

FIRST AMENDMENT
To
Network Services Agreement No. CA-10055-090412-02

This First Amendment (“Amendment”) is concurrently entered into on September 4, 2012 (“Effective Date”) in conjunction with Network Services Agreement No. CA-10055-090412-02 (“Agreement”), by and between Comcast Phone, LLC (“Company” or “Comcast”) and County of El Dorado (“Customer”), individually referred to herein as “Party” and jointly referred to as “Parties”. In the event of conflict between this Amendment and the Agreement, the terms and conditions of this Amendment shall take precedence in the interpretation of the explicit matter in question. Unless otherwise set forth herein, all capitalized terms set forth herein shall have the same meaning as set forth in the Agreement.

Whereas, the Parties desire to amend the Agreement by this writing to reflect the amended or additional terms and conditions to which the Parties have agreed to;

Now, therefore, in consideration of the mutual covenants, promises, and consideration set forth in this Amendment, the Parties agree as follows:

1. Section 5 of the Agreement is hereby modified to read as follows:

“Unless sooner terminated as provided herein, the term of this Agreement shall be for thirty-six (36) months from the Service Date (“Term”). In the case of multiple Service Dates, the Term shall be thirty-six (36) months from the last Service Date. Upon the expiration of the Term, this Agreement shall automatically renew for successive periods of one (1) month each (“Renewal Term(s)”), unless prior notice of non-renewal is delivered by either Party to the other at least thirty (30) days before the expiration of the Service Term or the then current Renewal Term. Effective at any time after the end of the initial Service Term and from time to time therein, Company may modify the charges for the Services to reflect then-current prevailing pricing subject to thirty (30) days prior notice to Customer. Customer will have thirty (30) days from receipt of such notice to cancel the applicable Service without further liability. Should Customer fail to cancel within this timeframe, Customer will be deemed to have accepted the modified Service pricing for the remainder of the Renewal Term.”

2. Customer’s indemnification obligations, as specified in Section 9 of the Agreement, shall apply only to the extent permitted by California law.

3. Section 16.2 of the Agreement is hereby modified to read as follows:

“To the extent permitted under the Freedom of Information Act (FOIA), Customer shall not disclose to third parties the rates, terms, or conditions of this Agreement or any proprietary or confidential information of the Company, except as necessary for the operation of Customer’s business and under non-disclosure agreement between Customer and third parties, or as required by law.”

4. Section 28 is hereby added to the Agreement to read as follows:

“In the event Customer is unable to secure funds or if funds are not appropriated by any applicable local or state agency for performance during any fiscal period of the term of this Agreement referenced herein, the Agreement may be terminated (“Termination”) by the Customer upon written notification to Company, to include a copy of the non-appropriation of funds notification, as of the beginning of the fiscal year for which funds are not appropriated or otherwise secured. In the event Customer terminates the Agreement under this “Non-Appropriation of Funds” provision, neither Party shall have any further obligation to the other Party, excepting Customer shall be responsible for the payment of any and all unpaid NRC, MRC for any and all Services rendered until Customer provides notification documentation to Company of Non-Appropriation, as set forth in the Agreement, and, any and all capital expenses incurred by Company on behalf of the Agreement; all of which are to be paid by Customer to Company within thirty (30) days from the Company provided invoice date. The capital expenses amount set forth hereunder shall be reduced by the total amount of NRC and MRC already paid to Company by Customer under the Agreement at the time of termination.

Customer hereby agrees to notify Company in writing as soon as it has knowledge that funds are not available for the continuation of the performance as set forth in the Agreement, for any fiscal period under the applicable Agreement Term.”

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the day and year written below and the persons signing covenant and warrant that they are duly authorized to sign for and on behalf of the respective Parties. Except as otherwise modified by this Amendment, all other terms and conditions of the original Network Services Agreement shall remain in full force and effect.

County of El Dorado

Comcast Phone, LLC

Signature:		Signature:	
Printed Name:	LQJ P'TOMPH J V	Printed Name:	
Title:	Dqctf 'Ej ct	Title:	
Date:		Date:	