to the list of authorized purchasers:

   Washington State Port Districts.

This amendment is effective on the date of DIS' signature.

All other provisions of Contract Number T11-PCH-525 shall remain in full force and effect.

In witness thereof, the parties have signed below.

Approved State of Washington Department of Information Services	Approved Capacity Provisioning, Inc.
Signature	Signature
Michael Martel Print or Type Name	CRAIG E JOHNSON Print or Type Name
ASSISTANT DIRECTOR Title	VP Title
4/18/11 Date	4-5-11 Date

Amendment Number 12-02
to
Contract Number T11-PCH-525
for Ethernet Transport Services

In accordance with Provision 40 (Authority of Modifications and Amendments) of Contract Number T11-PCH-525 ("Contract"), this Amendment Number 12-02 is entered into by and between the State of Washington, Department of Information Services (DIS) and Capacity Provisioning, Inc. ("Contractor").

The purpose of this Amendment is to add certain terms to the above referenced contract. The parties hereby agree to amend the Contract as follows:

1. The following shall be added as a new Section 8.9 to the Contract.

   8.9 Purchaser's prepayment for subscription services are made on good faith of Contractor's successful performance of deliverables. If Contractor does not successfully provide the service(s) as agreed to by the parties in writing, Purchaser shall notify Contractor in writing and Contractor shall have a 30-days to cure and successfully provide the service(s). If the service(s) are not successfully provided by Contractor within the 30-day cure period, then Purchaser may initiate a dispute claim pursuant to Section 61 of this Contract to request a pro-rata credit associated with such non-performed service(s).

All other provisions of Contract Number T11-PCH-525 shall remain in full force and effect.

This amendment 12-02 shall be effective on the date of last signature below.

In witness thereof, the parties have signed below.

Approved State of Washington Department of Information Services	Approved Capacity Provisioning, Inc.
Signature	Craig E Johnson Digitally signed by Craig Johnson DN: cn=Craig Johnson, o, ou, email=craig@cpifiber.com, c=US Date: 2011.08.17 10:19:00 -07'00' Signature
Michael Martel Print or Type Name	Craig E Johnson Print or Type Name
TSD Assistant Director Title	Vice President Title
8/31/11 Date	8-17-2011 Date

Amendment 12-03
to
Contract Number T11-PCH-525
for
Secondary Transport Ethernet Services

In accordance with Provision 40 (*Authority for Modifications and Amendments*) and Provision 46 (*Assignment*) of Contract Number T11-PCH-525 ("**Contract**"), this Amendment 12-03 is entered into by and between the Capacity Provisioning, Inc. (**"Vendor" or "Obligor"**), The Department of Information Services ("**Assignor**"), and Consolidated Technology Services ("**Assignee**").

The purpose of this Amendment is confirm the assignment and delegation to Assignee of all rights, duties and obligations held by Assignor under the above referenced Contract pursuant to the Assignment attached as Schedule A, which is incorporated by reference. The parties agree this assignment will not substantially change Obligor's duties or risk, is not prohibited by law, and is compliant with all express contractual provisions.

All other provisions of Contract Number T11-PCH-525, including previous amendments, if any, shall remain in full force and effect.

The signatories to this Amendment represent that they have the authority to bind their respective organizations to this Amendment.

This Amendment 12-03 shall be effective as of the date signed by DIS.

Approved

State of Washington,
Department of Information Services

Christy Ridout
Signature

CHRisty Ridout
Print or Type Name

Deputy Director 10/18/11
Title **Date**

Approved

Capacity Provisioning, Inc./ Obligor

Craig E Johnson
Digitally signed by Craig Johnson
DN: cn=Craig Johnson, o, ou, email=craig@cpifiber.com, c=US
Date: 2011.09.21 15:07:17 -07'00'
Signature

CRAIG E JOHNSON
Print or Type Name

VICE PRESIDENT 9-21-2011
Title **Date**

Schedule A

ASSIGNMENT AGREEMENT

This Assignment Agreement is entered into by and between the Capacity Provisioning, Inc. (**"Vendor" or "Obligor"**), The Department of Information Services (**"Assignor"**), and Consolidated Technology Services (**"Assignee"**) for the purpose of all contracts listed in Appendix A.

WHEREAS, the Washington State Legislature passed Engrossed Substitute Senate Bill 5931 (ESSB 5931) consolidating all or portions of the Washington State Department of Information Services, Department of Personnel, State Printer, General Administration and the Office of Financial Management;

WHEREAS, the authority and funding for those Agencies has been withdrawn effective October 1, 2011;

WHEREAS, the Washington State Legislature has created under ESSB 5931 which includes delegation of contracting authority, Consolidated Technology Services.

WHEREAS, Department of Information Services is assigning its rights and duties under the contracts listed in Appendix A to Consolidated Technology Services.

Assignor hereby relinquishes and assigns, transfers, and delegates to Assignee all rights, title, interest, benefits, duties and obligations held by Assignor under the Contract.

In consideration of the above, the parties agree that by this Amendment:

1. Assignor confirms the transfer of all its rights, title, interest, benefits, duties and obligations under the Contract to Assignee, and waives any claims and rights that it now has or in the future may have against Obligor in connection with the Contract.
2. Assignee hereby accepts the assignment and agrees to be bound by the term and conditions of the Contract. Assignee also assumes all obligations and liabilities of, and all claims against, Assignor under the Contract as if Assignee were the original party to the Contract. Assignee warrants it is in a position and promises to fully perform all obligations that may exist under the Contract.
3. Obligor recognizes Assignee as the Assignor's successor in interest in and to the Contract. Assignee by this Agreement becomes entitled to all of Assignor's rights, titles, and interests in and to the Contract(s) listed in Appendix A as if Assignee were the original party to the Contract.
4. This assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns.
5. The parties hereby agree to delete all references to Department of Information Service in the Contract(s) listed in Appendix A and replace them with Consolidated Technology Services.

This Assignment shall be effective as of October 1, 2011.

Approved

State of Washington
Department of Information Services
Assignor

Christy Ridout
Signature

CHRisty Ridout
Print or Type Name

Deputy Director
Title

10/18/11
Date

Approved

State of Washington
Consolidated Technology Services
Assignor

Mike Ricchio
Signature

Mike Ricchio
Print or Type Name

DIRECTOR
Title

10/18/11
Date

Approved

Capacity Provisioning, Inc.
Obligor

Craig E Johnson
Digitally signed by Craig Johnson
DN: cn=Craig Johnson, o, ou, email=craig@cpifiber.com, c=US
Date: 2011.09.21 15:13:57 -07'00'

Signature

CRAIG E JOHNSON

Print or Type Name

VICE PRESIDENT

Title

9-21-2011

Date

Appendix A

This Assignment applies to the following contracts:

Contract Number & Assignment Clause Number

1. T11-PCH-525 Assignment Clause Number 46

Amendment Number 12-04
to
Contract Number T11-PCH-525
for Ethernet Transport Services

In accordance with Provision 40 (Authority of Modifications and Amendments) of Contract Number T11-PCH-525 ("Contract"), this Amendment Number 12-04 is entered into by and between the State of Washington, Consolidated Technology Services (CTS) and Capacity Provisioning, Inc.("Contractor").

The purpose of this Amendment is to add certain terms to the above referenced contract. The parties hereby agree to amend the Contract as follows:

1) Under ESSB 5931, the K-20 office was moved from the Department of Information Services to the Office of Financial Management. When the K-20 office was in DIS, it was able to purchase off the DIS contracts. Now that it has moved, it needs to have the continued right to purchase off the DIS contracts. To that end, Schedule B, *Authorized Purchasers*, is amended to add the following public entities to the list of authorized purchasers in order to provide K-20 continued access to the contracts
   Washington K-20 Network – Office of Financial Management

All other provisions of Contract Number T11-PCH-525 shall remain in full force and effect.

This amendment 12-04 shall be effective on the date of last signature below.

In witness thereof, the parties have signed below.

Approved State of Washington Consolidated Technology Services	Approved Capacity Provisioning, Inc.
Signature	Signature
Michael Martel Print or Type Name	CRAIG E. JOHNSON Print or Type Name
Assist. Director Title	VP Title
1/6/12 Date	12-20-11 Date

Amendment Number 6
to
Contract Number T11-PCH-525
for Secondary Transport Ethernet Services

In accordance with Provision 40 (Authority of Modifications and Amendments) of Contract Number T11-PCH-525 ("Contract"), this Amendment Number 6 is entered into by and between the State of Washington, Consolidated Technology Services ("CTS") and Capacity Provisioning, Inc. ("Contractor").

The purpose of this Amendment is to extend the term of the Contract.

The parties hereby agree to amend the Contract as follows:

1. Contractor and CTS hereby agree to extend the term of the Contract from June 30, 2014 through June 30, 2015.

All other provisions of Contract Number T11-PCH-525 shall remain in full force and effect.

This Amendment 6 shall be effective on the date of last signature below.

In witness thereof, the parties have signed below.

Approved State of Washington Consolidated Technology Services	Approved Capacity Provisioning, Inc.
Signature	Signature
Molly O'Donnell Print or Type Name	CRAIG E. JOHNSON Print or Type Name
Asst Director 12/30/13 Title Date	VP 12-10-13 Title Date

Amendment 7
to
Contract Number T11-PCH-525
for
Secondary Transport Ethernet Services

In accordance with Provision 46 (*Assignment*) of Contract Number T11-PCH-525 (**"Contract"**), this Amendment 7 is entered into by and between Consolidated Technology Services (**"CTS" or "Obligor"**), Capacity Provisioning, Inc. ("Vendor" or "**Assignor**"), and WaveDivision Holdings, LLC (d/b/a Wave Broadband) ("**Assignee**").

The purpose of this Amendment is confirm the assignment and delegation to Assignee of all rights, duties and obligations held by Assignor under the above referenced Contract pursuant to the Assignment attached as Schedule A, which is incorporated by reference. The parties agree this assignment will not substantially change Obligor's duties or risk, is not prohibited by law, and is compliant with all express contractual provisions.

All other provisions of Contract Number T11-PCH-525, including previous amendments, if any, shall remain in full force and effect.

The signatories to this Amendment represent that they have the authority to bind their respective organizations to this Amendment.

This Amendment 7 shall be effective as of CTS signature.

Approved

Capacity Provisioning, Inc.

Signature

CRAIG E. JOHNSON
Print or Type Name

VP 6-5-14
Title **Date**

Approved

State of Washington,
Consolidated Technology Services

Signature

CHRISTY RIDOUT
Print or Type Name

Deputy Director 6/10/14
Title **Date**

Schedule A

ASSIGNMENT AGREEMENT

This Assignment Agreement is entered into by and between Consolidated Technology Services (**"CTS" or "Obligor"**), Capacity Provisioning, Inc. (**"Vendor"** or "**Assignor**"), and WaveDivision Holdings, LLC (d/b/a Wave Broadband) ("**Assignee**") for the purpose of all contracts listed in Appendix A.

WHEREAS, the State of Washington, acting by and through CTS, issued a Request for Proposal (RFP) dated August 20, 2010 for the purpose of establishing Contracts for Secondary Transport Ethernet Services in accordance with its authority under Chapter 43.105 RCW.

WHEREAS, Capacity Provisioning, Inc. submitted a timely response to CTS' RFP

WHEREAS, Capacity Provisioning, Inc. was determined to be the apparently successful Vendor and a contract was entered effective November 30, 2010.

WHEREAS, Assignee acquired Capacity Provisioning, Inc. on February 28, 2014.

Assignor hereby relinquishes and assigns, transfers, and delegates to Assignee all rights, title, interest, benefits, duties and obligations held by Assignor under the Contract.

In consideration of the above, the parties agree that by this Amendment:

1. Assignor confirms the transfer of all its rights, title, interest, benefits, duties and obligations under the Contract to Assignee, and waives any claims and rights that it now has or in the future may have against Obligor in connection with the Contract.
2. Assignee hereby accepts the assignment and agrees to be bound by the term and conditions of the Contract. Assignee also assumes all obligations and liabilities of, and all claims against, Assignor under the Contract as if Assignee were the original party to the Contract. Assignee warrants it is in a position and promises to fully perform all obligations that may exist under the Contract.
3. Obligor recognizes Assignee as the Assignor's successor in interest in and to the Contract. Assignee by this Agreement becomes entitled to all of Assignor's rights, titles, and interests in and to the Contract(s) listed in Appendix A as if Assignee were the original party to the Contract.
4. This assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns.
5. The parties hereby agree to delete all references to Capacity Provisioning, Inc. in the Contract(s) listed in Appendix A and replace them with WaveDivision Holdings, LLC.

This Assignment shall be effective as of date of CTS signature.

Approved

Capacity Provisioning, Inc.
Assignor

Signature

CRAIG E JOHNSON
Print or Type Name

VP 6-5-14
Title Date

Approved

WaveDivision Holdings, LLC
Assignee

Signature

James A. Penney
Print or Type Name

Executive Vice President 6/9/2014
Title Date

Approved

State of Washington
Consolidated Technology Services

Christy Ridout
Signature

CHRISTY RIDOUT
Print or Type Name

Deputy Director 6/10/14
Title **Date**

Appendix A

This Assignment applies to the following contracts:

Contract Number & Assignment Clause Number

1. T11-PCH-525 / Section 46 Assignment

Amendment Number 8
to
Contract Number T11-PCH-525
for Secondary Transport Ethernet Services

In accordance with Provision 40 (Authority of Modifications and Amendments) of Contract Number T11-PCH-525 ("Contract"), this Amendment Number 8 is entered into by and between the State of Washington, Consolidated Technology Services (CTS) and Wave Division Holdings, LLC ("Contractor").

The purpose of this Amendment is to delete Schedule A in its entirety and replace with the following:

Schedule A –

Authorized product and pricelist

Circuit Speed	Maximum Monthly Recurring Charge (MRC)
5 Mb	$350.00
10 Mb	$450.00
20 Mb	$490.00
30 Mb	$530.00
40 Mb	$570.00
50 Mb	$610.00
60 Mb	$650.00
70 Mb	$690.00
80 Mb	$730.00
90 Mb	$765.00
100 Mb	$800.00
200 Mb	$875.00
250 Mb	$950.00
300 Mb	$1025.00
400 Mb	$1100.00
500 Mb	$1175.00
600 Mb	$1250.00
700 Mb	$1300.00
800 Mb	$1350.00
900 Mb	$1400.00
1000 Mb	$1450.00
2000 Mb	$1650.00
3000 Mb	$1850.00
4000 Mb	$2050.00

5000 Mb	$2250.00
6000 Mb	$2400.00
7000 Mb	$2550.00
8000 Mb	$2700.00
9000 Mb	$2850.00
10000 Mb	$3000.00

Circuit Speed	Maximum Monthly Recurring Charge (MRC) for 10Mb Ethernet Service	Maximum Monthly Recurring Charge (MRC) for 100Mb Ethernet Service
Port Angeles offices, In the City of Port Angeles	$420.00	
Sequim offices, In the City of Sequim	$520.00	
Forks offices, In the City of Forks	$720.00	

3 or more office connected to CPI central office (NOC), per site discount of -$34.00

Increase to 100Mb for only $100.00 more per site in Sequim and Port Angeles

Vendor Aggregation Trunks to CTS locations (Node sites)

CTS location (Node site)	100 Mb Aggregation trunk - Maximum Monthly Recurring Charge (MRC)	500 Mb Tier (1 G interface) Aggregation trunk - Maximum Monthly Recurring Charge (MRC)	1 G Aggregation trunk - Maximum Monthly Recurring Charge (MRC)	5 G Tier (10 G interface) Aggregation trunk - Maximum Monthly Recurring Charge (MRC)	10 G Aggregation trunk - Maximum Monthly Recurring Charge (MRC)
Olympia					
Pullman					
Seattle					
Spokane					
Yakima					
Vancouver					

All other provisions of Contract Number T11-PCH-525 shall remain in full force and effect.

This amendment 14-05 shall be effective on the date of last signature below.

In witness thereof, the parties have signed below.

Approved State of Washington Consolidated Technology Services	Approved Wave Division Holdings, LLC
Signature	Signature
MOLLY O'DONNELL Print or Type Name	Michael W. Puckett Print or Type Name
ASSISTANT DIRECTOR 6/20/14 Title Date	Manager – GEMS 6/3/2014 Title Date

Supplemental Work Order 9
To
Contract T11-PCH-525
For
Secondary Transport Ethernet Services

This Supplemental Work Order 9 (SWO) is made and entered by and between the State of Washington, Consolidated Technology Services ("CTS" or "Purchaser"), and Wave Division Holdings, LLC (d/b/a Wave Broadband) ("Contractor"), pursuant to Section 29 of that certain contract No. T11-PCH-525, for Secondary Transport Ethernet Services.

Recitals

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows. Unless otherwise defined, capitalized terms in this SWO have the meanings ascribed to them in the Contract.

1. **Definitions**

In addition to the definitions contained in the Contract, the following definitions shall apply to this SWO:

"Secondary Transport Ethernet Contract" shall mean that contract for Ethernet Services between Contractor and CTS, with reference number T11-PCH-525

"Minimum Service Commitment" shall mean the minimum period in which Purchasers agree to keep circuits in service.

"Node Router" shall mean Customer Router to which vendor delivers an aggregated bundle of VLANS.

"Service Installation Date" shall mean the date on which Services are actually installed, tested, and ready for Purchaser acceptance as defined in Section 6.

2. **Term:**

This SWO shall be effective as of the date executed by CTS (the "Effective Date") and continue in full force and effect for a three (3) year term measured from the latest Service Installation Date for the end sites covered under this SWO.

3. **Incorporation of the Contract:**

The terms and conditions of the Ethernet Contract are hereby restated and incorporated by reference in their entirety.

4. **Service Delivery Locations.**

Contractor agrees to provide, at all times during the Term of this SWO, Ethernet Services at the throughput, price, and between the endpoints specified in Attachment 1.

5. **Service Order and Installation**

Contractor agrees, to have the service installed, tested and ready for Purchaser's Acceptance Testing (pursuant to Section 19 of the Contract) on or before forty five (45) days where facilities exist and wiring beyond the demarcation point is not required and ninety (90) days where facilities do not exist from the date that an order is placed. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate the delivery of, install or arrange installation of, test and make operational all items necessary to provide the services described. Contractor agrees to provide written notification to CTS' Contract Manager and CTS' WAN Manager upon service Installation, the date of which shall be the "Service Installation Date."

6. **Term of Service – Individual Circuits**

Circuits ordered for each site during the first year following the Effective Date of this SWO shall have a Minimum Service Commitment of twelve (12) months, commencing on the Service Installation Date for the service. The list of circuits covered by this SWO is incorporated by reference and attached hereto.

7. **Termination Liability**

Prior to the conclusion of the Term, if Service or this SWO is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by Purchaser for any reason other than default, then as the sole and exclusive remedy for termination of any Services or decreased bandwidth prior to the end of the term, Purchaser agrees to pay to Contractor a termination charge as follows:

- All accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

- For termination during the Minimum Service Commitment, Termination Charge shall be an amount equal to 100% of the monthly recurring cost of the Services terminated times the number of months remaining in the Minimum Service Commitment period and/or a charge of 100% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment, and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- For termination after the Minimum Service Commitment, Termination charge shall be an amount equal 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- All third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.
- Any termination charges shall be due in a lump sum, which shall be invoiced on the last month's invoice for the terminated service.

8. **Service Interface & Termination Requirements**

Contractor agrees to provide, at all times during the Term of this SWO, via a full duplex Ethernet Interface with auto negotiation at the capacities, interfaces, and Purchaser locations specified in Appendix 1. Contractor is solely responsible for all access and fiber/cabling infrastructure to the point of service handoff. For buildings owned by third parties and prior to commencing any work; Purchaser will provide Contractor with written authorization from the building owner granting all rights and access enabling Contractor to place fiber/cabling infrastructure to the point of service handoff as needed.

9. **Management VLANs**

Contractor agrees to provide, at all times during the Term of this SWO, a management VLAN for the Advanced Transport Services that allows Purchasers to check status of routes or network segments CTS will provide IP addresses to be used for secondary addressing as necessary at each network element. Where Contractor is providing only a single VLAN to CTS, Contractor may satisfy this requirement by providing an additional port on the existing VLAN.

10. **SNMP Access**

Contractor agrees to provide, at all times during the Term of this SWO, for those portions of the services which utilize routers, Purchasers with SNMP (SNMPv2 minimum, SNMPv3 preferred) access to each network element in the path dedicated exclusively to Purchaser traffic.

In Witness Whereof, the parties hereto, having read this SWO 9 to Contract Number T11-PCH-525 in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
State of Washington Consolidated Technology Services	*Wave Division Holdings, LLC (d/b/a Wave Broadband)*
Signature	Signature
MOLLY O'DONNELL	GAUL KOSS
Print or Type Name	*Print or Type Name*
ASSISTANT DIRECTOR 8/15/14	SVP Business Solutions 8/13/2014
Title *Date*	*Title* *Date*

Attachment 1
SWO 9
Secondary Ethernet Site List
Wave Division Holdings, LLC (d/b/a Wave Broadband)

Customer Site	Address	Location	Node	Gb	Monthly Recurring Costs ($)	Non-Recurring Costs ($)
State Data Center	532 16th Ave	Olympia	Olympia	1	$0	$0

Supplemental Work Order 10
To
Contract T11-PCH-525
For
Secondary Transport Ethernet Services

This Supplemental Work Order 10 (SWO) is made and entered by and between the State of Washington, Consolidated Technology Services ("CTS" or "Purchaser"), and Wave Division Holdings, LLC (d/b/a Wave Broadband) ("Contractor"), pursuant to Section 29 of that certain contract No. T11-PCH-525, for Secondary Transport Ethernet Services.

Recitals

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows. Unless otherwise defined, capitalized terms in this SWO have the meanings ascribed to them in the Contract.

1. **Definitions**

In addition to the definitions contained in the Contract, the following definitions shall apply to this SWO:

"Secondary Transport Ethernet Contract" shall mean that contract for Ethernet Services between Contractor and CTS, with reference number T11-PCH-525

"Minimum Service Commitment" shall mean the minimum period in which Purchasers agree to keep circuits in service.

"Node Router" shall mean Customer Router to which vendor delivers an aggregated bundle of VLANS.

"Service Installation Date" shall mean the date on which Services are actually installed, tested, and ready for Purchaser acceptance as defined in Section 6.

2. **Term:**

This SWO shall be effective as of the date executed by CTS (the "Effective Date") and continue in full force and effect for a four (4) year term measured from the latest Service Installation Date for the end sites covered under this SWO.

3. **Incorporation of the Contract:**

The terms and conditions of the Ethernet Contract are hereby restated and incorporated by reference in their entirety.

4. **Service Delivery Locations.**

Contractor agrees to provide, at all times during the Term of this SWO, Ethernet Services at the throughput, price, and between the endpoints specified in Attachment 1.

5. **Service Order and Installation**

Contractor agrees, to have the service installed, tested and ready for Purchaser's Acceptance Testing (pursuant to Section 19 of the Contract) on or before forty five (45) days where facilities exist and wiring beyond the demarcation point is not required and ninety (90) days where facilities do not exist from the date that an order is placed. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate the delivery of, install or arrange installation of, test and make operational all items necessary to provide the services described. Contractor agrees to provide written notification to CTS' Contract Manager and CTS' WAN Manager upon service Installation, the date of which shall be the "Service Installation Date."

6. **Term of Service – Individual Circuits**

Circuits ordered for each site during the first year following the Effective Date of this SWO shall have a Minimum Service Commitment of twelve (12) months, commencing on the Service Installation Date for the service. The list of circuits covered by this SWO is incorporated by reference and attached hereto.

7. **Termination Liability**

Prior to the conclusion of the Term, if Service or this SWO is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by Purchaser for any reason other than default, then as the sole and exclusive remedy for termination of any Services or decreased bandwidth prior to the end of the term, Purchaser agrees to pay to Contractor a termination charge as follows:

- All accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

- For termination during the Minimum Service Commitment, Termination Charge shall be an amount equal to 100% of the monthly recurring cost of the Services terminated times the number of months remaining in the Minimum Service Commitment period and/or a charge of 100% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment, and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- For termination after the Minimum Service Commitment, Termination charge shall be an amount equal 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- All third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.
- Any termination charges shall be due in a lump sum, which shall be invoiced on the last month's invoice for the terminated service.

8. **Service Interface & Termination Requirements**

Contractor agrees to provide, at all times during the Term of this SWO, via a full duplex Ethernet Interface with auto negotiation at the capacities, interfaces, and Purchaser locations specified in Appendix 1. Contractor is solely responsible for all access and fiber/cabling infrastructure to the point of service handoff. For buildings owned by third parties and prior to commencing any work; Purchaser will provide Contractor with written authorization from the building owner granting all rights and access enabling Contractor to place fiber/cabling infrastructure to the point of service handoff as needed.

9. **Management VLANs**

Contractor agrees to provide, at all times during the Term of this SWO, a management VLAN for the Advanced Transport Services that allows Purchasers to check status of routes or network segments CTS will provide IP addresses to be used for secondary addressing as necessary at each network element. Where Contractor is providing only a single VLAN to CTS, Contractor may satisfy this requirement by providing an additional port on the existing VLAN.

10. **SNMP Access**

Contractor agrees to provide, at all times during the Term of this SWO, for those portions of the services which utilize routers, Purchasers with SNMP (SNMPv2 minimum, SNMPv3 preferred) access to each network element in the path dedicated exclusively to Purchaser traffic.

In Witness Whereof, the parties hereto, having read this SWO 10 to Contract Number T11-PCH-525 in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
State of Washington Consolidated Technology Services	*Wave Division Holdings, LLC (d/b/a Wave Broadband)*
for Molly O'Donnell	
Signature	*Signature*
MOLLY D'DONNELL	PAUL KOSS
Print or Type Name	*Print or Type Name*
ASSISTANT DIRECTOR 8/15/14	SVP Business Solutions 8/13/2014
Title *Date*	*Title* *Date*

Attachment 1
SWO 10
T14-RFQ-120
Secondary Ethernet Site List
Wave Division Holdings, LLC (d/b/a Wave Broadband)

Customer Site	Address	Location	Node	Mb	MRC	MRC Taxes	NRC	NRC Taxes	Trunk SWO
DSHS3004	600 Lakeway Dr	Bellingham	Olympia	100	$750.00	$15.00	$0	$0	9

Supplemental Work Order 11
To
Contract T11-PCH-525
For
Secondary Transport Ethernet Services

This Supplemental Work Order 11 (SWO) is made and entered by and between the State of Washington, Consolidated Technology Services ("CTS" or "Purchaser"), and Wave Division Holdings, LLC (d/b/a Wave Broadband) ("Contractor"), pursuant to Section 29 of that certain contract No. T11-PCH-525, for Secondary Transport Ethernet Services.

Recitals

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows. Unless otherwise defined, capitalized terms in this SWO have the meanings ascribed to them in the Contract.

1. **Definitions**

In addition to the definitions contained in the Contract, the following definitions shall apply to this SWO:

"Secondary Transport Ethernet Contract" shall mean that contract for Ethernet Services between Contractor and CTS, with reference number T11-PCH-525

"Minimum Service Commitment" shall mean the minimum period in which Purchasers agree to keep circuits in service.

"Node Router" shall mean Customer Router to which vendor delivers an aggregated bundle of VLANS.

"Service Installation Date" shall mean the date on which Services are actually installed, tested, and ready for Purchaser acceptance as defined in Section 6.

2. **Term:**

This SWO shall be effective as of the date executed by CTS (the "Effective Date") and continue in full force and effect for a four (4) year term measured from the latest Service Installation Date for the end sites covered under this SWO.

3. **Incorporation of the Contract:**

The terms and conditions of the Ethernet Contract are hereby restated and incorporated by reference in their entirety.

4. **Service Delivery Locations.**

Contractor agrees to provide, at all times during the Term of this SWO, Ethernet Services at the throughput, price, and between the endpoints specified in Attachment 1.

5. **Service Order and Installation**

Contractor agrees, to have the service installed, tested and ready for Purchaser's Acceptance Testing (pursuant to Section 19 of the Contract) on or before forty five (45) days where facilities exist and wiring beyond the demarcation point is not required and ninety (90) days where facilities do not exist from the date that an order is placed. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate the delivery of, install or arrange installation of, test and make operational all items necessary to provide the services described. Contractor agrees to provide written notification to CTS' Contract Manager and CTS' WAN Manager upon service Installation, the date of which shall be the "Service Installation Date."

6. **Term of Service – Individual Circuits**

Circuits ordered for each site during the first year following the Effective Date of this SWO shall have a Minimum Service Commitment of twelve (12) months, commencing on the Service Installation Date for the service. The list of circuits covered by this SWO is incorporated by reference and attached hereto.

7. **Termination Liability**

Prior to the conclusion of the Term, if Service or this SWO is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by Purchaser for any reason other than default, then as the sole and exclusive remedy for termination of any Services or decreased bandwidth prior to the end of the term, Purchaser agrees to pay to Contractor a termination charge as follows:

- All accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

- For termination during the Minimum Service Commitment, Termination Charge shall be an amount equal to 100% of the monthly recurring cost of the Services terminated times the number of months remaining in the Minimum Service Commitment period and/or a charge of 100% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment, and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- For termination after the Minimum Service Commitment, Termination charge shall be an amount equal 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- All third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.
- Any termination charges shall be due in a lump sum, which shall be invoiced on the last month's invoice for the terminated service.

8. **Service Interface & Termination Requirements**

Contractor agrees to provide, at all times during the Term of this SWO, via a full duplex Ethernet Interface with auto negotiation at the capacities, interfaces, and Purchaser locations specified in Appendix 1. Contractor is solely responsible for all access and fiber/cabling infrastructure to the point of service handoff. For buildings owned by third parties and prior to commencing any work; Purchaser will provide Contractor with written authorization from the building owner granting all rights and access enabling Contractor to place fiber/cabling infrastructure to the point of service handoff as needed.

9. **Management VLANs**

Contractor agrees to provide, at all times during the Term of this SWO, a management VLAN for the Advanced Transport Services that allows Purchasers to check status of routes or network segments CTS will provide IP addresses to be used for secondary addressing as necessary at each network element. Where Contractor is providing only a single VLAN to CTS, Contractor may satisfy this requirement by providing an additional port on the existing VLAN.

10. **SNMP Access**

Contractor agrees to provide, at all times during the Term of this SWO, for those portions of the services which utilize routers, Purchasers with SNMP (SNMPv2 minimum, SNMPv3 preferred) access to each network element in the path dedicated exclusively to Purchaser traffic.

In Witness Whereof, the parties hereto, having read this SWO 11 to Contract Number T11-PCH-525 in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
State of Washington *Consolidated Technology Services*	*Wave Division Holdings, LLC (d/b/a Wave Broadband)*
MK Molly O'Donnell	
Signature	*Signature*
Molly O'Donnell	BAUC John Koss
Print or Type Name	*Print or Type Name*
Assistant Director 10/28/14	SVP Business Solutions 10/10/2014
Title *Date*	*Title* *Date*

Attachment 1
SWO 11
T14-RFQ-128
Secondary Ethernet Site List
Wave Division Holdings, LLC (d/b/a Wave Broadband)

Customer Site	Address	Location	Node	Mb	MRC	MRC Taxes	NRC	NRC Taxes	Trunk SWO
LNIEVR	729 100th St SE	Everett	Olympia	100	$750.00	$15.00	$0	$0	9
LNIMTV	525 College Way, Suite H	Mt. Vernon	Olympia	100	$750.00	$15.00	$0	$0	9
LNIPTA	1605 Front St Ste C	Port Angeles	Olympia	100	$750.00	$15.00	$0	$0	9
LNISEA	315 5th Ave Ste 200	Seattle	Olympia	100	$750.00	$15.00	$0	$0	9
LNIBEL	1720 Ellis St Ste 200	Bellingham	Olympia	100	$750.00	$15.00	$0	$0	9

Supplemental Work Order 12
To
Contract T11-PCH-525
For
Secondary Transport Ethernet Services

This Supplemental Work Order 12 (SWO) is made and entered by and between the State of Washington, Consolidated Technology Services ("CTS" or "Purchaser"), and Wave Division Holdings, LLC (d/b/a Wave Broadband) ("Contractor"), pursuant to Section 29 of that certain contract No. T11-PCH-525, for Secondary Transport Ethernet Services.

Recitals

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows. Unless otherwise defined, capitalized terms in this SWO have the meanings ascribed to them in the Contract.

1. **Definitions**

In addition to the definitions contained in the Contract, the following definitions shall apply to this SWO:

"Secondary Transport Ethernet Contract" shall mean that contract for Ethernet Services between Contractor and CTS, with reference number T11-PCH-525

"Minimum Service Commitment" shall mean the minimum period in which Purchasers agree to keep circuits in service.

"Node Router" shall mean Customer Router to which vendor delivers an aggregated bundle of VLANS.

"Service Installation Date" shall mean the date on which Services are actually installed, tested, and ready for Purchaser acceptance as defined in Section 6.

2. **Term:**

This SWO shall be effective as of the date executed by CTS (the "Effective Date") and continue in full force and effect for a two (2) year term measured from the latest Service Installation Date for the end sites covered under this SWO.

3. **Incorporation of the Contract:**

The terms and conditions of the Ethernet Contract are hereby restated and incorporated by reference in their entirety.

4. **Service Delivery Locations.**

Contractor agrees to provide, at all times during the Term of this SWO, Ethernet Services at the throughput, price, and between the endpoints specified in Attachment 1.

5. **Service Order and Installation**

Contractor agrees, to have the service installed, tested and ready for Purchaser's Acceptance Testing (pursuant to Section 19 of the Contract) on or before forty five (45) days where facilities exist and wiring beyond the demarcation point is not required and ninety (90) days where facilities do not exist from the date that an order is placed. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate the delivery of, install or arrange installation of, test and make operational all items necessary to provide the services described. Contractor agrees to provide written notification to CTS' Contract Manager and CTS' WAN Manager upon service Installation, the date of which shall be the "Service Installation Date."

6. **Term of Service – Individual Circuits**

Circuits ordered for each site during the first year following the Effective Date of this SWO shall have a Minimum Service Commitment of twelve (12) months, commencing on the Service Installation Date for the service. The list of circuits covered by this SWO is incorporated by reference and attached hereto.

7. **Termination Liability**

Prior to the conclusion of the Term, if Service or this SWO is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by Purchaser for any reason other than default, then as the sole and exclusive remedy for termination of any Services or decreased bandwidth prior to the end of the term, Purchaser agrees to pay to Contractor a termination charge as follows:

- All accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

- For termination during the Minimum Service Commitment, Termination Charge shall be an amount equal to 100% of the monthly recurring cost of the Services terminated times the number of months remaining in the Minimum Service Commitment period and/or a charge of 100% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment, and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- For termination after the Minimum Service Commitment, Termination charge shall be an amount equal 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- All third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.
- Any termination charges shall be due in a lump sum, which shall be invoiced on the last month's invoice for the terminated service.

8. **Service Interface & Termination Requirements**

Contractor agrees to provide, at all times during the Term of this SWO, via a full duplex Ethernet Interface with auto negotiation at the capacities, interfaces, and Purchaser locations specified in Appendix 1. Contractor is solely responsible for all access and fiber/cabling infrastructure to the point of service handoff. For buildings owned by third parties and prior to commencing any work; Purchaser will provide Contractor with written authorization from the building owner granting all rights and access enabling Contractor to place fiber/cabling infrastructure to the point of service handoff as needed.

9. **Management VLANs**

Contractor agrees to provide, at all times during the Term of this SWO, a management VLAN for the Advanced Transport Services that allows Purchasers to check status of routes or network segments CTS will provide IP addresses to be used for secondary addressing as necessary at each network element. Where Contractor is providing only a single VLAN to CTS, Contractor may satisfy this requirement by providing an additional port on the existing VLAN.

10. **SNMP Access**

Contractor agrees to provide, at all times during the Term of this SWO, for those portions of the services which utilize routers, Purchasers with SNMP (SNMPv2 minimum, SNMPv3 preferred) access to each network element in the path dedicated exclusively to Purchaser traffic.

In Witness Whereof, the parties hereto, having read this SWO 12 to Contract Number T11-PCH-525 in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
State of Washington *Consolidated Technology Services*	*Wave Division Holdings, LLC (d/b/a Wave Broadband)*
MJ Molly A O'Donnell	
Signature	*Signature*
Molly O'Donnell	PAUL KOSS
Print or Type Name	*Print or Type Name*
Assistant Director	SVP Business Solutions
Title — 12/3/14 *Date*	*Title* — *Date*

Attachment 1
SWO 12
T15-RFQ-021
Secondary Ethernet Site List
Wave Division Holdings, LLC (d/b/a Wave Broadband)

Customer Site	Address	Location	Node	Mb	MRC	MRC Taxes	NRC	NRC Taxes	Trunk SWO
DOLC1801	614 Division St	Port Orchard	Olympia	10	$450.00	$12.60	$0	$0	9

Supplemental Work Order 13
To
Contract T11-PCH-525
For
Secondary Transport Ethernet Services

This Supplemental Work Order 13 (SWO) is made and entered by and between the State of Washington, Consolidated Technology Services ("CTS" or "Purchaser"), and Wave Division Holdings, LLC (d/b/a Wave Broadband) ("Contractor"), pursuant to Section 29 of that certain contract No. T11-PCH-525, for Secondary Transport Ethernet Services.

Recitals

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows. Unless otherwise defined, capitalized terms in this SWO have the meanings ascribed to them in the Contract.

1. **Definitions**

In addition to the definitions contained in the Contract, the following definitions shall apply to this SWO:

"Secondary Transport Ethernet Contract" shall mean that contract for Ethernet Services between Contractor and CTS, with reference number T11-PCH-525

"Minimum Service Commitment" shall mean the minimum period in which Purchasers agree to keep circuits in service.

"Node Router" shall mean Customer Router to which vendor delivers an aggregated bundle of VLANS.

"Service Installation Date" shall mean the date on which Services are actually installed, tested, and ready for Purchaser acceptance as defined in Section 6.

2. **Term:**

This SWO shall be effective as of the date executed by CTS (the "Effective Date") and continue in full force and effect for a two (2) year term measured from the latest Service Installation Date for the end sites covered under this SWO.

3. **Incorporation of the Contract:**

The terms and conditions of the Ethernet Contract are hereby restated and incorporated by reference in their entirety.

4. **Service Delivery Locations.**

Contractor agrees to provide, at all times during the Term of this SWO, Ethernet Services at the throughput, price, and between the endpoints specified in Attachment 1.

5. **Service Order and Installation**

Contractor agrees, to have the service installed, tested and ready for Purchaser's Acceptance Testing (pursuant to Section 19 of the Contract) on or before forty five (45) days where facilities exist and wiring beyond the demarcation point is not required and ninety (90) days where facilities do not exist from the date that an order is placed. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate the delivery of, install or arrange installation of, test and make operational all items necessary to provide the services described. Contractor agrees to provide written notification to CTS' Contract Manager and CTS' WAN Manager upon service Installation, the date of which shall be the "Service Installation Date."

6. **Term of Service – Individual Circuits**

Circuits ordered for each site during the first year following the Effective Date of this SWO shall have a Minimum Service Commitment of twelve (12) months, commencing on the Service Installation Date for the service. The list of circuits covered by this SWO is incorporated by reference and attached hereto.

7. **Termination Liability**

Prior to the conclusion of the Term, if Service or this SWO is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by Purchaser for any reason other than default, then as the sole and exclusive remedy for termination of any Services or decreased bandwidth prior to the end of the term, Purchaser agrees to pay to Contractor a termination charge as follows:

- All accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

- For termination during the Minimum Service Commitment, Termination Charge shall be an amount equal to 100% of the monthly recurring cost of the Services terminated times the number of months remaining in the Minimum Service Commitment period and/or a charge of 100% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment, and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- For termination after the Minimum Service Commitment, Termination charge shall be an amount equal 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- All third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.
- Any termination charges shall be due in a lump sum, which shall be invoiced on the last month's invoice for the terminated service.

8. **Service Interface & Termination Requirements**

Contractor agrees to provide, at all times during the Term of this SWO, via a full duplex Ethernet Interface with auto negotiation at the capacities, interfaces, and Purchaser locations specified in Appendix 1. Contractor is solely responsible for all access and fiber/cabling infrastructure to the point of service handoff. For buildings owned by third parties and prior to commencing any work; Purchaser will provide Contractor with written authorization from the building owner granting all rights and access enabling Contractor to place fiber/cabling infrastructure to the point of service handoff as needed.

9. **Management VLANs**

Contractor agrees to provide, at all times during the Term of this SWO, a management VLAN for the Advanced Transport Services that allows Purchasers to check status of routes or network segments CTS will provide IP addresses to be used for secondary addressing as necessary at each network element. Where Contractor is providing only a single VLAN to CTS, Contractor may satisfy this requirement by providing an additional port on the existing VLAN.

10. **SNMP Access**

Contractor agrees to provide, at all times during the Term of this SWO, for those portions of the services which utilize routers, Purchasers with SNMP (SNMPv2 minimum, SNMPv3 preferred) access to each network element in the path dedicated exclusively to Purchaser traffic.

In Witness Whereof, the parties hereto, having read this SWO 13 to Contract Number T11-PCH-525 in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
State of Washington *Consolidated Technology Services*	*Wave Division Holdings, LLC (d/b/a Wave Broadband)*
MN Molly O'Donnell	
Signature	*Signature*
Molly O'Donnell	PAUL KOSS
Print or Type Name	*Print or Type Name*
Assistant Director 12/31/14	SVP Business Solutions 12/30/2014
Title *Date*	*Title* *Date*

Attachment 1
SWO 13
T15-RFQ-027
Secondary Ethernet Site List
Wave Division Holdings, LLC (d/b/a Wave Broadband)

Customer Site	Address	Location	Node	Mb	MRC	MRC Taxes	NRC	NRC Taxes	Trunk SWO
DOLC3150	1001 N Broadway Ste A-7	Everett	Olympia	10	$450.00	$12.60	$0	$0	9

Supplemental Work Order 14
To
Contract T11-PCH-525
For
Secondary Transport Ethernet Services

This Supplemental Work Order 14 (SWO) is made and entered by and between the State of Washington, Consolidated Technology Services ("CTS" or "Purchaser"), and Wave Division Holdings, LLC (d/b/a Wave Broadband) ("Contractor"), pursuant to Section 29 of that certain contract No. T11-PCH-525, for Secondary Transport Ethernet Services.

Recitals

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows. Unless otherwise defined, capitalized terms in this SWO have the meanings ascribed to them in the Contract.

1. **Definitions**

In addition to the definitions contained in the Contract, the following definitions shall apply to this SWO:

"Secondary Transport Ethernet Contract" shall mean that contract for Ethernet Services between Contractor and CTS, with reference number T11-PCH-525

"Minimum Service Commitment" shall mean the minimum period in which Purchasers agree to keep circuits in service.

"Node Router" shall mean Customer Router to which vendor delivers an aggregated bundle of VLANS.

"Service Installation Date" shall mean the date on which Services are actually installed, tested, and ready for Purchaser acceptance as defined in Section 6.

2. **Term:**

This SWO shall be effective as of the date executed by CTS (the "Effective Date") and continue in full force and effect for a five (5) year term measured from the latest Service Installation Date for the end sites covered under this SWO.

3. **Incorporation of the Contract:**

The terms and conditions of the Ethernet Contract are hereby restated and incorporated by reference in their entirety.

4. **Service Delivery Locations.**

Contractor agrees to provide, at all times during the Term of this SWO, Ethernet Services at the throughput, price, and between the endpoints specified in Attachment 1.

5. **Service Order and Installation**

Contractor agrees, to have the service installed, tested and ready for Purchaser's Acceptance Testing (pursuant to Section 19 of the Contract) on or before forty five (45) days where facilities exist and wiring beyond the demarcation point is not required and ninety (90) days where facilities do not exist from the date that an order is placed. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate the delivery of, install or arrange installation of, test and make operational all items necessary to provide the services described. Contractor agrees to provide written notification to CTS' Contract Manager and CTS' WAN Manager upon service Installation, the date of which shall be the "Service Installation Date."

6. **Term of Service – Individual Circuits**

Circuits ordered for each site during the first year following the Effective Date of this SWO shall have a Minimum Service Commitment of twelve (12) months, commencing on the Service Installation Date for the service. The list of circuits covered by this SWO is incorporated by reference and attached hereto.

7. **Termination Liability**

Prior to the conclusion of the Term, if Service or this SWO is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by Purchaser for any reason other than default, then as the sole and exclusive remedy for termination of any Services or decreased bandwidth prior to the end of the term, Purchaser agrees to pay to Contractor a termination charge as follows:

- All accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

- For termination during the Minimum Service Commitment, Termination Charge shall be an amount equal to 100% of the monthly recurring cost of the Services terminated times the number of months remaining in the Minimum Service Commitment period and/or a charge of 100% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment, and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- For termination after the Minimum Service Commitment, Termination charge shall be an amount equal 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- All third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.
- Any termination charges shall be due in a lump sum, which shall be invoiced on the last month's invoice for the terminated service.

8. **Service Interface & Termination Requirements**

Contractor agrees to provide, at all times during the Term of this SWO, via a full duplex Ethernet Interface with auto negotiation at the capacities, interfaces, and Purchaser locations specified in Appendix 1. Contractor is solely responsible for all access and fiber/cabling infrastructure to the point of service handoff. For buildings owned by third parties and prior to commencing any work; Purchaser will provide Contractor with written authorization from the building owner granting all rights and access enabling Contractor to place fiber/cabling infrastructure to the point of service handoff as needed.

9. **Management VLANs**

Contractor agrees to provide, at all times during the Term of this SWO, a management VLAN for the Advanced Transport Services that allows Purchasers to check status of routes or network segments CTS will provide IP addresses to be used for secondary addressing as necessary at each network element. Where Contractor is providing only a single VLAN to CTS, Contractor may satisfy this requirement by providing an additional port on the existing VLAN.

10. **SNMP Access**

Contractor agrees to provide, at all times during the Term of this SWO, for those portions of the services which utilize routers, Purchasers with SNMP (SNMPv2 minimum, SNMPv3 preferred) access to each network element in the path dedicated exclusively to Purchaser traffic.

In Witness Whereof, the parties hereto, having read this SWO 14 to Contract Number T11-PCH-525 in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
State of Washington *Consolidated Technology Services*	*Wave Division Holdings, LLC (d/b/a Wave Broadband)*
Signature	*Signature*
Molly O'Donnell	PAUL KOSS
Print or Type Name	*Print or Type Name*
Assistant Director	SVP Business Solutions
Title	*Title*
1-20-15	1/8/2015
Date	*Date*

Attachment 1
SWO 14
T15-RFQ-033
Secondary Ethernet Site List
Wave Division Holdings, LLC (d/b/a Wave Broadband)

Customer Site	Address	Location	Node	Mb	MRC	MRC Taxes	NRC	NRC Taxes	Trunk SWO
DSHS5003	4710 Auto Center Blvd	Bremerton	Olympia	100	$700.00	$14.00	$0	$0	9

Amendment Number 15
to
Contract Number T11-PCH-525
for
Secondary Transport Ethernet Services

In accordance with Provision 40 *Authority for Modifications and Amendments* of Contract T11-PCH-525, this Amendment number 15 is entered into by and between the State of Washington, Consolidated Technology Services (CTS) and Wave Division Holdings, LLC (Contractor).

The purpose of this Amendment is to extend the term of the Contract.

The parties hereby agree to amend the Contract as follows:

1. Contractor and CTS hereby agree to extend the term of the Contract from June 30, 2015 through June 30, 2016.

All other provisions of Contract T11-PCH-525, as previously amended, shall remain in full force and effect.

This Amendment 15 shall be effective as of the date signed by CTS.

Approved	**Approved**
State of Washington, Consolidated Technology Services	Wave Division Holdings, LLC
Signature	Signature
~~Molly O'Donnell~~ Doug Hoffer *Print or Type Name*	PAUL KOSS *Print or Type Name*
Assistant Director 2/10/15 Title Date	SVP Business Solutions 1/25/2015 Title Date

Supplemental Work Order 17
To
Contract T11-PCH-525
For
Secondary Transport Ethernet Services

This Supplemental Work Order 17 (SWO) is made and entered by and between the State of Washington, Consolidated Technology Services ("CTS" or "Purchaser"), and Wave Division Holdings, LLC (d/b/a Wave Broadband) ("Contractor"), pursuant to Section 29 of that certain contract No. T11-PCH-525, for Secondary Transport Ethernet Services.

Recitals

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows. Unless otherwise defined, capitalized terms in this SWO have the meanings ascribed to them in the Contract.

1. **Definitions**

In addition to the definitions contained in the Contract, the following definitions shall apply to this SWO:

"Secondary Transport Ethernet Contract" shall mean that contract for Ethernet Services between Contractor and CTS, with reference number T11-PCH-525

"Minimum Service Commitment" shall mean the minimum period in which Purchasers agree to keep circuits in service.

"Node Router" shall mean Customer Router to which vendor delivers an aggregated bundle of VLANS.

"Service Installation Date" shall mean the date on which Services are actually installed, tested, and ready for Purchaser acceptance as defined in Section 6.

2. **Term:**

This SWO shall be effective as of the date executed by CTS (the "Effective Date") and continue in full force and effect for a two (2) year term measured from the latest Service Installation Date for the end sites covered under this SWO.

3. **Incorporation of the Contract:**

The terms and conditions of the Ethernet Contract are hereby restated and incorporated by reference in their entirety.

4. **Service Delivery Locations.**

Contractor agrees to provide, at all times during the Term of this SWO, Ethernet Services at the throughput, price, and between the endpoints specified in Attachment 1.

5. **Service Order and Installation**

Contractor agrees, to have the service installed, tested and ready for Purchaser's Acceptance Testing (pursuant to Section 19 of the Contract) on or before forty five (45) days where facilities exist and wiring beyond the demarcation point is not required and ninety (90) days where facilities do not exist from the date that an order is placed. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate the delivery of, install or arrange installation of, test and make operational all items necessary to provide the services described. Contractor agrees to provide written notification to CTS' Contract Manager and CTS' WAN Manager upon service Installation, the date of which shall be the "Service Installation Date."

6. **Term of Service – Individual Circuits**

Circuits ordered for each site during the first year following the Effective Date of this SWO shall have a Minimum Service Commitment of twelve (12) months, commencing on the Service Installation Date for the service. The list of circuits covered by this SWO is incorporated by reference and attached hereto.

7. **Termination Liability**

Prior to the conclusion of the Term, if Service or this SWO is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by Purchaser for any reason other than default, then as the sole and exclusive remedy for termination of any Services or decreased bandwidth prior to the end of the term, Purchaser agrees to pay to Contractor a termination charge as follows:

- All accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

- For termination during the Minimum Service Commitment, Termination Charge shall be an amount equal to 100% of the monthly recurring cost of the Services terminated times the number of months remaining in the Minimum Service Commitment period and/or a charge of 100% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment, and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- For termination after the Minimum Service Commitment, Termination charge shall be an amount equal 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- All third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.
- Any termination charges shall be due in a lump sum, which shall be invoiced on the last month's invoice for the terminated service.

8. **Service Interface & Termination Requirements**

Contractor agrees to provide, at all times during the Term of this SWO, via a full duplex Ethernet Interface with auto negotiation at the capacities, interfaces, and Purchaser locations specified in Appendix 1. Contractor is solely responsible for all access and fiber/cabling infrastructure to the point of service handoff. For buildings owned by third parties and prior to commencing any work; Purchaser will provide Contractor with written authorization from the building owner granting all rights and access enabling Contractor to place fiber/cabling infrastructure to the point of service handoff as needed.

9. **Management VLANs**

Contractor agrees to provide, at all times during the Term of this SWO, a management VLAN for the Advanced Transport Services that allows Purchasers to check status of routes or network segments CTS will provide IP addresses to be used for secondary addressing as necessary at each network element. Where Contractor is providing only a single VLAN to CTS, Contractor may satisfy this requirement by providing an additional port on the existing VLAN.

10. **SNMP Access**

Contractor agrees to provide, at all times during the Term of this SWO, for those portions of the services which utilize routers, Purchasers with SNMP (SNMPv2 minimum, SNMPv3 preferred) access to each network element in the path dedicated exclusively to Purchaser traffic.

In Witness Whereof, the parties hereto, having read this SWO 17 to Contract Number T11-PCH-525 in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
State of Washington *Consolidated Technology Services*	*Wave Division Holdings, LLC (d/b/a Wave Broadband)*
ML MZ Doug Hoffer	
Signature	*Signature*
Doug Hoffer	PAUL KOSS
Print or Type Name	*Print or Type Name*
Assistant Director	SVP Business Solutions
Title — *Date* 9/7/15	*Title* — *Date* 8/25/2015

Attachment 1
SWO 17
T15-RFQ-073
Secondary Ethernet Site List
Wave Division Holdings, LLC (d/b/a Wave Broadband)

Customer Site	Address	Location	Node	Mb	MRC	MRC Taxes	NRC	NRC Taxes	Trunk SWO
DSHS5038	SW 1338 Old Clifton Rd	Port Orchard	Olympia	10	$450.00	$11.25	$0	$0	9
DVA-RETSIL	1141 Beach Drive E	Port Orchard	Olympia	100	$700.00	$17.50	$0	$0	9

Supplemental Work Order 18
To
Contract T11-PCH-525
For
Secondary Transport Ethernet Services

This Supplemental Work Order 18 (SWO) is made and entered by and between the State of Washington, Consolidated Technology Services ("CTS" or "Purchaser"), and Wave Division Holdings, LLC (d/b/a Wave Broadband) ("Contractor"), pursuant to Section 29 of that certain contract No. T11-PCH-525, for Secondary Transport Ethernet Services.

Recitals

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereby agree as follows. Unless otherwise defined, capitalized terms in this SWO have the meanings ascribed to them in the Contract.

1. **Definitions**

In addition to the definitions contained in the Contract, the following definitions shall apply to this SWO:

"Secondary Transport Ethernet Contract" shall mean that contract for Ethernet Services between Contractor and CTS, with reference number T11-PCH-525

"Minimum Service Commitment" shall mean the minimum period in which Purchasers agree to keep circuits in service.

"Node Router" shall mean Customer Router to which vendor delivers an aggregated bundle of VLANS.

"Service Installation Date" shall mean the date on which Services are actually installed, tested, and ready for Purchaser acceptance as defined in Section 6.

2. **Term:**

This SWO shall be effective as of the date executed by CTS (the "Effective Date") and continue in full force and effect for a three (3) year term measured from the latest Service Installation Date for the end sites covered under this SWO.

3. **Incorporation of the Contract:**

The terms and conditions of the Ethernet Contract are hereby restated and incorporated by reference in their entirety.

4. **Service Delivery Locations.**

Contractor agrees to provide, at all times during the Term of this SWO, Ethernet Services at the throughput, price, and between the endpoints specified in Attachment 1.

5. **Service Order and Installation**

Contractor agrees, to have the service installed, tested and ready for Purchaser's Acceptance Testing (pursuant to Section 19 of the Contract) on or before forty five (45) days where facilities exist and wiring beyond the demarcation point is not required and ninety (90) days where facilities do not exist from the date that an order is placed. Contractor may request reasonable extensions of these intervals in the event of unforeseen site conditions or delays in permitting. It is Contractor's responsibility to coordinate the delivery of, install or arrange installation of, test and make operational all items necessary to provide the services described. Contractor agrees to provide written notification to CTS' Contract Manager and CTS' WAN Manager upon service Installation, the date of which shall be the "Service Installation Date."

6. **Term of Service – Individual Circuits**

Circuits ordered for each site during the first year following the Effective Date of this SWO shall have a Minimum Service Commitment of twelve (12) months, commencing on the Service Installation Date for the service. The list of circuits covered by this SWO is incorporated by reference and attached hereto.

7. **Termination Liability**

Prior to the conclusion of the Term, if Service or this SWO is terminated or bandwidth is decreased below the original contracted level ("decreased bandwidth"), either by Contractor for default or by Purchaser for any reason other than default, then as the sole and exclusive remedy for termination of any Services or decreased bandwidth prior to the end of the term, Purchaser agrees to pay to Contractor a termination charge as follows:

- All accrued and unpaid charges for the terminated Service or decreased bandwidth provided through the effective date of such termination or decrease; plus

- For termination during the Minimum Service Commitment, Termination Charge shall be an amount equal to 100% of the monthly recurring cost of the Services terminated times the number of months remaining in the Minimum Service Commitment period and/or a charge of 100% of the difference between the original bandwidth MRC and the decreased bandwidth MRC; plus 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment, and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- For termination after the Minimum Service Commitment, Termination charge shall be an amount equal 20% of the monthly recurring charges times the number of months remaining in the Term of this SWO after the Minimum Service Commitment and/or 20% of the difference between the original bandwidth MRC and the decreased bandwidth MRC.

- All third party costs and expenses incurred by Contractor in so terminating such Service or decreasing bandwidth and all applicable non-recurring charges that may have been waived.
- Any termination charges shall be due in a lump sum, which shall be invoiced on the last month's invoice for the terminated service.

8. **Service Interface & Termination Requirements**

Contractor agrees to provide, at all times during the Term of this SWO, via a full duplex Ethernet Interface with auto negotiation at the capacities, interfaces, and Purchaser locations specified in Appendix 1. Contractor is solely responsible for all access and fiber/cabling infrastructure to the point of service handoff. For buildings owned by third parties and prior to commencing any work; Purchaser will provide Contractor with written authorization from the building owner granting all rights and access enabling Contractor to place fiber/cabling infrastructure to the point of service handoff as needed.

9. **Management VLANs**

Contractor agrees to provide, at all times during the Term of this SWO, a management VLAN for the Advanced Transport Services that allows Purchasers to check status of routes or network segments CTS will provide IP addresses to be used for secondary addressing as necessary at each network element. Where Contractor is providing only a single VLAN to CTS, Contractor may satisfy this requirement by providing an additional port on the existing VLAN.

10. **SNMP Access**

Contractor agrees to provide, at all times during the Term of this SWO, for those portions of the services which utilize routers, Purchasers with SNMP (SNMPv2 minimum, SNMPv3 preferred) access to each network element in the path dedicated exclusively to Purchaser traffic.

In Witness Whereof, the parties hereto, having read this SWO 18 to Contract Number T11-PCH-525 in its entirety, do agree thereto in each and every particular.

Approved

State of Washington
Consolidated Technology Services

ML

Doug Hoffer

Signature
Doug Hoffer

Print or Type Name
Assistant Director

Title

10/2/15

Date

Approved

Wave Division Holdings, LLC (d/b/a Wave Broadband)

Signature

PAUL KOSS

Print or Type Name

SVP BUSINESS SOLUTIONS

Title

9/24/2015

Date

Attachment 1
SWO 18
T15-RFQ-073
Secondary Ethernet Site List
Wave Division Holdings, LLC (d/b/a Wave Broadband)

Customer Site	Address	Location	Node	Mb	MRC	MRC Taxes	NRC	NRC Taxes	Trunk SWO
DSHS 3005	840 N Broadway, Bldg A	Everett	Olympia	100	$750.00	$18.75	$0	$0	9

Amendment Number 19
to
Contract Number T11-PCH-525
for
Secondary Transport Ethernet Services

In accordance with Provision 40 *Authority for Modifications and Amendments* of Contract T11-PCH-525, this Amendment number 19 is entered into by and between the State of Washington, Consolidated Technology Services (CTS) and Wave Division Holdings, LLC (Contractor).

The purpose of this Amendment is to extend the term of the Contract.

The parties hereby agree to amend the Contract as follows:

1. Contractor and CTS hereby agree to extend the term of the Contract from June 30, 2016 through June 30, 2017.

All other provisions of Contract T11-PCH-525, as previously amended, shall remain in full force and effect.

This Amendment 19 shall be effective as of the date signed by CTS.

Approved	**Approved**
State of Washington, Consolidated Technology Services	Wave Division Holdings, LLC
ML Doug Hoffer	
Signature	***Signature***
DOUG HOFFER	Patrick Moore
Print or Type Name	***Print or Type Name***
ASSISTANT DIRECTOR 2/1/16	EVP
Title **Date**	**Title** **Date**