

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (the "Agreement") is entered into this _____ day of _____ January, 2010 by Southwestern Bell Telephone Company (d/b/a AT&T Missouri) and all of its past, present and future employees, agents, divisions, representatives, insurers, shareholders, officers, directors, assigns, direct and indirect parent, predecessor, successor, affiliate and subsidiary companies, partners and joint venture entities, (collectively, "AT&T") and the City of Springfield, Missouri, a charter city in the State of Missouri ("Springfield"). The Agreement is as follows:

RECITALS

The following recitals are a material part of this Agreement:

Springfield is and was, at all relevant times, a lawfully existing charter city in the State of Missouri.

AT&T is and was, at all relevant times, directly or through its predecessor entities and affiliates, providing telephone, telephonic and telecommunications services and equipment to persons, firms and entities in Springfield.

There is litigation pending between Springfield and AT&T in the United States District Court for the Western District of Missouri captioned *City of Jefferson and City of Springfield v. Cingular Wireless LLC, et al.*, Case No. 04-CV-4099-NKL (hereinafter referred to as the "Litigation"). In the Litigation, Springfield seeks to obtain a determination that certain revenue streams are within the gross receipts tax applicable to AT&T pursuant to Springfield City Code Section 70-452 ("Section 70-452").

The Litigation is pending and Springfield intends, absent execution of this Agreement, to litigate the federal declaratory judgment to conclusion and then commence an administrative action under its City Code against AT&T to obtain a determination as to the precise amount of taxes owed by AT&T.

AT&T denies any and all liability for taxes and will continue to defend itself in litigation and otherwise absent execution of this Agreement.

The parties hereto desire to resolve all disputes, claims, allegations, and/or charges, however denominated, that are now pending or may exist between them, in any way, relating to or arising out of the Litigation, and/or the payment or non-payment of the tax under Section 70-452 for all periods through five years after the Effective Date of this Agreement.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Springfield and AT&T agree as follows:



1. Dismissal of the Litigation. The parties shall file with the Court within two (2) business days after this Agreement is fully executed a Stipulation of Dismissal With Prejudice, each party to bear its own costs. The parties hereby expressly acknowledge and agree that this dismissal shall have no res judicata effect or collateral estoppel effect since there was no judgment reached as to the merits of this matter.

2. Back Tax Payment to Springfield. On or before December 30, 2009 or within ten (10) business days after the receipt of this fully-executed Agreement and W-9 tax documentation from Springfield and Lowther Johnson, Attorneys at Law, Southwestern Bell Telephone Company d/b/a AT&T Missouri will pay the amount of Twelve Million Dollars (\$12,000,000.00) by wire transfer as follows: \$7,450,000.00 shall be directly wire transferred to the City of Springfield and \$4,550,000.00 shall be directly wire transferred to Lowther Johnson, LLC. No other AT&T entity other than AT&T Missouri shall have any obligation to make a back tax payment

3. Future Payments to Springfield. Commencing with the first quarterly payment in April 2010, AT&T will continue to report its gross receipts and remit payments due to the City of Springfield in a manner commensurate with Section 70-452 and payments to other Missouri cities for services subject to the Springfield's Business License Tax as long as Section 70-452 remains in full force and effect and in a form that is not materially amended, changed or modified from its current form as it relates to the taxation of telephone, telephonic or telecommunications services. Starting with the first regular license tax payment in April 2010 and until Springfield issues a notice of assessment, institutes an audit or files a lawsuit against AT&T arising from AT&T's payments pursuant to Section 70-452, AT&T will include (i) revenues upon which AT&T Missouri already pays a tax pursuant to Section 70-452; PLUS (ii) revenues subject to Missouri's state sales tax on "telecommunications service," as that term is used in R.S. Mo. § 144.010(13) as restricted by R.S. Mo. § 144.030.1, in its calculation of payments owed under Section 70-452; PLUS (iii) revenues as described in section (ii) above from any retail customer which would otherwise be subject to the Missouri state sales tax but for an exemption for such customer from the state sales tax (e.g., not-for-profits under § 144.030.2(19) RSMo). These revenues currently include, but are not limited to, receipts from fixed intrastate Voice over Internet Protocol ("VoIP") service, Federal Universal Service Fund ("FUSF") charges, State Universal Service Fund ("SUSF") charges, receipts from toll service within a single local access and transport area ("intraLATA toll service"), and user common line ("EUCL") charges, receipts from intrastate private line service, and receipts from Business License Tax surcharges. There remains a dispute between the parties with respect to certain revenue streams such as Carrier Access, Revenue Derived from Interstate Services (unless part of a bundled and packaged telephone services), Call Notes voice messaging service, and the provision of Customer Premises Equipment ("CPE"), and this Agreement does not determine the taxability of such revenue streams. Nothing in this Agreement, however, shall require AT&T to pay a License Tax pursuant to Section 70-452 on revenue generated from such disputed services. Other revenues not listed herein (such as nomadic VoIP) may or may not be subject to the Springfield tax. In the event AT&T, individually or collectively, receive revenues from bundled or packaged telephone services, whether intrastate or interstate, and such telephone services are not separately accounted for on an end-user's bill, AT&T shall include receipts from such bundled and packaged telephone services in its calculation of payments owed under Section 70-452 consistent with 12 Mo. CSR 10-3.188(7) or any successor regulation. AT&T's obligation to

remit the Tax is subject to (a) any future constitutional change to Section 70-452 or applicable and valid federal, state or local law, (b) any future constitutional and valid legislation, judicial, administrative tribunal or administrative rule-making applying to Section 70-452. The party with knowledge of such actions shall give notice to the attorney's offices of the other party at the earliest opportunity prior to a ruling or determination or passage of such action.. AT&T's and the City's remaining obligations under this Section shall be consistent with such change, legislation, or determination to the extent such change, legislation or determination is valid and constitutional.

4. **No Payment Under Protest or Refunds.** Starting with the first regular license tax payment after the Effective Date and until the end of the covenant period identified in section nine below, AT&T will not seek any tax refunds for payments under Section 70-452 calculated as described in the preceding section.

5. **Effective Date of Settlement Agreement.** This Agreement will be in effect from the date the parties execute the Agreement (the "Effective Date").

6. **Release of Claims Against AT&T.** Springfield does hereby remise, release, acquit and forever discharge AT&T from any and all claims for damages, back taxes, interest, penalties or any other monetary claims whatsoever, related to the Litigation, and/or Section 70-452, for gross receipts received by AT&T through five years after the Effective Date of this Agreement ("Released Claims"). Springfield agrees that the back tax and future tax payments referenced in Sections 2 and 3 above are sufficient consideration to support a valid and binding settlement agreement and a full release of back tax liability for AT&T.

7. **Release of Claims Against Springfield.** AT&T hereby remises, releases, acquits and forever discharges Springfield and its employees, agents, representatives, city council members and mayor from any and all matters, claims, charges, demands, causes of action, debts, liabilities, requests for fees or expenses, controversies, judgments, and suits of every kind and nature whatsoever ("Claims"), related to the Litigation, and/or Section 70-452, for gross receipts received by AT&T prior to the Effective Date of this Agreement.

8. **Limitation on Releases.** This release is intended to release all claims relating to wireline telephone, telephonic and telecommunications service and/or equipment provided or sold by AT&T and claims related to the application of Section 70-452 to all revenues received by AT&T from gross receipts in Springfield prior to the execution of this Agreement. To the extent any "past, present and future employees, agents, divisions, representatives, insurers, shareholders, officers, directors, assigns, direct and indirect, parent predecessor, successor, affiliate and subsidiary companies, partners and joint venture entities" of AT&T provide wireless telecommunications services, claims related to such wireless services are not released herein, and may be the subject of another and separate Settlement Agreement with AT&T Mobility.

9. **Covenant Not To Sue, Covenant Not to Issue a Notice of Assessment and Covenant Not To Audit.** As further consideration for the payment described in Section 2 above, Springfield agrees it will not sue, issue a notice of assessment or audit AT&T for a period of five (5) years from the Effective Date, provided remittances do not deviate materially from what remittances could be expected to be based on sales tax payments and information provided

by AT&T or others to Springfield. "Deviate materially" as used in this section means the tax base upon which the tax is paid pursuant to Section 70-452 is not less than 100% of the taxable base reported on contemporaneous sales tax returns, the parties acknowledging and agreeing that Section 70-452 is a business license tax, not a sales tax. Prior to any demand for audit, issuing of a notice of assessment, or filing of suit, Springfield and AT&T shall attempt to mediate any differences for at least sixty (60) days with the costs of the same split by the two parties. In addition, AT&T agrees that it will not pursue any legislative, administrative or judicial alteration of Springfield's ordinance or rights thereunder for the same time period.

10. **Further Assurances.** The parties executing this Agreement agree to execute such other documents and to take such other action as may be reasonably necessary to further the purposes of this Agreement. The parties agree that their successors, agents and assigns shall be bound to the obligations hereunder.

11. **No Admission of Liability and No Waiver or Estoppel Effect.** This Agreement represents the settlement of disputed claims, and is not an admission of liability or of indebtedness by any party. This Agreement shall not constitute a confession of judgment by any party hereto. Nothing in this Agreement, nor in any of the calculations underlying this Agreement, shall be deemed to constitute a waiver or estoppel against AT&T or Springfield with respect to the appropriate amount, revenue streams upon which to determine the tax remittances, or the proper calculation of future remittances of the Tax. Nor shall this Agreement be construed as a waiver or estoppel against Springfield with respect to the proper revenue streams upon which AT&T or other telephone companies should base their remittances of the Tax. Aside from the obligation to pay license taxes going forward, as set forth in Section 3 above, this Settlement Agreement is not intended to, and shall not be construed as, imposing any other obligations on AT&T under Section 70-452, including without limitation, any rate regulation or customer service requirements or limiting any right the City of Springfield may possess not released herein.

12. **Disclosure of Terms of Agreement.** The parties will work together to prepare a Joint Press Release, acceptable to both parties, using the standard of reasonableness. The parties will not further publicize or take affirmative action to disclose the terms of this Agreement except as is required to approve and implement the terms of the Agreement, or except as otherwise required by law or court order. The parties acknowledge that the terms of the agreement may be subject to disclosure by Springfield under applicable state law.

13. **Enforcement.** All remedies at law or in equity shall be available to either party hereto for the enforcement of this Agreement. This Agreement may be pled as a full bar to any claims arising from the transactions and incidents which are the subject matter of this Agreement.

14. **Governing Law.** This Agreement shall be governed by the laws of the State of Missouri.

15. **Advice of Counsel and No Representation.** All parties to this Agreement have been fully advised by counsel before signing it. The parties to this Agreement have not relied on any written or oral promises in entering this Agreement.

16. **Preclusive Effect.** On the Effective Date of the Agreement, Springfield shall be bound by this Settlement Agreement and shall have recourse exclusively to the benefits, rights and remedies provided hereunder. No other action, demand, suit or other claim may be pursued against AT&T with respect to the Released Claims. The parties acknowledge and agree that AT&T's agreement to pay the back tax and future tax payments referenced in Sections 2 and 3 above is based on Springfield's representation that it has the authority to enter into, and will be bound by, this Settlement Agreement. The parties further acknowledge and agree that, in the event a court of competent jurisdiction declares that this Settlement Agreement is unenforceable against, or can be voided or rescinded by Springfield, it would be unjust and inequitable for Springfield to retain the consideration paid by AT&T hereunder, yet reinstitute any legal proceeding against AT&T with respect to the Released Claims, except as described in Section 9 above. Notwithstanding anything to the contrary contained herein or provided under applicable law (including without limitation, to the extent applicable, § 432.070 RSMo), the dismissal with prejudice of the Litigation as set forth herein shall be res judicata as to Released Claims and shall bar the re-filing of any and all Released Claims that were or could have been brought by Springfield except as described in Section 9. In addition, in the event that Springfield is permitted in the future to pursue any claim that is or was a Released Claim under this Agreement, except as otherwise set forth in Section 9 above, Springfield shall forfeit and return to AT&T, prior to proceeding with any such claim, the payment referenced in Section 2 above. For avoidance of doubt, the provisions of this Section shall be severable from the remaining provisions of this Settlement Agreement, and the parties acknowledge and agree that the consideration given by AT&T and the City of Springfield, Missouri under this Settlement Agreement constitutes fair and adequate consideration for the releases by AT&T and Springfield hereunder, and for the obligations of AT&T and Springfield under this Section and the remaining Sections of this Settlement Agreement.

17. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein, and all prior oral or written agreements with respect to the matters set forth herein are expressly superseded by the terms of this Agreement.

18. **Modification and Waiver.** This Agreement may not be modified except by written amendment to this Agreement signed by all parties hereto.

19. **Non-Discrimination: Reasonable Efforts to Enforce.** Springfield agrees not to unconstitutionally discriminate among landline telephone providers, and to treat similarly-situated providers similarly. Accordingly, Springfield agrees to continue its practice of requiring telephone companies paying its business license tax to designate revenue streams and will endeavor to enlarge its reporting form to require at least once a year a complete designation of such by all providers. AT&T shall designate revenue streams on which it is paying taxes also. The revenue streams contained in such statement shall include, at minimum, substantially the following: FUSP, SUSP, intraLATA toll service, EUCL, intrastate long distance, fixed VoIP, and intrastate private line service.

20. **More Favorable Settlements.** For a period of five years from the Effective Date, if Springfield settles any claim regarding the alleged failure of another similarly-situated landline provider to pay under Section 70-452 or AT&T settles a claim by another Missouri municipality for failure to pay business license taxes under a substantially similar ordinance, and such

settlement includes terms that are materially more favorable to the other provider or Missouri municipality than those set forth herein, the party so settling shall promptly notify the other party of such agreement, and that party shall, at its discretion, have the right to amend this Agreement to be consistent with such more favorable terms. In such case, AT&T shall be entitled, or required, on a going forward basis to make payments under Section 70-452 on the same terms as those applicable to such other provider or Missouri municipality.

21. Pass Through. Springfield agrees that whether or not AT&T passes through sums being paid hereunder to its subscribers is a matter that Springfield has no standing to dispute.

22. Hancock Amendment. Nothing in this Settlement Agreement is intended to broaden any pre-existing Business License Tax base in violation of the Hancock Amendment to the Missouri Constitution.

23. Injunctive Relief. The parties, and each of them, covenant that this Settlement Agreement may be used as a basis for a temporary restraining order, preliminary injunction, or permanent injunction against any breach of this Agreement. The parties judicially admit hereby for all purposes that time is of the essence as to all terms and conditions of the Settlement Agreement and that damages for a breach of this Settlement Agreement would be inadequate.

24. Signature, Executed and Authorizations. Separate copies of this document shall constitute original documents which may be signed separately but which together will constitute one single agreement. Facsimiles of signatures are as valid as originals. Each party hereto warrants that it is duly authorized to enter into this Agreement and that all necessary approvals to execute this Agreement have been obtained. Each signator hereto warrants that s/he has read the Agreement, understands its terms, and has been duly authorized to sign this Agreement on behalf of the party for which s/he is signing.

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AGREED TO AND ACCEPTED BY:

CITY OF SPRINGFIELD

By: [Signature]

January 5, 2010

Name: Greg Burris
Title: City Manager

STATE OF MISSOURI)

ss.

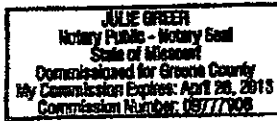
COUNTY OF GREENE)

On this 5th day of January, 2010, before me personally appeared Greg Burris who being duly sworn by me, to me known to be the person described herein and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

[Signature]
Notary Public

My Commission Expires: 4-28-13

[SEAL]



Approved as to form: [Signature]

Assistant City Attorney

AGREED TO AND ACCEPTED BY:

AT&T

By: [Signature]
Name: John J. Stephens
Title: Senior Vice President and Controller

January 10, 2010

STATE OF TEXAS)
) ss
COUNTY OF DALLAS)

On this 12th day of January, 2010, before me personally appeared John J. Stephens who being duly sworn by me, to me known to be the person described herein and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Kathy Owens
Notary Public

My Commission Expires: 05/04/2013

[SEAL]

