

**PARTICIPATING ADDENDUM
UNDER THE
NASPO VALUEPOINT
WIRELESS COMMUNICATION SERVICES AND EQUIPMENT
MASTER AGREEMENT NUMBER: MA149**

PARTICIPANT: State of Kansas

State of Kansas assigned contract #: 0000000000000000000048630 (48630)

This Participating Addendum (the "PA") is made this 2nd day of November 2020 (the "PA Effective Date"), between *State of Kansas* ("Participating Entity"), and AT&T Corp. ("Contractor") (Participating Entity and Contractor are, at times, referred to individually as a "Party" or together as the "Parties").

Section 1. Recitals.

1.1 Contractor and the State of Utah, acting through its Department of Administration, Purchasing Division, and the participating members of the NASPO ValuePoint, a division of the National Association of State Procurement Officials ("NASPO"), are parties to that certain wireless communication services and equipment contract #MA 149-1, dated, December 6, 2019 (the "Contract" or "Master Agreement").

1.2 Participating Entity wants to participate in the Contract pursuant to the terms and conditions of the PA.

Section 2. Agreement. In consideration of the recitals set forth in §1 above, which are hereby re-stated and agreed to by the Parties, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, Participating Entity and Contractor hereby agree to the terms and conditions of the PA (the Contract and the PA, together with all valid Orders submitted to Contractor by Participating Entity, collectively, the "Agreement"). Unless otherwise defined, capitalized terms in the PA have the meanings ascribed to them in the Master Agreement.

Section 3. Authorized Purchasing Entities. Participating Entity hereby designates *State of Kansas, state and local subdivisions (includes state agencies, educational institutions, cities, counties, municipalities and taxing subdivisions)* as authorized Purchasing Entities under the Agreement.

Section 4. Purchase Orders. Participating Entity must issue purchase orders hereunder that reference both Master Agreement #MA149-1 *and/or the State of Kansas Contract number*. Upon issuance of any such valid purchase order, Participating Entity will be bound by the terms and conditions of the Agreement including, without limitation, the obligation to pay Contractor for Service, Equipment, and related Products provided. Notwithstanding the foregoing, any purchase order submitted that does not properly reference the Master Agreement number *and/or the State of Kansas Contract number* may be accepted, at Contractor's sole discretion, if Contractor can reasonably ascertain that such Purchase Order was properly authorized and intended for use with the *State of Kansas Contract*. In such instances, the corresponding Purchase Order will be similarly valid and binding. Except as expressly provided in the Agreement, terms and conditions inconsistent with, contrary or in addition to the terms and conditions of the Agreement will not be added to or incorporated into the Agreement by any Purchase Order; and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of the Agreement will prevail and govern in the case of any such inconsistent or additional terms.

Section 5. Primary Contacts.

Participating Entity: State of Kansas

Name: *Neal Farron*

Title: *Procurement Officer*

Address: *State of Kansas, Department of Administration, Office of Procurement and Contracts*

900 SW Jackson, Rm 451S, Topeka, KS 66612

Telephone: *785-296-3122 (direct) or 785-296-2376*

E-Mail: [*Neal.Farron@ks.gov*](mailto:Neal.Farron@ks.gov)

Lead State: UTAH

Name: Christopher Jennings

Title: Assistant Director

Address: 3140 State Office Bldg.

Salt Lake City, UT 84114

Telephone: 801-538-3157

Fax Number: 801-538-3882

E-Mail: [*ctjennings@utah.gov*](mailto:ctjennings@utah.gov)

Contractor Account Team:

Name: Theresa Benko

Title: Client Solutions Executive

Address: 440 S Executive Dr

Brookfield, WI 53005

Telephone: 262-617-1004

E-Mail: [*tb9275@att.com*](mailto:tb9275@att.com)

Contractor Main:

Name: Bethani Cross

Title: Client Solutions Executive

Address: 311 S Akard St.

Dallas, TX 75202

Telephone: 214-979-9053

E-Mail: [*bethani.cross@att.com*](mailto:bethani.cross@att.com)

Section 6. Authority. By signing below, the corresponding Party's representative represents that he or she is duly authorized by Contractor or Participating Entity, as applicable, to execute the PA on behalf of the respective Party, and that the Contractor and Participating Entity agree to be bound by the provisions hereof. In addition, Participating Entity represents that it has received the requisite approvals from the applicable Chief Procurement Official and NASPO to participate in the Master Agreement.

Section 7. Miscellaneous.

7.1 Employee Benefit Program. Participating Entity will participate with Contractor in efforts to obtain eligible Employees' participation in the Employee Benefit Program.

7.2 Supplemental Terms. *Participating Entity supplemental terms are attached as Exhibit A.*

Section 8. Notice of Administrative Fees. All Participating Entities are hereby on notice of the following charges being paid by Contractor under the Contract.

- **Contract Fees Under the Master Agreement,** Contractor is being charged an Administrative Fee of: (i) 0.25% of all CRUs' Total Wireless Spend; and (ii) 0.10% of all IRUs' Total Wireless Spend of the Total Wireless Spend, pursuant to the schedule of payments set forth in the Contract.
- **Contract Fees Under this PA,** See Exhibit A.

Section 9. Order of Precedence. Notwithstanding the Order of Precedence set forth in the Master Agreement, the Parties acknowledge and agree that in the event of a conflict between the terms contained in the various documents comprising the Agreement, the following order of precedence will control: (a) the PA; (b) the Master Agreement; and (c) any valid purchase order issued in connection therewith.

Section 10. Custom Plans.

FirstNet Mobile Plans – Agency and Subscriber Paid. The parties mutually agree that the AT&T FirstNet Solution and additional Services are available for use with the AT&T FirstNet Nationwide Public Safety Broadband Network (collectively, the “AT&T FirstNet Solution”) for the term of the Agreement.

Section 11. Custom Plans NASPO 1907 to NASPO 149 Contract Migration. Provided Participating Entity remains in full compliance with the terms and conditions of the Agreement, and subject to all corresponding conditions set forth in this §11 (including all sub-sections and Tables), AT&T will provide Participating Entity and its eligible CRUs the custom Mobile Plans described below. The corresponding CRU must be eligible to activate Service on the underlying, non-customized version of the corresponding Plan. To the extent of any material conflict between the terms and conditions of this §11 and the applicable Sales Information, this §11 will control. Notwithstanding the foregoing, the Custom Plans will be provided only if Participating Entity’s account is active and in good standing with respect to the applicable CRU. The Contract Service Discounts are applied to eligible Custom Plans after custom price modifiers are applied obtaining net price. Custom rate plans may not be eligible for other discounts or promotions available to AT&T’s customers. For all Custom Plans the corresponding Plan’s Monthly Service Charge (at times, “MSC”) will appear on the invoice at the standard price set forth in the Sales Information, but the customized net monthly price set forth in the corresponding table will be achieved via application of a modifier also reflected on the invoice. Rates do not include data or text; rates are for voice (only) when activates with \$65.00 GEM or REMB data add on plans.

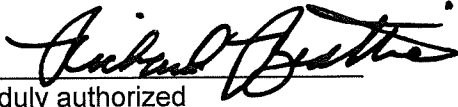
**TABLE 11.1
Custom Plans NASPO 1907 to NASPO 149**

| | List Pricing | Voice Only | Voice with REMB or GEM AO |
|----------------------------------|---------------------|-------------------|----------------------------------|
| GOV P100 | \$30.00 | \$21.00 | N/A |
| GOVP300 | \$39.00 | \$27.00 | \$22.50 |
| GOVP400 | \$44.00 | \$29.61 | N/A |
| GOVP600 | \$53.00 | \$36.00 | \$35.18 |
| GOVP1000 | \$70.00 | \$47.25 | \$46.88 |
| ODN National Flat Rate 10 | \$12.99 | \$6.37 | N/A |

Section 12. Entire Agreement. Master Agreement and this Participating Addendum sets forth the entire agreement between the Parties with respect to its subject matter, and it supersedes all previous communications, representations or agreements, whether oral or written, with respect thereto.

IN WITNESS WHEREOF, the Parties have executed the PA as of the PA Effective Date.

STATE OF KANSAS

By:  NF
, duly authorized

Name: RICHARD BEATTIE

Title: DIRECTOR OF PURCHASES

Date: 10-30-2020

AT&T CORP.

By: 
, duly authorized

Name: Jack Wildermuth

Title: Senior Contract Manager

Date: 11/2/2020

**EXHIBIT-A
PARTICIPATING ENTITY ADDITIONAL TERMS OR ADDITIONS**

1. Scope: All awarded and authorized categories under the Master Agreement #MA149 are available.
2. Participating State Modifications or Additions to Master Agreement:

- a. *The laws of the State of Kansas shall govern this addendum.*
- b. *State of Kansas Contractual Provisions Attachment, DA-146a attached and incorporated into this Participating Addendum will have prior precedence over the Order of Precedence for the Master Agreement.*

- c. *Reports and Administrative Fees:
The Contractor shall submit calendar quarterly reports to the Division of Purchases for all CRUs' Total Wireless Spend ("actual, net invoice sales"), made under this Participating Addendum.*

This report should include as a minimum the agency name, quantity, description and amount. The report will be provided electronically, and a physical check sent payable to the State of Kansas – Office of Procurement and Contracts for an amount equal to one percent (1.0%) of all CRUs' Total Wireless Spend and conditioned on 21-month Equipment Upgrade Terms at the State of Kansas agreement level. The report and fee shall be submitted no later than 60 days following the end of each calendar quarter to reports@ks.gov.

| End of Quarter | Reporting and Pay Date |
|-----------------------|-------------------------------|
| March 31st | May 31st |
| June 30th | August 30th |
| September 30th | November 30th |
| December 31st | February 28th (29) |

- d. *All Administrative Fees will be incorporated into the quoted unit prices of this contract. The Contractor may adjust the Master Agreement pricing to reflect the additional State of Kansas administrative fee.*
- e. *Travel expenses, if applicable, shall be reimbursed under the same rates and conditions as noted in the "Employee Travel Expense Reimbursement Handbook" found at: <https://admin.ks.gov/offices/chief-financial-officer/travel-information-for-state-employees> unless otherwise agreed upon with the Purchasing Entity.*
- f. *Product Financing and Leasing is outside the scope of this Participating Addendum unless authorized by the State's Chief Procurement Officer for an individual order. This is applicable for State of Kansas agencies only and does not apply to political sub-divisions.*

- g. Upon request of the Purchasing Entity, the Contractor shall accept a Business Procurement Card (BPC) or other like instrument in lieu of a warrant for payment under this agreement. No additional charges will be allowed for using the P-Card.*
- h. This contract is not an exclusive contract. The State of Kansas is not precluded from the purchase of goods and services from other sources.*
- i. A State of Kansas, Tax Clearance Certificate is required to execute this Addendum.*
- j. The contractor shall sign and submit a "Policy Regarding Sexual Harassment Acknowledgment form" per Executive Order 18-04. This form is required to execute this Addendum.*
- k. The contractor shall sign and submit a "Boycott of Israel certification Form" per HB 2482, 2018 Legislature. This form is required to execute this Addendum.*
- l. The contractor acknowledges the assigned State of Kansas contract number is: 0000000000000000000048630 (48630).*

State of Kansas

Department of Administration DA-146a
(Rev. 07-19)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20____

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due to Lack of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).

5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.
6. **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to

protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, *et seq.*
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.