

STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

**ADDENDUM TO AT&T ILEC PRIMARY RATE ISDN
SMARTTRUNK SERVICE AGREEMENT**

THIS ADDENDUM is entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic, and AT&T Corp., (hereinafter "AT&T"), a company authorized to conduct business in the State of Texas.

THAT, WHEREAS, the parties have executed and accepted that certain AT&T ILEC Primary Rate ISDN SmartTrunk Service Agreement, (hereinafter the "Agreement"), attached hereto as Exhibit "A" and incorporated by reference; and

WHEREAS, the following changes are incorporated as if a part of the Agreement:

1. **Payment.** Payment shall be made by County within thirty (30) days of receipt of invoice.
2. **Non-appropriation.** It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County.
3. **Taxes.** County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.
4. **Confidential Information.** AT&T expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by AT&T shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed.
5. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to defending, indemnifying, holding or saving harmless for any reason are hereby deleted.

6. **Attorney Fees.** County does not agree to pay any and/or all attorney fees incurred by AT&T in any way associated with the Agreement.
7. **Arbitration.** County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted.
8. **Applicable Law.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas. Venue shall lie in Fort Bend County, Texas, for any suit regarding the Agreement.

AT&T CORP.

By: 

Authorized Agent – Signature

Authorized Agent – Printed Name
GABRIELA RATULOWSKI
Contract Management

Title: _____

Date: 5-12-11

FORT BEND COUNTY


By: 

Robert E. Hebert, County Judge

Gilbert Jalomo, Purchasing Agent

Date: 5-17-11

ATTEST:



Dianne Wilson, County Clerk

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$_____ are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant, County Auditor

20110512-0437



**Pricing Schedule for ILEC Services Provided in the State
of Texas
Pursuant to Tariff(s) and/or Guidebook**

Pricing Schedule to AT&T Agreement Reference No. 140112UA

CUSTOMER ("Customer")	AT&T ("AT&T")
Fort Bend County Street Address: <u>500 Liberty Street</u> City: <u>Richmond</u> State: <u>Texas</u> Zip Code: <u>77469</u> Billing Address (if different) Street Address: City: State: Zip Code:	For purposes of this Pricing Schedule, AT&T means the Service Provider(s) specifically identified herein.
CUSTOMER Contact (for Contract Notices)	AT&T Sales Contact Information and for Contract Notices <input checked="" type="checkbox"/> Primary Sales Contact
Name: <u>Kenneth Ford</u> Title: <u>Network Manager</u> Telephone: <u>281-341-4588</u> Fax: Email: <u>Kenneth.Ford@co.Fort-Bend.tx.us</u> Address for Notices <input type="checkbox"/> Same as Cust. Address above <input type="checkbox"/> Same as Billing Address Address for Notices (if different) Street Address: City: State: Zip Code:	Name: <u>Natasha Pratt</u> Title: <u>Account Manager</u> Telephone: <u>713-567-8508</u> Fax: <u>713-567-8450</u> Email: <u>nl5132@att.com</u> Street Address: <u>6500 West Loop South, zone 5.2</u> City: <u>Bellaire</u> State: <u>Texas</u> Zip Code: <u>77401</u> With a copy to: AT&T Corp. One AT&T Way, Bedminster, NJ 07921-0752 ATTN: Master Agreement Support Team Email: <u>mast@att.com</u>
AT&T Authorized Agent or Representative Information (if applicable) <input type="checkbox"/> Primary Sales Contact	
Name: Company Name: Agent Street Address: City: State: Zip Code: Telephone: Fax: Email: Agent Code:	

This Pricing Schedule ("Pricing Schedule") is an attachment to the Master Agreement between AT&T and Customer referenced above, and is part of the parties' Agreement. The Parties acknowledge and agree that this Pricing Schedule represents individual case pricing that is offered to Customer because of the unique or specialized conditions of the AT&T business services purchased by Customer, and, where required, that this Pricing Schedule will be filed with the state commission with competent jurisdiction over the service offering provided hereunder. Service is provided by the AT&T Incumbent Local Exchange Carrier (ILEC) Affiliate identified below as the Service Provider within its respective service area. References to "Pricing Schedule" refer to this Pricing Schedule and any attachments attached hereto and referencing this document.

Service Provider: Southwestern Bell Telephone Company d/b/a AT&T Texas

Customer (by its authorized representative)	AT&T (by its authorized representative)
By:	By:
Printed or Typed Name: <u>Gilberto Jalomo</u>	Printed or Typed Name: <u>GABRIELA RATULOWSKI</u>
Title: <u>Purchasing Agent</u>	Title: <u>Contract Management</u>
Date: <u>5/17/11</u>	Date: <u>5-12-11</u>



**Pricing Schedule for ILEC Services Provided in the State
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GENERAL TERMS AND CONDITIONS

The following terms and conditions apply to the Services subscribed to by Customer under this Pricing Schedule.

1. DEFINITIONS

“**Cutover**” of a Service Component occurs when the Service Component is first provisioned and made available for Customer’s use at any single Site pursuant to this Pricing Schedule.

2. GENERAL DESCRIPTION OF SERVICE TO BE PROVISIONED, INSTALLED AND MAINTAINED

Service(s) are provided pursuant to the terms and conditions set forth in the appropriate Tariff(s) and/or Guidebook.

ISDN PRI – SmartTrunk® Interface	<p><u>Primary Rate ISDN Service – SmartTrunk® Service</u> (“SmartTrunk” or “Service”). AT&T shall provide Service to Customer between the local AT&T serving central office and each circuit location address within the state(s) designated in this Pricing Schedule. The circuit location must be at a valid Customer premises address. A Customer premises address may not be a location at a carrier hotel or a co-location cage within an AT&T central office (CO). SmartTrunk Service provides a multi-purpose high speed, multiplexed digital interface based on International Telecommunication Union (ITU) ISDN standards. SmartTrunk Service uses Primary Rate Interface (PRI) technology. Service is provided where facilities are available from Customer’s premises to AT&T’s circuit-switched voice and circuit-switched data services via 1.544 Megabits per second (Mbps) CO termination. The rates and charges for the 1.544 Mbps DS1 circuit are included in the ISDN PRI termination rates. The CO termination connects by way of 23 64Kbps “B” channels and one 64Kbps “D” channel. The “D” channel performs out-of-band signaling and controls the “B” channels. The transmission characteristics of this Service support 64Kbps clear channel capability and Extended Superframe Format (ESF). <u>Calling Line Identification (“Caller ID”)</u>: Allows the number of the calling party to be delivered to the called party.</p> <p>Use of Service. Customer agrees that the Service will only be used to transport the voice and/or data traffic of Customer and its Affiliates, and not to originate or terminate voice and/or data to bypass switched access charges as defined by applicable state and federal telecommunications law. Customer understands that this covenant is an essential part of the undertaking by AT&T herein, and that AT&T is relying upon Customer’s covenant as an inducement to sell the Service. Customer agrees to compensate AT&T for any switched access charges that AT&T is obligated to pay, or entitled to collect, as a result of Customer’s use of the Services, and Customer further agrees that this obligation to compensate AT&T shall not be capped or limited. <i>As used herein the term switched access, generally speaking, means the charges that a long distance company is required to pay to a local telecommunications company for the termination or origination of long distance calls to or from a customer whose phone is connected to the local telecommunications company’s local switching network.</i></p>
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3. TERM START DATE, PRICING SCHEDULE TERM, MINIMUM PAYMENT PERIOD, PROVISION OF SERVICES AFTER PRICING SCHEDULE TERM

Unless otherwise stated herein, the Term Start Date shall begin on the later of (1) Cutover of the first Service Component at the first Customer Site, or (2) the Effective Date or (3) the date of approval of this Pricing Schedule by an appropriate regulatory body, if regulatory approval is required for this Pricing Schedule for the Service(s). The term of this Pricing Schedule shall be **twenty-four (24) months** after the Term Start Date (“Pricing Schedule Term”). Unless otherwise stated herein, the Minimum Payment Period for all Service Components included in this Pricing Schedule is **twenty-four (24) months**.

Rates or discounts under this Pricing Schedule shall be applied on the Term Start Date. Upon the expiration of the Pricing Schedule Term, no rates or discounts provided under this Pricing Schedule will apply to the Service(s).

Upon expiration of the Pricing Schedule Term, Customer will have the option to either (a) cease using the Service(s) (which will require Customer to take all steps required by AT&T to terminate the Service(s)), or (b) continue using the Service(s) on a month-to-month service arrangement, during which the prices in the Pricing Schedule will automatically be changed to the then-current monthly extension rates (if any) or month-to-month rate specified in the applicable Tariff or Guidebook. After expiration of the



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Pricing Schedule Term, AT&T may modify rates, terms and conditions applicable to the Service(s) on thirty days' notice.

This Pricing Schedule will expire when Service(s) or Service Component(s) are no longer provided under this Pricing Schedule.

New Service Component(s) in at least the minimum quantities specified in Section 11.2 must be ordered under this Pricing Schedule with a scheduled installation date not later than three (3) months after the Term Start Date (the "Ramp-up Period").

4. ADDITIONAL SERVICES, INSTALLATION, ADDS, MOVES AND CHANGES

During the Pricing Schedule Term, Customer may order additional quantities of Service Component, DID Block - Additional 100 / ND9, at the rates provided in Section 11.2. Additions may be made at existing locations as listed in Section 12. The Minimum Payment Period for all new quantities of Service Component, DID Block - Additional 100 / ND9, will end on the expiration date of this Pricing Schedule. Termination liability as identified in this Pricing Schedule applies for all Services.

For all installations of Service Component, DID Block - Additional 100 / ND9, ordered by Customer, the monthly price per Service Component as provided in Section 11.2 includes the non-recurring charge (or a portion thereof) to initially provision and install the Service.

For all other installations, adds, moves and changes of any Service Component provided hereunder, Customer will pay the prevailing Tariff or Guidebook monthly and non-recurring charges.

5. PRICING

Customer will pay the rates set forth in Section 11.2 below. The rates and charges stated in this Pricing Schedule are stabilized until the end of the Pricing Schedule Term, and apply in lieu of the corresponding rates and charges set forth in the applicable Tariff or Guidebook. No discount, promotion, credit or waiver set forth in a Tariff or Guidebook will apply unless specifically set forth herein, and when set forth herein, such discount, promotion, credit or waiver shall only be applied in the manner set forth in the applicable Tariff or Guidebook. No other discount, promotion, credit or waiver set forth in a Tariff or Guidebook will apply.

6. TAXES & OTHER CHARGES

6.1 Other Rate Elements. Any rate elements not described herein will be subject to the applicable rates and charges outlined in the Tariff(s) or Guidebook(s).

6.2 Additional Charges and Taxes. Rates set forth in this Pricing Schedule and the Tariff(s) or Guidebook(s) are exclusive of, and Customer will pay, all current and future taxes (excluding those on AT&T's net income), surcharges, recovery fees, end user access charges, and other similar charges (and any associated interest and penalties resulting from Customer's failure to timely pay such taxes or similar charges) relating to the sale, transfer of ownership, installation, license, use or provision of the Services, except to the extent Customer provides satisfactory proof of a valid tax exemption prior to the delivery of Services. To the extent Customer is required by law to withhold or deduct any applicable taxes from payments due to AT&T, Customer will use reasonable commercial efforts to minimize any such taxes to the extent allowed by law or treaty, and Customer will furnish AT&T with such evidence as may be required by relevant taxing authorities to establish that such tax has been paid so that AT&T may claim any applicable credit.

7. TERMINATION BEFORE EXPIRATION OF PRICING SCHEDULE TERM OR MINIMUM PAYMENT PERIOD (E.G., TERMINATION FOR CONVENIENCE)

7.1 If Customer cancels Service(s), in whole or in part, for any reason other than default by AT&T, or AT&T terminates for Customer's default, prior to Cutover, the Customer must reimburse AT&T for all expenses incurred in processing this Pricing Schedule and installing the required equipment and facilities completed up to the date of cancellation, and termination liability as provided in this section below shall not apply.

7.2 If Customer terminates a Service or Service Component, in whole or in part, for any reason other than default by AT&T, or AT&T terminates for Customer's default, on or after the Term Start Date but before the scheduled completion of the Pricing Schedule Term or Minimum Payment Period applicable to such Service or Service Component, Customer shall pay a termination liability of an amount equal to (a) all unpaid non-recurring charges (excluding non-recurring charges that were waived or incorporated into the monthly recurring rates), (b) fifty percent (50%) of the monthly recurring charges rate for the terminated Service or Service Component as set forth in this Pricing Schedule, multiplied by the number of months remaining in the Minimum Payment Period



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applicable to such Service or Service Component at the time of termination, and (c) any unpaid applicable special construction liabilities and/or any customer premises custom fiber build liabilities.

- 7.3 Unless otherwise stated herein, Service(s) provided under this Pricing Schedule must remain at the location(s) at which the Service(s) are installed for the entire Pricing Schedule Term or the Minimum Payment Period applicable to such Service(s). If Customer fails to maintain the Service(s) provided under this Pricing Schedule at the locations required under the preceding sentence for any reason other than default by AT&T, Customer shall be liable for termination charges calculated in the manner specified in this Section.

8. TARIFFS AND REGULATORY REQUIREMENTS

This Pricing Schedule may be subject to the jurisdiction of a regulatory commission and will be subject to changes or modifications as the controlling commission may direct from time to time in the exercise of its jurisdiction. Therefore, for this purpose, this Pricing Schedule will be deemed to be a separate agreement with respect to the Services offered in a particular jurisdiction.

AT&T will, subject to the availability and operational limitations of the necessary systems, facilities, and equipment, provide the Services pursuant to the terms and conditions in the Tariff or Guidebook. If approval is required and not obtained, then this Pricing Schedule will immediately terminate, and Customer shall receive a refund of any non-recurring charges paid and pre-paid amounts for Services not received.

9. SPECIAL TERMS AND CONDITIONS

- 9.1 Texas Terms and Conditions. To the extent this Pricing Schedule relates to regulated Services provided in Texas, Customer acknowledges the possibility of purchasing the Services provided hereunder from other providers.

10. SERVICES AND JURISDICTION CERTIFICATION

For all non-switched circuits with a bandwidth of DS1 or higher purchased under this Pricing Schedule, Customer acknowledges and certifies that the interstate traffic (including Internet traffic) constitutes **ten percent (10%) or less** of the total traffic on any Service. This provision is not applicable when the Service is used solely for the transport portion of AT&T local access switched voice services.

11. CUSTOMER COMMITMENT AND RATES

11.1. Customer Commitment

SERVICE QUANTITY COMMITMENT	AS SPECIFIED IN SECTION 11.2
Customer agrees to purchase the Service(s) identified in Section 11.2 in the quantities identified in Section 11.2 for the duration of the applicable Minimum Payment Period. Customer's obligation to maintain the minimum quantities identified in section 11.2 will begin at the end of the Ramp-up Period. If Customer does not order at least the specified quantities of each of the New Service Components identified in Section 11.2 and have them installed pursuant to this Pricing Schedule, AT&T reserves the right to charge a one-time shortfall charge of 50% of the Monthly Recurring Rate for each such Service Component not installed by the end of such time period times the number of months in the applicable Minimum Payment Period. Customer will be billed for the shortfall charge, and payment will be due 30 days after the invoice date.	



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11.2 Rates:

Service Components, Quantities, and Monthly Rates

Service	Description – Service Components / USOC	Quantity New	Quantity Existing	Monthly Recurring Rate ea.
ISDN PRI - SmartTrunk	SmartTrunk Interface / ZPAZD	2	-	\$ 346.00
ISDN PRI - SmartTrunk	EMS (Extended Metro Service - B Channel) / KM40X, KM41X, KM4CX	46	-	\$ 23.00
ISDN PRI - SmartTrunk	Caller ID / na	2	-	\$ 10.00
ISDN PRI - SmartTrunk	DID Block - First 100 / ND8	1	-	\$ 10.00
ISDN PRI - SmartTrunk	DID Block - Additional 100 / ND9	Growth	-	\$ 10.00

12. SERVICE LOCATIONS

LOCATION (street address and Common Language Location Identifier (CLLI) code and/or City)
500 Liberty, Richmond TX 77469 RSBGTXRR
1422 Eugene Heimann Circle, Richmond TX 77469 RSBGTXRR

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