



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM McDONNELL, SHERIFF

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

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ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

October 10, 2017

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

28 October 10, 2017

LORI GLASGOW
EXECUTIVE OFFICER

Dear Supervisors:

**APPROVAL OF AMENDMENT NUMBER SEVEN TO AGREEMENT
NUMBER 77655 WITH PUBLIC COMMUNICATIONS SERVICES, INCORPORATED,
FOR INMATE TELEPHONE SYSTEM AND SERVICES
(ALL DISTRICTS) (3 VOTES)**

SUBJECT

This letter is a joint recommendation by the Sheriff and the Chief Probation Officer. The Los Angeles County (County) Sheriff's Department (Department) and Probation Department (Probation) are seeking the Board's approval of Amendment Number Seven (Amendment) to Agreement Number 77655 (Agreement) with Public Communications Services, Incorporated (PCS), to exercise the second one-year Option Term and extend the term of the Agreement from November 1, 2017, through October 31, 2018, which ensures uninterrupted telephone services for inmates and juveniles who are being held in the Department's and Probation's facilities. This extension period allows the Department to continue the solicitation process for a new agreement for Inmate Telephone System and Services (ITSS).

IT IS RECOMMENDED THAT THE BOARD:

Delegate authority to the Sheriff to execute an Amendment, substantially similar to the attached Amendment, to: (1) exercise the second one-year Option Term and extend the term of the Agreement from November 1, 2017, through October 31, 2018, and (2) add and/or update County-mandated provisions.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the recommended action will allow the Department and Probation to exercise the second one-year Option Term and extend the term of the Agreement from November 1, 2017, through October 31, 2018, which ensures uninterrupted telephone services for inmates and juveniles who

are being held in the Department's and Probation's facilities and continue to allow the Department to complete the solicitation process for a new agreement for ITSS.

Background

On September 20, 2011, the Board approved the Agreement for the provision of ITSS to the Department and Probation, with an initial term from November 1, 2011, through October 31, 2016. Under the Agreement, the County has the option to extend the term of the Agreement for up to three one-year periods, plus one six-month period through April 30, 2020, if all options are exercised.

On September 26, 2013, the Federal Communications Commission (FCC) released a "Report and Order and Further Notice of Proposed Rulemaking" (FCC 13-113), which established interim rate caps on the Interstate calling rates charged by inmate calling service providers.

On February 10, 2014, the County and Contractor entered into Amendment Number Three to the Agreement, which reduced the Inmate Telephone Billing Rate for Domestic Calls – Interstate Calls (Debit Phone [Cardless] and Pre-Paid Account), effective February 11, 2014.

On November 5, 2015, the FCC released a "Second Report and Order and Third Further Notice of Proposed Rulemaking" (FCC 15-136), which established rate caps on Interstate and Intrastate calling rates and eliminated, restricted, and/or further defined the fees, which may be charged by inmate telephone providers.

On March 7, 2016, the United States Court of Appeals, District of Columbia Circuit (D.C. Court) issued an order staying the implementation of rate caps on the calling rates set forth in 47 Code of Federal Regulations (CFR) section 64.6010, and caps on fees for single-call services set forth in 47 CFR section 64.6020(b)(2), pending judicial review of the legality of those caps established pursuant to FCC 15-136.

On March 23, 2016, the D.C. Court issued another order staying the implementation of the interim rate caps set forth in 47 CFR section 64.6030 only as they apply to the provision of Intrastate calling services; whereas all other provisions, rules, and regulations set forth in FCC 15-136 remain effective and shall be implemented by jail facilities by June 20, 2016.

On June 14, 2016, the Board delegated authority to the Sheriff to execute Amendment Number Four to the Agreement which: (1) modified the Inmate Telephone Billing Rates and implemented new FCC-authorized Ancillary Services Charges consistent with FCC 15-136, (2) deleted the Convenience and Single-Bill fees authorized under Paragraph 9.5 (Miscellaneous Fees) of the Agreement, (3) added the Advance Pay One Call (APOC) services, and (4) formally memorialized the addition of customer kiosks at the Department's custody and detention facilities. The Board did not delegate authority to the Sheriff to exercise the first one-year Option Term. The Board also requested that the Sheriff, in consultation with the Chief Executive Officer (CEO), Interim Chief Probation Officer, and the Office of Diversion and Reentry, to report back to the Board in writing by September 30, 2016, with a written detailed analysis of the impact of the contract amendments on the cost and use of inmate phones, as well as recommendations regarding terms that should be included in a Request for Proposal that would increase contact between inmates and their families and minimize recidivism and impact on distressed communities.

On October 4, 2016, the Board delegated authority to the Sheriff to execute Amendment Number Five to the Agreement, which allowed the Department to exercise the first one-year Option Term and extend the term of the Agreement from November 1, 2016, through October 31, 2017. The Board

letter provided the Department's analysis and findings and proposed recommendations in response to the Board's June 14, 2016, action.

On December 19, 2016, the Department released a Request for Information (RFI) to seek information from vendors that could provide ITSS. The RFI requested vendors to include any new technology features that allowed the use of emerging electronic technologies, including but not limited to, electronic tablets, increased video visitation, video grams, inmate voice mail, and email. The Department received six responses by the January 20, 2017, deadline. All six vendors were invited to participate in a non-competitive presentation of their products related directly to the subject intent of the RFI. Five vendors participated in the vendor presentations.

On June 13, 2017, the D.C. Court ruled on the legality of FCC 15-136. The order was upheld in part and vacated in part, and certain issues were remanded to the FCC for further proceeding. The ruling has no immediate impact on the Agreement. There are no permanent calling rate caps or ancillary fee caps in effect that would require modifications to the Agreement at this time.

The Department has determined after review of the RFI responses and vendor product presentations that inmate communication technologies (such as electronic tablets) need more exploration, research, potential pilot program, and technical consulting to be conducted before introducing these devices to the County's large inmate population. It was also determined that inmate tablet devices are still considered an emerging technology and in some cases, still in the prototype (pilot) phase. Therefore, the Department intends to develop a separate solicitation for these emerging technologies.

Implementation of Strategic Plan Goals

The recommended action is consistent with the principles of the County's Strategic Plan, Strategy III.3, Pursue Operational Effectiveness, Fiscal Responsibility and Accountability. Specifically, the Amendment will allow the Department and Probation to continue providing telephone services to inmates and juveniles being held throughout the Department's and Probation's facilities.

FISCAL IMPACT/FINANCING

This is a revenue-generating Agreement. The County's commission will continue to be 67.5 percent of the Total Billable Amount, or a Minimum Annual Guarantee in the amount of \$15 million for the Department and \$59,000 for Probation, whichever is greater, for each year of the Agreement. The County does not collect a commission on any Ancillary Service Charges collected by the Contractor. Revenue generated from the Agreement is deposited by the Department into the Inmate Welfare Fund (IWF) and used for various educational and recreational programs and projects that benefit the inmates. Revenue generated from the Agreement for Probation will be deposited into Probation's Detentions Budget (DB) account to benefit juveniles housed at their facilities.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to California Penal Code Section 4025(d), any commission received from the inmate telephone provider shall be deposited into the IWF.

In addition to extending the term of the Agreement, the Amendment updates County-mandated provisions including consideration of GAIN/GROW Program Participants, County's Quality Assurance Plan, Safely Surrendered Baby Law, and adds new County-mandated provisions including the Time Off for Voting and Compliance with the County's Zero Tolerance Policy

on Human Trafficking.

PCS is in compliance with all Board and CEO requirements, including Jury Service Program, Safely Surrendered Baby Law, and Defaulted Property Tax Reduction Program.

The Amendment will be approved as to form by County Counsel prior to execution by the Sheriff.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of these actions will ensure uninterrupted telephone services for inmates and juveniles who are being held in the Department's and Probation's facilities. The Department continues to work on finalizing requirements for a RFP solicitation for an ITSS.

CONCLUSION

Upon Board approval, please return two adopted copies of the Board letter to the Department's Contracts Unit.

Sincerely,



JIM McDONNELL
Sheriff



TERRI L. McDONALD
Chief Probation Officer

JM:ARV:arv

Enclosures

**AMENDMENT NUMBER SEVEN TO AGREEMENT NO. 77655
BY AND BETWEEN
COUNTY OF LOS ANGELES
AND
PUBLIC COMMUNICATIONS SERVICES, INC.
FOR INMATE TELEPHONE SYSTEM (ITS) AND SERVICES**

This Amendment Number Seven ("Amendment") to Agreement Number 77655 ("Agreement") is entered into by and between County of Los Angeles ("County") and Public Communications Services, Inc. ("Contractor"), effective upon execution by both parties.

- A. WHEREAS, on September 20, 2011, the County Board of Supervisors approved the Agreement, with an Initial Term from November 1, 2011, through October 31, 2016, with three one-year Option Terms and six months, for Contractor's provision of Inmate Telephone System (ITS) and Services for the Los Angeles County Sheriff's Department ("Department") and the Los Angeles County Probation Department ("Probation"); and
- B. WHEREAS, in August 2012, County and Contractor agreed to implement County's option to install kiosks at various Department facilities, to enable, among other things, the setting up of Pre-Paid Accounts to be used solely by Inmates for ITS and Services, as defined in the Agreement, and County and Contractor wish to formally memorialize herein the installation thereof; and
- C. WHEREAS, on December 2, 2013, County and Contractor entered into Amendment Number One to the Agreement which, among other things, deleted and replaced Exhibit B (Statement of Work) of the Agreement to change the delivery method on Pre-Paid Call services from a tangible Pre-Paid Phone Card to a Debit Phone Account (Cardless) administered by Contractor; and
- D. WHEREAS, on February 4, 2014, County and Contractor entered into Amendment Number Two to the Agreement which (1) reduced the collect call maximum dollar amount from \$125 to \$60 to any single destination phone number in any continuous 30-day period, and (2) directed Contractor to implement, not later than thirty (30) calendar days from the effective date of Amendment Number Two, the recording of all telephone calls made from any and all phones within the Department Custody and Detention Facilities, which are not made to an attorney or public defender telephone number, including calls initiated by Pro-Per Inmates; and
- E. WHEREAS, on September 26, 2013, the Federal Communications Commission (FCC) released a Report and Order and Notice of Proposed Rulemaking (FCC-13-113) which, among other things, established interim rate caps on the interstate calling rates charged by inmate calling service providers; and
- F. WHEREAS, on February 10, 2014, County and Contractor entered into Amendment Number Three to the Agreement which reduced the Inmate Telephone Billing Rate for Domestic Calls – Interstate Calls (Debit Phone

**AMENDMENT NUMBER SEVEN TO AGREEMENT NO. 77655
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COUNTY OF LOS ANGELES
AND
PUBLIC COMMUNICATIONS SERVICES, INC.
FOR INMATE TELEPHONE SYSTEM (ITS) AND SERVICES**

Account (Cardless) and Pre-Paid Account), effective February 11, 2014, in compliance with FCC 13-113; and

- G. WHEREAS, on November 5, 2015, the FCC released a Second Report and Order and Third Further Notice of Proposed Rulemaking (FCC 15-136) which, among other things, established rate caps on interstate and intrastate calling rates and eliminated, restricted, and/or further defined the fees which may be charged by inmate calling service providers; and
- H. WHEREAS, on March 7, 2016, the United States Court of Appeals, District of Columbia Circuit ("D.C. Court") issued an order staying the implementation of rate caps on the calling rates set forth in 47 CFR section 64.6010, and caps on fees for single-call services set forth in 47 CFR section 64.6020(b) (2) pending judicial review of the legality of those caps, as established by FCC 15-136; and
- I. WHEREAS, on March 23, 2016, the D.C. Court issued another order staying the implementation of the interim rate caps set forth in 47 CFR section 64.6030 only as they apply to the provision of intrastate calling services; and
- J. WHEREAS, all other provisions, rules, and regulations set forth in FCC 15-136 remain effective and shall be implemented by jail facilities by June 20, 2016; and
- K. WHEREAS, on June 16, 2016, County and Contractor entered into Amendment Number Four, effective June 20, 2016, which (1) modified the Inmate Telephone Billing Rates and implemented new FCC-authorized Ancillary Service Charges consistent with FCC 15-136, (2) deleted the Convenience and Single-Bill fees authorized under Paragraph 9.5 (Miscellaneous Fees) of the Agreement, (3) added the Advance Pay One Call (APOC) service, and (4) formally memorialized the addition of Customer kiosks at the Department Custody and Detention Facilities; and
- L. WHEREAS, on October 19, 2016, County and Contractor entered into Amendment Number Five to the Agreement to extend the Term of the Agreement for the first one-year Option Term from November 1, 2016 through October 31, 2017; and
- M. WHEREAS, on November 23, 2016, County and Contractor entered into Amendment Number Six to amend Exhibit H (Kiosk Locations) to relocate kiosk machines within the Department's Custody and Detention Facilities; and
- N. WHEREAS, on June 13, 2017, the D.C. Court ruled on legality of the Second Report and Order and Third Further Notice of Proposed Rulemaking (80 Fed.

**AMENDMENT NUMBER SEVEN TO AGREEMENT NO. 77655
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COUNTY OF LOS ANGELES
AND
PUBLIC COMMUNICATIONS SERVICES, INC.
FOR INMATE TELEPHONE SYSTEM (ITS) AND SERVICES**

Reg. 79136-01 (Dec. 18, 2015)) ("Second Order") issued by the FCC, which, among other things, set permanent rate caps and ancillary fee caps on both interstate and intrastate calls. (Global Tel*Link v. Fed.Communications Comm'n, No. 15-1461 (D.C. Cir. June 13, 2017)). The Second Order was upheld in part and vacated in part, and certain issues were remanded to the FCC for further proceedings; and

- O. WHEREAS, the Agreement currently expires on October 31, 2017; and
- P. WHEREAS, the County and Contractor agree to (1) to exercise the second one-year Option Term from November 1, 2017 through October 31, 2018, (2) update County-mandated provisions regarding Consideration of GAIN/GROW Program Participants, County's Quality Assurance Plan, and Safely Surrendered Baby Law, and (3) add new County-mandated provision regarding the Time Off for Voting and Compliance with County's Zero Tolerance Policy on Human Trafficking.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, and for good and valuable consideration, County and Contractor agree to amend the Agreement as follows:

- 1. Paragraph 7 (Term) of the Agreement is deleted in its entirety and replaced as follows to exercise the second one-year Option Term from November 1, 2017 through October 31, 2018:

7. TERM

- 7.1 The Term of this Agreement shall be from November 1, 2011, through and including October 31, 2018, unless terminated earlier in whole or in part, as provided herein.
- 7.2 The County has the option, at County's discretion and upon notice to Contractor prior to the end of the then-current period of the Agreement Term, to extend the Term of this Agreement for up to one (1) additional one (1) year period, and maximum of a six (6) month transition period in any increment (each an "Option Term") for a maximum total Agreement Term not to exceed eight (8) years and six (6) months. As used herein, the "Term" shall mean the Initial Term and, if extended, each Option Term, as the case may be. Each such extension shall be in the form of an Amendment executed by both parties in accordance with Subparagraph 6.2.4 above.

**AMENDMENT NUMBER SEVEN TO AGREEMENT NO. 77655
BY AND BETWEEN
COUNTY OF LOS ANGELES
AND
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- 7.3 County maintains databases that track/monitor Contractor performance history. Information entered into such databases may be used for a variety of purposes, including determining whether County will exercise an Option Term extension of the Agreement.
 - 7.4 Contractor shall notify Sheriff Project Director, Sheriff Project Manager, Probation Project Director, and Probation Project Manager when the current Term is within six (6) months from the expiration of this event, Contractor shall send written notification to the addresses herein provided in Exhibit K (County and Contractor Administration) of the Agreement.
2. Paragraph 27.0 (Consideration of Hiring GAIN/GROW Program Participants) of Exhibit A (Additional Terms and Conditions) of the Agreement is deleted in its entirety and replaced as follows to update the County-mandated provision regarding Consideration of Hiring GAIN-GROW Participants:

27.0 CONSIDERATION OF HIRING GAIN-GROW PARTICIPANTS

- 27.1 Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor. Contractors shall report all job openings with job requirements to: GAIN/GROW@dpss.lacounty.gov to obtain a list of qualified GAIN/GROW job candidates.
 - 27.2 In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.
3. Paragraph 46.0 (County's Quality Assurance Plan) of Exhibit A (Additional Terms and Conditions) of the Agreement is deleted in its entirety and replaced as follows to update the County-mandated provision regarding County's Quality Assurance Plan:

**AMENDMENT NUMBER SEVEN TO AGREEMENT NO. 77655
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46.0 COUNTY QUALITY ASSURANCE PLAN

The County or its agent(s) will monitor the Contractor's performance under this Agreement on not less than an annual basis. Such monitoring will include assessing the Contractor's compliance with all Agreement terms and conditions and performance standards. Contractor deficiencies which the County determines are significant or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Board of Supervisors and listed in the appropriate Contractor performance database. The report to the Board will include improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Agreement or impose other penalties as specified in this Agreement.

4. Paragraph 50.0 (Safely Surrendered Baby Law) of Exhibit A (Additional Terms and Conditions) of the Agreement is deleted in its entirety and replaced as follows to update the County-mandated provision regarding Safely Surrendered Baby Law:

50.0 SAFELY SURRENDERED BABY LAW

50.1 Notice to Employees Regarding the Safely Surrendered Baby Law

The Contractor shall notify and provide its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The information is set forth in Exhibit J (Safely Surrendered Baby Law) of this Agreement. Additional information is available at www.babysafela.org.

50.2 Contractor's Acknowledgement of County's Commitment to Safely Surrendered Baby Law

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster, in Exhibit J in a prominent position at the Contractor's place of business. The Contractor will also encourage its subcontractors, if any, to post this poster in a

**AMENDMENT NUMBER SEVEN TO AGREEMENT NO. 77655
BY AND BETWEEN
COUNTY OF LOS ANGELES
AND
PUBLIC COMMUNICATIONS SERVICES, INC.
FOR INMATE TELEPHONE SYSTEM (ITS) AND SERVICES**

prominent position in the subcontractor's place of business.
Information and posters for printing are available at
www.babysafela.org.

5. Paragraph 66.0 (Time Off for Voting) is added to Exhibit A (Additional Terms and Conditions) of the Agreement as follows to add the County-mandated provision regarding Time Off for Voting:

66.0 TIME OFF FOR VOTING

Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (California Elections Code Section 14000). Not less than ten (10) calendar days before every statewide election, every Contractor and subcontractor shall keep posted conspicuously at the place of work, if practicable, or elsewhere it can be seen as employees come or go to their place of work, a notice setting forth the provisions of California Elections Code Section 14000.

6. Paragraph 67.0 (Compliance with County's Zero Tolerance Policy on Human Trafficking) is added to Exhibit A (Additional Terms and Conditions) of the Agreement as follows to add the County-mandated provision regarding Compliance with County's Zero Tolerance Policy on Human Trafficking:

67.0 COMPLIANCE WITH COUNTY'S ZERO TOLERANCE POLICY ON HUMAN TRAFFICKING

- 67.1 Contractor acknowledges that the County has established a Zero Tolerance Policy for Human Trafficking prohibiting Contractors from engaging in human trafficking.
- 67.2 If Contractor or member of Contractor's staff is convicted of a human trafficking offense, the County shall require that the Contractor or member of Contractor's staff be removed immediately from performing Services under the Agreement. County will not be under any obligation to disclose confidential information regarding the offenses other than those required by law.
- 67.3 Disqualification of any member of Contractor's staff pursuant to this Paragraph shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Agreement.

**AMENDMENT NUMBER SEVEN TO AGREEMENT NO. 77655
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COUNTY OF LOS ANGELES
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7. Except as expressly provided in this Amendment, all terms and conditions of the Agreement shall remain in full force and effect.

8. Contractor represents and warrants that the person executing this Amendment for Contractor is an authorized agent who has actual authority to bind Contractor to each and every item, condition, and obligation of the Amendment and that all requirements of Contractor have been fulfilled to provide such actual authority.

AMENDMENT NUMBER SEVEN TO AGREEMENT NO. 77655
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COUNTY OF LOS ANGELES
AND
PUBLIC COMMUNICATIONS SERVICES, INC.
FOR INMATE TELEPHONE SYSTEM (ITS) AND SERVICES

IN WITNESS WHEREOF, the County of Los Angeles, by order of its Board of Supervisors, has caused this Amendment Number Seven to be executed on its behalf by the Sheriff of the County of Los Angeles, and Contractor has caused this Amendment Number Seven to be duly executed on its behalf by its duly authorized officer.

COUNTY OF LOS ANGELES

By: _____
JIM McDONNELL, SHERIFF

Date: _____

PUBLIC COMMUNICATIONS
SERVICES, INC.

By: _____

Name: _____

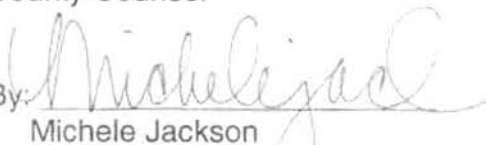
Title: _____

Date: _____

APPROVED AS TO FORM:

MARY C. WICKHAM

County Counsel

By: 
Michele Jackson
Principal Deputy County Counsel