

Amendment Number 1
to
Contract Number DIR-TSO-3793
between
State of Texas, acting by and through the Department of Information Resources
and
CA, INC.

This Amendment Number 1 to Contract Number DIR-TSO-3793 (“Contract”) is between the Department of Information Resources (“DIR”) and CA, Inc. (“Vendor”). DIR and Vendor agree to modify the terms and conditions of the Contract as follows:

1. Contract, 1. Introduction, C. Order of Precedence is hereby restated in its entirety as follows:

C. Order of Precedence

For purchase transactions under this Contract, the order of precedence shall be as follows: this Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor’s Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Foundation Agreement including all Exhibits thereto; Exhibit 1, Vendor’s Response to RFO DIR-TSO-TMP-265, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-265, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor governing purchase transactions. In the event of a conflict between the documents listed in this paragraph related to purchases, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D including all Exhibits, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. 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 March 23, 2019, or until terminated pursuant to the termination clauses contained in the Contract. Prior to expiration of the term, the contract will renew automatically in one-year increments for two (2) additional years under the same terms and conditions unless either party provides notice to the other party 60 days in advance of the renewal date stating that the party wishes to discuss modification of terms or not renew. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

3. Contract, 7. Software License and Service Agreements, A. Software License Agreement, 1) is hereby restated in its entirety as follows:

1) Customers acquiring software licenses under the Contract shall hold, use and operate such software subject to compliance with the Software License Agreement set forth in Appendix D, Foundation and Exhibit 2, Software Module to Appendix D of this Contract. No changes to

the Foundation Agreement and Software Module terms and conditions may be made unless previously agreed to between Vendor and DIR. Customers may not add, delete or alter any of the language in Appendix D; provided however, that a Customer and Vendor may agree to additional terms and conditions that do not diminish a term or condition in the Software License Agreement, or in any manner lessen the rights or protections of Customer or the responsibilities or liabilities of Vendor. Order Fulfillers shall make the Software License Agreement terms and conditions available to all Customers at all times.

4. Appendix A. Standard Terms and Conditions for Product and Related Services Contracts is hereby restated in its entirety and replaced with the Attached Appendix A, Standard Terms and Conditions for Product and Related Services dated 09/29/17 except where previous authorized exceptions to Appendix A were allowed and documented as part of the Contract. In such cases, the previously authorized exceptions shall be applied to the portions of the new Appendix A which are comparable to those in the earlier Appendix A for which they were written, and this without regard for the numbering or lettering associated with any of the documents. Applied in such manner, the exceptions shall remain in full force and effect until such time the contract expires or is terminated.

5. Contract, Section 8. Authorized Exceptions to Appendix A, Standard Terms and Conditions for Products and Related Service Contracts:

A. Appendix A, Section 3, Definitions, A. Customer is hereby replaced in its entirety as follows:

A. Customer - “any Texas state agency, unit of local government, institution of higher education as defined in Section 2054.003, Texas Government Code, the Electric Reliability Council of Texas, the Lower Colorado River Authority, and those state agencies purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code.”

B. Appendix A, Section 5. Intellectual Property Matters is hereby replaced in its entirety as follows:

5. Intellectual Property Matters

“Work Product” means all items produced for Customer’s use under a SOW except for custom code application development work unique to Customer and void of CA’s proprietary Licensed Programs and other intellectual property, including any derivatives and extensions thereof.

CA retains all right, title, copyright, patent, trademark, trade secret and all other proprietary interests to all CA Offerings and any derivatives thereof. No title, copyright, patent, trademark, trade secret or other right of intellectual property not expressly granted under the Agreement is exchanged between the Parties.

CA grants to Customer, a non-exclusive, limited, non-transferable license to use the Deliverables and Modifications for internal business purposes subject to terms of the Agreement. Where the Deliverables or Modifications are to be used in conjunction with CA software then the license to use the Deliverables or Modifications shall be consistent with the usage limitations as set out in the license agreement for such CA software.

C. Appendix A, Section 8. Pricing, Purchase Orders, Invoices, and Payments, C. Customer Price, Subsection 3) is hereby replaced in its entirety as follows:

3) If pricing for products or services available under this Contract are sold by the Vendor at a lower price to an eligible Texas State Agency Customer who is not purchasing those products or services under this Contract, then the available Customer Price in this Contract shall be adjusted to that lower price. This requirement applies to products or services sold by Vendor for a quantity of one (1) under same terms and conditions, and does not apply to volume or special pricing purchases. Vendor shall notify DIR within ten (10) business days of delivery to DIR of Vendor's Quarterly Usage Reports for any such sales in the prior quarter and this Contract shall be amended to reflect the lower price.

D. Section 10. Vendor Responsibilities, C. Vendor Certifications, (xviii) is hereby replaced in its entirety as follows:

(xviii) to the extent applicable to this scope of this contract, Vendor hereby certifies that it is authorized to sell and provide warranty support, as described within the contract, for all products and services listed in Appendix C of this contract; and

E. Appendix A, Section 10. Vendor Responsibilities, N. Required Insurance Coverage, first paragraph is hereby replaced in its entirety as follows:

N. 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. DIR will be named as Additional Insureds on all required coverage except workers' compensation. 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:

6. Appendix D, Exhibit 4, Veracode Terms, is hereby added as attached hereto. All transactions for Veracode products must be procured separately from the other CA, Inc. offerings provided in the Contract.

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, then the Contract.

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IN WITNESS WHEREOF, the parties hereby execute this Amendment Number 1 to be effective as of the date of last signature.

CA, INC.

Authorized By: Signature on File

Name: Lisa Kiefer

Title: Principal, Sales Accounting

Date: 2/13/2018

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

Authorized By: Signature on File

Name: Hershel Becker

Title: Chief Procurement Officer

Date: 2/23/2018

**Office of
General Counsel:** DB 2/21/2018