

**North Carolina Department of Information Technology
and
Global Tel*Link Corporation**

AMENDMENT 5 to Bid # ITS-000938A

The Contract ITS-000938A, together with Amendments 1, 2, 3, and 4 for Payphone Services dated June 30, 2004 between Global Tel*Link Corporation (GTL) and the North Carolina Department of Information Technology (DIT). This contract was originally awarded to AT&T, but was assigned to GTL (with approval from DIT) on May 17, 2005. Contract ITS-000938A is hereby amended as follows:

As provided for under the terms of this Contract, DIT and GTL to amend the following Contract provisions:

1. The Contract is amended to extend the contract for one (1) year from July 1, 2017 to June 30, 2018.
2. The Contract is amended to add a two (2) 1-year renewal options to the Contract.
3. In the Request for Proposal (RFP), Section VI. Contractual Terms and Conditions, Item 20) (c) Patent, Copyright, and Trade Secret Protection is replaced with the following:
 - c) The Vendor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the Services or other Deliverables supplied by the Vendor, or the operation of such Deliverables pursuant to a current version of Vendor-supplied software, infringes a patent, or copyright or violates a trade secret in the United States. The Vendor shall pay those costs and damages finally awarded against the State in any such action; damages shall be limited as provided in N.C.G.S. 143B-1350(h1). Such defense and payment shall be conditioned on the following:
4. In the RFP, Section VI. Contractual Terms and Conditions, Item 25) Default is replaced with the following:
 - 25) Default: In the event Services or other Deliverable furnished or performed by the Vendor during performance of any Contract term fail to conform to any material requirement(s) of the Contract specifications, notice of the failure is provided by the State and if the failure is not cured within ten (10) days, or Vendor fails to meet the requirements of Paragraph 13) herein, the State may cancel the contract. Default may be cause for debarment as provided in 09 NCAC 06B.1206. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
 - a) If Vendor fails to deliver or provide correct Services or other Deliverables within the time required by this Contract, the State shall provide written notice of said failure to Vendor, and by such notice require performance assurance measures pursuant to N.C.G.S. 143B-1340(f). Vendor is responsible for the


- delays resulting from its failure to deliver or provide services or other Deliverables.
- b) Should the State fail to perform any of its obligations upon which Vendor's performance is conditioned, Vendor shall not be in default for any delay, cost increase or other consequences resulting from the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's offer documents that prove erroneous or are otherwise invalid. Any deadline that is affected by any such failure in assumptions or performance by the State shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.
 - c) Vendor shall provide a plan to cure any delay or default if requested by the State. The plan shall state the nature of the delay or default, the time required for cure, any mitigating factors causing or tending to cause the delay or default, and such other information as the Vendor may deem necessary or proper to provide.
5. In the RFP, Section VI. Contractual Terms and Conditions, Item 28) (b) and (c) Limitation of Vendor's Liability is replaced with the following:
(b) The Vendor's liability for damages to the State arising under the contract shall be limited to two times the value of the Contract.
(c) The foregoing limitation of liability shall not apply to claims covered by other specific provisions including but not limited to Service Level Agreement or Warranty compliance, or to claims for injury to persons or damage to tangible personal property, gross negligence or willful or wanton conduct. This limitation of liability does not apply to contributions among joint tortfeasors under N.C.G.S. 1B-1 *et seq.*, the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract.
6. In the RFP, Section VI. Contractual Terms and Conditions, Item 29) (b) and (c) Vendor's Liability for Injury to Persons or Damage to Property is replaced with the following:
(b) The Vendor agrees to indemnify, defend and hold the Agency and the State and its Officers, employees, agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, accruing or resulting to any other person, firm or corporation furnishing or supplying work, Services, materials or supplies in connection with the performance of this Contract, whether tangible or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors.
(c) Vendor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Vendor.
7. RFP, Section VI. Contractual Terms and Conditions, Item 30) General Indemnity is deleted.

All other terms and conditions of the RFP remain unchanged.

IN WITNESS WHEREOF, the parties hereto have caused this modification to be duly

signed and executed for the purposes indicated with the intention of becoming legally bound and thereby effective as of the date and year first above written.


Global Tel*Link Corporation



Date

5/30/17

NC Department of Information Technology

DocuSigned by:

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Date

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