

**AMENDMENT NUMBER 4
TO
CONTRACT NO. DIR-SDD-1075
BETWEEN
THE STATE OF TEXAS, DEPARTMENT OF INFORMATION RESOURCES
AND TEXAS NICUSA, LLC**

This Amendment Number 4 (the “Amendment”) to the TexasOnline 2.0 Master Agreement (as previously amended, the “Master Agreement”) dated July 31, 2009 is entered into by and between The State of Texas, acting by and through the Texas Department of Information Resources (“DIR”) and Texas NICUSA, LLC, a limited liability company with a principal place of business at 100 Congress Avenue, Suite 600, Austin, Texas 78701 (“Vendor”). Capitalized terms used but not otherwise defined in this Amendment shall have the meaning set forth in the Master Agreement. This Amendment is executed in accordance with the authority granted in the Master Agreement, Section 5 *Contract Amendments*.

All other terms and conditions of the Master Agreement as amended, not specifically modified herein, shall remain in full force and effect. In the event of any inconsistencies between the terms and conditions contained in the Master Agreement and the terms and conditions contained in this Amendment, the terms and conditions contained in the Amendment shall control.

Background

Whereas, DIR has determined that it is in the best interest of the State of Texas to extend the Master Agreement for a period of twelve months; and

Whereas, Vendor desires to extend the term of the Master Contract and agrees to perform certain other services set forth below.

Now, therefore, for good and valuable consideration the sufficiency of which is agreed upon by the Parties, the Parties hereby agree as follows:

Terms

1. In accordance with **Master Agreement Section 3.2 Extension** notice is hereby given to extend the term of this agreement for a period of twelve months and shall continue until 11:59:59 p.m., Central Time, on August 31, 2017, unless this Master Agreement is terminated earlier as provided therein.
2. **Exhibit C Financial Model, Section 2.08 Financial Model (e) (i) (1)** is hereby revised as follows:

(i) Data Center Services Cost Adjustment – Effective July 1, 2012 there will be a monthly adjustment in the DCS expense for the Texas.gov budget due to a greater than 5% increase in DCS prices as a result of the transition to the new Data Center Master Services Agreements according to the formula and criteria below:

(1) Each month, DIR will submit to Vendor an invoice for DCS services provided to Vendor. If the Actual DCS Costs are less than or equal to the original Baseline DCS Monthly Costs (\$110,185.83), Vendor will pay the Actual DCS Costs and no DCS Cost Adjustment will be calculated. Otherwise, if the Actual DCS Costs exceed the original Baseline DCS Monthly Costs (\$110,185.83), Vendor will calculate the DCS Cost Adjustment amount by subtracting Baseline DCS Monthly Costs from Actual DCS Costs, all defined as follows:

DCS Cost Adjustment amount = Actual DCS Costs minus Baseline DCS Monthly Costs, but not less than zero dollars (\$0.00).

Actual DCS Costs = Actual monthly charges as defined per the new DCS Contract between the DIR and Vendor, including co-location charges.

Baseline DCS Monthly Costs = The total of (i) the average of total monthly DCS costs, including co-location costs, from June 2011 through May 2012 plus a 5% rate increase (which amount the parties acknowledge and agree equals \$110,185.83), with a 5% per annum rate increase applied each year beginning and effective on July 1, 2013; plus (ii) the costs of any new DCS services approved through a Business Case Process pursuant to subsection (4) below; plus (iii) 78% of the total monthly DCS costs for services used to support the CDC to DCS migrated applications (the “Migrated Services”), which Migrated Services may be increased up to 5% per annum beginning and effective on the anniversary of the initial invoice for Migrated Services; minus (iv) Vendor’s portion of DCS cost savings for any DCS services that are terminated or relocated to data centers not subject to the DCS Contract, Co-location Services Contract or the Master Data Center Services Contracts, as determined pursuant to subsection (5) below.

(2) The DCS Cost Adjustment amount will be deducted from the monthly State Share paid by Vendor.

(3) For purposes of clarity, it is intended that the total monthly net Vendor obligation for DCS services going forward will be the lesser of either the Actual DCS Costs or the Baseline DCS Monthly Costs.

(4) Data Center Additional Services – Any potential new DCS services, except those exempted through existing DCS change control approval processes (excluding migrated services referenced in subsection (1) (iii) above), must be originated through the Business Case Process. New DCS services shall be discussed, and cost allocations determined, through such Business Case Process and, if approved, will result in an agreed upon corresponding adjustment to the Baseline DCS Monthly Costs as described in subsection (1) above.

(5) Data Center Removed/Relocated Services – Unless exempted through existing DCS change control approval processes, for any DCS services which are terminated or relocated to data centers that are not subject to the DCS Contract, Co-location Services Contract or the Master Data Center Services Contracts (pursuant to the mutual agreement of the Parties, or pursuant to a Business Case Process), the Parties will determine a mutually agreeable estimate of the reduction in the ongoing costs for such terminated or relocated services through the Business Case Process. The resulting cost savings amount shall be split evenly between Vendor and DIR, and a corresponding adjustment to the Baseline DCS Monthly Costs will be applied as described in subsection (1) above.

(6) Data Center Required Services Adjustment - In the event that: (A) the cost to Vendor (either individually or in the aggregate) of compliance or remediation as referenced in items (a) through (c) of the DCS Contract, Section VI - TXNICUSA Participation, is not commercially reasonable with respect to any service(s) provided by Vendor under the Master Agreement; (B) the failure to so comply or remediate is likely to materially adversely affect the performance of such service(s); and (C) such service(s) could continue to be provided in an efficient and economical manner from a Vendor or third party data center where such compliance or remediation would not be required, then, in that event, Vendor shall be entitled to originate a Business Case Process to propose the relocation of such services to a Vendor or third party data center. Such a proposed Business Case must address the Disentanglement of such services.

3. Exhibit D Performance Criteria, Article II Performance Criteria Contractual Principals, Section 2.04 (a) is hereby revised as follows:

- (a) DIR will measure performance in the following areas:
 - (i) Implementation,
 - (ii) Management Plans,
 - (iii) Portal and Application Performance,

- (iv) Portfolio Management,
- (v) Reports,
- (vi) Security and Privacy,
- (vii) Help Desk,
- (viii) Customer Satisfaction, and
- (ix) Extension Implementation.

4. Exhibit D Performance Criteria, Article II Performance Criteria Contractual Principals, Section 2.07 (c) Portal and Application Performance—table labeled *Application Reliability – DPS Over the Counter* is inserted between the table labeled *Application Reliability – Portal Presence* and the table labeled *Problem Response*.

SERVICE LEVEL NAME	START DATE
<i>Application Reliability –DPS Over the Counter</i>	January 1, 2015
METRIC DESCRIPTION	The Vendor is responsible for maintaining a reliable system. This metric refers to unscheduled downtime of Texas Department of Public Safety ("DPS") Over the Counter Services as a percentage of available business hours tracked to the tenth of an hour.
METRIC INCLUSIONS	Reliability will be measured and monitored for DPS Over the Counter. The Vendor will coordinate with DCS, DIR and the appropriate Customers, as well as other vendors, to identify maintenance needs and will utilize the Change Control Board (CCB) process to obtain the necessary approvals prior to scheduling and initiating any maintenance activities. The Vendor will provide DIR and the CCB with 72 hours notice to review and approve scheduled outages. Maintenance will be requested with at least seven (7) days advance notice of performing the scheduled downtime. In the event of an emergency maintenance request, the Vendor will contact DIR directly to gain immediate approval to allow the Vendor to take appropriate actions and the Vendor will provide the CCB an update following resolution of the issue.
METRIC EXCLUSIONS	<ul style="list-style-type: none"> a. Scheduled maintenance b. Non-business hours (currently all-day Saturday, Sunday and Monday to Friday 8:00 p.m. to midnight and midnight to 6:59:59 a.m., Central Time) c. Applications and Services built by third parties d. Force Majeure Events e. Events determined to be caused by an entity other than or outside the control of the Vendor, including but not limited to events in which the root cause is determined to be out of the control of the Vendor.
HOURS OF MEASUREMENT	7:00 a.m. Central – 7:59:59 p.m. Central
DAYS OF MEASUREMENT	Monday – Friday

EXPECTED SERVICE LEVEL	99.99%
ALGORITHM	<p>Application Reliability shall be calculated, for a given measurement window, as (a) the total number of available hours during such measurement window, minus (b) the total number of unscheduled downtime divided by (c) available hours during such measurement window, with the result expressed as a percentage to two (2) decimal places.</p> <p>Available hours equal total number of hours in a month (24 hours x number of days in the month) for the hosted Vendor-built application in the month.</p> <p>Unscheduled downtime equals total number of hours (to the quarter hour) during which a hosted Vendor-built application is not available for reasons outside of metric exclusions and solely due to the fault of the Vendor.</p>
COLLECTION PROCESS	Service Uptime
REPORTING TOOLS	Monthly Application Service Levels Report
REMEDY UNIT	\$200 for one hundredth of a percentage below target
EARN BACK UNIT	\$100 for one hundredth of a percentage above target
PERFORMANCE CATEGORY	DPS OTC Reliability
MEASUREMENT WINDOW	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Semi Annual

5. Exhibit D Performance Criteria, following Section 2.11 Customer Satisfaction the following **Section 2.12 USAS File Delivery and Transaction Detail Integrity** is inserted in its entirety:

- (a) The Vendor will measure on-time file delivery and transaction accuracy as defined below, and report on performance as described in *Exhibit F Reporting* Section 2.03.
- (b) The following table of activities and expectations provides additional specific criteria regarding potential liquidated damages. DIR reserves the right to modify the monitoring frequency through the Contract Amendment process in accordance with the Master Agreement Section 5 Contract Amendments.
- (c) The Vendor will comply with the following service levels; subject to the following metric exclusions:
 - 1. Force Majeure Events
 - 2. Events determined to be caused by an entity other than or outside the control of the Vendor, including but not limited to events in which the root cause is determined to be out of the control of the Vendor.

ID	Service Level Name and Description	Liquidated Damage Amount	Service Level	Cure Period
1	TP029 File Delivery File to be delivered to Comptroller of Public Accounts ("CPA") Treasury on or before 5:00 p.m. each business day (Monday through Friday). TP029 will include all transactions processed from 5:00 a.m. of previous business day thru 4:59:59 a.m. of the current business day.	\$2000 per instance	100%	3 Hours
2	Raw File Delivery File to be delivered to CPA Treasury on or before 5:00 p.m. each business day (Monday through Friday). File will include all transactions processed from 5:00 a.m. of previous business day thru 4:59:59 a.m. of the current business day.	\$2000 per instance (commencing upon the date documented in the Raw File Delivery Plan approved by CPA Treasury)	100%	3 Hours
3	USAS Detail File Delivery File to be delivered to CPA Treasury on or before 7 a.m. each business day (Monday through Friday). File will include all transactions processed from 5:00 a.m. of previous business day thru 4:59:59 a.m. of the current business day.	\$2000 per instance	100%	0 Hours
4	ACH File Delivery File to be delivered to CPA Treasury on or before 5:45 p.m. each business day (Monday through Friday). File will include all transactions settled since last ACH file delivery through generation of current day's file.	\$2000 per instance	100%	0 Hours
	NOTE: Performance Category = USAS File Delivery			

SERVICE LEVEL NAME	START DATE
<i>Transaction Accuracy Rate</i>	January 1, 2015
METRIC DESCRIPTION	The Vendor is responsible for maintaining a reliable system. This metric refers to the percentage of transactions that cause reconciliation issues divided by the total number of transactions processed.
METRIC INCLUSIONS	Transaction Accuracy will be monitored and measured for all payment transactions, including ACH and credit card.
METRIC EXCLUSIONS	<ul style="list-style-type: none"> a. Force Majeure Events b. Events determined to be caused by an entity other than or outside the control of the Vendor, including but not limited to events in which the root cause is determined to be out of the control of the Vendor.
HOURS OF MEASUREMENT	24x7
DAYS OF MEASUREMENT	7 days

EXPECTED SERVICE LEVEL	99.999%
ALGORITHM	Transaction Accuracy shall be calculated, for a given measurement window, as (a) transactions that cause reconciliation problems during such measurement window divided (b) the total number of transactions with the result expressed as a percentage to four (4) decimal places. Transactions that cause reconciliation problems include the following: <ol style="list-style-type: none"> 1) Transactions missing detail, 2) Duplicate Transactions, 3) Reported Transactions not matching transactions processed through credit card processor, and 4) All other transactions that cause reconciliation problems for agencies.
COLLECTION PROCESS	TP029 File, Raw File, USAS Detail File and ACH File
REPORTING TOOLS	Monthly Application Service Levels Report
REMEDY UNIT	\$400 for one thousandth of a percentage below target
EARN BACK UNIT	\$200 for one thousandth of a percentage above target
PERFORMANCE CATEGORY	Transaction Accuracy
MEASUREMENT WINDOW	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Semi Annual

6. Exhibit D Performance Criteria, Article II Performance Criteria Contractual Principals the following **Section 2.13 Extension Implementation** is inserted in its entirety:

- (a) The agreed-upon deliverables for extending the Master Agreement term to August 31, 2017 are described in the following table and are to be provided by the Vendor.
- (b) Should a delay event occur and not be remedied by the Vendor within a designated cure period, DIR will notify the Vendor in writing of the occurrence of an Extension Implementation delay event, subject to the following Metric Exclusions:
1. Force Majeure Events
 2. Events determined to be caused by an entity other than or outside the control of the Vendor, including but not limited to events in which the root cause is determined to be out of the control of the Vendor.
- (c) After written notice from DIR of the occurrence or existence of such Implementation delay event, DIR will have the right to assess liquidated damages in the amounts specified for each day that such unresolved Implementation delay event exists after expiration of the applicable cure period.

Performance Criteria for Extension Implementation Delays:

	Extension Implementation Conditions	Performance Remedy	Due Date	Cure Period
1	Vendor and DIR will work diligently and provide reasonable resources to develop a Migration Plan on or prior to the Due Date. The Migration Plan will include Vendor's migration of applications (e.g., Texas.gov Portal, sub-portals, TxNet, DPS Direct, OAG Public Request Filings, Fee Pay and Fee Pay Lite), but not E-Service Software, including, but not limited to TxPay, TPE, CDB, DPS OTC, Common Payment Service, Common Checkout Page and TxPay Counter. The Migration Plan will be drafted to reasonably allow the parties to complete their obligations under the Migration Plan on or before September 30, 2016.	\$500 per day	June 30, 2015	4 days
2	Complete the execution of CDC Migration Plan.	\$2,000 per day	September 30, 2016	30 days
3	Provide a Raw File Delivery Plan to be approved by CPA for delivering daily raw file(s) from credit card companies to CPA Treasury.	\$200 per day	February 16, 2015	4 Days
4	<p>As set forth in the PSB Plan (defined below), complete the development and production deployment of DPS Private Security Bureau by August 31, 2016.</p> <p>Vendor and DPS will work together in good faith to promptly develop a scope definition and project plan (the "PSB Plan") for the development and production deployment of the DPS Private Security Bureau project. The PSB Plan will include high level deliverables and associated due dates ("Milestone Deliverables") as agreed upon by DPS and Vendor.</p> <p>The following documentation and their associated due date(s) must be included as part of Milestone Deliverables:</p> <ul style="list-style-type: none"> • Application Design documentation • Any compiled requirements documentation • Infrastructure Design documentation • Interface Design/Configuration Documentation • Formal review of above documentation 	If a Milestone Deliverable set forth in the PSB Plan is delayed for two (2) consecutive monthly reporting periods, Vendor and DPS will immediately begin weekly project meetings in person with DPS Executive leadership team as defined by DPS. In the event that DPS believes that the delay is the result of any action or failure to act by Vendor, at DPS request, Vendor representation at weekly project meetings will include a senior executive of NIC Inc. by telephone and, at least once per month, in person. The meetings would continue until the project is reported on schedule for two (2) consecutive reporting periods.	Milestone Deliverable Due Date set forth in the PSB Plan	None

	Extension Implementation Conditions	Performance Remedy	Due Date	Cure Period
5	<p>Coordinate and complete knowledge transfer of the Vehicle Inspection Connection to DPS Information Technology subject matter experts.</p> <p>At a minimum, Vendor will deliver the following written documentation:</p> <ul style="list-style-type: none"> • Application Design documentation • Any compiled requirements documentation • Infrastructure Design documentation • Interface Design/Configuration Documentation • Formal review of above documentation 	<p>If, at any time after March 31, 2015, DPS reasonably believes that Vendor is not on schedule to deliver the required documentation by the Due Date, Vendor will designate one or more dedicated technical writers to the completion of the documentation. In the event that the documentation is not complete by the Due Date, Vendor will engage additional dedicated technical writers (not to exceed four) to ensure the prompt completion of the documentation.</p>	June 30, 2015	30 Days
6	<p>Provide the Socrata Open Data Portal platform license that meets demand for the product based on available data sets.</p>	N/A	Annual renewal	N/A
7	<p>Vendor agrees to conduct a build versus buy analysis and provide the summary analysis to DPS as part of any solution for future components of DPS Direct project as requested and required by DPS. Summary analysis to include, at minimum, the estimated total cost of ownership for build versus buy, risk analysis, and the rationale for recommendation.</p>	N/A	As requested by DPS	N/A

7. Exhibit D Performance Criteria, Article II Performance Criteria Contractual Principals Section 2.12 Reporting on Performance Criteria is hereby renumbered as Section 2.14.

8. Exhibit G Plans, Article II. Contractual Principles, Section 2.11 Technology Management Plan, is hereby revised as follows:

(c) The Technology Management Plan must also include the following reports, updated annually in conjunction with the Technology Management Plan and/or upon request by DIR:

(i) The Technical Reference Model, which shall provide a current list of (A) hardware and related accessories used to support TexasOnline 2.0 applications and services which are located in the State of Texas Data Centers, including physical

location of each tangible asset (which may transfer upon expiration or termination of the Master Agreement to the extent described in Section 11.09 of Exhibit B and any other applicable provision of the Master Agreement), (B) software used to support TexasOnline 2.0 (which may be licensed upon expiration or termination of the Master Agreement to the extent described in Section 11.09 of Exhibit B and any other applicable provision of the Master Agreement) (“Commercially Available Software”), (C) the version of Commercially Available Software utilized as of Technology Management Plan submittal, (D) the most recent version of Commercially Available Software generally available, and (E) officially announced newer versions of Commercially Available Software that will be released in the next 12 months for general availability. With respect to any Commercially Available Software that is, or will become, more than two major revisions behind the versions specified in (D) or (E) above (“Current Commercially Available Version”) within the next 12 month period, the Technical Reference Model will also identify:

(1) Applications impacted;

(2) Vendor’s plan to update to Current Commercially Available Version within the next 12 months; and

(3) Known risks or issues that would prevent updating to Current Commercially Available Version within the next 12 months, if applicable.

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IN WITNESS WHEREOF, the Parties having read and understood the foregoing sections of the Master Agreement as Amended including all Attachments and Exhibits incorporated therein by reference, expressly agree to these terms and conditions as evidenced by their respective dated signatures below and execute this Amendment effective December 31, 2014:

DEPARTMENT OF INFORMATION RESOURCES

TEXAS NICUSA, LLC

Signature: Signature on File

Signature: Signature on File

Name: Karen Robinson

Name: Craig Shinn

Title: Executive Director

Title: Executive Director

Date: December 22, 2014

Date: December 22, 2014

Legal: Signature on File