

Amendment Number 1
to
Contract Number DIR-TSO-2552
between
State of Texas, acting by and through the Department of Information Resources
and
CenturyLink Communications, LLC

This Amendment Number 1 to Contract Number DIR-TSO-2552 (“Contract”) is between the Department of Information Resources (“DIR”) and CenturyLink Communications, LLC (“Vendor”). DIR and Vendor agree to modify the terms and conditions of the Contract as follows:

1. Contract, Section 2. Term of Contract is hereby amended as follows:

DIR and Vendor hereby agree to extend the term of the Contract for one (1) year through August 1, 2017, or until terminated pursuant to the termination clauses contained in the Contract, completing all renewal options. One one-year renewal option remains. The Contract will expire August 1, 2018.

2. Contract, Section 4. Pricing is hereby amended as follows:

A. Pricing to the Customer

Pricing to the DIR Customer shall be as set forth in Appendix A, Section 7, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Cost Recovery Fee.

B. Rates, Taxes and Telecommunication Fees

1) There are no applicable FCC authorized fees; surcharges and assessments in effect as of the date of this Contract which may appear on billings to Customers. No FCC or PUC authorized fee, surcharge or assessment applicable to Technology Based Conferencing Services may be imposed during the term of this Contract, without the prior amendment to authorize such imposition under the Contract. Vendor acknowledges that certain Customers, that are political subdivisions, are exempt from the imposition and collection of certain Texas telecommunications fees, including the Texas Universal Service Fund Charge and the Texas Infrastructure Fund assessment. In addition, state agency Customers have additional exemptions from Texas fees, including the 9-1-1 emergency service fee, 9-1-1 equalization surcharge, poison control surcharge, and late charges imposed under Section 55.010, Utilities Code. Vendor agrees to not bill for any items which are not mandated by the FCC or PUC and which are otherwise not applicable to Technology Based Conferencing Services Vendor also agrees to not bill for items for which a Customer has an exemption. Vendor agrees to promptly correct any incorrect billings that occur.

2) During the term of this Contract, all changes in the law or fee structures, which creates or authorizes Vendor to impose an unlisted fee on these Services, which Vendor desires to impose under this Contract, shall require an amendment in order to be

effective against the State of Texas and Customers. In the event of a change in the law or fee structures, which results in an exemption from payment in favor of the State of Texas and/or Customers, Vendor shall give effect to the exemption without the necessity of a contract amendment.

3) Vendor acknowledges that Customers are exempt from state sales, use and excise taxes, Section 151.309, Texas Tax Code, and Federal Excise Tax, 26 USC Sections 4253 (i) and (j). Vendor further acknowledges that State agency Customers are exempt from the assessment and collection of sales taxes imposed by political subdivision. See Sections 321.208 (municipalities) and 323.207 (counties), Texas Tax Code. Customers may issue a tax exemption certificate upon request.

3. **Contract, Section 8. Intellectual Property Matters** is hereby removed from the Contract and transitioned in its entirety to **Appendix A, Standard Terms and Conditions for Services, Section 4. Intellectual Property Matters**.
4. **Contract, Section 9 Authorized Exceptions to Appendix A, Standard Terms and Conditions for Services Contracts** is hereby re-numbered **Section 7 Authorized Exceptions to Appendix A, Standard Terms and Conditions for Services Contracts**.
5. **Appendix A, Standard Terms and Conditions for Technology Based Conference Services Contracts dated 08/09/13**, is hereby replaced in its entirety with **Appendix A, Standard Terms and Conditions for Services Contracts dated 04/20/16**, as attached.
6. **Appendix B, HUB Subcontracting Plan dated 06/13**, is hereby replaced in its entirety with **Appendix B, HUB Subcontracting Plan dated 09/15**, as attached.
7. **Authorized Exceptions to Appendix A, Standard Terms and Conditions for Services Contracts.** *(This will only be included if exception is agreed to between DIR and CenturyLink. NOTE: No exceptions will be taken in specified sections of Appendix A, as indicated in that document.)*

7.1 Appendix A, Section 9, Vendor Responsibilities, A. Indemnification, 2) Acts and Omissions, is hereby restated in its entirety as follows:

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from wrongful acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. Vendor's ultimate financial responsibility will be limited to the percentage of fault finally attributed to Vendor. The defense of contributory negligence will not be available to Vendor. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM

THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

7.2 Appendix A, Section 9, Vendor Responsibilities, K. Limitation of Liability, is hereby restated in its entirety as follows:

For any claim or cause of action arising under or related to the Contract: i) to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages; and ii) Vendor's liability for damages of any kind to the Customer shall be limited to the total amount paid to Vendor under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action. However, this limitation of Vendor's liability shall not apply to claims of patent, trademark, or copyright infringement.

7.3 Appendix A, Section 9, Section N, Required Insurance Coverage, is hereby restated in its entirety as follows:

Required Insurance Coverage

As a condition of this Contract with DIR, Vendor shall provide the listed insurance coverage within 5 business days of execution of the Contract if the Vendor is awarded services which require that Vendor's employees perform work at any Customer premises and/or use employer vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, the Vendor shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to the related Customer within five (5) business days following the execution of the Purchase Order. Vendor may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer. All required insurance must be issued by companies that have an A rating and a Financial Size Category Class of VII from A.M. Best, and are licensed in the State of Texas and authorized to provide the corresponding coverage. The Customer and DIR will be named as Additional Insureds on all required coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Vendor there under. The minimum acceptable insurance provisions are as follows:

1) Commercial General Liability

Commercial General Liability must include \$1,000,000 per occurrence for Bodily Injury and Property Damage with a separate aggregate limit of \$2,000,000; Medical Expense per person of \$5,000; Personal Injury and Advertising Liability of \$1,000,000; Products/Completed Operations Aggregate Limit of \$2,000,000; and Damage to Premises Rented: \$50,000. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:

- a) Blanket contractual liability coverage for liability assumed under the Contract;
- b) Independent Contractor coverage;
- c) State of Texas, DIR and Customer listed as an additional insured; and
- d) Waiver of Subrogation for losses caused by and to the extent of Vendor's negligence.

2) Workers' Compensation Insurance

WORKERS' COMPENSATION INSURANCE AND EMPLOYERS' LIABILITY COVERAGE MUST INCLUDE LIMITS CONSISTENT WITH STATUTORY BENEFITS OUTLINED IN THE TEXAS WORKERS' COMPENSATION ACT (ART. 8308-1.01 ET SEQ. TEX. REV. CIV. STAT) AND MINIMUM POLICY LIMITS FOR EMPLOYERS' LIABILITY OF \$1,000,000 PER ACCIDENT, \$1,000,000 DISEASE PER EMPLOYEE AND \$1,000,000 PER DISEASE POLICY LIMIT.

3) Business Automobile Liability Insurance Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternative acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- a) Waiver of Subrogation for losses caused by and to the extent of Vendor's negligence;
- b) Additional Insured.

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 1 and then the Contract.

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IN WITNESS WHEREOF, the parties hereby execute this amendment to be effective August 1, 2016.

CenturyLink Communications, LLC

Authorized By: Signature on File

Name: Richard Fernandez

Title: Direct Offer Management

Date: 7/26/2016

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

Authorized By: Signature on File

Name: Dale Richardson

Title: Chief Operations Officer

Date: 8/8/2016

Office of General Counsel: Signature on File