



Oregon

John A. Kitzhaber, M.D., Governor

Department of Administrative Services

Office of Business Administration

155 Cottage Street NE U90

Salem, OR 97301-3972

(503) 378-2350

FAX (503) 373-1273

February 4, 2004

Qwest Communications
c/o Dana Alixander, Sales Manager
1600 7th Avenue
Room 2604
Seattle, WA 98191

RE: Amendment # 2 for the Inmate and Payphone Equipment and Services and
Public Services Payphone Contract

Enclosed you will find the approved copy of Amendment # 2 for the contract for Inmate and Payphone Equipment and Services and Public Services Payphones. I appreciate the time, consideration and hard work that was done by the Qwest team, in addition to the members of the State team, to complete this amendment in the required time frame.

- One housekeeping item noticed in processing this amendment was the missing signature area for Qwest on the sheet with the heading "Confidential Pursuant to ORS 192.502(5), copy attached. This was apparently missed the amendment documents were e-mail to Qwest. Please have an authorized Qwest representative sign the page on the signature area we have prepared, and return the page to my attention.

Again, thank you for assisting to bring this matter to a successful resolution.

Sincerely,

Larry Wright, Contracts Manager
DAS/OBA Contract Services
155 Cottage Street NE, U90
Salem, OR 97301-3972
Phone: 503.378.2631
Fax: 503.378.5445
E-mail: larry.w.wright@state.or.us

cc: Alan Wight, DOJ
Darin Rand, IRMD/ENS
Brad Halvorson, DOC
Shannon Morton, OBA Contract Srvcs.

COPY

CONFIDENTIAL PURSUANT TO ORS 192.502(5)

Reference is made to the Contract for Inmate and Payphone Equipment and Services and Associated Inmate Monitoring & Recording Equipment and Services dated as of July 1, 2000 (the "Contract") between US WEST COMMUNICATIONS, INC. and the STATE OF OREGON, acting by and through its DEPARTMENT OF ADMINISTRATIVE SERVICES (hereafter "DAS"), and to Amendment No. 2 to Contract dated January 29, 2004, between QWEST COMMUNICATIONS, INC., successor in interest to US WEST COMMUNICATIONS, INC. (hereafter "Contractor") and State.

Pursuant to Section 2.1 of Contract, Contractor and DAS hereby confirm and agree that the attached are Sections 2.1.2.2 and 2.1.2.3 of **Appendix 2.1** of Contract, that the attached are part of Contract and are incorporated by reference into Contract, and that the attached shall be held by the State of Oregon, Department of Corrections ("DOC") as information or records of DOC entitled to confidential treatment under ORS 192.502(5) and otherwise in accordance with Section 2.1 of Contract.

Dated as of January 29, 2004.

STATE:

STATE OF OREGON

BY: DEPT. OF ADMINISTRATIVE SERVICES I R M D

By: 


STATE OF OREGON

BY: DEPT. OF ADMINISTRATIVE SERVICES PURCHASING SECTION

By NA-Delegated per JS-SPO
Qu

State of Oregon Purchasing Manager

BY: DEPT. OF ADMINISTRATIVE SERVICES PURCHASING SECTION

By: 
DAS Contracts Coordinator

Qwest:

By: _____

Date: _____

**AMENDMENT NO. 2
TO JULY 1, 2000 CONTRACT FOR INMATE AND PAYPHONE
EQUIPMENT AND SERVICES AND PUBLIC SERVICES PAYPHONES**

This amendment No. 2 to July 1, 2000 Contract for Inmate and Payphone Equipment and Services and Public Services Payphones is made as of this 29th day of January, 2004, by and between State of Oregon, acting by and through its Department of Administrative Services (hereafter "DAS" or "DAS IRMD") and Qwest Corporation, successor in interest to U S West Communications, Inc. (hereafter "Qwest"):

RECITALS

1. DAS and US West Communications, Inc. entered into that certain contract entitled Contract for Inmate and Payphone Equipment and Services and Associated Inmate Monitoring & Recording Equipment and Services, as of July 1, 2000 (hereafter "Contract").
2. US West Communications, Inc., was subsequently acquired and merged into Qwest, Inc. Qwest Communications, Inc., a Colorado corporation (hereafter "Contractor"), is the successor in interest to US West Communications Inc., and is duly authorized to perform the contract and to enter into this amendment No. 2.
3. DAS and Qwest want to amend Contract in the respects set forth in this Amendment No. 2; except as amended herein, the Contract will remain in full force and effect.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS MADE IN THIS AMENDMENT, THE PARTIES AGREE AS FOLLOWS:

- A) The first sentence of the eighth paragraph of Section 2.1 is hereby deleted in its entirety, and replaced with the following:

"The VAC Inmate Calling System and the Monitoring and Recording Services are more fully described in Sections 2.1.2.2 and 2.1.2.3 of **Appendix 2.1**, which shall be delivered to DOC and held by it as information or records of DOC entitled to confidential treatment under ORS 192.502(5). Contractor will provide State with the VAC System equipment and services described in amended section 2.1.2.2 and 2.1.2.3 at all DOC locations in the State of Oregon. The VAC Systems shall be installed and made fully operational at all ORDOC sites by dates to be mutually agreed upon by ORDOC and Qwest at finalization of this amendment. At a minimum, the VAC equipment shall have the same features at each location as currently are in operation at CCCF; however, DOC may have custom

applications at various facilities, as a result of different services being provided by different service providers. Contractor will provide any features that are necessary to bring the service and equipment levels up to those that are in operation at CCCF. Contractor will also provide the services that are described in amended Section 2.1.2.2. T-Netix shall continue to be an eligible subcontractor for purposes of Section 1.4 of the Contract.

- B) Section 4.1 of the Contract is amended to delete the second sentence of Section 4.1, and to substitute therefore the following provision:

“The renewal term after the initial term shall be for six years, commencing at January 1, 2004 and continuing through December 31, 2009, on the same terms and conditions as contained in Contract, except where Contract is changed by this Amendment No. 2. In addition, Contract shall automatically renew after the extension term for an additional six months, on the same terms and conditions as are contained in Contract as it exists immediately before the end of the six year renewal term, unless either party delivers, via certified mail, written notice to the other party of its desire to terminate Contract, sent at least one hundred eighty days (180 days) prior to the last day of the then current Term of Contract.”

- C) In Section 2.1.1.1(b) of Appendix 2.1, the following sentence is deleted in its entirety:

“The foregoing notwithstanding, except with respect to DOC facilities, unless otherwise agreed to by Contractor, the number of new Pay Phones which Contractor shall be required to install shall not exceed (i) during the Initial Term, thirty (30) Pay Phones, and (ii) during the Extended Term, if any, ten (10) Pay Phones per each twelve (12) month period during the extended Term.”

and replaced with the following:

The parties agree to annually review the installed Pay Phone base and determine a target number of payphones which can be removed. The number of payphones to be removed shall be no more than 10% of the base of installed payphone base in extension years 1-3 and no more than 5% of the installed payphone base in years 4-6. This base is to be calculated annually at the start of each calendar year. Upon request by a State agency, a particular phone targeted for removal that is necessary to operations may be maintained in service of said phone by paying semi-public rates. The Contractor agrees to install no more than ten (10) new Pay Phones annually during the extended term; provided, however, that Contractor shall install additional Pay Phones if the State agrees to pay semi-public rates on the additionally installed Pay Phones. Should ENS or any OUS campus request that an existing Pay Phone be moved to a new location, Contractor shall effect the move, unless such move would be unduly expensive or substantially increase the risk of vandalism, and such move shall not be considered a new installation for purposes of this paragraph.”

- D) Section 2.1.2.1.1 of Appendix 2.1 is superseded in part by amended section 2.1.2.1.1, which is attached hereto. Amended section 2.1.2.1.1 describes the telephone stations equipment that Contractor will continue to provide, as well as the telephone stations equipment that Contractor will remove, by the dates set forth; except as amended, section 2.1.2.1.1 remains in full force and effect.
- E) Section 2.1.1 of Appendix 2.1 is replaced in part by amended section 2.1.1, which is attached hereto. Amended section 2.1.1 shows in tabular form the existing payphones. No payphones at DOC facilities may be removed.
- F) The following is added as Section 2.1.1(c):

Those payphones that are the subject of disagreement will continue to be treated as public payphones and will not be converted by Contractor to semi-public payphones without the approval of the appropriate DAS ENS or OUS campus contact person, or until such time that DAS ENS has determined that they may be removed.”

The primary contact person at each OUS campus that will meet with Contractor and discuss payphone removal issues are the following:

University of Oregon—Jane Nelson, 541-346-1024, jnelson@uoregon.edu
Oregon State University—Shay Dakan, 541-713-3500, Shay.Dakan@orst.edu
Portland State University—Tim Johnston, 503-725-2776, johnstont@pdx.edu
Southern Oregon University—Tess Dunaway, 541-552-6300, dunaway@sou.edu
Eastern Oregon University—Marv Taylor, 541-962-3606, mtaylor@eou.edu
Western Oregon University—Teresa Bybee, 503-838-8010, bybeet@wou.edu
Oregon Institute of Technology—Agnes Box, 541-885-1728, boxa@oit.edu
General OUS Contact (any one of 3)—

Tim Johnston, 503-725-2776, johnstont@pdx.edu
Shay Dakan, 541-713-3500, Shay.Dakan@orst.edu
Dave Barta, 541-346-1012, dbarta@uoregon.edu

The primary contact person at DAS ENS that will meet with Contractor and discuss payphone removal issues is Darin Rand 503-378-3366, darin.rand@state.or.us

- G) Section 2.1.2.2 of Appendix 2.1, entitled “T-NETIX Inmate Calling” System, is deleted in its entirety and replaced with the amended Section 2.1.2.2 of Appendix 2.1, entitled “VAC Inmate Calling System,” attached hereto.
- H) Section 2.1.2.3 entitled Inmate Call Monitoring and Recording System is replaced in its entirety by amended Section 2.1.2.3, attached hereto. Amended section

2.1.2.3 describes the call monitoring and recording systems that will be installed at various DOC sites across the State of Oregon. Amended section 2.1.2.3 has been delivered to DOC to be held by DOC as information or records of DOC entitled to confidential treatment under ORS 192.050(5), which document is incorporated by this reference.

- I) Appendix 3.1, which describes rates and surcharges that shall be charged to users of Pay Phones and Inmate Phones (which in the case of collect calls, shall be the recipients of the calls), has been reviewed at the end of the initial term as required under section 3.1 of the contract, and Appendix 3.1 is replaced in its entirety by Amended Appendix 3.1., a copy of which is attached hereto and by this reference made a part hereof.
- J) Appendix 3.2 is replaced in its entirety by this provision: "Contractor shall pay to DOC for each of the last two quarters of calendar year 2003 the sum of \$750,000 per quarter. For each year of the extension term, Contractor shall pay to DOC a minimum of \$3 million per year, in payments of \$750,000 per quarter. The minimum commission will apply and be paid in all years in which gross revenues from payphones and other equipment provided by Qwest to DOC is \$6 million or less. At the end of every year (January 1 through December 31), Contractor will total the gross revenues generated from all Contractor-provided equipment, in all DOC facilities throughout the State of Oregon. Qwest will pay commissions to DOC for gross revenues that exceed \$6 million, based on the following formula:
 - a. The yearly revenue will be broken down by the percent of the type of call, into percentage of collect calls, percentage of debit calls, and percentage of prepaid debit calls
 - b. If the Gross Billings by Contractor for the period are over \$6 million, the additional commissions will be paid by Contractor to DOC based on the percentage of the type of calls. For example, if there is \$6,500,000 in Gross Billings, the additional commissions will be paid on the \$500,000, as follows:
 - i. The percentage of additional billings that represent collect calls will be paid at a 50% commission
 - ii. The percentage of additional billings that represent calls initiated as prepaid debit will be paid at 60% commission
 - iii. The percentage of additional billings that represent debit calls will be paid at 60% commission

VAC equipment will be promptly installed by Contractor so as to enable both parties to best reach their revenue goals.

VAC will track the revenue received for Debit accounts, and will forward refunds to Oregon DOC Inmate Trust Section. VAC will process remaining account balances for paroled inmates and issue to DOC Inmate Trust a batch check twice each month.

- K) Appendix 6.13 shall be amended to eliminate Dictaphone and Sprint as eligible subcontractors. Value Added Communications (VAC) will be added to Appendix 6.13 as an eligible subcontractor to Qwest.
- L) ENS shall handle all orders relating to payphones except for those on DOC or OUS facilities. DOC and OUS shall work directly with Contractor to place orders or handle issues relating to payphones on their facilities.
- M) Orders from ENS, DOC or OUS may be faxed or e-mailed to Contractor; provided that in the event an order is sent by fax, an e-mail notification shall also be sent to the Contractor. The e-mail address to be used for both purposes is psinmat@qwest.com. Upon receipt of an order, Contractor will send an acknowledgment to the submitting entity by means of return e-mail and fax.
- N) Qwest Corporation affirms that all promises, terms, conditions, and warranties contained in Contract are applicable to it, as though it was the original contracting entity, and that it is duly organized and qualified to do business in the State of Oregon, and will continue to be duly organized and qualified in the State of Oregon during all renewal terms of Contract. Qwest Communications, Inc. will notify State of Oregon of any proposed change of name, or transfer of assets or obligations.

Qwest

By: Don V. Gorman Date: 1-28-2004

State of Oregon

DAS IRMD/ENS Authorized Signature:

By: [Signature] Date: 2/2/04

DAS OBA Contract Manager:

By: [Signature] Date: 1/29/04

Oregon Department of Corrections Authorized Signature

By: [Signature] Date: 1/29/04

Approved by the DAS State Procurement Offices:

By: N/A - Delegated per JS-SPO Date: _____
EW

Approved by Assistant Attorney General

By: R. Alan Wight Date: 1-30-04