

RESOLUTION 2018-031

PASSED: MARCH 12, 2018

**AUTHORIZING THE CITY MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH NORTHERN ILLINOIS UNIVERSITY FOR THE IMPLEMENTATION OF A SECONDARY INTERNET CONNECTION AND PRIMARY LEADS CONNECTION IN AN AMOUNT NOT TO EXCEED \$4,800 ANNUALLY.**

**WHEREAS**, the City of DeKalb, DeKalb County, Illinois is a home rule community with those powers granted under the provisions of the Illinois Constitution and the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et. seq.*; and

**WHEREAS**, the City of DeKalb currently maintains the Purchasing Manual, which relates to the Purchasing Policies in Section II of the Purchasing Policy; and,

**WHEREAS**, the City Council has directed that any intergovernmental agreement of this nature requires City Council approval;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:**

**Section 1:** That the City Council authorizes the City Manager to sign an intergovernmental agreement, subject to changes acceptable to the Mayor, with Northern Illinois University for a secondary Internet connection and primary LEADS connection service annually in an amount not to exceed \$4,800 substantially in the form attached hereto.

**Section 2:** That the City Clerk of the City of DeKalb, Illinois be authorized and directed to attest the Mayor's Signature and shall be effective thereupon.

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois, at a Regular meeting thereof held on the 12<sup>th</sup> day of March, 2018, and approved by me as Mayor on the same day. Passed by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: None.

**ATTEST:**

  
SUSANNA HERRMANN, City Clerk

  
JERRY SMITH, Mayor

Date: 2/23/18  
 Prepared For: DeKalb City  
 Quote#: KRF20180223D  
 Description: Internet Bandwidth Services +

Northern Illinois University  
 Information Technology Services  
 DeKalb, IL 60115  
 www.its.niu.edu



**Quote/Contract for  
 NIUNet Services**

	One-time Fee	Quantity - Years	Yearly Recurring	Total
100 Mbps Internet Bandwidth	\$760.00	1	\$4,800.00	\$4,800.00
1 Gbps Network Transport	n/a	1	Waived	
* State of Illinois LEADS circuit	n/a	1	Waived	
<b>Total Costs</b>				<b>\$4,800.00</b>

Prepared by: Kevin Finley  
 815-753-7272  
[kfinley@niu.edu](mailto:kfinley@niu.edu)

Customer Signature:

Date: 3-14-18

NIU Signature:

Email to: [kfinley@niu.edu](mailto:kfinley@niu.edu)

Preferred Annual Billing Period circle one (7/1 - 6/30) or (1/1 - 12/31)

NIUNet ISP Service service provided will be 100 Mbps of symmetrical Internet bandwidth. NIUNet 1 Gbps fiber network transport is provided for the listed services on this quote only. The annual standard fee of \$8,400 will be waived for this transport service. Any additional services may incur an additional charge. An NIU-owned IPv4 /29 subnet block (5 usable IP addresses) will be provided and sub-delegated within the ARIN database.

NIUNet demarcation equipment (Ciena 3916 switch) will be provided and will terminate at DeKalb City Police Department (700-W Lincoln Hwy, DeKalb, Illinois). The customer handoff will be via a 1,000 Mbps copper Ethernet port.

NIU fully understands the need for law enforcement staff to perform certain investigations/research using this Internet service which would not violate the accompanying Acceptable Use Policy.

\* State of Illinois LEADS circuit is provided at no additional charge for the duration of paid NIUNet Internet services only. Should NIUNet Internet services be discontinued, the LEADS circuit will require addition fees to remain in place. The LEADS network circuit will have available bandwidth of the remaining portion of the 1 Gbps transport circuit (1,000 Mbps Transport minus 100 Mbps NIUNet Internet bandwidth = 900 Mbps available bandwidth for LEADS). This exceeds the minimum required/requested LEADS bandwidth of 10 Mbps.

Service Term - 1 year invoiced annually



Northern Illinois University  
Division of Information Technology  
3100 N. Sycamore Road  
DeKalb IL 60115

## Terms and Conditions – Attachment 1

### 1. Purpose of NIUNet

NIUNet is an initiative of Northern Illinois University that is designed to provide general technical and development support, network services and co-location to other governmental and not-for-profit organizations affiliated with Northern Illinois University.

### 2. Services Provided

NIU will provide to Affiliate the following services as mutually agreed upon and set forth in a Service Order Form ("Services"):

- (a) *Transport.* Network services that provide for a point to point location through the NIUNet infrastructure. NIUNet can support 100/1000/10000Mb/sec speeds
- (b) *Internet Services.* NIUNet can provide a low-cost access to its current service provider for general commodity internet access.
- (c) *Co-location Services.* NIU can provide co-location space in the NIU data center for the housing of equipment in a secure and controlled environment.
- (d) *Helpdesk Services.* NIU can provide services for helpdesk administrative support and first level support for many commonly supported applications and systems.
- (e) *Monitoring Services.* NIUNet can offer alerting and monitoring service to devices connected through the NIUNet infrastructure. Monitoring services provide an on-call reporting system that allows the end-user notification of failing devices on the network.
- (f) *Filtering Services.* NIUNet can offer access to the NIU SPAM and Virus filtering for E-mail.
- (g) *IT Development Services.* NIU can assist in the development and deployment of application design for specific needs.

### 3. Restrictions

- (a) *Hardware.* The NIUNet infrastructure is owned by NIU. Affiliates are not allowed access to equipment operated and owned by NIU.
- (b) *Installation of equipment.* Any network equipment required to be installed into the NIUNet infrastructure will be installed by authorized NIU personnel only. NIU will authorize and specify equipment compatible with NIUNet on an as needed basis.
- (c) *Authorized Use.* NIUNet network connections are only for use by the authorized party to which service is granted. Connections may not be shared by any means including wired or wireless networking except as authorized by NIU.

### 4. Maintenance

- (a) *Facilities.* NIU reserves the right to schedule regular or emergency maintenance on the network equipment. NIU's general policy for scheduling maintenance is with advanced warning during off hours.
- (b) *Losses.* NIU cannot be held liable for losses incurred due to planned or unplanned outages in service.

### 5. Security

- (a) *Right to Monitor and Control Content.* NIU has no obligation to monitor information or material on the system or network. However, Affiliate agrees that NIU has the right to monitor the system electronically from time to time to disclose any information as necessary to satisfy the law, regulation or other governmental request, to operate properly, or to protect itself or its users. NIU will not intentionally monitor or disclose any private information unless required by law.
- (b) *Acceptable Use Policy.* NIU reserves the right to remove content or traffic from the network that violates the Northern Illinois University Acceptable Use Policy as defined in 'Attachment A'.
- (c) *Laws.* Use of the services provided must comply with all existing Federal, State and Local rules and regulations.
- (d) *Right to amend Acceptable Use Policy.* NIU reserves the right to amend the Northern Illinois University Acceptable Use Policy as defined in 'Attachment A'.

### 6. Payment

Affiliate shall pay for (i) Services set forth on the attached Schedule(s) 1 to this Agreement; (ii) any additional Services as provided in the applicable Service Order Form(s); and (iii) applicable maintenance services at the then-applicable rates. Without limiting the foregoing, Affiliate shall pay all one-time set-up and installation charges, any one-time or recurring telecommunications service charges (regardless of whether such costs are passed through by NIU or billed separately by a telecommunications provider), related administrative fees charged by NIU, and all sales and use taxes, as well as duties or levies arising in connection with the Services. The annual Affiliate fee is billed in advance on an annual basis, except Affiliate may elect monthly, quarterly or semi-annual billing for an additional administrative fee. The amount of the administrative fee will vary with the frequency of the billing. All other amounts will be billed as the service or charge is incurred. Some qualifying Affiliates may be granted extended payment terms for one-time set-up and installation charges with addition of an appropriate administrative fee. Payment is due within thirty (30) days from the date appearing on the invoice. Affiliate will be charged a 1.5% late charge on the first day of each month on all invoices remaining unpaid forty-five (45) days after the date appearing on the invoice. These payment terms do not apply to amounts paid to NIU through the USF program.

## 7. Term and Termination

- (a) *Term.* The term of this Agreement begins on the first date that network connectivity is provided by NIU, and shall be for a period of one (1) year:
- (b) *Renewals.* This agreement may be renewed or extended on terms mutually acceptable to the Parties.
- (c) *Early Termination.* If Affiliate terminates this Agreement for any reason other than NIU's breach of its responsibilities under this Agreement before the end of the term, or if NIU terminates this Agreement because of a violation by Affiliate of any term or provision of this Agreement including, but not limited to, Affiliate's failure to make any payment when due, then Affiliate shall be responsible for and shall pay (i) all telecommunications service charges applicable through the date service is actually terminated, regardless of the effective date of termination of the Agreement, and any related administrative fees charged by NIU, (ii) any additional early termination penalties or charges assessed by the telecommunications carrier, (iii) the balance of any remaining fiber access fees or amortized install charges, (iv) all costs associated with disconnecting Affiliate's service and removing any equipment from Affiliate's site (charged at the then-applicable rates for maintenance), (v) any outstanding amounts previously incurred for maintenance, (vi) if Affiliate previously received a discount as a result of agreeing to a term longer than one (1) year, an early termination penalty equal to the total amount of the discount, as calculated without any reduction or proration to reflect the point during the term at which the termination occurs, and (vii) if Affiliate previously received extended payment terms for one-time set-up and installation fees, the balance remaining plus any assessed administrative charge are due and payable upon termination. One-time installation charges are not refundable. In the event Affiliate requests NIU to continue providing any portion of the Services beyond the requested termination date, Affiliate agrees to pay NIU for those Services at the then-applicable rates in accordance with the terms of payment provided in Section 6 above. The above termination penalties do not apply to service moves or upgrades.
- (d) *Termination.* Upon termination of dedicated service with NIU, whether such termination occurs at the end of the initial term or any subsequent terms, or as an early termination during an agreement period, Affiliate agrees that all IP addresses assigned from NIU's CIDR block shall be promptly returned. In addition, Affiliate shall be responsible for transitioning responsibility of primary and/or secondary DNS to their own DNS server, or that of its new carrier.
- (e) *Price Adjustments.* If NIU initiates reduced Affiliate Fees to its Non-Profit Affiliates during the Agreement period, Affiliate may renew this Agreement at the new rates for a term of equal or greater length than the balance remaining on the initial term. In all instances, the renewal will be for a minimum of twelve (12) months and the renewal

rates will reflect the term discount of the new term period. If this Agreement provides Affiliate access via fiber connectivity, the Affiliate may renew at the new rates for a period coterminal with the initial agreement term.

## 8. Limited Warranty

NIU will supply, at no charge, new or rebuilt replacements for defective equipment or parts for the initial term of this Agreement. This Limited Warranty does not cover damages due to accident, misuse, abuse, or negligence. REPAIR OR REPLACEMENT AS PROVIDED UNDER THIS LIMITED WARRANTY IS THE EXCLUSIVE REMEDY OF AFFILIATE. NIU SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTY OR ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## 9. Rights and obligations of Affiliate

- (a) *Affiliate is Responsible to Its Authorized Users.* Affiliate is solely responsible for communicating with its own authorized users, and for handling all complaints and trouble reports made by its authorized users, with respect to the Services provided hereunder.
- (b) *Acceptable Use Restrictions.* NIU's Acceptable Use Policy ("AUP") applies to the use of all Services provided by NIU, including any unsupervised anonymous network access offered by Affiliate. By accepting Services from NIU, Affiliate agrees to comply with the AUP as defined in Attachment A' and any changes made from time to time thereto. Affiliate also agrees to be responsible for the compliance by its users with the AUP.

## 10. Rights and Obligations of NIU

NIU shall be responsible only for the operation and maintenance of the Services. Affiliate shall be responsible for maintaining and managing its own network that interfaces with the Services. NIU shall not be responsible for cabling that connects Affiliate-owned equipment to NIU equipment or the Services. Any interruption in the Services that is caused by the malfunction or interruption of any physical telecommunications media or facility (including, but not limited to cables and fiber optic lines) or by any malfunction or manufacturer's defects of equipment either provided by NIU to Affiliate or separately purchased by Affiliate will not be deemed a breach of NIU's obligations under this Agreement.

## 11. Indemnification

Affiliate will indemnify, save harmless and defend NIU and all of NIU's members and affiliates, as well as their respective employees, officers, directors and agents (collectively "Indemnified Parties") from and against any claims, damages, losses, liabilities, suits, actions, demands, proceedings (whether legal or administrative) and expenses (including, but not limited to reasonable attorney's fees incurred with or without suit, in arbitration or mediation, on appeal or in a bankruptcy or similar proceeding) (collectively "Claims") threatened, asserted, or filed by a third party against any of the Indemnified Parties to the extent that such third party Claims arise out of or relate to (i) the breach or alleged breach of this Agreement by Affiliate; (ii) any negligent or

tortious act or omission to act of Affiliate; or (iii) any claim that the data content delivered by Affiliate via the Services provided by NIU under this Agreement constitutes an infringement of any confidential information, trade secret, patent, copyright, trademark, trade name or other legal right of any third party, indirect consequence of the Services provided by NIU.

## 12. Limitation of Liability

AFFILIATES ACCESS TO AND USE OF THE SERVICES ARE AT ITS SOLE RISK. EXCEPT FOR THE LIMITED WARRANTY IN SECTION 8 ABOVE, THE SERVICES PROVIDED BY NIU ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. NIU DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR FREE OF HARMFUL COMPONENTS, EXCEPT FOR THE LIMITED WARRANTY IN SECTION 8 ABOVE. NIU MAKES NO EXPRESSED OR IMPLIED WARRANTIES. NIU AND ITS EMPLOYEES ARE NOT LIABLE FOR ANY COSTS OR DAMAGES ARISING FROM AFFILIATES USE OF THE SERVICES OR THE INTERNET, INCLUDING ANY INDIRECT, INCIDENTAL, EXEMPLARY, MULTIPLE, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES. AFFILIATE ASSUMES FULL RESPONSIBILITY AND RISK FOR THE USE OF THE SERVICES AND THE INTERNET, AND IS SOLELY RESPONSIBLE FOR EVALUATING THE ACCURACY, COMPLETENESS, AND USEFULNESS OF ALL SERVICES PROVIDED HEREUNDER. If Affiliate is dissatisfied with the Service(s) or with any terms, conditions, rules, policies, guidelines or practices of Provider in operating the Services(s), Affiliate's sole and exclusive remedy is to terminate this Agreement in accordance with Section 7, above, and discontinue using the Service(s). NIU's cumulative liability to Affiliate or any third party for any and all claims relating to the use of the equipment and Services provided by NIU shall in no event exceed the amount of the annual Affiliate fees paid by Affiliate to NIU during the twelve (12) month period ending on the date of the event giving rise to the claim. NIU shall not be liable for failure or delay in performing its obligations hereunder if such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the Services.

## 13. Data Content

NIU is not liable for the content of any data transferred either to or from Affiliate via the Services provided by NIU, nor for any loss or damage, whether personal, material, or financial, suffered by Affiliate as a direct or

## 14. Miscellaneous

- (a) *Governing Law; Jurisdiction.* The validity, interpretation, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of Illinois.
- (b) *Entire Agreement.* This Agreement, and the Service Order Forms entered into by the Parties from time-to-time, is the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous agreement. This Agreement may not be amended except upon the written consent of the parties. No failure to exercise and no delay in exercising any right, remedy, or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, or power provided herein or by law or in equity. The waiver by any party of the time for performance of any act or condition hereunder shall not constitute a waiver of the act or condition itself.
- (c) *Assignment.* This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Affiliate may not assign this Agreement without the prior written consent of NIU.
- (d) *Headings; Severability.* Headings used in this Agreement are for reference purposes only and shall not constitute a part hereof or affect the meaning or interpretation of this Agreement. If any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.
- (e) *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

## Northern Illinois University Acceptable Use Policy

### *Overview*

This Policy is a guide to the acceptable use of NIU network facilities and services (Services). Any Member or Affiliate organization or individual connected to NIU's network in order to use it directly, or to connect to any other network(s), must comply with this policy and the stated purposes and Acceptable Use policies of any other network(s) or host(s) used. Each Member and Affiliate organization is responsible for the activity of its users and for ensuring that its users are familiar with this policy or an equivalent policy. In addition, each Member and Affiliate is encouraged to maintain and enforce its own Acceptable Use policies. The provisions of this policy govern all use of the Services, including any unsupervised anonymous network access offered by Members or Affiliates. The following guidelines will be applied to determine whether or not a particular use of the Services is appropriate:

- (1) Users must respect the privacy of others. Users shall not intentionally seek information on, or represent themselves as, another user unless explicitly authorized to do so by that user. Nor shall Users obtain copies of, or modify files, other data, or passwords belonging to others.
- (2) Users must respect the legal protection applied to programs, data, photographs, music, written documents and other material as provided by copyright, trademark, patent, licensure and other proprietary rights mechanisms.
- (3) Users must respect the integrity of other public or private computing and network systems. Users shall not intentionally develop or use programs that harass other users or infiltrate any other computer, computing system or network and/or damage or alter the software components or file systems of a computer, computing system or network.
- (4) Use should be consistent with guiding ethical statements and accepted community standards. Use of the Services for malicious, fraudulent, or misrepresentative purposes is not acceptable.
- (5) The Services may not be used in ways that violate applicable laws or regulations.
- (6) The Services may not be used in a manner that precludes or significantly hampers network access by others. Nor may the Services be used in a manner that significantly impairs access to other networks connected to NIU.
- (7) Connections which create routing patterns that are inconsistent with the effective and shared use of the Services may not be established.
- (8) Users are prohibited from sending unsolicited advertising, whether commercial or informational in nature to addresses that have not specifically requested such material.
- (9) Repeated, unsolicited and/or unwanted communication of an intrusive nature is strictly prohibited. Continuing to send email messages or other communications to an individual or organization after being asked to stop is not acceptable.

The intent of this policy is to identify certain types of uses that are not appropriate, but this policy does not necessarily enumerate all possible inappropriate uses. Using the guidelines given above, NIU may at any time make a determination that a particular use is not appropriate. NIU will not monitor or judge the content of information transmitted via the Services, but will investigate complaints or abusive data stream patterns of possible inappropriate use. In the course of investigating complaints, NIU staff will safeguard the privacy of all parties and will themselves follow the guidelines given in this policy and in NIU's Privacy Policy. NIU will only release sensitive, confidential or personally identifiable information to third parties when required by law, or when in NIU's judgment, release is required to prevent serious injury or harm that could result from violation of this policy.

### *Remedial Action*

When NIU learns of possible inappropriate use, NIU staff will notify the Member or Affiliate responsible, who must take immediate remedial action and inform NIU of its action. NIU will assist the Member or Affiliate in identifying the nature and source of the inappropriate use and in implementing remedial action if requested. Provided the Member or Affiliate implements remedial action promptly, NIU will take no further action. If NIU is unable to contact the Member or Affiliate, or if the Member or Affiliate is unable to implement remedial action, NIU reserves the right to pursue remedial action independently. Wherever possible, NIU will pursue remedial action with the least impact to the overall service for the Member or Affiliate. Should the situation be considered an emergency, and NIU deems it necessary to prevent further inappropriate activity, NIU may temporarily disconnect a Member or Affiliate. An emergency is defined as: "Serious security incidents that require immediate attention to prevent harm to an individual, to protect information from loss or damage that would be difficult or impossible to correct or to deal with serious on-going denial of service attacks." If temporary disconnection is deemed necessary by NIU staff, every effort will be made to inform the Member or Affiliate prior to disconnection, and every effort will be made to re-establish the connection as soon as it is mutually deemed safe.