

**AMENDMENT 4
TO
MASTER SERVICE AGREEMENT
BY AND BETWEEN
AT&T CORP. AND
THE STATE OF OHIO, DEPARTMENT OF ADMINISTRATIVE SERVICES**

This Amendment, Number # 4 ('Amendment') is entered into and between AT&T Corp. ("Vendor") having and office at 150 E Gay Street, 12th Floor, Columbus, Ohio 43215, and the State of Ohio, Department of Administrative Services ('the State'), having its principal place of business at 30 East Broad Street, 40th Floor, Columbus, Ohio 43215 (jointly referred hereto as the 'Parties') and is effective as of the date signed by the State.

Section 1. Recitals.

- 1.1 **WHEREAS**, the Parties entered into that certain Master Service Agreement dated May 20, 2010.
- 1.2 **NOW THEREFORE**, the Parties intend to make certain changes to the Master Service Agreement as Follows"

Section 2. Conflict Resolution. Replace Section 1.19 (B) in its entirety with language below.

The Vendor shall comply with all terms and conditions of this Agreement and provisions of any Service Attachment. If a Party is noncompliant with any term or condition of this Agreement or if a dispute arises under this Agreement, the Party raising the dispute may provide to the other Party written notice referencing this section and specifying the nature of the dispute (the "Dispute Notification"). The Parties then will seek to resolve the dispute in accordance with the procedures in this Section.

All disputes will be submitted first to the State's Contract Category Manager and the Vendor's Account Manager (or equivalent) for resolution. For 15 days from receipt of the Dispute Notification ("Dispute Date"), the State's Contract Category Manager and Vendor's Account Manager will meet in person or by telephone as often as is reasonably necessary to discuss and attempt to resolve the dispute in good faith.

If after the fifteen (15) days identified above, the State's Contract Category Manager and the Vendor's Account Manager are unable to resolve the dispute, the Parties will then submit the dispute to the State's IT Contract Administrator and to the Vendor's Sales Director (or equivalent) for resolution. For the next fifteen (15) days, the State's IT Contract Administrator and Vendor's Sales Director will meet in person or by telephone as often as is reasonably necessary to discuss and attempt to resolve the dispute in good faith.

If following the fifteen (15) days in the previous section, the State's IT Contract Administrator and the Vendor's Sales Director are unable to resolve the dispute, the Parties may then submit the dispute to the State's Chief Information Officer ("CIO") or a designee and to the Vendor's Vice President of Sales (or equivalent executive) for resolution. For the next fifteen (15) days, the State's CIO and Vendor's Vice President will meet in person or by telephone as often as is reasonably necessary to discuss and attempt to resolve the dispute in good faith. If the State's CIO and Vendor's Vice President are unable to resolve the dispute within that time, the Parties will nevertheless continue to retain their rights to initiate formal proceedings hereunder.

The specific format for such discussions will be left to the discretion of the representatives of the State and Vendor responsible for attempting to resolve the dispute, but each Party will involve the business and legal resources reasonably necessary to attempt in good faith to resolve the dispute at the earliest possible time and without undue delay.

If the Parties are unable to resolve the dispute and the dispute involves a claim that the Vendor is noncompliant with its obligations hereunder or has overcharged for a Service, the State or affected Subscribing Entities may withhold payment for any Services that are the subject of the dispute until the Vendor cures the noncompliance, the Parties arrive at an agreement to resolve the dispute, or a Party obtains a resolution in a court of competent jurisdiction.

Nothing in this Section is intended to limit the rights provided under Section 6 or be a prerequisite to exercising those rights.

Once the dispute has been resolved, any payments withheld will be handled in the following manner:

If the resolution was in favor of the State or one or more Subscribing Entities, the Vendor may issue a credit on the soonest invoice for the affected Subscribing Entities. If the credit or credit towards the account exceeds the Service charges on the next invoice or an invoice will not be issued within 60 days of the resolution, the Vendor may issue payment in the form of a check in the amount exceeding the Service charges or for the full amount if an invoice will not be issued within 60 days. Any such checks must be issued within that 60-day period, or as soon as practically possible

If in favor of the Vendor, the affected Subscribing Entities will submit appropriate payment within 30 days of receiving notification of the resolution at the office designated to receive the invoice.

In either of the above cases, the amount or amounts withheld by the State or Subscribing Entity(s) will be taken into account in calculating any amount(s) due.

Nothing in this Section 1.19(B) is intended to limit the Parties' rights provided under Section 1.19(A) and Section 7.

Section 3. Cost Recovery. Section 13 of the MSA regarding cost recovery is replaced in its entirety with the language below:

The Vendor must pay a Cost Recovery Fee to the State to cover the estimated costs the State will incur administering this Agreement and the Services offered under it.

The Cost Recovery Fee will be 2% of the total quarterly sales reported under this Agreement to all Subscribing Entities, including all State-level entities and all Cooperative Purchasing Members. The Cost Recovery Fee is included in the prices reflected on the Service Attachment and the Vendor may not add a surcharge to orders under this contract to cover the amount of the Cost Recovery Fee. The State will generate notification to the Vendor via email on the last day of the calendar quarter advising the Vendor to complete a revenue reporting form provided by the State within 30 days after the close of the quarter. The State may compare the form provided by the Vendor to information in the State's accounting system, the State's Ordering System, and other records for purposes of verifying the accuracy of the form.

- Examples of calculation of a Cost Recovery Fee:
(Log-In and Password Established for Cost Recovery Contact to Report Sales)

1) (State Entities Only Example)

FY14				
Quarter	Revenue State Agencies	Revenue Local Governments	Revenue Share Due	Reported by
Q1	\$ 79,193	\$ 0	\$ 1,584	"Name of Contact"
Q2	\$ 10,392	\$ 0	\$ 208	"Name of Contact"
Q3	\$ 209,105	\$ 0	\$ 4,182	"Name of Contact"
Q4	\$ 74,970	\$ 0	\$ 1,499	"Name of Contact"

2) (State Entities and Cooperative Purchasing Member Sales Example)

FY14				
Quarter	Revenue State Agencies	Revenue Local Governments	Revenue Share Due	Reported by
Q1	\$ 79,193	\$ 20,963	\$ 2,003	"Name of Contact"
Q2	\$ 10,392	\$ 4,197	\$ 292	"Name of Contact"
Q3	\$ 209,105	\$ 63,210	\$ 5,446	"Name of Contact"
Q4	\$ 74,970	\$ 1,471	\$ 1,529	"Name of Contact"

3) (Reporting \$0 Sales to both State Entities and Cooperative Purchasing Members)

Note: Reporting still required although sales reported for quarter - \$0

FY14				
Quarter	Revenue State Agencies	Revenue Local Governments	Revenue Share Due	Reported by
Q1	\$ 0	\$ 0	\$ 0	"Name of Contact"
Q2	\$ 0	\$ 0	\$ 0	"Name of Contact"
Q3	\$ 0	\$ 0	\$ 0	"Name of Contact"
Q4	\$ 0	\$ 0	\$ 0	"Name of Contact"

The Vendor must remit to the State the 2% Cost Recovery Fee within 30 days of receipt of the notice from the State by check to the State of Ohio, Office of Information Technology. The check must be made payable to the Treasurer, State of Ohio, and must be sent to the State at the following address:

**Department of Administrative Services
L-3686
Columbus, OH 43260-3686**

The State will direct the Vendor to the State's in-house reporting system to enter all reporting information to include all State entity sales as well as Cooperating Purchasing sales. To ensure that the payment is credited properly, the Vendor must identify the check as a State of Ohio Cost Recovery Fee and reference this Master Service Agreement and the supporting Cost Recovery Report. Credit of the Cost Recovery Fee will begin in the month of execution of this Agreement.

If Cost Recovery fee is not paid within 30 days after the end of the applicable reporting period, each party will attempt to resolve the dispute at the earliest possible time and without undue delay. If the parties are unable to resolve the dispute, the Party raising the dispute may provide to the other Party written notice detailing reason for dispute (the 'Dispute Notification'). The Parties will seek to resolve the dispute in accordance with the procedure below:

All disputes will be submitted first to the State's Revenue Share Manager and the Vendor's Account Manager (or equivalent) for resolution. For fifteen (15) days from receipt of the Dispute Notification ('Dispute Date') the State's Revenue Share Manager and the Vendor's Account Manager will meet in person or by telephone as often as is reasonably necessary to discuss and attempt to resolve the dispute in good faith.

If after the fifteen (15) days identified above, the State's Revenue Share Manager and the Vendor's Account Manager are unable to resolve the dispute, the Parties will then submit the dispute to the State's Financial Analysis Supervisor and to the Vendor's Sales Director (or equivalent) for resolution. For the next fifteen (15) days, the State's Financial Analysis Supervisor and Vendor's Sales Director will meet in person or by telephone as often as is reasonably necessary to discuss and attempt to resolve the dispute in good faith.

If following the fifteen (15) days in the previous section, the State's Financial Analysis Supervisor and the Vendor's Sales Director are unable to resolve the dispute, the Parties may then submit the dispute to the State's Financial Manager and to the Vendor's Vice President of Sales (or equivalent executive) for resolution. For the next fifteen (15) days, the State's Financial Manager and Vendor's Vice President will meet in person or by telephone as often as is reasonably necessary to discuss and attempt to resolve the dispute in good faith. If the State's Financial Manager and Vendor's Vice President are unable to resolve the dispute within that time, the Parties will nevertheless continue to retain their rights to initiate formal proceedings hereunder.

The specific format for such discussions will be left to the discretion of the representatives of the State and Vendor responsible for attempting to resolve the dispute, but each Party will involve the business and legal resources reasonably necessary to attempt in good faith to resolve the dispute at the earliest possible time and without undue delay.

If the Parties are unable to resolve the dispute and the dispute involves a claim that the Vendor is noncompliant with its obligations regarding Cost Recovery payment, the State may offset any unpaid cost recovery from any amount owed to the Vendor under this Contract and employ all other remedies available to it under Ohio law for the non-payment of Cost Recovery. If the Parties are unable to resolve the dispute per the processes enumerated in the preceding paragraphs in this Agreement, and the dispute involves a claim that the Vendor is noncompliant with its obligations regarding Cost Recovery payment, the parties shall submit the dispute to third party binding arbitration for resolution, via a mutually agreeable AAA arbitration provider in the State of Ohio.

Section 4. **Notices.** Section 14 regarding address for processing of all notices is revised to the following:

Department of Administrative Services
Office of Information Technology
Enterprise Information Technology Contracts
30 East Broad Street, 39th Floor
Columbus, Ohio 43215
Attn: Enterprise IT Contracts Administrator

Section 5. Add - IRS 1075 Technology Services. In consideration of the mutual promises and obligations contained in the Agreement and this Amendment, the parties agree to add language to the Agreement as follows:

Vendor and the State agree that both parties shall review the IRS 1075 Technology Services provisions annually and will update the agreement to include any necessary language if applicable.

Section 6. Add – Registration with the Secretary of State. In consideration of the mutual promises and obligations contained in the Agreement and this Amendment, the parties agree to add language to the Agreement as follows:

The Contractor attest that the Contractor is an Ohio corporation that is properly registered with the Ohio Secretary of State, and upon request will provide such evidence.

Signatures on following page

In Witness Whereof, the Parties have executed this Amendment, which is effective on the date the State's duly authorized representative signs it on behalf of the State, ("Effective Date").

This agreement shall be void if not executed by Customer and received by AT&T within 45 days of the date AT&T executed the Agreement, or if Customer alters, adds or deletes any of the provisions in the version executed by AT&T.

AT&T	State of Ohio, The Department of Administrative Services
By: 	By: <i>Robert Blair/srd</i>
Printed Name: Patrick J. Gleason	Printed Name: Robert Blair/srd
Title: Sr. Contracts Manager	Title: DAS Director Assistant Director/State CIO
Date: Jan 16 2017 Federal Tax ID: 34-0436390	Effective Date: <i>1/27/17</i> KG898B