

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2011

COUNCIL BILL NO. _____
COMMITTEE OF REFERENCE:
4 BUSINESS, WORKFORCE, &
5 SUSTAINABILITY

6 A BILL

7 For an ordinance approving a proposed First Amendment to Agreement between the
8 City and County of Denver and Qwest Communications Company LLC related to
9 broadband network services at Denver International Airport.

10
11 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

12 **Section 1.** The proposed First Amendment to Agreement between the City and County of
13 Denver and Qwest Communications Company LLC in the words and figures contained and set forth in
14 that form of First Amendment to Agreement filed in the office of the Clerk and Recorder, Ex-Officio
15 Clerk of the City and County of Denver, on the 23rd day of June, 2011, City Clerk's Filing No.
16 06-451-A is hereby approved.

17
18 COMMITTEE APPROVAL DATE: June 17, 2011.

19 MAYOR-COUNCIL DATE: June 21, 2011.

20 PASSED BY THE COUNCIL _____ 2011

21 _____ - PRESIDENT

22 APPROVED: _____ - MAYOR _____ 2011

23 ATTEST: _____ - CLERK AND RECORDER,
24 EX-OFFICIO CLERK OF THE
25 CITY AND COUNTY OF DENVER
26

27 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2011; _____ 2011

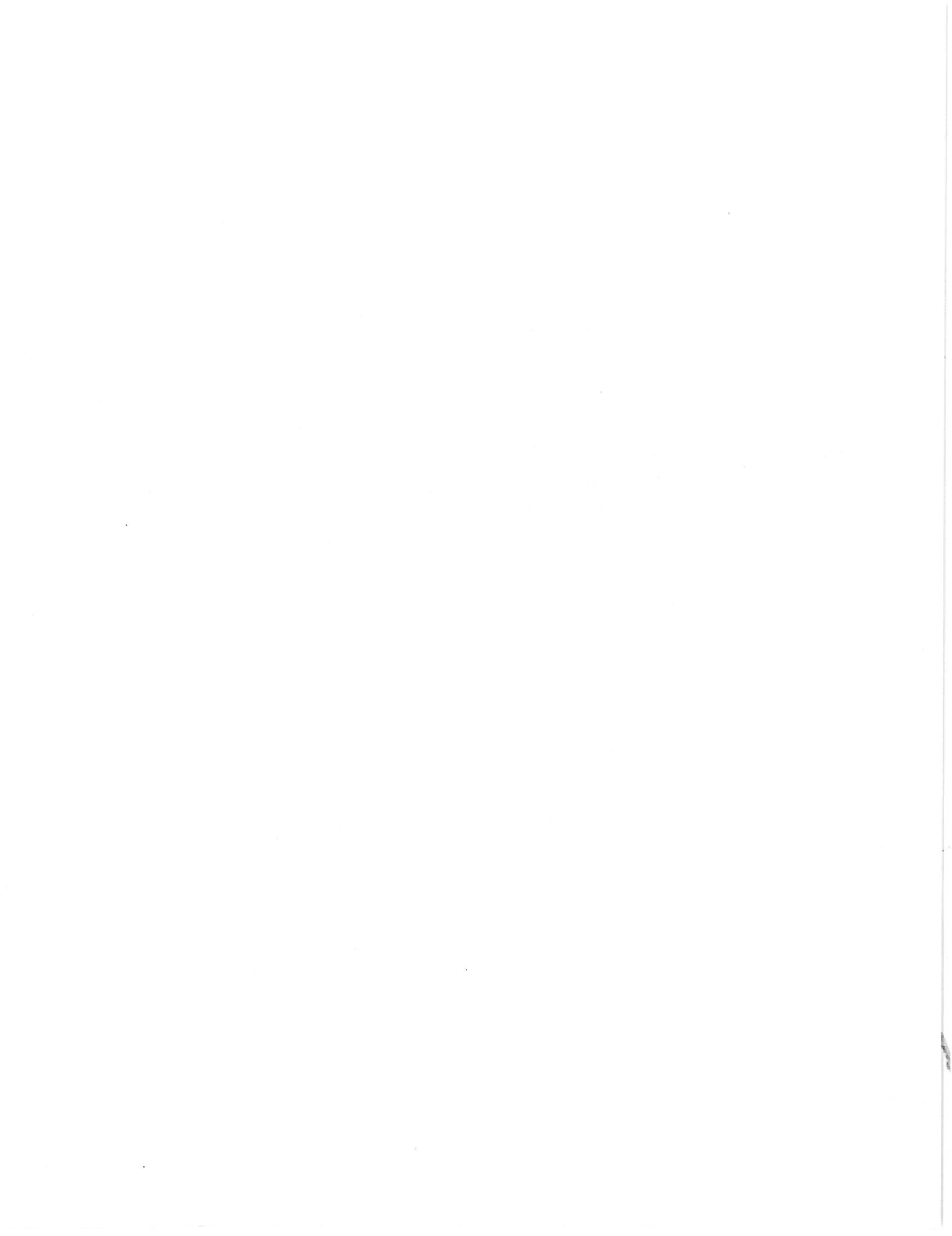
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29 PREPARED BY: Kevin Cain; K. Cain DATE: June 23, 2011

30 Pursuant to Section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
31 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
32 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6
33 of the Charter.

34
35 David W. Broadwell, City Attorney

36 BY: _____, _____ City Attorney

37 DATE: June 23, 2011



06-451-A

FIRST AMENDMENT TO AGREEMENT

THIS FIRST AMENDMENT TO AGREEMENT, made and entered into as of the date set forth on the City Signature Page affixed hereto (the "Effective Date") by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("City"), Party of the First Part, and **QWEST COMMUNICATIONS COMPANY LLC**, (f/k/a Qwest Communications Corporation) a limited liability corporation organized under the laws of Delaware and authorized to do business in the state of Colorado (the "Company" or "Qwest"), Party of the Second Part;

WITNESSETH:

WHEREAS, the parties hereto entered into an Agreement dated May 23, 2006, (the "Existing Agreement") for broadband network services at Denver International Airport (the "Airport") for the Airport, including City and tenant-occupied areas; and

WHEREAS, the parties now desire to amend the Existing Agreement to reflect the change of name and entity type of the Company from Qwest Communications Corporation to Qwest Communications Company, LLC; extend the Term of the Existing Agreement, and to increase the Maximum Contract Liability thereof;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the parties hereto agree as follows:

1. Paragraph 4, "TERM" of the Existing Agreement is hereby amended by deleting the said paragraph in its entirety, and substituting in its place the following:

"4. TERM:

A. The term of this Agreement (the "Initial Term") shall commence May 23, 2011 and shall terminate on May 22, 2012, subject to the City's option to extend the Term for up to two additional periods of no more than three (3) years each ("Renewal Term"). Such options shall be exercised by written notice signed by the Manager of Aviation and delivered to Qwest at least six (6) months prior to the end of the Initial Term or Renewal Term, as the case may be. The Initial Term and each Renewal Term are referred to as the "Term." The City may terminate this Agreement prior to the end of the Term as provided in this Agreement. This Section 4 defines and governs the Term of this Agreement, regardless of any differing or conflicting provisions in Exhibit "A," including without limitation provisions for "automatic renewals, which are superseded by this Section 4.

B. Upon the expiration or earlier termination of this Agreement or on the date specified in any demand for possession by City after any Default by Company, Company covenants and agrees to surrender possession of the Equipment Locations to City in the same condition as when first occupied, ordinary wear and tear excepted, within sixty (60) days of such expiration or termination or within such additional time as is granted by the Manager. Company covenants and agrees to cooperate with the City's closeout procedures. If all or any portion of the Broadband Network Services Equipment (the "Equipment") is removed as requested by the Manager, Company shall at its expense restore the affected areas to conditions existing prior to the installation of the Equipment or applicable portions thereof; and upon failure to do so, the City may cause such removal and restoration to be done at Company's expense."

2. Paragraph 6, "MAXIMUM CONTRACT LIABILITY; CONTRACT FUNDING" of the Existing Agreement is hereby amended by deleting the said paragraph 6 in its entirety and substituting in its place the following:

"6. MAXIMUM CONTRACT LIABILITY; CONTRACT FUNDING:

A. Any other provision of this Agreement notwithstanding, in no event shall the City be liable for payment for services rendered and expenses incurred by the Company under the terms of this Agreement for any amount in excess of the sum of Five Hundred Thirty Five Thousand Dollars (\$535,000.00), unless this Agreement is amended to increase such amount.

B. All payments under this Agreement shall be paid from the City and County of Denver Airport System Capital Improvement Fund or Airport System Operating and Maintenance Fund, and from no other fund or source. The City is under no obligation to make payments from any other source. The City is under no obligation to make any future encumbrances or appropriations for this Agreement nor is the city under any obligation to amend this Agreement to increase the Maximum Contract Liability stated above."

3. Except as modified or amended by this First Amendment to Agreement, all of the terms, provisions and conditions of the Existing Agreement are and shall remain valid, enforceable and in full force and effect as though fully set forth herein.

4. This First Amendment to Agreement shall not be or become effective or binding on the City until it is fully executed by all signatories of the City and County of Denver.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Agreement to be executed the day and year first above written.

CITY AND COUNTY OF DENVER

ATTEST:

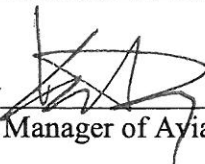
STEPHANIE Y. O'MALLEY, Clerk and Recorder, Ex-officio Clerk of the City and County of Denver

By _____
Mayor

RECOMMENDED AND APPROVED:

APPROVED AS TO FORM:

DAVID W. BROADWELL, Attorney for the City and County of Denver

By  _____
Manager of Aviation

REGISTERED AND COUNTERSIGNED:

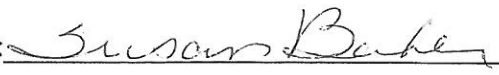
By _____
Assistant City Attorney

By _____
Manager of Finance

By _____
Auditor
Contract Control No. CE 65011 (1)

PARTY OF THE FIRST PART

QWEST COMMUNICATIONS COMPANY, LLC

By:  _____
Title: Manager Offer Management
5/9/2011

PARTY OF THE SECOND PART