



**MASTER SERVICES AGREEMENT #2023-069
DELIVERABLES-BASED INFORMATION TECHNOLOGY SERVICES**

THIS MASTER SERVICES AGREEMENT (“**Agreement**”), effective the last date of signed approval (“**Effective Date**”), is entered into by and between the **North Central Texas Council of Governments** (“**NCTCOG**”), a Texas political subdivision and non-profit corporation, with offices located at 616 Six Flags Drive, Arlington, TX 76011, and

Windstream Services, LLC
4005 N. Rodney Parham Rd.
Little Rock, AR 72212

(“Contractor”)

**ARTICLE I
RETENTION OF THE CONTRACTOR**

1.1 This Agreement defines the terms and conditions upon which the Contractor agrees to provide **Deliverables Based Information Technology Systems (DBITS)**, (hereinafter, “Services”) to governmental entities participating in the TXShare program (hereinafter “Participating Entities”). The Contractor is being retained to provide services described below to Participating Entities based on the Contractor’s demonstrated competence and requisite qualifications to perform the scope of the services described herein and in the Request for Proposals #2023-069 (hereinafter, “RFP”). The Contractor demonstrated they have the resources, experience, and qualifications to perform the described services, which is of interest to Participating Entities and was procured via the RFP. NCTCOG agrees to and hereby does retain the Contractor, as an independent contractor, and the Contractor agrees to provide services to Participating Entities, in accordance with the terms and conditions provided in this Agreement and consistent with Contractor’s response to the RFP.

**ARTICLE II
SCOPE OF SERVICES**

2.1 The Contractor will provide Services described in a written Purchase Order issued by NCTCOG or a TXShare Participating Entity. Any such Purchase Order is hereby incorporated by reference and made a part of this Agreement and shall be subject to the terms and conditions in this Agreement. In the event of a conflict between any term or provision in this Agreement and any term or provision in a Purchase Order, the term or provision in this Agreement shall control unless the conflicting term or provision in this Agreement is referenced, and expressly stated not to apply, in such Purchase Order.

2.2 All Services rendered under this Agreement will be performed by the Contractor: i) with due care; ii) in accordance with generally prevailing industry standards; iii) in accordance with Participating Entities’ standard operating procedures and applicable policies, as may be amended from time to time; and iv) in compliance with all applicable

laws, government regulatory requirements, and any other written instructions, specifications, guidelines, or requirements provided by NCTCOG and/or Participating Entities.

- 2.3 Any agreed-upon changes to a Purchase Order shall be set forth in a subsequent Purchase Order amendment. Contractor will not implement any changes, or any new Services until a Purchase Order has been duly executed by Participating Entity. For the avoidance of doubt, the Contractor acknowledges that Participating Entity is under no obligation to execute a Purchase Order. Participating Entity shall not be liable for any amounts not included in a Purchase Order in the absence of a fully executed amendment of Purchase Order.
- 2.4 Pricing for items in Appendix A represent the maximum cost for each item offered by the Contractor. Contractor and Participating Entity may mutually agree to a lower cost for any item covered under this agreement.

2.5 NCTCOG Obligations

- 2.5.1 NCTCOG shall make available a contract page on its TXShare.org website which will include contact information for the Contractor(s).

2.6 Participating Entity Obligations.

- 2.6.1 In order to utilize the Services, Participating Entities must have executed a Master Interlocal Agreement for TXShare with NCTCOG. This agreement with the Participating Entity will define the legal relationship between NCTCOG and the Participating Entity.
- 2.6.2 In order to utilize the Services, Participating Entities must execute a Purchase Order with the Contractor. This agreement with the Participating Entity will define the Services and costs that the Participating Entity desires to have implemented by the Contractor.

2.7 Contractor Obligations.

- 2.7.1 Contractor must be able to deliver, perform, install, and implement services with the requirements and intent of RFP #**2033-069**.
- 2.7.2 If applicable, Contractor shall provide all necessary material, labor and management required to perform this work. The scope of services shall include, but not be limited to, items listed in Appendix A.
- 2.7.3 Contractor agrees to market and promote the use of the TXSHARE awarded contract whenever possible among its current and solicited customer base. Contractor shall agree to follow reporting requirements in report sales made under this Master Services Agreement in accordance with Section 4.2.

ARTICLE III TERM

- 3.1 This Agreement will commence on the Effective Date and remain in effect for an initial term ending on **January 31, 2025** (the "**Term**"), unless earlier terminated as provided herein. This Agreement will automatically be renewed, unless NCTCOG explicitly desires otherwise, for up to four (4) additional one (1) year terms through **January 30, 2029**.
- 3.2 **Termination.** NCTCOG and/or Participating Entities may terminate this Agreement and/or any Purchase Order to which it is a signatory at any time, with or without cause, upon thirty (30) days' prior written notice to Contractor. Upon its receipt of notice of termination of this Agreement or Purchase Order, Contractor shall follow any instructions of NCTCOG respecting work stoppage. Contractor shall cooperate with NCTCOG and/or Participating Entities to provide for an orderly conclusion of the Services. Contractor shall use its best efforts to minimize the amount of any non-cancelable obligations and shall assign any contracts related thereto to NCTCOG or Participating Entity at its request. If NCTCOG or Participating Entity elects to continue any activities underlying a terminated Purchase Order after termination, Contractor shall cooperate with NCTCOG or Participating Entity to provide for an orderly transfer of Contractor's responsibilities with respect to such Purchase Order to NCTCOG or Participating Entity. Upon the effective date of any such termination, the Contractor shall submit a final invoice for payment in

accordance with Article IV, and NCTCOG or Participating Entity shall pay such amounts as are due to Contractor through the effective date of termination. NCTCOG or Participating Entity shall only be liable for payment of services rendered before the effective date of termination. If Agreement is terminated, certain reporting requirements identified in this Agreement shall survive termination of this Agreement.

- 3.2.1 **Termination for Cause:** Either party may immediately terminate this Agreement if the other party breaches its obligations specified within this Agreement, and, where capable of remedy, such breach has not been materially cured within thirty (30) days of the breaching party's receipt of written notice describing the breach in reasonable detail.
- 3.2.2 **Breach:** Upon any material breach of this Agreement by either party, the non-breaching party may terminate this Agreement upon twenty (20) days written notice to the breaching party. The notice shall become effective at the end of the twenty (20) day period unless the breaching party cures such breach within such period.

ARTICLE IV COMPENSATION

- 4.1 **Invoices.** Contractor shall submit an invoice to the ordering Participating Entity upon receipt of an executed Purchase Order and after completion of the work, with Net 30 payment terms. Costs incurred prior to execution of this Agreement are not eligible for reimbursement. There shall be no obligation whatsoever to pay for performance of this Agreement from the monies of the NCTCOG or Participating Entities, other than from the monies designated for this Agreement and/or executed Purchase Order. Contractor expressly agrees that NCTCOG shall not be liable, financial or otherwise, for Services provided to Participating Entities.
- 4.2 **Reporting.** NCTCOG intends to make this Agreement available to other governmental entities through its TXShare cooperative purchasing program. Contractor shall submit to NCTCOG on a calendar quarterly basis a report that identifies any new client Participating Entities, the date and order number, and the total contracted value of services that each Participating Entity has purchased and paid in full under this Master Service Agreement. Reporting and invoices should be submitted to:

NCTCOG
ATTN: TXShare
PO Box 5888
Arlington, TX 76005-5888
Email: TXShare@nctcog.org

ARTICLE V SERVICE FEE

- 5.1 **Explanation.** NCTCOG will make this Master Service Agreement available to other governmental entities, Participating Entities, and non-profit agencies in Texas and the rest of the United States through its TXShare cooperative purchasing program. The Contractor is able to market the Services under this Agreement to any Participating Entity with emphasis that competitive solicitation is not required when the Participating Entity purchases off of a cooperative purchasing program such as TXShare. However, each Participating Entity will make the decision that it feels is in compliance with its own purchasing requirements. The Contractor realizes substantial efficiencies through their ability to offer pricing through the TXShare Cooperative and that will increase the sales opportunities as well as reduce the need to repeatedly respond to Participating Entities' Requests for Proposals. From these efficiencies, Contractor will pay an administrative fee to TXShare calculated as a percentage of sales processed through the TXShare Master Services Agreement. This administrative fee is not an added cost to TXShare

participants. This administrative fee covers the costs of solicitation of the contract, marketing and facilitation, as well as offsets expenses incurred by TXShare.

5.2 **Administrative Fee.** NCTCOG will utilize an administrative fee, in the form of a percent of cost that will apply to all contracts between awarded contractor and NCTCOG or participants resulting from this solicitation. The administrative fee will be remitted by the contractor to NCTCOG on a quarterly basis, along with required quarterly reporting. The remuneration fee for this program will be 2% on sales.

5.3 **Setup and Implementation.** NCTCOG will provide instruction and guidance as needed to the Contractor to assist in maximizing mutual benefits from marketing these Services through the TXShare purchasing program.

ARTICLE VI RELATIONSHIP BETWEEN THE PARTIES

6.1 **Contractual Relationship.** It is understood and agreed that the relationship described in this Agreement between the Parties is contractual in nature and is not to be construed to create a partnership or joint venture or agency relationship between the parties. Neither party shall have the right to act on behalf of the other except as expressly set forth in this Agreement. Contractor will be solely responsible for and will pay all taxes related to the receipt of payments hereunder and shall give reasonable proof and supporting documents, if reasonably requested, to verify the payment of such taxes. No Contractor personnel shall obtain the status of or otherwise be considered an employee of NCTCOG or Participating Entity by virtue of their activities under this Agreement.

ARTICLE VII REPRESENTATION AND WARRANTIES

7.1 **Representations and Warranties.** Contractor represents and warrants that:

- 7.1.1 As of the Effective Date of this Agreement, it is not a party to any oral or written contract or understanding with any third party that is inconsistent with this Agreement and/or would affect the Contractor's performance under this Agreement; or that will in any way limit or conflict with its ability to fulfill the terms of this Agreement. The Contractor further represents that it will not enter into any such agreement during the Term of this Agreement;
- 7.1.2 NCTCOG is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from, or ineligible for, participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. Contractor and its subcontractors shall include a statement of compliance with Federal and State Debarment and suspension regulations in all Third-party contracts.
- 7.1.3 Contractor shall notify NCTCOG if Contractor or any of the Contractor's sub-contractors becomes debarred or suspended during the performance of this Agreement. Debarment or suspension of the Contractor or any of Contractor's sub-contractors may result in immediate termination of this Agreement.
- 7.1.4 Contractor and its employees and sub-contractors have all necessary qualifications, licenses, permits, and/or registrations to perform the Services in accordance with the terms and conditions of this Agreement, and at all times during the Term, all such qualifications, licenses, permits, and/or registrations shall be current and in good standing.
- 7.1.5 Contractor shall, and shall cause its representatives to, comply with all municipal, state, and federal laws, rules, and regulations applicable to the performance of the Contractor's obligations under this Agreement.

ARTICLE VIII CONFIDENTIAL INFORMATION AND OWNERSHIP

8.1 **Confidential Information.** Contractor acknowledges that any information it or its employees, agents, or subcontractors obtain regarding the operation of NCTCOG or Participating Entities, its products, services, policies, customer, personnel, and other aspect of its operation (“Confidential Information”) is proprietary and confidential, and shall not be revealed, sold, exchanged, traded, or disclosed to any person, company, or other entity during the period of the Contractor’s retention hereunder or at any time thereafter without the express written permission of NCTCOG or Participating Entity.

Notwithstanding anything in this Agreement to the contrary, Contractor shall have no obligation of confidentiality with respect to information that (i) is or becomes part of the public domain through no act or omission of Contractor; (ii) was in Contractor’s lawful possession prior to the disclosure and had not been obtained by Contractor either directly or indirectly from the NCTCOG or Participating Entity; (iii) is lawfully disclosed to Contractor by a third party without restriction on disclosure; (iv) is independently developed by Contractor without use of or reference to the NCTCOG’s Participating Entity’s Confidential Information; or (v) is required to be disclosed by law or judicial, arbitral or governmental order or process, provided Contractor gives the NCTCOG or Participating Entity prompt written notice of such requirement to permit the NCTCOG or Participating Entity to seek a protective order or other appropriate relief. Contractor acknowledges that NCTCOG and Participating Entities must strictly comply with applicable public information laws, in responding to any request for public information. This obligation supersedes any conflicting provisions of this Agreement.

8.2 **Ownership.** No title or ownership rights to any applicable software are transferred to the NCTCOG by this agreement. The Contractor and its suppliers retain all right, title and interest, including all copyright and intellectual property rights, in and to, the software (as an independent work and as an underlying work serving as a basis for any improvements, modifications, derivative works, and applications NCTCOG may develop), and all copies thereof. All final documents, data, reports, information, or materials are and shall at all times be and remain, upon payment of Contractor’s invoices therefore, the property of NCTCOG or Participating Entity and shall not be subject to any restriction or limitation on their future use by, or on behalf of, NCTCOG or Participating Entity, except otherwise provided herein. Subject to the foregoing exception, if at any time demand be made by NCTCOG or Participating Entity for any documentation related to this Agreement and/or applicable Purchase Orders for the NCTCOG and/or any Participating Entity, whether after termination of this Agreement or otherwise, the same shall be turned over to NCTCOG without delay, and in no event later than thirty (30) days after such demand is made. Contractor shall have the right to retain copies of documentation, and other items for its archives. If for any reason the foregoing Agreement regarding the ownership of documentation is determined to be unenforceable, either in whole or in part, the Contractor hereby assigns and agrees to assign to NCTCOG all rights, title, and interest that the Contractor may have or at any time acquire in said documentation and other materials, provided that the Contractor has been paid the aforesaid.

ARTICLE IX GENERAL PROVISIONS

9.1 **Notices.** All notices from one Party to another Party regarding this Agreement shall be in writing and delivered to the addresses shown below:

If to NCTCOG:

North Central Texas Council of Governments
P.O. Box 5888
Arlington, TX 76005-5888
Attn: Charlie Oberrender
(817) 695-9289
coberrender@nctcog.org

If to Contractor:

Windstream Services, LLC
4005 N. Rodney Parham Rd.
Little Rock, AR 72212
Attn: Suzette Stewart
Suzette.Stewart@windstream.com

The above contact information may be modified without requiring an amendment to the Agreement.

- 9.2 **Tax.** NCTCOG and several participating entities are exempt from Texas limited sales, federal excise and use tax, and does not pay tax on purchase, rental, or lease of tangible personal property for the organization's use. A tax exemption certificate will be issued upon request.
- 9.3 **Indemnification.** Contractor shall defend, indemnify, and hold harmless NCTCOG and Participating Entities, NCTCOG's affiliates, and any of their respective directors, officers, employees, agents, subcontractors, successors, and assigns from any and all suits, actions, claims, demands, judgments, liabilities, losses, damages, costs, and expenses (including reasonable attorneys' fees and court costs) (collectively, "Losses") arising out of or relating to: (i) Services performed and carried out pursuant to this Agreement; (ii) breach of any obligation, warranty, or representation in this Agreement, (iii) the negligence or willful misconduct of Contractor and/or its employees or subcontractors; or (iv) any infringement, misappropriation, or violation by Contractor and/or its employees or subcontractors of any right of a third party; provided, however, that Contractor shall have no obligation to defend, indemnify, or hold harmless to the extent any Losses are the result of NCTCOG's or Participating Entities' gross negligence or willful misconduct.
- 9.4 **Limitation of Liability.** In no event shall either party be liable for special, consequential, incidental, indirect or punitive loss, damages or expenses arising out of or relating to this Agreement, whether arising from a breach of contract or warranty, or arising in tort, strict liability, by statute or otherwise, even if it has been advised of their possible existence or if such loss, damages or expenses were reasonably foreseeable.
- Notwithstanding any provision hereof to the contrary, neither party's liability shall be limited by this Article with respect to claims arising from breach of any confidentiality obligation, arising from such party's infringement of the other party's intellectual property rights, covered by any express indemnity obligation of such party hereunder, arising from or with respect to injuries to persons or damages to tangible property, or arising out of the gross negligence or willful misconduct of the party or its employees.
- 9.5 **Insurance.** At all times during the term of this Agreement, Contractor shall procure, pay for, and maintain, with approved insurance carriers, the minimum insurance requirements set forth below, unless otherwise agreed in a Purchase Order between Contractor and Participating Entities. Further, Contractor shall require all contractors and sub-contractors performing work for which the same liabilities may apply under this Agreement to do likewise. All subcontractors performing work for which the same liabilities may apply under this contract shall be required to do likewise. Contractor may cause the insurance to be effected in whole or in part by the contractors or sub-contractors

under their contracts. Coverage shall be endorsed to the Customer as a Named Additional Insured. NCTCOG reserves the right to waive or modify insurance requirements at its sole discretion.

Workers' Compensation:

Statutory limits and employer's liability of \$100,000 for each accident or disease.

Commercial General Liability:

Required Limits:

\$1,000,000 per occurrence;

\$3,000,000 Annual Aggregate

Commercial General Liability policy shall include:

Coverage A: Bodily injury and property damage;

Coverage B: Personal and Advertising Injury liability;

Coverage C: Medical Payments;

Products: Completed Operations;

Fire Legal Liability;

Policy coverage must be on an "occurrence" basis using CGL forms as approved by the Texas State Board of Insurance.

Business Auto Liability: Coverage shall be provided for all owned hired, and non-owned vehicles. Required Limit: \$1,000,000 combined single limit each accident.

Professional Errors and Omissions liability:

Required Limits:

\$1,000,000 Each Claim

\$1,000,000 Annual Aggregate

- 9.5 **Conflict of Interest.** During the term of this Agreement, and all extensions hereto and for a period of one (1) year thereafter, neither party, shall, without the prior written consent of the other, directly or indirectly, whether for its own account or with any other persons or entity whatsoever, employ, solicit to employ or endeavor to entice away any person who is employed by the other party.
- 9.6 **Force Majeure.** It is expressly understood and agreed by both parties to this Agreement that, if the performance of any provision of this Agreement is delayed by force majeure, defined as reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated herein, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirement shall be extended for a period of time equal to the period of time such party was delayed. Each party must inform the other in writing within a reasonable time of the existence of such force majeure.
- 9.7 **Ability to Perform.** Contractor agrees promptly to inform NCTCOG of any event or change in circumstances which may reasonably be expected to negatively affect the Contractor's ability to perform its obligations under this Agreement in the manner contemplated by the parties.
- 9.8 **Availability of Funding.** This Agreement and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited by the receipt and availability of funds which are received from the Participating Entities by NCTCOG dedicated for the purposes of this Agreement.

- 9.9 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, United States of America. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Agreement shall be in Tarrant County, Texas.
- 9.10 **Waiver.** Failure by either party to insist on strict adherence to any one or more of the terms or conditions of this Agreement, or on one or more occasions, will not be construed as a waiver, nor deprive that party of the right to require strict compliance with the same thereafter.
- 9.11 **Entire Agreement.** This Agreement and any attachments/addendums, as provided herein, constitutes the entire agreement of the parties and supersedes all other agreements, discussions, representations or understandings between the parties with respect to the subject matter hereof. No amendments hereto, or waivers or releases of obligations hereunder, shall be effective unless agreed to in writing by the parties hereto.
- 9.12 **Assignment.** This Agreement may not be assigned by either Party without the prior written consent of the other Party.
- 9.13 **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intents of the Parties.
- 9.14 **Amendments.** This Agreement may be amended only by a written amendment executed by both Parties, except that any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in Federal and State law or regulations or required by the funding source, are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.
- 9.15 **Dispute Resolution.** The parties to this Agreement agree to the extent possible and not in contravention of any applicable State or Federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this Agreement informally through voluntary mediation, arbitration or any other local dispute mediation process, including but not limited to dispute resolution policies of NCTCOG, before resorting to litigation.
- 9.16 **Publicity.** Contractor shall not issue any press release or make any statement to the media with respect to this Agreement or the services provided hereunder without the prior written consent of NCTCOG.
- 9.17 **Survival.** Rights and obligations under this Agreement which by their nature should survive will remain in effect after termination or expiration hereof.

ARTICLE X ADDITIONAL REQUIREMENTS

- 10.1 **Equal Employment Opportunity.** Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, or national origin. Contractor shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, sexual orientation, gender identity, or national origin. Such actions 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 forms of compensation; and selection for training, including apprenticeship.
- 10.2 **Davis-Bacon Act.** Contractor agrees to comply with all applicable provisions of 40 USC § 3141 – 3148.

- 10.3 **Contract Work Hours and Selection Standards.** Contractor agrees to comply with all applicable provisions of 40 USC § 3701 – 3708 to the extent this Agreement indicates any employment of mechanics or laborers.
- 10.4 **Rights to Invention Made Under Contract or Agreement.** Contractor agrees to comply with all applicable provisions of 37 CFR Part 401.
- 10.5 **Clean Air Act, Federal Water Pollution Control Act, and Energy Policy Conservation Act.** Contractor agrees to comply with all applicable provisions of the Clean Air Act under 42 USC § 7401 – 7671, the Energy Federal Water Pollution Control Act 33 USC § 1251 – 1387, and the Energy Policy Conservation Act under 42 USC § 6201.
- 10.6 **Debarment/Suspension.** Contractor is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. Contractor and its subcontractors shall comply with the Certification Requirements for Recipients of Grants and Cooperative Agreements Regarding Debarments and Suspensions.
- 10.7 **Restrictions on Lobbying.** Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 10.8 **Procurement of Recovered Materials.** Contractor agrees to comply with all applicable provisions of 2 CFR §200.322.
- 10.9 **Drug-Free Workplace.** Contractor shall provide a drug free workplace in compliance with the Drug Free Work Place Act of 1988.
- 10.10 **Texas Corporate Franchise Tax Certification.** Pursuant to Article 2.45, Texas Business Corporation Act, state agencies may not contract with for profit corporations that are delinquent in making state franchise tax payments.
- 10.11 **Civil Rights Compliance**
Compliance with Regulations: Contractor will comply with the Acts and the Regulations relative to Nondiscrimination in Federally assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this agreement.
- Nondiscrimination: Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 45 CFR Part 21.
- Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of obligations under this contract and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, sex, or national origin.

Information and Reports: Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish this information, Contractor will so certify to NCTCOG, the Texas Department of Transportation (“the State”) or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of Contractor’s noncompliance with the Nondiscrimination provisions of this Agreement, NCTCOG will impose such sanctions as it or the State or the FHWA may determine to be appropriate, including, but not limited to: withholding of payments to the Contractor under this Agreement until the Contractor compiles and/or cancelling, terminating or suspension of this Agreement, in whole or in part.

Incorporation of Provisions: Contractor will include the provisions of the paragraphs listed above, in this section 10.11, in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Contractor will take such action with respect to any subcontract or procurement as NCTCOG, the State, or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, Contractor may request the State to enter into such litigation to protect the interests of the State. In addition, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

10.12 **Disadvantaged Business Enterprise Program Requirements**

Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. Each sub-award or subcontract must include the following assurance: *The Contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

10.13 **Pertinent Non-Discrimination Authorities**

During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- b. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- c. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- d. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- e. The Age Discrimination Act of 1975, as amended, (49 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- f. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- g. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the

Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).

- h. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- i. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- k. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- i. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

10.14 Ineligibility to Receive State Grants or Loans, or Receive Payment on State Contracts

In accordance with Section 231.006 of the Texas Family Code, a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five (25) percent is not eligible to:

- a. Receive payments from state funds under a contract to provide property, materials or services; or
- b. Receive a state-funded grant or loan.

By signing this Agreement, the Contractor certifies compliance with this provision.

10.15 House Bill 89 Certification

If contractor is required to make a certification pursuant to Section 2270.002 of the Texas Government Code, contractor certifies that contractor does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. If contractor does not make that certification, contractor state in the space below why the certification is not required.

10.16 Certification Regarding Disclosure of Conflict of Interest.

The undersigned certifies that, to the best of his or her knowledge or belief, that:

“No employee of the contractor, no member of the contractor’s governing board or body, and no person who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall participate in any decision relating to this contract which affects his/her personal pecuniary interest.

Executives and employees of contractor shall be particularly aware of the varying degrees of influence that can be exerted by personal friends and associates and, in administering the contract, shall exercise due diligence to avoid situations which give rise to an assertion that favorable treatment is being granted to friends and associates. When it is in the public interest for the contractor to conduct business with a friend or associate of an executive or employee

of the contractor, an elected official in the area or a member of the North Central Texas Council of Governments, a permanent record of the transaction shall be retained.

Any executive or employee of the contractor, an elected official in the area or a member of the NCTCOG, shall not solicit or accept money or any other consideration from a third person, for the performance of an act reimbursed in whole or part by contractor or Department. Supplies, tools, materials, equipment or services purchased with contract funds shall be used solely for purposes allowed under this contract. No member of the NCTCOG shall cast a vote on the provision of services by that member (or any organization which that member represents) or vote on any matter which would provide a direct or indirect financial benefit to the member or any business or organization which the member directly represents”.

No officer, employee or paid consultant of the contractor is a member of the NCTCOG.

No officer, manager or paid consultant of the contractor is married to a member of the NCTCOG.
No member of NCTCOG directly owns, controls or has interest in the contractor.

The contractor has disclosed any interest, fact, or circumstance that does or may present a potential conflict of interest.

No member of the NCTCOG receives compensation from the contractor for lobbying activities as defined in Chapter 305 of the Texas Government Code. Should the contractor fail to abide by the foregoing covenants and affirmations regarding conflict of interest, the contractor shall not be entitled to the recovery of any costs or expenses incurred in relation to the contract and shall immediately refund to the North Central Texas Council of Governments any fees or expenses that may have been paid under this contract and shall further be liable for any other costs incurred or damages sustained by the NCTCOG as it relates to this contract.

10.17 Certification of Fair Business Practices

That the submitter affirms that the submitter has not been found guilty of unfair business practices in a judicial or state agency administrative proceeding during the preceding year. The submitter further affirms that no officer of the submitter has served as an officer of any company found guilty of unfair business practices in a judicial or state agency administrative during the preceding year.

10.18 Certification of Good Standing Texas Corporate Franchise Tax Certification

Pursuant to Article 2.45, Texas Business Corporation Act, state agencies may not contract with for profit corporations that are delinquent in making state franchise tax payments. The undersigned authorized representative of the corporation making the offer herein certified that the following indicated Proposal is true and correct and that the undersigned understands that making a false Proposal is a material breach of contract and is grounds for contract cancellation.

10.19 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

Pursuant to Public Law 115-232, Section 889, and 2 Code of Federal Regulations (CFR) Part 200, including §200.216 and §200.471, NCTCOG is prohibited from using federal funds to procure, contract with entities who use, or extend contracts with entities who use certain telecommunications and video surveillance equipment or services provided by certain Chinese controlled entities. The Contractor agrees that it is not providing NCTCOG with or using telecommunications and video surveillance equipment and services as prohibited by 2 CFR §200.216 and §200.471. Contractor shall certify its compliance through execution of the “Prohibited Telecommunications and Video Surveillance Services or Equipment Certification,” which is included as Appendix D of this Contract. The Contractor shall pass these requirements down to any of its subcontractors funded under this Agreement. The Contractor shall notify NCTCOG if the Contractor cannot comply with the prohibition during the performance of this Contract.

10.20 Discrimination Against Firearms Entities or Firearms Trade Associations

Pursuant to Texas Local Government Code Chapter 2274, Subtitle F, Title 10, prohibiting contracts with companies who discriminate against firearm and ammunition industries. NCTCOG is prohibited from contracting with entities, or extend contracts with entities who have practice, guidance, or directive that discriminates against a firearm entity or firearm trade association. Contractor shall certify its compliance through execution of the “Discrimination Against Firearms Entities or Firearms Trade Associations Certification,” which is included as Appendix D of this Contract. The Contractor shall pass these requirements down to any of its subcontractors funded under this Agreement. The Contractor shall notify NCTCOG if the Contractor cannot comply with the prohibition during the performance of this Contract.

10.21 Boycotting of Certain Energy Companies

Pursuant to Texas Local Government Code Chapter 2274, Subtitle F, Title 10, prohibiting contracts with companies who boycott certain energy companies. NCTCOG is prohibited from contracting with entities or extend contracts with entities that boycott energy companies. Contractor shall certify its compliance through execution of the “Boycotting of Certain Energy Companies Certification,” which is included as Appendix D of this Contract. The Contractor shall pass these requirements down to any of its subcontractors funded under this Agreement. The Contractor shall notify NCTCOG if the Contractor cannot comply with the prohibition during the performance of this Contract.

10.22 Domestic Preference

As appropriate and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Consistent with §200.322, the following items shall be defined as: “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Windstream Services, LLC

North Central Texas Council of Governments

Tara Sheridan 4/2/2024
Signature Date

DocuSigned by:
Mike Eastland 4/2/2024
A4E72C1BEF0F426...
Signature Date

Tara Sheridan
Printed Name

R. Michael Eastland
Executive Director

Sr. Director WE-Vertical Solutions
Title

APPENDIX A
Statement of Work

EXHIBIT A

Description of Desired Product Categories for Proposed Pricing

Respondents should furnish a proposal that specifies pricing for the products and services they propose. Responses to this Exhibit should be addressed in Tab F.

Responses are encouraged from vendors who can only provide a handful of products and services. Respondents are not expected to be able to provide the entirety of the desired services, though are welcome to if they are able!

NCTCOG prefers vendors that provide a sole source of responsibility for the products and services provided under a resulting contract. If Proposer requires the use of dealers, resellers, or subcontractors to provide the products or services, the Proposal should address how the products or services will be provided to Members and describe the network of dealers, resellers, and/or subcontractors that will be available to serve TXShare Members under a resulting contract.

NCTCOG desires the broadest possible selection of products and services being proposed over the largest possible geographic area and to the largest possible cross-section of TXShare current and potential members.

Respondents should furnish a price proposal that specifies pricing for the various services they propose to offer. This may be proposed in the manner most preferred by the Respondent (i.g. flat-fee, per license, catalog percentage-discount, per client, hourly, per user, etc.). This pricing shall be available for the same rate at any location in the United States unless designated otherwise in your proposed pricing.

The actual cost to each member agency may be negotiated further below the proposed rate between the awarded Contractor and the member agency based on the size and scope of the specific services needed to successfully complete the work using the rates provided in Tab F, at the Contractor's discretion.

Respondents are encouraged to use as many pages as necessary.

The following selection is not **all-encompassing**, and additional categories are desired.

1. **Application Development** - Application Development is the development of new applications which may be server, network-based, cloud-based, web-based or a combination and may require interfaces to existing applications. Application Maintenance and Support includes troubleshooting, modifying, maintaining, improving security, and enhancing legacy systems and applications which may be running in a production environment. Examples may include:
 - Designing, developing, and deploying custom software applications to meet our specific business needs.
 - Creating user-friendly interfaces and intuitive user experiences.
 - Ensuring scalability, performance, and security of the applications.
 - Utilizing modern development frameworks and technologies.
 - Enhancing and maintaining existing applications to meet evolving business needs.
 - Conducting thorough testing, debugging, and documentation of applications.

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2. **Application Maintenance and Support** – Application Maintenance and Support includes troubleshooting, modifying, maintaining, improving security, and enhancing legacy systems and applications which may be running in a production environment. Examples may include:
 - Providing ongoing maintenance and support services for our existing applications.
 - Conducting regular monitoring and enhancements to ensure optimal performance.
 - Offering timely response and resolution to reported issues and incidents.
 - Performing routine updates, bug fixes, and troubleshooting.
 - Ensuring the availability, responsiveness, performance, and security of applications.
 - Applying industry best practices and proactive measures to minimize downtime.

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3. **Data Management, Analytics, and Automation** – A data warehouse collects, organizes and makes data available for the purpose of analysis and gives organizations the ability to access and analyze information about its business. The function of the data warehouse is to consolidate and reconcile information from across disparate business units and IT systems and provide a context for reporting and analysis.

Road mapping for a data warehouse initiative may include assessment of technology and infrastructure, as-is documentation, business requirements gathering, use case development, and reporting requirements analysis. Examples may include:

- Developing robust data management strategies to handle large volumes of structured and unstructured data.
- Designing and implementing efficient data storage, retrieval, and processing mechanisms.
- Ensuring data integrity, quality, and compliance with relevant regulations.
- Employing data analytics and visualization techniques to derive valuable insights.
- Data cleansing, scrubbing, transformation, integration, and migration services.
- Data modeling, database design, governance, and optimization.
- Solutioning data warehouse architectural design, data warehouse processes and sourcing, extraction, transformation, analytics, and loading of data sources.
- Planning, assessment, product installation and tuning.
- Prototype development, deployment, data cleansing, data mart development and support.
- Data integration with data mining.
- Integration with business intelligence tools, artificial intelligence, and/or systems.
- Data/database training and knowledge transfer.

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4. **Enterprise Architecture** – Enterprise Architecture focuses on the strategic alignment and optimization of an organization's IT infrastructure, systems, processes, and technologies. It involves the design and implementation of a holistic and integrated framework that supports the organization's current and future business goals. In the context of this RFO, the Enterprise Architecture category refers to the vendor's expertise in assessing the organization's existing IT landscape and developing a comprehensive architecture framework that aligns with business objectives. This includes defining the structure, components, relationships, and standards for the organization's IT systems and applications. Examples may include:

- **Assessing Current State:** The vendor evaluates the organization's existing IT infrastructure, applications, and technologies to understand their strengths, weaknesses, and alignment with business goals. This assessment helps identify areas for improvement and optimization.
- **Designing Future State:** Based on the organization's strategic objectives and business requirements, the vendor develops a target architecture that outlines the desired future state of the IT landscape. This involves identifying technology solutions, platforms, and frameworks that enable business growth and agility.
- **Integration and Interoperability:** The vendor ensures seamless integration and interoperability between different systems and applications within the organization's IT ecosystem. This involves defining data exchange mechanisms, interfaces, and protocols to facilitate efficient and reliable information flow.
- **Standards and Best Practices:** The vendor establishes technology standards, guidelines, and best practices that govern the design, development, deployment, and maintenance of IT systems and applications. This promotes consistency, reusability, and scalability across the organization.
- **Governance and Compliance:** The vendor defines governance mechanisms to ensure adherence to architectural standards, policies, and guidelines. This includes establishing review processes, change management procedures, and compliance with regulatory requirements.
- **Transformation Planning:** The vendor collaborates with the organization to develop a roadmap for implementing the architecture framework. This includes identifying priority areas for transformation, sequencing initiatives, estimating resources, and defining key milestones.
- **Technology Evaluation:** The vendor conducts assessments of emerging technologies, platforms, and solutions to determine their suitability for the organization's architecture framework. This helps in making informed decisions about adopting or integrating new technologies.

5. **Project Management** - Project and Program management services include any or all of the project management processes identified by the Project Management Institute (PMI) as published in the most recent edition of the PMBOK® Guide, including practice guides such as Agile and Managing Change in Organizations. Examples may include:

- Business case development and organizational/agency impact analysis.
- Planning, organizing, and overseeing IT projects from initiation to completion.
- Planning, organizing, and executing IT projects according to industry standards.
- Defining project objectives, deliverables, and success criteria.
- Managing project resources, schedules, budgets, and risks.
- Stakeholder management.
- Organizational change management.
- Communicating project progress and providing regular status updates.
- Conducting Cost-Benefit analysis.
- Conducting risk assessments and implementing mitigation strategies.
- Utilizing the Customer's tools and processes, using commercially available off-the-shelf tools, using Contract Holder's own proprietary tools and processes to manage a project, and using the Customer's preferred Project Delivery Framework.

6. Technology Upgrade, Migration, and Transformation – Technology upgrade, migration, and transformation may be accomplished by converting/migrating legacy applications to new technology, either with or without new business functionality. It may also include introducing new technology into the enterprise and managing any changes as a result of the introduction. Examples may include:

- Assessments of the current application portfolio, evaluation of the technology assets before beginning technology transformation and Business Case development for justification of an initiative.
- Converting/migrating legacy applications to new technology, either with or without new business functionality. It may also include introducing new technology into the enterprise and managing any changes as a result of the introduction.
- Part of the transformation journey may include planning, analysis, requirements development, proof of concept, deployment, implementation, integration, remediation, data migration, documentation, application programming and support services, and training support.

7. **Business Intelligence** - Business Intelligence (BI), Data Management, Analytics, and Automation, including Data Warehousing. Examples may include:

- BI enables an organization to perform in-depth analysis and includes, where required, data mining of detailed business data providing real and significant information to business users. BI may include an integrated group of operational and decision support applications and databases. BI makes use of tools designed to easily access data warehouse data. A data warehouse collects, organizes, and makes data available for the purpose of analysis and gives organizations the ability to access and analyze information about its business. The function of the data warehouse is to consolidate and reconcile information from across disparate business units and IT systems and provide a context for reporting and analysis.
- Road mapping for a data warehouse initiative may include assessment of technology and infrastructure, as-is documentation, business requirements gathering, use case development, and reporting requirements analysis.

8. **Kentico Maintenance and Support** – Kentico Maintenance and Support includes troubleshooting, modifying, upgrading, maintaining, improving security, and enhancing systems and applications which may be running in a production environment. Examples may include:

- Designing and implementing new solutions built upon Kentico functionality.
- Providing ongoing maintenance and support services for our existing applications.
- Conducting regular monitoring and enhancements to ensure optimal performance.
- Offering timely response and resolution to reported issues and incidents.
- Performing routine updates, bug fixes, and troubleshooting.
- Performing major application/server upgrades related to this application.
- Ensuring the availability, responsiveness, performance, and security of applications.
- Applying industry best practices and proactive measures to minimize downtime.
- Applying security best practices and proactive measures to minimize exposure to threats and/or data loss.
- Migrating externally hosted (non-Kentico) websites to Kentico.
- Upgrading existing Kentico websites/environments to current Kentico release.
- Identify performance issues and develop improvements.
- Supply knowledge transfer as necessary.

9. **Laserfiche Maintenance and Support** – Laserfiche Maintenance and Support includes troubleshooting, modifying, upgrading, maintaining, improving security, and enhancing systems and applications which may be running in a production environment. Examples may include:

- Designing and implementing new solutions built upon Laserfiche functionality.
- Providing ongoing maintenance and support services for our existing applications.
- Conducting regular monitoring and enhancements to ensure optimal performance.
- Offering timely response and resolution to reported issues and incidents.
- Performing routine updates, bug fixes, and troubleshooting.
- Performing major application/server upgrades related to this application.
- Ensuring the availability, responsiveness, performance, and security of applications.
- Applying industry best practices and proactive measures to minimize downtime.
- Applying security best practices and proactive measures to minimize exposure to threats and/or data loss.
- Identify performance issues and develop improvements.
- Supply knowledge transfer as necessary.

10. **Microsoft Maintenance and Support** – Microsoft Maintenance and Support includes troubleshooting, modifying, upgrading, maintaining, improving security, and enhancing systems and applications which may be running in a production environment. Examples may include:

- Designing and implementing new solutions built upon Microsoft technology/functionality.
- Providing ongoing maintenance and support services for our existing applications.
- Conducting regular monitoring and enhancements to ensure optimal performance.
- Offering timely response and resolution to reported issues and incidents.
- Performing routine updates, bug fixes, and troubleshooting.
- Ensuring the availability, responsiveness, performance, and security of applications.
- Applying industry best practices and proactive measures to minimize downtime.
- Supply knowledge transfer as necessary.
- Aforementioned maintenance and support activities may include one or more of the following Microsoft technologies:
 - Azure
 - Microsoft/Office 365
 - SharePoint Online
 - Dynamics 365
 - Teams
 - PowerPlatform
 - PowerApps
 - Newly released technologies and features

11. **Smartsheet Maintenance and Support** – Smartsheet Maintenance and Support includes troubleshooting, modifying, upgrading, maintaining, improving security, and enhancing systems and applications which may be running in a production environment. Examples may include:

- Designing and implementing new solutions built upon Smartsheet functionality.
- Providing ongoing maintenance and support services for our existing applications.
- Conducting regular monitoring and enhancements to ensure optimal performance.
- Offering timely response and resolution to reported issues and incidents.
- Performing routine updates, bug fixes, and troubleshooting.
- Ensuring the availability, responsiveness, performance, and security of applications.
- Applying industry best practices and proactive measures to minimize downtime.
- Identify performance issues and develop improvements.
- Supply knowledge transfer as necessary.
- Aforementioned maintenance and support activities may include one or more of the following Smartsheet technologies:
 - Sheets
 - Workspaces
 - Calendars
 - Control Center
 - WorkApps
 - Dynamic Views
 - DataShuttle
 - DataMesh
 - Pivot
 - Newly released features

12. **Geospatial Software and Data Support**– Geospatial software maintains, processes, and serves geographically-enabled data for both visual and analytical output. Geographical Information Systems (GIS) are an example of a software architecture providing this function. Support may include designing, maintaining, installing, configuring, and enhancing both the software and the data. It also may include developing web-based geospatial applications and services. Examples may include:

- Designing, architecting, or analyzing a geospatial software infrastructure.
- Installing and configuring geospatial software, especially in multi-server environments.
- Creating or updating high accuracy geospatial data, including potential acquisition over a geographical large area.
- Creating programming tools for geospatial data processing or analysis.
- Developing geospatial web pages and services, including highly responsive, interactive interfaces.
- Designing and managing geospatial databases, building spatial indices, leveraging spatial data types.
- Providing temporary staffing to work with geospatial software and data.

13. **Products and Services Otherwise Not Anticipated in the RFP** - Any additional products or services that are not presently anticipated by the scope of work in this RFP may be proposed by the Respondent. Additional products or services that comport with the existing Product Categories and/or additional Product Categories that were not listed are encouraged to be proposed by vendors who are so capable. Description of the service and associated costs are to be so identified and Respondent may use as many pages as necessary to describe these additional products or services.

NCTCOG Agency/Department specific categories:

14. **PEBC Employee Benefits Enrollment Application and Database Software Maintenance and Support** – PEBC Maintenance and Support includes troubleshooting, modifying, upgrading, maintaining, improving security, and enhancing systems and applications which may be running in a production environment. This software is written in C#, housed in Azure, and the data is housed in a SQL Server database. PEBC provides healthcare benefits administrative services for Dallas County, Tarrant County, Denton County, Parker County and the North Texas Tollway Authority. Files are received weekly from each entity related to the health insurance being provided to employees and retirees. These files are reviewed, loaded and processed into the database using the Benefits Administration Software.
- The software uses rules engines and stored procedures to:
 - identify errors in the data;
 - make corrections;
 - prepare the information for submittal to insurance providers; and
 - process files containing information on tax saver and/or health savings plans that are submitted to vendors.
 - In addition to traditional software maintenance activities of bug fixes, patches, etc., the vendor will also:
 - provide software development services as needed for development of new features
 - perform modifications required due to regulatory changes or plan changes of customer entities
 - Maintain the Azure environment from the standpoint of provisioning users, removing users, ensuring updates to the environment are made using a process that ensure the system continues to operate accurately and performance meet PEBC needs.
 - Security of the system is critical. This requires:
 - The vendor to possess and exercise expertise in Microsoft Azure security best practices around, but not limited to:
 - Network segmentation,
 - Network Security Groups,
 - Azure Security Center,
 - Data security/encryption
 - Identity management,
 - Virtual machine hardening, and
 - Endpoint access control.
 - All application development must, at a minimum, adhere to the standards outlined in the Open Web Application Security Project's (OWASP) Application Security Verification Standard (ASVS) at Level 2.
 - All code changes must be scanned for vulnerabilities before being put to User Acceptance Testing to ensure any weaknesses are addressed. Additionally, all software in use must remain current to provide a secure environment so the vendor will be responsible for ensuring that occurs. Additional responsibilities include documenting and managing the process for adding new users to the system and removing users when requested by PEBC. The successful vendor will be required to sign a Business Associate Agreement with PEBC. This agreement satisfies the HIPAA requirements of the engagement.
 - Submit data updates to vendors in custom data formats
 - Assure high data integrity, while meeting regular (at least weekly) data processing deadlines
 - Implement innovative data programming techniques to meet unique business needs
 - A comprehensive and detailed list of desired features can be found as PEBC Scope of Services.

Detailed Scope of Work: The response document should provide a comprehensive description of the project's scope of work, including but not limited to:

1. Background information about our organization, including our industry, size, and strategic objectives.
2. Specific project objectives, goals, and desired outcomes.

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3. Detailed description of each service category and associated deliverables.
4. Required qualifications and experience of the vendor, including any certifications or specialized expertise.
5. Specifications for the hardware, software, and technologies to be utilized.
6. Project timeline, milestones, and dependencies.
7. Reporting requirements and communication protocols.
8. Evaluation criteria and weightage for vendor selection.
9. Budget and pricing structure, including any additional costs or contingencies.
10. Terms and conditions, including intellectual property rights, liability, and confidentiality.

The proposal for Deliverable 14 should also include the following information:

1. Vendor's background, including company profile, years of experience, and relevant industry certifications.
2. Detailed approach and methodology to address each service category, with clear alignment to our objectives.
3. Project team composition, roles, and qualifications, highlighting relevant experience and expertise.
4. Case studies, references, and success stories related to similar projects, demonstrating a track record of delivering successful IT solutions.
5. Pricing details, including cost estimates and any additional charges.
6. Proposed timeline and milestones for project execution, with consideration for potential risks and contingencies.
7. Implementation plan, including risk mitigation strategies and change management processes.
8. Any additional information or documentation that the vendor deems relevant.

PEBC Support and Maintenance SCOPE OF SERVICES

This section is intended to complement but not repeat the overview section at the front of this RFP. To gain a basic understanding regarding the overall approach of this RFP, the proposer should read both sections and respond to the criteria listed in both.

The following features, or the equivalent of, are essential features of the software solution that NCTCOG desires. The proposer should identify if they possess the ability or willingness to provide for each feature, and a description of Proposer's method of delivery for each:

1. Services to be Provided

- 1.1 SOFTWARE must remain available 99.9% of the time. Contractor will not be held accountable for outages as a result of Azure outages.
- 1.2 Contractor shall install the current release of SOFTWARE and any subsequent patches or updates to the version. Contractor will ensure SOFTWARE installation performs to the specified performance level.
- 1.3 Maintain SOFTWARE to ensure it continues to work as designed and accepted by PEBC and resolve any bugs identified by PEBC according to the adopted Service Level Agreement.
- 1.4 Assist, as needed, with data maintenance, including changes to data in fields as identified by PEBC.
- 1.5 Program and implement changes to SOFTWARE as identified by PEBC during Annual Enrollment.
- 1.6 Assist with maintenance, modification and addition to the rules contained in the rules engine and in stored procedures as requested by PEBC.
- 1.7 Assist with maintenance, modification and addition to the PEBC reports/reporting as requested by PEBC.
- 1.8 Assist with maintenance, modification and addition to the PEBC file packaging/transfer as requested by PEBC.
- 1.9 Submit data updates to vendors in custom data formats
- 1.10 Assure high data integrity, while meeting regular (at least weekly) data processing deadlines
- 1.11 Implement innovative data programming techniques to meet unique business needs
- 1.12 All application development must, at a minimum, adhere to the standards outlined in the Open Web Application Security Project's (OWASP) Application Security Verification Standard (ASVS) at Level 2.
- 1.13 Administer the Azure environment containing SOFTWARE and associated data including provisioning of users and removing access for users according to adopted procedures.
- 1.14 Follow Microsoft Azure security best practices around, but not limited to:
 - 1.11.1 Network segmentation,
 - 1.11.2 Network Security Groups,
 - 1.11.3 Azure Security Center,
 - 1.11.4 Data security/encryption,
 - 1.11.5 Identity management,
 - 1.11.6 Virtual machine hardening, and
 - 1.11.7 Endpoint access control.

1.12 Comply with all terms of the Business Associate agreement as required by HIPAA and HITECH regulations.

1.13 Document any changes to program code and/or rules in SOFTWARE documentation.

1.14 Services Level reports will be provided on a monthly basis and any billing adjustments required as a result of actual performance against defined performance levels to be achieved will be identified. Billing adjustments will be applied to the invoice for the following month.

1.15 Quarterly testing of the backups will occur to ensure the backup/restore system is working properly.

1.16 Monitor environment capacity against utilization and provide quarterly reporting to afford PEBC the ability to increase capacity as needed in an orderly and timely manner.

2. New Development Requests:

Contractor will provide development services as follows.

2.1 PEBC will present Contractor with a Statement of Work related to new development.

2.2 Contractor will seek any clarification required to respond to the request and then provide a response that includes:

2.2.1 Estimated hours to complete development

2.2.2 Estimated duration of development

2.2.3 Cost of development.

2.3 PEBC will review development request and, if acceptable, authorize Contractor to proceed with development.

2.4 Agreements for new development will contain an estimated cost to complete and a not-to-exceed amount.

2.5 Contractor will be required to completed development prior to receiving payment unless other payment arrangements are detailed in the development agreement.

2.6 Change orders for development agreements will follow the Change Order Request and Sign-off Process described in a Business Associate Agreement.

3 Support for contacting the Contractor

A successful Contractor will provide the following communication mechanisms for Agency to use when submitting requests for support:

3.1 Telephone Support. Contractor shall maintain a contact telephone number during regular business hours (8 a.m. to 5:00 p.m. Monday - Friday CST) to assist Agency in reporting errors and in providing first line support in the use and operation of the SOFTWARE. This telephone number(s) will be provided upon execution of this agreement.

3.2 Internet Email. Agency shall maintain a ticket system for the express purpose of requesting and tracking Contractor support. This ticket system shall be managed by Agency which tracks problem progress on an incident by incident basis in order to ensure a timely tum-around for Agency. The ticketing system will

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provide email notification capability and will be configured to notify the Contractor of any issue reported or updated in the ticketing system. Specific email address(es) will be provided to PEBC upon execution of this agreement. The URL for this ticketing system will be provided to selected vendor(s) upon execution of this agreement.

- 3.3 Limitations on Hot-line support. Agency agrees that its point of contact support of the SOFTWARE will be limited to two (2) designated employees at any one time, who will act as the support liaison between the Contractor and PEBC, and that hotline support services for the SOFTWARE subject to this Support Agreement will be available to Agency through electronic mail communication or by telephone.

4. Potential Additional Duties of System Administrator

Potential additional duties may be required of the System Administrator during the term of this RFP.

Proposers should be aware of and identify their ability to perform the following potential additional duties if needed:

- Load and process data files using SQL scripts
- Compare results of files processed in two environments; troubleshoot any discrepancies
- Update database tables and run queries in SQL Server Management Studio
- Update/modify stored procedures and SQL scripts in SQL Server Management Studio
- Modify rules engine in application user interface
- Update/modify reports page in application user interface
- Configure vendor file transfer settings in application user interface or FTP software
- Package and encrypt vendor files using Windows Command Script and encryption software
- Send vendor files using FTP software and proprietary web sites
- Run queries and create ad-hoc reports in SQL Server Management Studio, Microsoft Access and Microsoft Excel
- Update and manage access to PEBC Intranet and Internet sites

Servicing and maintenance of technology devices that vendor seeks to offer under this contract should also be submitted.

All items Contractor bid are accepted and are covered under this Agreement.

See Exhibit B that follows for statement by Contractor as to what services Contractor will provide under this Agreement

EXHIBIT B Service Questionnaire

Indicate the services you are able to provide:

SERVICE	YES	NO
Bid Item #1		x
Bid Item #2		x
Bid Item #3		x
Bid Item #4	x	
Bid Item #5		x
Bid Item #6	x	
Bid Item #7		x
Bid Item #8		x
Bid Item #9		x
Bid Item #10		x
Bid Item #11		x
Bid Item #12		x
Bid Item #13	x	
Bit Item #14		x

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

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APPENDIX A.1
Pricing for TXShare Cooperative Purchase Program Participants
for this agreement can be found at:

<https://txshare.org/available-contracts/dbits-technology-upgrade-migration-and-transformation/windstream-holdings-llc>

APPENDIX A.2
Service Area Designation Forms

EXHIBIT C
Service Designation Forms

RFP 2023-069	Texas Service Area Designation or Identification						
Proposer Name:	Windstream Services, LLC						
Notes:	<p>Indicate in the appropriate box whether you are proposing to service the entire State of Texas</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">Will service the entire State of Texas</td> <td style="width: 50%; text-align: center;">Will not service the entire State of Texas</td> </tr> <tr> <td style="text-align: center;">Yes</td> <td></td> </tr> </table> <p>If you are not proposing to service the entire State of Texas, designate on the form below the regions that you are proposing to provide goods and/or services to. By designating a region or regions, you are certifying that you are willing and able to provide the proposed goods and services.</p>			Will service the entire State of Texas	Will not service the entire State of Texas	Yes	
Will service the entire State of Texas	Will not service the entire State of Texas						
Yes							
Item	Region	Metropolitan Statistical Areas	Designated Service Area				
1.	North Central Texas	16 counties in the Dallas-Fort Worth Metropolitan area					
2.	High Plains	Amarillo Lubbock					
3.	Northwest	Abilene Wichita Falls					
4.	Upper East	Longview Texarkana, TX-AR Metro Area Tyler					
5.	Southeast	Beaumont-Port Arthur					
6.	Gulf Coast	Houston-The Woodlands-Sugar Land					
7.	Central Texas	College Station-Bryan Killeen-Temple Waco					
8.	Capital Texas	Austin-Round Rock					
9.	Alamo	San Antonio-New Braunfels Victoria					
10.	South Texas	Brownsville-Harlingen Corpus Christi Laredo McAllen-Edinburg-Mission					
11.	West Texas	Midland Odessa San Angelo					
12.	Upper Rio Grande	El Paso					

RFP 2023-069	Nationwide Service Area Designation or Identification Form		
Proposer Name:			
Notes:	Indicate in the appropriate box whether you are proposing to provide service to all Fifty (50) States.		
	Will service all Fifty (50) States	Will not service Fifty (50) States	
	Yes		
	<p>If you are not proposing to service to all Fifty (50) States, then designate on the form below the States that you will provide service to. By designating a State or States, you are certifying that you are willing and able to provide the proposed goods and services in those States.</p> <p>If you are only proposing to service a specific region, metropolitan statistical area (MSA), or city in a State, then indicate as such in the appropriate column box.</p>		
Item	State	Region/MSA/City	Designated as a Service Area
1.	Alabama		
2.	Alaska		
3.	Arizona		
4.	Arkansas		
5.	California		
6.	Colorado		
7.	Connecticut		
8.	Delaware		
9.	Florida		
10.	Georgia		
11.	Hawaii		
12.	Idaho		
13.	Illinois		
14.	Indiana		
15.	Iowa		
16.	Kansas		
17.	Kentucky		
18.	Louisiana		
19.	Maine		
20.	Maryland		
21.	Massachusetts		

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22.	Michigan		
23.	Minnesota		
24.	Mississippi		
25.	Missouri		
26.	Montana		
27.	Nebraska		
28.	Nevada		
29.	New Hampshire		
30.	New Jersey		
31.	New Mexico		
32.	New York		
33.	North Carolina		
34.	North Dakota		
35.	Ohio		
36.	Oregon		
37.	Oklahoma		
38.	Pennsylvania		
39.	Rhode Island		
40.	South Carolina		
41.	South Dakota		
42.	Tennessee		
43.	Texas		
44.	Utah		
45.	Vermont		
46.	Virginia		
47.	Washington		
48.	West Virginia		
49.	Wisconsin		
50.	Wyoming		

**APPENDIX B
DEBARMENT CERTIFICATION**

I, Tara Sheridan
(Name of certifying official)

being duly sworn or under penalty of perjury under the laws of the United States, certifies that neither

Windstream Services, LLC,
(Name of lower tier participant)

nor its principals are presently:

- debarred, suspended, proposed for debarment,
- declared ineligible,
- or voluntarily excluded from participation in this transaction by any federal department or agency

Where the above identified lower tier participant is unable to certify any of the above statements in this certification, such prospective participant shall indicate below to whom the exception applies, the initiating agency, and dates of action.

Exceptions will not necessarily result in denial of award but will be considered in determining contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

EXCEPTIONS:

Tara Sheridan

Signature of Certifying Official
Sr. Director WE-Vertical Solutions

Title
4/2/2024

Date of Certification

APPENDIX C RESTRICTIONS ON LOBBYING

Section 319 of Public Law 101-121 prohibits recipients of federal contracts, grants, and loans exceeding \$100,000 at any tier under a federal contract from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. Section 319 also requires each person who requests or receives a federal contract or grant in excess of \$100,000 to disclose lobbying.

No appropriated funds may be expended by the recipient of a federal contract, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any federal executive department or agency as well as any independent regulatory commission or government corporation, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

As a recipient of a federal grant exceeding \$100,000, NCTCOG requires its subcontractors of that grant to file a certification, set forth in Appendix C.1, that neither the agency nor its employees have made, or will make, any payment prohibited by the preceding paragraph.

Subcontractors are also required to file with NCTCOG a disclosure form, set forth in Appendix C.2, if the subcontractor or its employees have made or have agreed to make any payment using nonappropriated funds (to include profits from any federal action), which would be prohibited if paid for with appropriated funds.

APPENDIX C.1

**LOBBYING CERTIFICATION
FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension continuation, renewal amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Tara Sheridan

Signature

Sr. Director WE-Vertical Solutions

Title

Windstream Services, LLC

Agency

4/2/2024

Date

**APPENDIX D
ATTESTATION OF CONTRACTS NULLIFYING ACTIVITY**

The following provisions are mandated by Federal and/or State of Texas law. Failure to certify to the following Appendices D.1, D.2, and D.3 will result in disqualification of consideration for contract. Entities or agencies that are not able to comply with the following will be ineligible for consideration of contract award.

APPENDIX D.1

**PROHIBITED TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR
EQUIPMENT CERTIFICATION**

This Contract is subject to the Public Law 115-232, Section 889, and 2 Code of Federal Regulations (CFR) Part 200, including §200.216 and §200.471, for prohibition on certain telecommunications and video surveillance or equipment.

Public Law 115-232, Section 889, identifies that restricted telecommunications and video surveillance equipment or services (e.g. phones, internet, video surveillance, cloud servers) include the following:

- A) Telecommunications equipment that is produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliates of such entities).
- B) Video surveillance and telecommunications equipment produced by Hytera Communications Corporations, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliates of such entities).
- C) Telecommunications or video surveillance services used by such entities or using such equipment.
- D) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, Director of the National Intelligence, or the Director of the Federal Bureau of Investigation reasonably believes to be an entity owned or controlled by the government of a covered foreign country.

The entity identified below, through its authorized representative, hereby certifies that no funds under this Contract will be obligated or expended to procure or obtain telecommunication or video surveillance services or equipment or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system prohibited by 2 CFR §200.216 and §200.471, or applicable provisions in Public Law 115-232 Section 889.

The Contractor or Subrecipient hereby certifies that it does comply with the requirements of 2 CFR §200.216 and §200.471, or applicable regulations in Public Law 115-232 Section 889.

Windstream Services, LLC

Name of Organization/Contractor

Tara Sheridan

4/2/2024

Signature of Authorized Representative

Date

Tara Sheridan-Sr. Director WE-Vertical Solutions

Printed/Typed Name and Title of Authorized Representative

(APPENDIX D.1 continued)

-OR-

- The Contractor or Subrecipient hereby certifies that it cannot comply with the requirements of 2 CFR §200.216 and §200.471, or applicable regulations in Public Law 115-232 Section 889.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

APPENDIX D.2

DISCRIMINATION AGAINST FIREARMS ENTITIES OR FIREARMS TRADE ASSOCIATIONS

This contract is subject to the Texas Local Government Code chapter 2274, Subtitle F, Title 10, prohibiting contracts with companies who discriminate against firearm and ammunition industries.

TLGC chapter 2274, Subtitle F, Title 10, identifies that “discrimination against a firearm entity or firearm trade association” includes the following:

- A) means, with respect to the entity or association, to:
 - I. refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; and
 - II. refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or
 - III. terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

- B) An exception to this provision excludes the following:
 - I. contracts with a sole-source provider; or
 - II. the government entity does not receive bids from companies who can provide written verification.

The entity identified below, through its authorized representative, hereby certifies that they have no practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and that they will not discriminate during the term of the contract against a firearm entity or firearm trade association as prohibited by Chapter 2274, Subtitle F, Title 10 of the Texas Local Government Code.

The Contractor or Subrecipient hereby certifies that it does comply with the requirements of Chapter 2274, Subtitle F, Title 10.

Windstream Services, LLC

Name of Organization/Contractor

Tara Sheridan

Signature of Authorized Representative

Tara Sheridan-Sr. Director WE-Vertical Soluitons

Printed/Typed Name and Title of Authorized Representative

4/2/2024

Date

Continued on Next Page

(APPENDIX D.2 continued)

-OR-

The Contractor or Subrecipient hereby certifies that it cannot comply with the requirements of Chapter 2274, Subtitle F, Title 10.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

**APPENDIX D.3
BOYCOTTING OF CERTAIN ENERGY COMPANIES**

This contract is subject to the Texas Local Government Code chapter 809, Subtitle A, Title 8, prohibiting contracts with companies who boycott certain energy companies.

TLGC chapter Code chapter 809, Subtitle A, Title 8, identifies that “boycott energy company” means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company:

- I. engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; and
- II. does business with a company described by paragraph (I).

The entity identified below, through its authorized representative, hereby certifies that they do not boycott energy companies, and that they will not boycott energy companies during the term of the contract as prohibited by Chapter 809, Subtitle A, Title 8 of the Texas Local Government Code.

The Contractor or Subrecipient hereby certifies that it does comply with the requirements of Chapter 809, Subtitle A, Title 8.

Windstream Services, LLC

Name of Organization/Contractor

Tara Sheridan

Signature of Authorized Representative

Tara Sheridan-Sr. Director WE-Vertical Solutions

Printed/Typed Name and Title of Authorized Representative

4/2/2024

Date

-OR-

The Contractor or Subrecipient hereby certifies that it cannot comply with the requirements of Chapter 809, Subtitle A, Title 8.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date