CONTRACT DOCUMENTS

CITY OF LINCOLN
NEBRASKA

ANNUAL REQUIREMENTS
FOR
Annual Supply of Network Stock
Bid No. 10-022

Dell Corporation
Elizabeth McCann
One Dell Way
Round Rock, TX 78682
512.728.7088

CITY OF LINCOLN
CONTRACT AGREEMENT

THIS CONTRACT, made and entered into this 17th day of March 2010, by and between **Dell Corporation, One Dell Way, Round Rock, TX 78682**, hereinafter called "Contractor", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called "City".

WHEREAS, the City has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

For providing **Annual Stock of Network Stock, Bid No. 10-022** and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the City, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, the City, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Responses, excluding items for the work and sums set forth in Line Items #'s 1, 2, 3, 4, 5, 8, 10, 11, 12, 18, 19, and 20 of Contractor's Proposal/Response, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the City has agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute and complete all Work included in and covered by the City's award of this Contract to the Contractor, such award being based on the acceptance by the City of the Contractor's Proposal, or part thereof, as follows:

   Agreement to Line Items 6, 7, 9, 13, 14, 15, 16, 17 and 21 of Contractor's Proposal.

2. The City agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the City:

   City will pay for products/service, according to the pricing as listed in Contractors Proposal/Supplier Response, excluding items for the work and sums set forth in Line Items #'s 1, 2, 3, 4, 5, 8, 10, 11, 12, 18, 19, and 20 of Contractor's Proposal/Response, a copy thereof being attached to and made a part of this Contract. The City shall order on an as needed basis for the duration of the contract.

3. Equal Employment Opportunity. In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

4. E-Verify. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.

5. Termination. This Contract may be terminated by the following:
   - 5.1) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
   - 5.2) Termination for Cause. The City may terminate the Contract for cause if the Contractor:
     - 5.2.1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide Annual Supply of Network Stock, Bid No. 10-022.
     - 5.2.2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
     - 5.2.3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the City will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.

6. Independent Contractor. It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

7. Contract Term. This Contract shall be effective upon execution by both parties. The term of the Contract shall be a four (4) year term from the date of execution by both parties.

8. The Contract Documents comprise the Contract, and consist of the following:
   1. Instructions to Bidders
   2. Accepted Proposal/Response
   3. Contract Agreement
   4. Specifications
   5. Sales Tax Exemption Form 13

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

_____
City Clerk

CITY OF LINCOLN, NEBRASKA

_____
Mayor

dated _____

EXECUTION BY CONTRACTOR

IF A CORPORATION:

ATTEST:

N/A _____(SEAL)
Secretary

Dell Marketing L.P.
Name of Corporation

One Dell Way, Round Rock, TX 78682
(Address)

By: C McCally
Duly Authorized Official

Sr. Contracts Manager
Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

_____
Name of Organization

_____
Type of Organization

_____
(Address)

By:_____
Member

By:_____
Member

IF AN INDIVIDUAL:

_____
Name

_____
Address

_____
Signature

City of Lincoln/Lancaster County (Lincoln Purchasing)
Supplier Response

Bid Information

Bid Creator	Tom Kopplin Asst. Purchasing Agent
Email	
Phone	1 (402) 441-7414
Fax	1 (402) 441-6513
Bid Number	10-022
Title	Annual Supply of Network Stock
Bid Type	Bid
Issue Date	01/27/2010
Close Date	2/10/2010 12:00:00 PM CST
Need by Date	

Contact Information

Address	440 S. 8th St. Lincoln, NE 68516
Contact	Deb
Department	Purchasing
Building	
Floor/Room	Suite 200
Telephone	(402) 441-7410
Fax	(402) 441-6513
Email	purchasing@lincoln.ne.gov

Ship to Information

Address	Information Services-Finance 233 S. 10th St., Ste. 200 Lincoln, NE 68508
Contact	Peggy Hielen
Department	
Building	
Floor/Room	
Telephone	(402) 441-6189
Fax	
Email	

Supplier Information

Company	Dell Corporation
Address	One Dell Way Round ROck, TX 78682
Contact	Elizabeth McCann
Department	
Building	
Floor/Room	
Telephone	1 (512) 7287088
Fax	1 (512) 2838840
Email	elizabeth_mccann@dell.com
Submitted	2/10/2010 9:20:27 AM CST
Total	$190,036.24

Signature _____

Supplier Notes

This offer is governed by the State of NE MHEC terms and conditions. Pricing is valid for acceptance for 90 days after bid opening.

If required or requested, Dell will provide copies of our proposed quotation to Lincoln.

Bid Notes

If you need assistance in preparing your bid, there are several options.

1) Click the the "Help" button in the upper right hand corner of any screen; 2) Contact our office for a training session in Purchasing or assistance over the phone; 3) View the PowerPoint presentation at http://www.lincoln.ne.gov/city/finance/purch/spec/veninst.ppt

Bid Messages

Please review the following and respond where necessary

#	Name	Note	Response
1	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
2	Specifications	I acknowledge reading and understanding the specifications.	Yes
3	Sample Contract	I acknowledge reading and understanding the sample contract.	Yes
4	Electronic Signature	Please check here for your electronic signature.	Yes
5	Contact	Name of person submitting this bid:	Rebecca Fontane

Line Items

#	Qty	UOM	Description	Response
1	1	EA	Nortel 1648T Ethernet Routing Switch w/48 10/100 and 4 SFP (p/n DJ1412E02)	$3,725.03
	Item Notes:			
	Supplier Notes:			
2	2	EA	Nortel 1612G Ethernet Routing Switch w/12 SFP (p/n DJ1412E03)	$4,789.92
	Item Notes:			
	Supplier Notes:			
3	2	EA	Nortel 1624G Ethernet Routing Switch w/24 SFP (p/n DJ1412E04)	$5,855.64
	Item Notes:			
	Supplier Notes:			
4	10	EA	Nortel 1000Base-SX Mini GBIC Fiber Interface (p/n AA1419013)	$224.09
	Item Notes:			
	Supplier Notes:			
5	10	EA	Nortel 1000Base-LX Mini GBIC Fiber Interface (p/n AA1419015)	$522.89
	Item Notes:			
	Supplier Notes:			
6	5	EA	Nortel 5520-48 10/100/1000 POE Closet Switch (p/n AL1001E05)	$3,976.52
	Item Notes:			
	Supplier Notes:			
7	5	EA	Nortel 5520-24 10/100/1000 POE Closet Switch (p/n AL1001E06)	$2,981.35
	Item Notes:			
	Supplier Notes:			

8	10	EA	Transition Networks 1000Base-SX SFP 850nm (p/n TN-SFP-SX)	$141.09
	Item Notes:			
	Supplier Notes:			
9	2	EA	Transition Networks 1000Base-SX SFP 1300nm (p/n TN-SFP-ESX6)	$595.93
	Item Notes:			
	Supplier Notes:			
10	10	EA	Transition Networks 1000Base-LX SFP 1310nm (p/n TN-SFP-LX1)	$240.69
	Item Notes:			
	Supplier Notes:			
11	2	EA	Transition Networks 1000Base-LX SFP 1310nm (p/n TN-SFP-LX3)	$439.89
	Item Notes:			
	Supplier Notes:			
12	10	EA	Trapeze MP-82 Mobility Point (pn MP82)	No Bid
	Item Notes:			
	Supplier Notes:			
13	10	EA	Trapeze MP-432 Mobility Point (pn MP432)	$786.00
	Item Notes:			
	Supplier Notes:			
14	10	EA	Nortel Ethernet Routing Switch 4500 24 Port 10/100/1000 (pn AL4500E05-E6)	$1,464.94
	Item Notes:			
	Supplier Notes:			
15	10	EA	Nortel Ethernet Routing Switch 4500 24 Port POE 10/100/1000 (pn AL4500E15-E6)	$1,807.73
	Item Notes:			
	Supplier Notes:			

16	10	EA	Nortel Ethernet Routing Switch 4500 48 Port 10/100/1000 (pn AL4500E04-E6)	$3,079.29
	Item Notes:			
	Supplier Notes:			
17	10	EA	Nortel Ethernet Routing Switch 4500 48 Port POE 10/100/1000 (pn AL4500E14-E6)	$3,422.08
	Item Notes:			
	Supplier Notes:			
18	10	EA	Minuteman Rack Mount 1U 1500 VA UPS (pn E1500RM1U)	No Bid
	Item Notes:			
	Supplier Notes:			
19	10	EA	Minuteman Rack Mount 2U 1500 VA UPS (pn E1500RM2U)	$589.29
	Item Notes:			
	Supplier Notes:			
20	10	EA	Minuteman EBP36XL Battery Pack (pn EBP36XL)	$313.73
	Item Notes:			
	Supplier Notes:			
21	10	EA	Minuteman 1500 VA UPS (pn PRO1500E)	$224.09
	Item Notes:			
	Supplier Notes:			
			Response Total:	$190,036.24

INSTRUCTIONS TO BIDDERS
CITY OF LINCOLN, NEBRASKA
E-Bid

1. **BIDDING PROCEDURE**
   - 1.1 Sealed bid, formal and informal, subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8th St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing the City of Lincoln, hereinafter referred to as "City", the materials, supplies, equipment or services shown in the electronic bid request.
   - 1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields.
   - 1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.
   - 1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
   - 1.5 Bids received after the time and date established for receiving bids will be rejected.
   - 1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.
   - 1.7 If bidding on a construction contract, the City's Standard Specifications for Municipal Construction 2006 shall apply.
     - 1.7.1 Bidders may obtain this document from the City's Design Engineering Division of the Public Works & Utilities Department for a small fee.
     - 1.7.2 Said document can be reviewed at Design Engineering or at the office of the Purchasing Division.
     - 1.7.3 Said document is available on the web site. http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspec/index.htm

2. **BID SECURITY**
   - 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bid bond, may be required to be submitted with this bidding document, as indicated on the bid.
     - 2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing Division at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.
     - 2.1.2 If bid security is not received in the office of the Purchasing Division as stated above, the vendor may be determined to be non-responsive.
   - 2.2 If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
   - 2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.
   - 2.4 Bid security will be returned to the successful Bidder(s) as follows:
     - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.
     - 2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.
   - 2.5 City shall have the right to retain the bid security of Bidders to whom an award is being considered until either:
     - 2.5.1 A contract has been executed and bonds have been furnished.
     - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
     - 2.5.3 All bids have been rejected.
   - 2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this bidding document:
     - 2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this bidding document.

3. **BIDDER'S REPRESENTATION**
   - 3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the bidding documents, and the bid has been made in accordance therewith.
   - 3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bidding documents.

4. **CLARIFICATION OF BIDDING DOCUMENTS**

4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the bidding documents.

4.2 Bidders desiring clarification or interpretation of the bidding documents for formal bids shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of formal bids.

4.3 Changes made to the bidding documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.

4.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on the City; and Bidders shall not rely upon such interpretations or changes.

5. **ADDENDA**

5.1 Addenda are instruments issued by the City prior to the date for receipt of bids which modify or interpret the bidding document by addition, deletion, clarification or correction.

5.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.

5.3 No formal addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

6. **INDEPENDENT PRICE DETERMINATION**

6.1 By signing and submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. **ANTI-LOBBYING PROVISION**

7.1 During the period between the bid advertisement date and the contract award, Bidders, including their agents and representatives, shall not lobby or promote their bid with the Mayor, any member of the City Council, or City staff except in the course of City sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

8. **BRAND NAMES**

8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.

8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.

8.3 Bids for alternate items shall be stated in the appropriate space on the e-bid form, or if the proposal form does not contain blanks for alternates, Bidder MUST attach to its bid document on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.

8.4 The Bidder must indicate any variances by item number from the bidding document no matter how slight.

8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with the City's bidding documents.

9. **DEMONSTRATIONS/SAMPLES**

9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.

9.2 Such demonstration can be at the City delivery location or a surrounding community.

9.3 If items are small and malleable, the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by the City of acceptable goods. The Bidder must indicate how samples are to be returned.

10. **DELIVERY (Non-Construction)**

10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise.

10.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.

10.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. to the City at the location specified by the City, with all transportation charges paid.

10.4 At the time of delivery, a designated City of Lincoln employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

11. WARRANTIES, GUARANTEES AND MAINTENANCE

11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid:

11.1.1 Manufacturer's warranties and/or guarantees.

11.1.2 Bidder's maintenance policies and associated costs.

11.2 As a minimum requirement of the City, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

12. ACCEPTANCE OF MATERIAL

12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.

12.2 Material delivered under this proposal shall remain the property of the Bidder until:

12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to the City; and

12.2.2 Material is determined to be in full compliance with the bidding documents and accepted bid.

12.3 In the event the delivered material is found to be defective or does not conform to the bidding documents and accepted bid, the City reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.

12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the bidding documents or purchase orders.

12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

13. BID EVALUATION AND AWARD

13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.

13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.

13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.

13.4 The bid will be awarded to the lowest responsible, responsive Bidder whose bid will be most advantageous to the City, and as the City deems will best serve the requirements and interests of the City.

13.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of the City.

13.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by the City. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.

13.7 The City reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the bid incomplete, indefinite or ambiguous.

13.8 Any governmental agency may piggyback on any contract entered into from this bid.

14. INDEMNIFICATION

14.1 The Bidder shall indemnify and hold harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless the City of Lincoln for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.

14.2 In any and all claims against the City or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

15. TERMS OF PAYMENT

15.1 Unless stated otherwise, the City will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

16. LAWS

16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this bid and any contract reached as a result of this process.

16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

17. EQUIPMENT TAX ASSESSMENT

17.1 Any bid for public improvement shall comply with Nebraska Revised Statute Sections 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

18. AFFIRMATIVE ACTION

18.1 The City of Lincoln Purchasing Division provides equal opportunity for all Bidders and encourages minority businesses and women's business enterprises to participate in our bidding process per the Lincoln Municipal Code Chapter 11.

19. LIVING WAGE

19.1 The Bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.

20. INSURANCE

20.1 All Bidders shall take special notice of the insurance provisions required for all City contracts (see *Insurance Requirements for All City Contracts*).

21. EXECUTION OF AGREEMENT

21.1 Depending on the type of service provided, one of the following three (3) methods will be employed. The method applicable to this contract will be checked below:

____ a. The contract shall consist of a **PURCHASE ORDER** and a copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the agreement and contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents. Items not awarded, if any, have been deleted.

_X_ b. The contract shall consist of a **YEARLY AGREEMENT** and a copy of the Bidder's bid response attached and that the same, in all particulars, becomes the agreement and contract between the parties hereto. That both parties thereby accept and agree to the terms and conditions of said bid documents. Items not awarded, if any, have been deleted.

____ c. Three (3) copies of the **CONTRACT**, unless otherwise noted.

1. City will furnish three (3) copies of the Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance, surety bonds properly executed, and Contract signed with the date of signature shall be attached.
2. The prepared documents shall be delivered to the City within 10 days (unless otherwise noted).
3. The City will sign the Contract, insert the date of signature at the beginning of the Contract, prepare an Executive Order to go the Mayor for signature.
4. Upon approval and signature from the Mayor, the City will return one copy to the successful Bidder.

22. TAXES AND TAX EXEMPTION CERTIFICATE

22.1 The City is generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.

23. CITY AUDIT ADVISORY BOARD

23.1 All parties of any City agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make Available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/order, as allowed by law.

24. **E-VERIFY**

24.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

Nebraska Department of **REVENUE**

Nebraska Resale or Exempt Sale Certificate

for Sales Tax Exemption

• Read instructions on reverse side/see note below

FORM 13

NAME AND MAILING ADDRESS OF PURCHASER	NAME AND MAILING ADDRESS OF SELLER
Name: City of Lincoln	Name: Dell Corporation
Street or Other Mailing Address: 555 South 10th Street	Street or Other Mailing Address: One Dell Way
City: Lincoln State: NE Zip Code: 68508	City: Round Rock, TX 78682 State: Zip Code:

Check Type of Certificate

☐ Single Purchase ☑ Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.

I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:

Check One ☐ Purchase for Resale (Complete Section A) ☑ Exempt Purchase (Complete Section B) ☐ Contractor (Complete Section C)

SECTION A—Nebraska Resale Certificate

Description of Item or Service Purchased

I hereby certify that the purchase, lease, or rental of

from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold.

I further certify that we are engaged in business as a: ☐ Wholesaler ☐ Retailer ☐ Manufacturer ☐ Lessor

of Description of Product Sold, Leased, or Rented

If None, State Reason

and hold Nebraska Sales Tax Permit Number 01-

or Foreign State Sales Tax Number State

SECTION B—Nebraska Exempt Sale Certificate

The basis for this exemption is exemption category 1 (Insert appropriate category as described on reverse of this form.)

If exemption category 2 or 5 is claimed, enter the following information:

Description of Item(s) Purchased Intended Use of Item(s) Purchased

If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05-

If exemption category 6 is claimed, seller must enter the following information and sign this form below:

Description of Item(s) Sold	Date of Seller's Original Purchase	Was Tax Paid when Purchased by Seller?	Was Item Depreciable?
		☐ YES ☐ NO	☐ YES ☐ NO

SECTION C—For Contractors Only

1. Purchases of Building Materials or Fixtures:

☐ As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01-

2. Purchases Made Under Purchasing Agent Appointment on behalf of _____:
(exempt entity)

☐ Pursuant to an **attached** Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.

Any purchaser, or their agent, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Neb. Rev. Stat. §§77-2701 through 77-27,135, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of $100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, this penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.

sign here ▶ Authorized Signature _____ Purchasing Agent (Title) 2-26-10 (Date)

NOTE: **Sellers must keep this certificate as part of their records. DO NOT SEND TO THE NEBRASKA DEPARTMENT OF REVENUE.**

Incomplete certificates cannot be accepted.

www.revenue.ne.gov, (800) 742-7474 (toll free in NE and IA), (402) 471-5729

NOTE: This form cannot be used to purchase materials used for WATER services. Materialsed used for WATER services are taxable per Reg. 066.14A.

6-134-1970 Rev. 3-2009
Supersedes 6-134-1970 Rev. 10-2007

INSTRUCTIONS

WHO MAY ISSUE A RESALE CERTIFICATE. Form 13, Section A, is to be issued by persons or organizations making purchases of property or taxable services in the **normal** course of their business for the purpose of resale either in the form or condition in which it was purchased, or as an ingredient or component part of other property.

WHO MAY ISSUE AN EXEMPT SALE CERTIFICATE. Form 13, Section B can only be issued by persons or organizations exempt from payment of the Nebraska sales tax by qualifying for one of the six enumerated **Categories of Exemption** (see below). Nonprofit organizations that have a 501(c) designation and are exempt from federal and state income tax are **not** automatically exempt from **sales** tax. Only the entities listed in the referenced regulations are exempt from paying Nebraska sales tax on their purchases when the exemption certificate is properly completed and provided to the seller. Organizations claiming a sales tax exemption may do so only on items purchased for their own use. For health care organizations, the exemption is limited to the specific level of health care they are licensed for. The exemption is not issued to the entire organization when multiple levels of health care or other activities are provided or owned by the organization. Items purchased by an exempt organization that will be resold must be supported by a properly completed Nebraska Resale Certificate, Form 13, Section A.

Indicate the category which properly reflects the basis for your exemption. Place the corresponding number in the space provided in Section B. If category 2 through 6 is the basis for exemption, you must complete the information requested in Section B.

Nebraska Sales and Use Tax Reg-1-013, Sale for Resale – Resale Certificate, and Reg-1-014, Exempt Sale Certificate, provide additional information on the proper issuance and use of this certificate. These and other regulations referred to in these instructions are available on our Web site: **www.revenue.ne.gov/legal/regs/slstaxregs.**

Use Form 13E for purchases of energy sources which qualify for exemption. Use Form 13ME for purchases of mobility enhancing equipment on a motor vehicle.

CONTRACTORS. Form 13, Section C, Part 1, must be completed by contractors operating under Option 1 or Option 3 to document their tax-free purchase of building materials or fixtures from their suppliers. Section C, Part 2, may be completed to exempt the purchase of building materials or fixtures pursuant to a Purchasing Agent Appointment, Form 17. See the contractor information guides on our Web site **www.revenue.ne.gov** for additional information.

WHERE TO FILE. Form 13 is given to the seller at the time of the purchase of the property or service or when sales tax is due. The certificate must be retained with the seller's records for audit purposes. Do not send to the Department of Revenue.

SALES TAX NUMBER. A purchaser who completes Section A and is engaged in business as a wholesaler or manufacturer is not required to provide an identification number. Out-of-state purchasers can provide their home state sales tax number. Section B does not require an identification number when exemption category 1, 2, or 5 is indicated.

PROPERLY COMPLETED CERTIFICATE. A purchaser must complete a certificate before issuing it to the seller. To properly complete the certificate, the purchaser must include: (1) identification of the purchaser and seller, (2) a statement whether the certificate is for a single purchase or is a blanket certificate, (3) a statement of basis for exemption including completion of all information for the basis chosen, (4) the signature of an authorized person, and (5) the date the certificate was issued.

PENALTIES. Any purchaser who gives a Form 13 to a seller for any purchase which is other than for resale, lease, or rental in the **normal** course of the purchaser's business, or is not otherwise exempted from sales and use tax under the Nebraska Revenue Act, shall be subject to a penalty of $100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse.

Any purchaser, or their agent, who fraudulently signs a Form 13 may be found guilty of a Class IV misdemeanor.

CATEGORIES OF EXEMPTION

1. Purchases made directly by certain governmental agencies identified in Nebraska Sales and Use Tax Reg-1-012, Exemptions; Reg-1-072, United States Government and Federal Corporations; and Reg-1-093, Governmental Units, are exempt from sales tax. A list of specific governmental units are provided in the above regulations. Governmental units are not assigned exemption numbers.

   Sales to the United States government, its agencies, and corporations wholly owned by the United States government are exempt from sales tax. However, sales to institutions chartered or created under federal authority, but which are not directly operated and controlled by the United States government for the benefit of the public, generally are taxable. Construction projects for federal agencies have specific requirements, see Reg-1-017 Contractors.

   Purchases that are **not** exempt from Nebraska sales and use tax include, but are not limited to, governmental units of other states, sanitary and improvement districts, urban renewal authorities, rural water districts, railroad transportation safety districts, and county historical or agricultural societies.

2. Purchases when the intended use renders it exempt as set out in paragraph 012.02D of Reg-1-012, Exemptions. Complete the description of the item purchased and the intended use as required on the front of Form 13. Sellers of **repair parts** for agricultural machinery and equipment cannot accept a Form 13 to exempt such sales from tax.

3. Purchases made by organizations that have been issued a Nebraska Exempt Organization - Certificate of Exemption are exempt from sales tax. Reg-1-090, Nonprofit Organizations; Reg-1-091, Religious Organizations; and Reg-1-092, Educational Institutions, identify such organizations. These organizations will be issued a Nebraska state exemption identification number. This exemption number must be entered in Section B of the Form 13.

4. Purchases of common or contract carrier vehicles and repair and replacement parts for such vehicles.

5. Purchases of manufacturing machinery or equipment by a taxpayer engaged in business as a manufacturer for use predominantly in manufacturing. This includes the installation, repair, or maintenance of such qualified manufacturing machinery or equipment (see Revenue Ruling 01-08-2).

6. A sale that qualifies as an occasional sale, such as a sale of depreciable machinery and equipment productively used by the seller for more than one year and the seller previously paid tax on the item. The **seller** must sign and give the exemption certificate to the purchaser. The certificate must be retained by the purchaser for audit purposes (see Reg-1-014, Exempt Sale Certificate).

ANNUAL SUPPLY OF NETWORK STOCK EQUIPMENT FOR INFORMATION SERVICES DIVISION (CITY OF LINCOLN)

1. **SCOPE**
   - 1.1 The City of Lincoln will enter into a contract for the annual supply of Network Stock Equipment, for a four (4) year period which will start on approximately March 1, 2010.
   - 1.2 All equipment to be New and NOT refurbished.
     - 1.2.1 Vendors can supply partial bids if necessary.
   - 1.3 No installation or maintenance costs required.
   - 1.4 Shipping to be FOB to Information Services Division, 233 South 10th Street, Suite 200, Lincoln, NE 68508-2250.

2. **ACCEPTANCE OF MATERIAL**
   - 2.1 Orders will normally be made on standard purchase orders issued by the Purchasing Agent.
     - 2.1.1 Orders may be placed by telephone directly by the Information Services Department.
     - 2.1.2 n any event, all orders will be assigned an order number.
   - 2.2 All correspondence, including acknowledgment of receipt of order, packing lists and invoices, shall carry the order number assigned by the City of Lincoln.
   - 2.3 Contractor shall group materials on his invoices as they are grouped on the City of Lincoln's order.

3. **NON-COMPLIANCE STATEMENT**
   - 3.1 Any and all exceptions to this specification must be written on Company Letterhead and attached to the response in the Response Attachments section of the bid.
     - 3.1.1 Non-compliance can void your bid.
   - 3.2 The submission of a bid shall be considered an agreement to all the terms, specifications, and conditions provided herein.

4. **WARRANTY**
   - 4.1 Manufacturer's usual warranty shall apply and shall be in effect from the date equipment placed into service.
   - 4.2 Vendor shall be responsible for all repairs, including parts, labor, and shipping during this manufacturer's warranty period.
   - 4.3 One copy of the manufacturer's standard warranty shall be furnished with the quotation.

5. **ESTIMATED QUANTITIES**
   - 5.1 The quantities set forth in the specification document are approximate and represent the estimated requirements of the Owners for the contract period.
   - 5.2 Items listed may or may not be inclusive of Owners requirements for this category.
   - 5.3 Category items not listed, but distributed by bidder are to be referred to as kindred items.
     - 5.3.1 An attribute will be listed to establish a percent off of the Vendors most current list price.
   - 5.4 The unit prices and the extended total prices shall be used only as a basis for the evaluation of bids.
     - 5.4.1 The actual quantity of materials necessary may be more or less than the estimates listed in the specification document, but the Owners shall be neither obligated nor limited to any specified amount.
     - 5.4.2 The Owners will, if possible, restrict increases/decreases to 20% of the estimated quantities listed in the specification document.

6. **CONTRACT AWARD**

6.1 If multiple awards are made, the Purchasing Division will issue a contract to all successful bidders.

6.1.1 Such contract will incorporate the Owners's specifications, and may incorporate the bidder's specifications.

6.2 Orders for materials will be made as needed by the Department.

7. **QUARTERLY REPORT**

7.1 The contractor shall provide to the Purchasing Agent a quarterly report, showing all purchases made under the terms and conditions of the contract.

7.2 Such quarterly report shall itemize the following information:

7.2.1 Each ordering Agency and Department.

7.2.2 Items and quantities purchased by Agency and Department.

7.3.3 Total dollar amount of purchases by Agency and Department.

8. **TERMINATION OF CONTRACT**

8.1 This contract may also be terminated by either party upon thirty (30) days prior notice in writing to the other party.

8.1.1 The Owner may terminate this contract immediately, under breach of contract, if the Contractor fails to perform in accordance with the terms and conditions.

8.1.2 In the event of any termination of contract by the Contractor, the Owner may purchase such supplies and/or services similar to those so terminated, and for the duration of the contract period the Contractor will be liable for all costs in excess of the established contract pricing.