

Amendment Number Three
to
Contract Number DIR-TEX-AN-NG-CTSA-002
between
State of Texas, acting by and through the Department of Information Resources
and
Hughes Network Systems, LLC. on behalf of itself and all of its affiliates

This Amendment Number Three to TEX-AN-NG Contract Number DIR-TEX-AN-NG-CTSA-002 (“Contract”) is between the Department of Information Resources (“DIR”) and Hughes Network Systems, LLC. on behalf of itself and all of its affiliates (“Vendor”). DIR and Vendor agree to modify the terms and conditions of the Contract dated May 10, 2011 as follows:

1. TEX-AN NG Communications Technology Services Agreement, **Article 3. Term. Section 3.1 Initial Term** is hereby retitled as **Section 3.1 Term** and amended as follows:

The term of this contract is extended through May 10, 2019 completing three (3) of the five (5) one-year renewal options.

2. TEX-AN NG Communications Technology Services Agreement, **Article 4 Relationship among DIR, Vendor other TEX-AN NG Vendors, Authorized End Users and Customers. Section 4.1 DIR as Vendor’s Customer.** is hereby updated and restated as follows:

Pursuant to its authority found in Chapter 2170, Texas Government Code, DIR is the single state agency mandated to procure telecommunications services on behalf of Customers. In all interactions under the CTSA, DIR is in the role of Vendor’s Customer, with the exception of Local Services and Small Office/Home Office (SOHO) Internet connectivity Services (hereinafter “direct sales transactions”). Except as noted above, DIR will issue all Purchase Orders to Vendor on behalf of itself and the Customers. Except as noted above, DIR shall act as the Vendor’s billing agent for all Services ordered and consumed by the Customers and shall pay net proceeds from such billings to Vendor.

Vendor agrees to process all DIR orders for Services available under the CTSA through the CTSA. This shall include new orders for services available under the CTSA, renewal orders for services available under the CTSA, and transporting services from expired contracts for service available under the CTSA.

3. TEX-AN NG Communications Technology Services Agreement, **Article 4 Relationship among DIR, Vendor other TEX-AN NG Vendors, Authorized End Users and Customers. Section 4.3 Customers as Authorized End Users of Vendor’s Services** is hereby updated and restated as follows:

As specified in Section 2170.004, Texas Government Code, certain Texas governmental and non-governmental entities are authorized to use the telecommunications services for which DIR contracts. For DIR's purposes, these entities are Customers. From the Vendor's perspective, these entities are "Authorized End Users," whether as organizations or persons employed by such organizations. When ordering certain Services from Vendor, the Customer may enter into a certain TEX-AN NG Customer Services Agreement, with DIR, which sets forth the terms and conditions for the deployment, acceptance and delivery of such certain Services by Vendor to such Customer. Under each TEX-AN NG Customer Services Agreement, DIR shall be the billing agent on behalf of Vendor to receive payment for the Services from the Customer. DIR shall ensure that Customers commit funds for payment of Services by issuing Purchase Orders to DIR.

4. Exhibit A Definitions, **Article 2. Definitions. 48. Party** is hereby updated and restated as follows:

48. **Party** – Has the meaning given in the Preamble to the CTSA and in the introduction to the TEX-AN NG Customer Services Agreement to the CTSA.

5. Exhibit A Definitions, **Article 2. Definitions. 76. TEX-AN NG Customer Service Agreement** is hereby updated and restated as follows:

76. **TEX-AN NG Customer Service Agreement** – A contractual document containing the terms, conditions, and scope for Services to be deployed and operated under this CTSA, and executed by the Customer and DIR.

6. Exhibit A Definitions, **Article 2. Definitions.** is hereby updated by adding the following definition:

89. **Vendor Reporting Guide** – Excel spreadsheet developed and updated by DIR that details all required monthly reports including, but not limited to, report formats, report due dates, required fields and respective data formats and where to submit reports.

7. Exhibit B Terms and Conditions, **Article 3. General Terms and Conditions. Section 3.11 Vendor Certifications (k)** is hereby updated and restated as follows:

(k) For itself and on behalf of its Subcontractors, has identified all current or former, within the last twelve (12) years, employees of the State assigned to work on the CTSA 20% or more of their time and has disclosed them to DIR and has disclosed or does not employ any relative of a current or former state employee within two degrees of consanguinity, or three degrees of affinity, and, if these facts change during the course of the CTSA, Vendor certifies for itself and on behalf of its Subcontractors, it shall disclose the

name and other pertinent information about the employment of current and former employees and their relatives within two degrees of consanguinity;

8. Exhibit B Terms and Conditions, **Article 4. Vendor Personnel Management. Section 4.03 Cooperation with DIR, other TEX-AN-NG Vendors and Customers (a)** is hereby updated and restated as follows:

- (a) Cooperation with DIR on cost avoidance and performance measures.

As part of the performance measures reported to state leadership, DIR must provide the cost avoidance the State has achieved through the CTSA. Upon request by DIR, Vendor shall provide DIR with a detailed report of a representative sample of Services sold under the CTSA. The report shall contain: Service description, list price, Price to Customer or Rate To DIR under the CTSA, and pricing from three (3) alternative contract sources under which Customers are eligible to procure the Services. Additionally, Vendor shall promptly provide DIR with all other CTSA performance related information that assists DIR in reporting the other performance measures for which it is responsible.

9. Exhibit B Terms and Conditions, **Article 9. Terms and Conditions of Vendor Billing and DIR Customer Payment. Section 9.01 Monthly Consolidated Invoice to DIR** is hereby updated and restated as follows:

The Vendor shall provide DIR with a Monthly Consolidated Invoice which includes all Services provided by the Vendor to DIR, at the Rates To DIR and with any applicable telecommunications fees and surcharges as allowed by this CTSA, in electronic format, with the ability to batch load. All such Monthly Consolidated Invoices shall conform to the standards as set forth in the Vendor Reporting Guide as updated from time to time and *Exhibit F, Attachment F-17, Billing Plan* provided by Vendor and updated from time to time.

10. Exhibit B Terms and Conditions, **Article 9. Terms and Conditions of Vendor Billing and DIR Customer Payment. Section 9.07 Dispute Handling and Adjustments (b)** is hereby updated and restated as follows:

- (b) DIR has the right to file a billing Dispute. The Vendor shall investigate, report on and use reasonable business efforts to resolve Disputes within 60 calendar days that involve less than or equal to \$15,000 and within 90 calendar days for disputes that involve amounts greater than \$15,000. This time frame starts with the submission of the Dispute by DIR and ends with the satisfactory resolution of the Dispute. When warranted, Vendor shall

issue Billing Adjustment(s) within 30 calendar days after resolution. DIR reserves the right to charge a management fee for Billing adjustments not made within the 2 billing period cycle in the amount of \$100 per CKR (circuit reference) not adjusted as outlined herein. DIR may require a revised Monthly Statement that does not contain the disputed item(s). Vendor shall allow non-payment by DIR for the disputed amount until there is a Dispute Resolution, as allowed by Chapter 2251, Texas Government Code.

11. Exhibit B Terms and Conditions, **Article 9. Terms and Conditions of Vendor Billing and DIR Customer Payment. Section 9.08 Billing Adjustments (b)** is hereby updated by adding the following:

- (5) All data elements as stated and formatted in the Vendor Reporting Guide and as updated by DIR from time to time to include, but not be limited to CKR identifiers for adjustments, start and end dates for adjustments being made and any other elements DIR considers adjustments as set forth in its Vendor Reporting Guide.

12. Exhibit B Terms and Conditions, **Article 9. Terms and Conditions of Vendor Billing and DIR Customer Payment. Section 9.15 Reporting of direct sales transactions and payments to DIR of CRFs (b)** is hereby updated and restated as follows:

- (b) Detailed Monthly Report.

Vendor shall electronically provide DIR with a detailed monthly report in the format required by DIR, upon mutual agreement, showing the dollar volume of any and all direct sales transaction Services sold under the CTSA for the previous month period. The Parties have agreed to data and formats, to include detailed data for quotes, orders, trouble tickets, billing, Service Level Agreements and network monitoring and formats to include email, delimited flat file and web services XML. Reports shall be submitted to the DIR ICT Sales E-Mail Box at ICT.Sales@dir.texas.gov. Reports are due on the thirtieth (30th) calendar day of the month after the close of the previous month period. The monthly report shall include, per direct sales transaction: the detailed direct transaction sales for the period, Customer name, Invoice date, Invoice number, Description, quantity, unit Price, extended Price, Customer Purchase Order number, contact name, Customer's complete billing address, and other information as required by DIR. Each report must contain all information listed above per direct sales transaction or the report will be rejected and returned to the Vendor for correction in accordance with this *Section 9.15*.

13. Exhibit B Terms and Conditions, **Article 9. Terms and Conditions of Vendor Billing and DIR Customer Payment. Section 9.15 Reporting of direct sales transactions and payments to DIR of CRFs (d) CRFs** is hereby updated and restated in its entirety as follows:

(1) The CRFs shall be paid by Vendor to DIR for each direct sales transaction under the CTSA. The CRF per direct sales transaction Service is specified in the CTSA at *Exhibit C*. Payment of the CRFs shall be due on the thirtieth (30th) calendar day after the close of the previous month period.

Failure to timely submit CRF payments may, at DIR's discretion, result in the addition of late fees of \$100/day for each day payment is due (up to \$1000/month) or suspension or termination of Vendor's Contract.

(2) Vendor shall reference the CTSA contract number on any remittance instruments. Failure to reference contract number on any CRF payments may result in the payments not being applied to Vendor's account(s) correctly or in a timely manner. In the event the Vendors CRF payments do not reference the contract number and result in a late payment, DIR reserves the right to enforce the \$100/day late fee referenced in Subsection (1) above.

All other terms and conditions of the Contract as amended, not specifically modified herein, shall remain in full force and effect. In the event of conflict among the provisions, the order of precedence shall be this Amendment Number Three, then Amendment Number Two, then Amendment Number One, and then the Contract.

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IN WITNESS WHEREOF, the parties hereby execute this amendment to be effective as of the date of last signature.

Hughes Network Systems, on behalf of itself and all of its affiliates.

Authorized By: Signature on File

Name: P.K. OBrien

Title: V.P. Legal

Date: 2/18/2016

**The State of Texas, acting by and through
the Department of Information Resources**

Authorized By: Signature on File

Name: Wayne Egeler

Title: Director CTS

Date: 5/4/2016

Legal: Initials on File 5/2/2016