

Master Contract
Between North Central Texas Council of Governments and
Government Payment Service, Inc.

This Contract ("Contract") is made and entered into as of the DAY, MONTH 2012, by and between Government Payment Service, Inc. ("GPS") a private corporation with offices located at 7102 Lakeview Parkway West Drive, Indianapolis, Indiana 46268 and North Central Texas Council of Governments ("NCTCOG"), a Texas political subdivision and non-profit corporation with offices at 616 Six Flags Drive, Center Point Two, Arlington, Texas 76011, hereafter "Party or Parties".

Preamble

This Contract defines the terms and conditions upon which GPS agrees to provide electronic warrant payment services to various governmental members of NCTCOG (the "Participants") who agree to participate in the program described herein, also referred to as the "Project". The Project is more fully described in the Request for Proposals issued by NCTCOG on August 1, 2012 ("RFP") and GPS's response to that proposal ("Proposal"), as well as any modifications to the initial terms of the RFP and Proposal agreed to in any writing signed by the Parties ("Modifications"). The services to be provided by GPS to the Participants are described in this Contract, the RFP, the Proposal and any Modifications ("Services").

General Terms and Conditions

In consideration of the mutual covenants and conditions contained in this Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NCTCOG and GPS agree as follows:

1. Term.

This Agreement shall become effective upon the date it is fully executed and continue for five (5) years, automatically renewing for additional one (1) year periods unless terminated earlier as provided herein.

2. Scope of Duties.

A. NCTCOG Obligations.

NCTCOG agrees to serve only as a facilitator with respect to the Services and is not a Participant in the Project. In order to utilize the Services, Participants must execute separate engagement letters the same or similar to Attachment A with GPS ("Engagement Letter"). GPS may rely upon the signature to any Engagement Letter as valid and binding authority for the approval of such Participant to utilize the Services. NCTCOG will also enter into various interlocal agreements with the Participants defining the legal relationship between NCTCOG and the Participants with respect to the Project.

B. GPS Obligations.

- GPS agrees to enter into separate Engagement Letters with the Participants for electronic warrant payment services and such additional services as Participants may request GPS to provide. The Services to be performed for each Participant may be expanded or altered by result of a Modification to this Contract or by amendment to any Participant's Engagement Letter. GPS agrees to make Services available to each Participant that may be added to the Project as a result of a Modification but reserves the right, in its sole judgment, to accept or reject any additional or revised terms to an Engagement Letter that a Participant may propose.
- GPS shall obtain cardholder authorization to process a charge to the cardholder's credit card account or debit such cardholder's debit card account for purposes of funding payment(s) by such cardholder to Participant. Such charges or debits shall be subject to acceptance by the card issuer, card association rules, and any applicable laws or regulations.
- GPS shall act on Participant's behalf in accepting payments from cardholders made by credit cards and debit cards for the purposes set forth herein and on Attachment A. The cardholder service fees are described on Attachment B hereto ("Service Fees"). Service Fees are non-refundable.
- GPS shall transmit funds to Participant to apply to cardholder obligations as Participant directs based on unique payment codes GPS establishes on its system for the routing of cardholder funds to Participant. The codes shall be made available to cardholders by Participant or accessed by cardholders through the GPS web site. All funds will be remitted to Participant within 24 hours.
- GPS shall be responsible for handling all chargebacks, re-presentments, customer service to cardholders, claims and any transaction disputes associated with cardholders' use of cards to make payments to Participant through GPS. Participant shall have no liability for reversals or chargebacks.
- GPS shall not charge Participant any fees for the Services. GPS reserves the right to charge Participant for other services or equipment, such as custom software development, peripheral devices, and other services and support as the Parties may agree to add to the Services from time to time. All such additional services will be set forth in the Participant's Engagement Letter with GPS.
- GPS shall provide administrative support to cardholders and to Participants through a toll-free telephone help line and the Internet.
- GPS shall provide Participants with training, procedures, toll-free telephone numbers, web addresses, and promotional and instructional materials all at GPS' sole expense.
- GPS shall be responsible for all federal, state, and local taxes legally imposed upon its services.
- GPS will remit on a monthly basis to NCTCOG an administrative fee, as calculated per Attachment C ("Administrative Fee"), in consideration of NCTCOG's efforts to support and expand the Project.

C. Participant Obligations.

Participants in the Project shall be expected to do the following:

- Participant shall (i) keep available for reference any user manuals and instructional materials GPS provides to Participant, (ii) display logos, signage, literature, and other promotional and instructional materials that GPS provides, and (iii) cooperate with all reasonable GPS requests to encourage greater use by cardholders of the Services.
- Participant shall provide telecommunication capabilities, such as telephone, facsimile, and Internet connections to enable cardholders to access GPS from Participant locations and enable GPS to communicate with Participant.
- Participant shall be responsible for establishing and maintaining secure access at its locations to the GPS administrative system, including user identification, passwords and precautions for accessing all confidential information. GPS shall be entitled to rely on any communications or instructions initiated with Participant's user identification, passwords or other security and identity tokens or devices.
- Participant shall designate a primary contact and a secondary contact for GPS to communicate with on operational, technical, and administrative issues.
- Participant shall provide accurate bank routing and account numbers to GPS if Participant requests electronic deposit of funds from GPS.
- Participant shall cooperate with GPS in the event of an overpayment to refund to GPS funds that GPS can demonstrate exceed liabilities to Participant collected through the Services.
- Participant shall provide GPS with prompt written notice of any change in the information Participant provides to GPS necessary for GPS to provide the Services, including but not limited to any change in its bank routing and account numbers.
- In the event Participant receives funds through GPS that appear to have been obtained by fraud, Participant shall provide reasonable assistance in any resulting investigation.
- Participant shall follow procedures that GPS provides to Participant, as such procedures may be updated from time to time. Participant must follow GPS instructions and procedures regarding display of card association logos.
- Any Participant electing to utilize the proprietary GPS collection method, *Gov\$wipe®* accepts the terms and conditions contained in Attachment D.
- Participant shall not enter into any other agreement or make any other arrangement for services similar to the Services for the duration of the Participant's Engagement Letter without the consent of GPS.

3. Termination.

Either Party to this Contract may terminate this Contract, with or without cause and prior to the expiration of the term set forth herein, upon 30 days' prior written notice to the other Party. The Parties may also terminate this Contract by mutual agreement.

4. Compensation.

In consideration for the services to be provided by GPS under this Contract and the separate Engagement Letter(s), GPS shall be compensated in accordance with the fee schedule provided in Attachment B. **It is understood and agreed that the Participants and NCTCOG shall not be in any way responsible for the payment of the Service Fees or any other fees arising out of this Contract unless agreed to by Participant pursuant to section 2.B of this Contract. Cardholders who elect to utilize the Services as a part of the Project shall be solely responsible for paying the Service Fee. Excluding the GPS Service Fee, Participant shall receive 100% of the monies collected.**

5. GPS Representations and Warranties.

- This Contract is valid, binding, and enforceable against GPS in accordance with its terms. GPS has full power and authority to execute and deliver this Contract and perform its obligations hereunder.
- GPS employees, agents and subcontractors have and shall possess the education, knowledge and experience necessary to qualify them individually for the particular duties they perform.
- During the performance of this Contract, GPS shall provide services in a non-discriminatory manner and shall not deny services or employment on the basis of race, creed, color, national origin, sex, age, disability, sexual orientation, military status, marital status or any other legally protected class.
- GPS will comply with the rules and procedures applicable to the credit and debit card brands it accepts and with all applicable laws and regulations.

6. NCTCOG Representations and Warranties.

- NCTCOG has taken all administrative, legal, and regulatory measures necessary for it to enter into this Contract.
- This Contract is valid, binding, and enforceable against NCTCOG in accordance with its terms.

7. Notice.

All notices permitted or required by this Contract shall be in writing and shall be given to the respective parties in person, by first class mail or by facsimile (with a hard copy following) addressed to:

NCTCOG:

Monte Mercer
Deputy Executive Director
616 Six Flags Drive
Arlington, Texas 76011
Phone: (817) 695-9121
Facsimile: (817) 640-7806
Email: mmercercer@nctcog.org

GPS:

Client Services Department
Government Payment Service, Inc.
7102 Lakeview Parkway West Drive
Indianapolis, Indiana 46268
Phone: (866) 564-0169
Facsimile: (888) 665-4755
Email: accountservices@govpaynet.com

or to such other person or place that the parties may from time to time designate. Notices and consents under this section shall be deemed to be received, if sent by mail or courier, five days following their deposit in the U.S. Mail or with such courier and, if sent by facsimile, when such facsimile is transmitted to the number provided in this section and sender receives a confirmation of such facsimile.

8. Amendment.

This Contract may be amended only by a written amendment executed by both Parties, except that any alterations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations or required by the funding source are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

9. Dispute Resolution.

The Parties to this Contract agree to the extent possible and not in contravention of any applicable State or Federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this Contract informally through voluntary mediation, arbitration or any other local dispute mediation process, including but not limited to the dispute resolution policies of NCTCOG, before resorting to litigation.

10. Force Majeure.

It is expressly understood and agreed by the Parties to this Contract that, if the performance of any provision of this Contract is delayed by force majeure, defined as reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the control of the Party obligated or permitted under the terms of this Contract to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated herein, the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirement shall be extended for a period of time equal to the period of time such Party was delayed. Each Party must inform the other in writing within reasonable time of the existence of such force majeure.

11. Severability.

In the event any one or more of the provisions contained in this Contract shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Contract shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intents of the Parties.

12. Assignment.

This Contract may not be assigned, in whole or in part, by either Party hereto without prior written consent of the other Party, which consent shall not be unreasonably withheld.

13. Governing Law and Venue.

This Contract shall be governed by and construed in accordance with the laws of the State of Texas. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Contract shall be in Tarrant County, Texas.

14. Publicity.

GPS shall not issue any press release or make any statement to the media with respect to this Contract or the services provided hereunder without the prior written consent of NCTCOG.

15. Intellectual Property.

NCTCOG acknowledges and shall not challenge GPS' ownership of GPS copyrights, trademarks, service marks, trade names, patents, patent applications, or other intellectual property ("GPS Intellectual Property"). NCTCOG agrees that use of GPS Intellectual Property shall be in accordance with GPS instructions and subject to the control, direction and approval of GPS, any rights arising out of such use shall inure solely to the benefit of GPS, and that NCTCOG shall have no ownership or other interest in GPS Intellectual Property.

16. Limitation of Liability.

GPS shall provide all Services hereunder to Participant and NCTCOG as an independent contractor. Nothing contained herein shall be deemed to create any association, partnership, joint venture, or relationship of master and servant or employer and employee between the Parties or to provide either Party with the right, power, or authority, expressed or implied, to create any such duty or obligation on behalf of the other Party. In no event shall either Party be liable for special, consequential, incidental, indirect or punitive loss, damages or expenses arising out of or relating to this Contract, whether arising from breach of contract or warranty, or arising in tort, strict liability, by statute or otherwise, even if it has been advised of their possible existence or if such loss, damages or expenses were reasonably foreseeable.

Notwithstanding anything contained herein to the contrary, the Parties agree that this Contract and all claims arising under or related to this Contract are subject to and limited by the receipt and availability of funds which are received from the funding agencies by NCTCOG dedicated for the purposes of this Contract.

17. Indemnification.

Subject to section 16 of this Contract and to the maximum extent allowed by law, GPS covenants and agrees to indemnify and hold harmless and defend and does hereby indemnify, hold harmless and defend NCTCOG and any Participant, and its, or their officers and employees, from and against any and all suits or claims for damages or injuries, including death, to persons or property, whether real or asserted, arising out of GPS's failure to comply with terms of this Contract and/or any negligent act or omission on the part of GPS, its officers, agents, servants, employees, or subcontractors and GPS does hereby assume all liability for injuries, claims, expenses, costs incurred, including reasonable attorney fees and costs of NCTCOG and Participants for litigation or suits for damages to persons, property or whatever kind or character, whether real or asserted, occurring during or arising out of this Contract and/or the failure to comply with the terms of this Contract and/or as a result of any negligent act or omission on the part of GPS, its officers, agents, servants, employees, or subcontractors. **This indemnification shall not extend to claims, demands, damages, costs, expenses (including attorney's fees and defense costs), judgments or liabilities resulting from the sole or contributory negligence or willful misconduct of NCTCOG or a Participant.**

18. Insurance.

GPS shall purchase and maintain such insurance as will protect it from claims which may arise out of or result from its performance under the Contract, whether such performance be by GPS or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The insurance shall be written for not less than the greater of \$1,000,000 and any limits required by law, and shall include contractual liability insurance as applicable to GPS' obligations under the indemnification clause of this Contract. GPS agrees to indemnify NCTCOG and Participants for all direct losses NCTCOG and Participants suffer due to gross negligence, error, or willful misconduct on the part of GPS.

19. Conflict of Interest.

During the term of this Contract, and all extensions hereto and for a period of one (1) year thereafter, neither Party, shall, without the prior written consent of the other, directly or indirectly, whether for its own account or with any other persons or entity whatsoever, employ, solicit to employ or endeavor to entice away any person who is employed by the other Party.

20. Whole Agreement.

This Contract and any attachments/addendums, as provided herein, constitute the complete agreement between the Parties hereto, and supersede any and all oral and written agreements between the Parties relating to matters herein.

21. No Waiver.

A waiver of any portion of this Contract shall not be deemed a waiver or renunciation of other portions.

22. Survival.

Rights and obligations under this Contract which by their nature should survive will remain in effect after termination or expiration hereof.

23. Third-Party Beneficiaries.

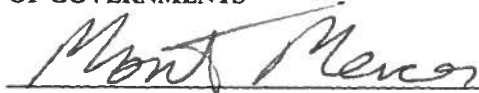
There are no third-party beneficiaries to this Contract.

24. Counterparts.

This Contract may be executed simultaneously in multiple counterparts, each of which is deemed an original, but all of which taken together constitute one and the same instrument.

25. Order of Interpretation.

With respect to the interpretation of the agreement between the Parties, the terms of any amendment or Modification shall take precedence over all other documents followed, in descending order of priority, by this Contract, the Proposal, and the RFP. With respect to the interpretation of any agreement between a Participant and GPS, the terms of any amendment to the Engagement Letter shall take precedence over all other documents followed, in descending order of priority, by the Engagement Letter, this Contract, the Proposal and the RFP.

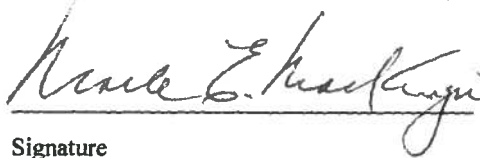
**NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS**

Signature

Name: Monte Mercer

Title: Deputy Executive Director

Date: January 14, 2013

GOVERNMENT PAYMENT SERVICE, INC.

Signature

Mark E. MacKenzie

Chief Executive Officer

Date: 1/11/13

ATTACHMENT A:

Engagement Letter

[PARTICIPANT LETTERHEAD]

[DATE]

Client Services Department
Government Payment Service, Inc.
7102 Lakeview Parkway West Drive
Indianapolis, Indiana 46268

To Whom It May Concern:

This letter shall confirm our agreement to become a Participant in the Project and obtain Services as more fully described in that Contract between your company and the NCTCOG, dated MONTH DAY, 2012 (all capitalized terms not otherwise defined in this letter shall have the definition assigned to them in the Contract). We understand and accept that your company's provision and the City's use of the Services are subject to the terms and conditions of the Contract and any interlocal agreement between the City and NCTCOG. In particular, the City agrees to be bound by the Participant's obligations set out in the Contract. [OPTIONAL: Our agency has elected to utilize your *Gov\$wipe*® solution in making Services available to cardholders.]

The City may at any time (i) authorize you to accept additional types of payments within the scope of the applicable Service Fees; (ii) cancel the processing through your company of any types of payments; (iii) modify the account(s) to which you direct payments to the City; or (iv) add other agencies, departments or sub-agencies within this governmental subunit ("Affiliated Agencies") to, or delete Affiliated Agencies from our use of the Services by specifying all such changes to GPS **in writing**. Any such changes will be subject to your acceptance and confirmation **in writing** and will require reasonable lead time to implement. For purposes of this paragraph, "in writing" shall mean via letter, email, or facsimile to the address included in this letter, or such other address as either of us may provide to each other.

The term of this Engagement Letter shall not exceed the term of the Contract, unless the City and your company agree in writing to continue Services beyond such term. We further understand that we may cancel our participation in the Project and the Services, without cause or reason, upon 30 days advance written notice to you via the method defined in the Contract.

This Engagement Letter together with the Contract constitutes the complete agreement between your company and the City, supersedes any and all oral and written agreements between us relating to matters herein and may only be amended in a writing signed by both parties.

[SIGNATURE]

ATTACHMENT B:**Fee Structure**

Service Fees for Bail Payments	
Payments via Internet (Web/Gov\$wipe®)	Payments via Internet (Live Agent Assistance)
5.0%	5.0%

Please note that the minimum charge for items under \$100 has been resolved

Service Fees for Criminal Justice Payments	
Payments via Internet (Web/Gov\$wipe®)	Payments via Internet (Live Agent Assistance)
3.5%	5.0%

Please note that the minimum charge for items under \$100 has been resolved

ATTACHMENT C:
Administrative Fee

GovPayNet shall pay to NCTCOG an Administrative Fee as follows:

For the first 2,000 Transactions:	\$0.15 Per Transaction
For Transactions 2,001 through 5,000	\$0.20 Per Transaction
For Transactions 5,001 and above:	\$0.25 Per Transaction

For purposes of the above calculation, a "Transaction" is any payment type made to a Project Participant for which GPS obtains an authorization from a card issuer resulting in the transfer of funds to the Participant.

GPS shall pay the Administrative Fee to NCTCOG on a monthly basis for Transactions processed in the prior calendar month and shall continue such payments for the duration of this Contract, with a final payment for Transactions processed in the last calendar month during which this Contract remains in effect.

By the final day of the month following the month in which Administrative Fees were earned, GPS will send NCTCOG a check or ACH (at NCTCOG's direction) for the Administrative Fees due and will identify the number of Transactions for which payment is being made, listed by Participant.

ATTACHMENT D:
Terms and Conditions for the
Use of *Gov\$wipe*

GPS will provide any Participant electing to utilize *Gov\$wipe* with card readers and peripheral equipment (cables, etc.), which are and will remain the property of GPS. Participant understands that GPS card readers are embedded with proprietary technology ("Firmware"). GPS grants Participant a license to use such card readers and Firmware for the duration of the Services. Participant's use of card readers and Firmware shall be limited to the purposes of this Attachment. Acceptance and use of card readers does not convey to Participant any title, patent, copyright or other proprietary right in or to the Firmware. At all times, GPS or its suppliers retain all rights to the Firmware, including but not limited to updates, enhancements, and additions. Participant shall not attempt to access or disclose the Firmware to any party, or transfer, copy, license, sublicense, modify, translate, reverse engineer, decompile, disassemble, tamper with, or create any derivative work based on Firmware.

Participant will use reasonable care to protect card readers from loss, theft, damage or any legal encumbrance. GPS shall provide card readers and installation instructions at service implementation and when providing any replacement or additional card readers, by shipment to a location Participant designates or, at GPS's option, Participant will allow GPS and its designated representatives reasonable access to Participant's premises for training purposes and device installation, repair, removal, modification, upgrades, and relocation.

GPS is solely responsible for the maintenance of any card readers and shall supply Participant with replacement card readers on Participant's request and as GPS deems appropriate. Upon termination of the Services, GPS may require Participant to return card readers to GPS, at GPS's expense and by such method as GPS specifies. Participant may increase or decrease the number of card readers deployed upon request **in writing** to and accepted **in writing** by GPS. GPS shall communicate any shipping and handling procedures and costs to Participant prior to taking any requested action.

Card readers are designed to communicate cardholder data to GPS through Participant's computing equipment to which they are cable-attached via USB port. Internet access to GPS is required for transaction processing and is enabled solely by Participant's computers and networks. Participant is responsible to use standard safeguards and practices to keep its computers and networks secure and free from malicious software or hardware. GPS shall not be held liable to Participant for exposure of Participant's computers or networks to malicious software or hardware of any kind.

AMENDMENT TO CONTRACT

AMENDMENT 1

This Amendment 1 ("Amendment") is by and between NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS ("NCTCOG") and GOVERNMENT PAYMENT SERVICE, INC. ("GPS") and amends the Master Contract between North Central Texas Council of Governments and Government Payment Service, Inc., effective January 14, 2013 ("Contract").

FOR GOOD AND VALUABLE CONSIDERATION, the parties agree as follows:

- **Effect of Amendment.** This Amendment is entered into pursuant to section 8 of the Contract. Capitalized terms not defined in this Amendment shall have the meaning given to them in the Contract. Terms of the Contract not amended by this Amendment shall continue unchanged, in full force and effect.
- **Effective Date.** The first line of the first paragraph of the Contract is amended by replacing the phrase "DAY, MONTH 2012" with the date "January 14, 2013."
- **Merchant Warranty.** Without limiting in any manner the warranties of GPS provided in section 5 of the Contract, GPS warrants that it is a merchant for bail and criminal justice related payments, as determined pursuant to the Visa International Operating Regulations ("Visa Regulations") and that the services GPS provides as a merchant and as described in the GPS Proposal in response to the NCTCOG RFP are in compliance with Visa Regulations.
- **Indemnification Covenant.** The parties agree that the indemnification by GPS of NCTCOG and the Participants under Paragraph 17 of the Contract shall include, but not be limited to, all claims that may arise during the contract against NCTCOG and/or the Participants relating to GPS' charging of percentage (%) credit processing fees.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment by their duly authorized representatives or agents as of the date written below.

**NORTH CENTRAL TEXAS COUNCIL OF
GOVERNMENTS**



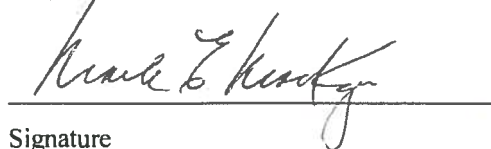
Signature

Monte Mercer

Deputy Executive Director

Date: 2/4/13

**GOVERNMENT PAYMENT SERVICE,
INC.**



Signature

Mark E. MacKenzie

Chief Executive Officer

Date: 02/04/13

AMENDMENT TO CONTRACT

AMENDMENT 2

This Amendment 2 ("Amendment") is entered by and between the NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS ("NCTCOG") and GOVERNMENT PAYMENT SERVICE, INC. ("GPS") and amends the Master Contract between North Central Texas Council of Governments and Government Payment Service, Inc., effective January 14, 2013 ("Contract").

FOR GOOD AND VALUABLE CONSIDERATION, the parties agree as follows:

- **Effect of Amendment.** This Amendment is entered into pursuant to section 8 of the Contract. Capitalized terms not defined in this Amendment shall have the meaning given to them in the Contract. Terms of the Contract not amended by this amendment shall continue unchanged, in full force and effect.
- **Merchant Obligations.** In addition to those obligations listed in section 2 of the Contract, GPS agrees that until the expiration of three (3) years after final payment under this Contract, or the final conclusion of any audit commenced during the said three years, NCTCOG and Participant(s), or other designated representative(s), shall have access to and the right to audit at reasonable times, all GPS records involving transactions relating to this Contract necessary to determine compliance therewith, at no additional cost to NCTCOG and Participant(s). GPS agrees that NCTCOG and Participant(s) shall have access to such records during normal business hours. To the extent practicable, NCTCOG and Participant(s) shall provide GPS with reasonable advance notice of any intended audits.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment by their duly authorized representatives or agents as of the date written below.

**NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS**



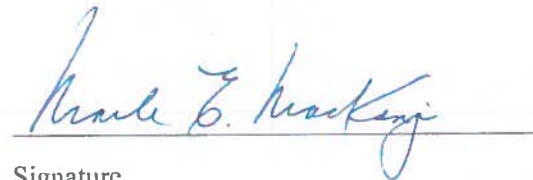
Signature

Monte Mercer
Deputy Executive Director

Date:

4/18/14

**GOVERNMENT PAYMENT SERVICE,
INC.**



Signature

Mark E. MacKenzie
Chief Executive Officer

Date:

4/29/14