

MODIFICATION TO CALL CENTER SERVICES CONTRACT

THIS MODIFICATION is made this 4th day of January, 2006 by and among the State of Maryland, acting through its Department of Budget and Management ("State"), Spherix Incorporated, and InfoSpherix Incorporated.

WHEREAS, the State has a Contract with Spherix Incorporated to perform call center services; and

WHEREAS, the parties wish to modify the Contract to address the pricing and procedural requirements of adding new Call Center Applications; and

WHEREAS, Spherix Incorporated has formed a wholly-owned subsidiary corporation, InfoSpherix, and wishes to assign all its interests in the Contract to InfoSpherix; and

WHEREAS, the Contract permits assignment only upon written consent of the State.

IN CONSIDERATION of the promises and the covenants herein contained, the adequacy of which is duly acknowledged by the parties, the parties agree as follows:

1. Definitions

In this Modification, the following words have the meanings indicated:

- 1.1 "Contract" means Contract Number 050R4800165, dated October 12, 2004, by and between Spherix Incorporated and the State, acting through the Department, to provide call center services.
- 1.2 "Contract Manager" means Sandy Smith of the Department.
- 1.3 "Contractor" means InfoSpherix Incorporated, a corporation incorporated in the State of Delaware, whose principal business address is 12051 Indian Creek Court, Beltsville, Maryland 20705.
- 1.4 "Call Center Application" means the provision of call center services, including but not limited to providing the necessary facilities, equipment, software development, software, circuits, telephone service, staff, training, set-up, testing, and reporting, in connection with a specific agency or program.
- 1.5 "Department" means the Department of Budget and Management.
- 1.6 "Modification" means this Modification Agreement.
- 1.7 "Original Contractor" means Spherix Incorporated, a Delaware corporation that is registered to do business in the State of Maryland.
- 1.8 "Procurement Officer" means Gisela Blades of the Department.

1.9 "RFP" means the Request for Proposals for Call Center/Contact Center Services No. 050R4800165.

1.7 "State" means the State of Maryland.

2. Scope of Modification

2.1 This Modification amends the Contract solely and specifically as described herein. Except as specifically revised by the terms of this Modification, all of the terms of the Contract shall remain in full force and effect and shall apply to this Modification. All services required under the Contract shall continue to be provided at the prices required by the Contract.

2.2 Call Center Applications for State agencies or State programs that are not specifically described in the RFP may be procured, at the State's election, through the Contract. The Contract Manager shall provide the specifications for such Call Center Applications to the Contractor along with an estimate of call length. The Contractor shall provide, within ten (10) business days, a transition and implementation plan to the Contract Manager for approval. Upon approval of the transition and implementation plan, the Contractor shall be directed to begin services in connection with the Call Center Application by way of a Notice to Proceed issued from the Contract Manager, the Procurement Officer and the State agency or State program procuring the Call Center Application.

2.3 Upon assignment of the Contract as provided herein at Section 5, the Contract shall be as modified by Sections 2 through 4 of this Modification.

2.4 The recitals are incorporated into this Modification.

3. Scope of Work for Call Center Applications Added Pursuant to this Modification

The Contractor shall provide each Call Center Application added to the Contract pursuant to this Modification in accordance with the scope of work described in the RFP, Sections 2.1 through and including 2.26. All provisions of the Contract shall apply to the Call Center Application services provided by the Contractor.

4. Payment for Call Center Applications Added Pursuant to this Modification

4.1 The price for Call Center Application services added to the Contract pursuant to this Modification shall be a firm fixed unit price per call. This rate shall be calculated before the issuance of the Notice to Proceed using the following formula: an amount equal to \$1.00 per minute times the projected average call length (in minutes). The Notice to Proceed shall include this firm fixed price per call.

4.2 The Contractor shall submit monthly invoices for new Call Center Applications in accordance with the RFP.

4.3 The prices set in this Modification shall be adjusted in accordance with the RFP Section 1.4.

5. Assignment


- 5.1 Assignment of the Contract by the Original Contractor (Spherix Incorporated) to the Contractor (InfoSpherix Incorporated) shall become effective upon the execution of this Modification by the parties.
- 5.2 The Original Contractor assigns to the Contractor all of the Original Contractor's interests, rights, claims, responsibilities, and duties as set forth in the Original Agreement, which is incorporated by reference. The Contractor agrees to be bound by the provisions, terms and conditions of the Contract in place of the Original Contractor without limitation. The Original Contractor waives all rights under the Contract against the State and any department, unit, agency, official or employee of the State. This assignment is unconditional and without recourse. Any claims of the Original Contractor which arose out of the Contract prior to the effective date of this Modification may be pursued by the Contractor in accordance with the Contract, the State Finance and Procurement Article of the Annotated Code of Maryland, Title 15, subtitle 2, and the Code of Maryland Regulations, Title 21, subtitle 10.
- 5.3 The Original Contractor and the Contractor jointly and severally represent and warrant to State and the Department that:
1. The Original Contractor is not in default of any of its obligations under the Contract; and
 2. The Original Contractor has assigned to the Contractor, under separate agreement, sufficient information, rights to technology, and key personnel sufficient to enable the Contractor to properly perform the duties, responsibilities, obligations, and all other provisions of the Contract; and
 3. The Contractor is ready, willing, and able to perform all of the duties, obligations, responsibilities of the Original Contractor; and
 4. The Original Contractor and the Contractor request consent from the State.
- 5.4 The Contractor accepts assignment of the provisions of the Contract. The Contractor assumes all the obligations, duties, responsibilities and liabilities of the Contract, without limitation.
- 5.5 Any and all amounts due to the Original Contractor by the State for work performed by the Original Contractor prior to the effective date hereof under the Contract will be paid to the Original Contractor by the State. Any and all amounts due from and after the effective date of this Modification from the State in payment for services performed under the Contract shall be paid to the Contractor.
- 5.6 Guarantee of Performance by the Original Contractor. The Original Contractor, Spherix Incorporated, hereby guarantees absolutely the full, prompt and complete performance by the Contractor, InfoSpherix Incorporated, of all the terms, conditions, obligations, duties, responsibilities, and liabilities contained in the Contract and this Modification, and further as the Contract may be amended from time to time, including any and all exhibits that are now or may become incorporated thereunto, and other obligations of every nature and kind that

now or may in the future arise out of or in connection with the Contract, including any and all financial commitments, obligations and liabilities. The Original Contractor, Spherix Incorporated, may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval will not be unreasonably withheld. The Original Contractor, Spherix Incorporated, further agrees that if the State brings any claim, action, suit or proceeding against Contractor, InfoSpherix Incorporated, The Original Contractor, Spherix Incorporated, may be named as a party, in its capacity as Absolute Guarantor.

5.7 The State consents to the assignment by the Original Contractor of the Contract as provided herein.


IN WITNESS THEREOF, the parties have executed this Modification as of the date hereinabove set forth.

CONTRACTOR
INFOSPHERIX INCORPORATED



By: Richard C. Levin
Title: CEO and President

Date

12/6/05



Witness

MARYLAND DEPARTMENT OF
BUDGET AND MANAGEMENT



By: Ellis Kitchen, Chief
Office of Information Technology

Date

1/04/06



Witness

ORIGINAL CONTRACTOR and ABSOLUTE GUARANTOR:
SPHERIX INCORPORATED



By: Richard C. Levin
Title: CEO and President

Date

12/6/05


Witness

Approved for form and legal
sufficiency this 9 day
of ~~December~~, 2005: January 2006


Assistant Attorney General

APPROVED BY BPW: 1/4/06
(Date) (BPW Item #)

4-IT-MOD