

PASSED

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY OREGON

IN THE MATTER OF AWARD OF RFP
LCP 2000-16 FOR REVENUE AGREEMENT
FOR LANE COUNTY ADULT CORRECTIONS
FACILITY INMATE TELEPHONE SYSTEM

ORDER NO.
01-8-7-6

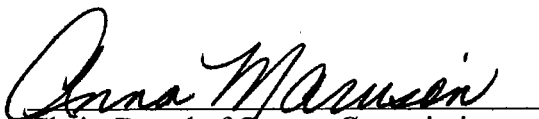
WHEREAS, at the duly authorized time and place on January 9, 2001, Chuck Wallace, Purchasing Manager, under authority of Lane Manual Chapter 21, opened proposals on the following:


LCP 2000-16 INMATE TELEPHONE SYSTEM

WHEREAS, all proposals were evaluated by Sheriff's and Lane Council of Government staff conformance to request for proposals specifications; it is hereby

ORDERED that the most responsive proposer be awarded a contract; that a revenue agreement be executed in accordance with request for proposals specifications; and that the County Administrator be delegated authority to execute a contract in substantial conformity with Attachment A.

DATED this 6th day of August, 2001


Chair, Board of County Commissioners

APPROVED AS TO FORM
Date 7/31/01 lane county

OFFICE OF LEGAL COUNSEL

**IN THE MATTER OF AWARD OF RFP LCP 2000-16 FOR REVENUE AGREEMENT FOR
LANE COUNTY ADULT CORRECTIONS FACILITY INMATE TELEPHONE SYSTEM**

INMATE TELEPHONE SERVICE AGREEMENT

In consideration of the covenants set forth below, Qwest Corporation, a Colorado corporation, hereinafter referred to as CONTRACTOR, and Lane County, a political subdivision of the State of Oregon, acting by and through its Board of County Commissioners, hereinafter referred to as COUNTY, mutually contract as follows:

1. CONTRACTOR agrees and covenants that s/he will provide the equipment and services on an as needed basis, as per the attached specifications, proposal and Request for Proposals attached hereto and incorporated herein in full, at a unit price to the COUNTY as stated in the proposal, in accordance with the attached specifications identified as LCP 2000-16. All of the attached specifications together with CONTRACTOR's proposal and this contract constitute the contract documents.
2. COUNTY agrees that it shall purchase a minimum of \$100.00 of equipment and services during the term of the contract.
3. To the extent applicable, CONTRACTOR agrees to follow the provisions of the Lane Manual 21.130, which is incorporated by reference as if fully set forth herein, including Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19. Paragraphs 20-22 of Lane Manual, Chapter 21.130 are not applicable and not made part of this Agreement.
4. **TERM** - This Agreement will begin on the day it is fully executed by both parties. The Agreement shall have an initial term of **three (3) years**. The Agreement may not extend beyond **three (3) years** from its effective date. The CONTRACTOR and COUNTY shall execute a letter setting forth the commencement date of the telephone service.
5. **SCOPE OF AGREEMENT** - COUNTY shall provide spaces within its facilities and CONTRACTOR shall provide an inmate telephone system as described in the RFP and response to RFP, including provision of bilingual services and for those with disabilities, and in accordance with the Americans with Disabilities Act (ADA). This agreement applies to all inmate telephone(s) currently installed ("existing") and to future installations ("new"). This agreement does not cover those telephones utilized by Lane County Corrections employees.
6. CONTRACTOR agrees to charge rates set forth in response to RFP, subject to change by CONTRACTOR in compliance with charges regulated by the Oregon Public Utilities Commission and FCC. Rates charged to persons receiving collect calls from inmates shall be comparable to or lower than those currently charged by the dominant carriers in the area. The total cost of calls may not exceed what dominant carriers are allowed to charge as regulated by the Oregon Public Utilities Commission and FCC for operator assisted, station and person calls.
7. COUNTY grants CONTRACTOR the right to subcontract with T-NETIX for services as specified in the response to the RFP. CONTRACTOR may not subcontract or allow T-NETIX to subcontract any other services under this agreement, unless prior written approval is provided by COUNTY. Any subcontract, including with T-NETIX, shall include an obligation to indemnify COUNTY for any claims arising out of subcontractor's performance or failure to

perform services covered by this agreement and an obligation to obtain similar insurance coverage as required by CONTRACTOR under this agreement.

8. RESPONSIBILITIES OF CONTRACTOR – CONTRACTOR agrees to:

8.1. Install inmate telephones, associated equipment, wiring, hardware, and enclosures at locations specified in the RFP, and provide training, service and repair for the telephone system as specified in the RFP and response to RFP. CONTRACTOR agrees to assume all costs associated with installing, repairing, replacing, and removing telephone system equipment. All line fees, billing/collection expenses, equipment costs, liability for fraudulent use of telephones, uncollectible billings and any other direct and indirect costs associated with providing the telephone systems shall be the responsibility of the CONTRACTOR. CONTRACTOR agrees that there will be no additional cost to COUNTY for CONTRACTOR's provision of inmate telephone services

8.2. The COUNTY agrees that no other person, company or entity shall be permitted to install and/or operate any other coin-operated inmate telephones or coinless telephones in the premises during the term of this Agreement or any extension thereof, except if it is reasonably necessary for the COUNTY to assure telephone access and the CONTRACTOR fails to provide timely or appropriate response to service calls and fails to perform in a manner set forth in the RFP specifications and CONTRACTOR's proposal. The CONTRACTOR must commence its service at all locations within 30 days from contract signing. Any scheduling to install, service, repair, and train shall be closely coordinated with corrections facility maintenance and security personnel.

8.3. CONTRACTOR shall obtain all approvals and/or licenses with respect to services or work covered by this agreement from the appropriate municipal, county, state or federal authorities.

8.4. The CONTRACTOR shall have the right to make replacements, modifications, updates, and connections which are necessary to the successful operation of the services, except that any major renovations must be approved by the COUNTY. COUNTY shall permit only authorized agents of the CONTRACTOR to adjust or repair equipment, except if CONTRACTOR fails to meet these obligations, the COUNTY may do whatever is reasonably necessary to assure telephone access. For purposes of a security check, CONTRACTOR must provide necessary personal information, in advance, for each person assigned to provide service within any County facility.

8.5. Pay COUNTY commissions in accordance with the schedule in the response to RFP. Payment shall be in the form of monthly commission checks commencing sixty days after the end of the calendar month in which the installation of the phones occurs. After the initial payment, commissions shall be paid within forty-five days after the end of the calendar month.

9. RESPONSIBILITIES OF COUNTY – County agrees to:

- 9.1. Provide adequate space for inmate telephones and enclosures and determine exact location for the phones.
- 9.2. Maintain the area around the inmate telephones and enclosures.
- 9.3. Allow CONTRACTOR access to perform maintenance.
- 9.4. Exercise reasonable care to prevent loss through theft or damage to the inmate telephones.
- 9.5. At its option, COUNTY may purchase and provide inmate telephone enclosures, and corresponding maintenance, at its expense.
- 9.6. COUNTY warrants that it has the authority to enter into this Inmate Telephone Service Agreement with Qwest.

10. OWNERSHIP - CONTRACTOR is and shall remain the owner of the inmate telephones, associated equipment, wiring, hardware, and enclosures provided by CONTRACTOR whether or not physically attached to the real estate.

11. FURTHER LOCATIONS AND TELEPHONES - The Parties may add location(s) and inmate telephone(s) to this Agreement, but additions will not be made without the express agreement of the Parties. Additions may be evidenced by a written memorandum between the Parties, but CONTRACTOR's business office records, unless clearly erroneous, will be binding on the Parties. Additions will not change the initial expiration date of this Agreement.

12. COMPLIANCE WITH LAWS – The CONTRACTOR shall comply with all laws, ordinances, rules and regulations pertaining to the operation of its services, and will hold the COUNTY harmless against any fine, penalty, or damage of any kind resulting from the failure on the part of the CONTRACTOR to do so. The CONTRACTOR will pay all installation and license fees with respect to the installation of its equipment.

13. REPORTS – The CONTRACTOR shall provide monthly reports to COUNTY detailing items determined appropriate by the COUNTY. The COUNTY retains the right to audit call detail, cost and commission information for completeness and accuracy at any time during the life of the Agreement.

14. REMOVAL OF INMATE TELEPHONES - CONTRACTOR retains the right to remove any or all inmate telephones in the event that it is not financially feasible, at CONTRACTOR's sole discretion, to continue providing inmate telephones at COUNTY's premises upon ninety (90) days written notice to COUNTY. COUNTY shall be entitled to receive any commissions earned before the CONTRACTOR removal of such inmate telephones.

15. SUCCESSORS AND ASSIGNS. This Agreement shall be fully binding upon, inure to the benefit of and be enforceable by each party and its successors and assigns. No assignment of any right or interest in this Agreement (whether by contract, operation of law or otherwise) shall release or relieve either party of any of its obligations or liabilities under this Agreement.

16. ASSIGNMENT. Neither party shall assign its rights nor delegate its duties under this Agreement without the prior written consent of the other party; except, either party may assign this Agreement to a parent, subsidiary or affiliated company by providing thirty (30) days written notice to the other party. As an exception to the notice provisions of paragraph 17 below, COUNTY may terminate this agreement with thirty (30) days written notice if it does not consent to CONTRACTOR's unilateral assignment to a subsidiary, successor or affiliated company.

17. TERMINATION - Either party may terminate this agreement, in its sole discretion and for any or no reason, by providing the other party 90 days advance written notice. If either party fails to perform its obligations under this Agreement, failure shall constitute default and, in such event, written notice shall be given to remedy such default. If the defaulting party fails to remedy such default within ten days from the date of such notice, the offended party shall have the right, in addition to all other rights and remedies, except for limitation for incidental, special, indirect or consequential damages below, to terminate this agreement in whole or in part.

17.1. The termination of this Agreement shall not affect the obligations of either party to the other under any than existing vested rights or causes of action which have accrued prior to the effective date of termination.

18. INDEMNIFICATION - Subject to limitations of liability set forth below and, for the COUNTY, the limitations of the Oregon Tort Claims Act and Article XI, Section 10 of the Oregon Constitution, each of the parties agrees to indemnify and hold the other, its Commissioners, agents, officers and employees harmless from any claim, liability, or damage resulting from any error, omission, or act of negligence on the part of the indemnifying party, its officers, agents or employees in the performance of its responsibilities under this agreement.

19. LIMITATION OF LIABILITY - In no event shall either party be liable to the other for incidental, special, indirect or consequential damages, including lost revenues, loss of profits or other such commercial or economic loss. Neither party shall be held liable for any delay or failure in performance of any part of this Agreement caused by circumstances beyond the reasonable control of the party affected, including, but not limited to, acts of the elements or natural disasters, strikes, power failures, civil or military emergencies or acts of legislative, judicial or other civil authorities.

19.1. The parties hereby acknowledge that the representatives signing this agreement have the authority and capacity to bind them.

20. NOTICES – Any notices or other communications to be given under this Agreement shall be sent to the following persons:

Lane County Sheriff's Office
Support Services Manager
Liz Burrows
101 W. 5th Street
Eugene, Oregon 97401

Qwest Corporation
Joanna Sissons
1600 7th Avenue
Room 2604
Seattle, WA 98191

21. REGULATORY. This Agreement is subject to CONTRACTOR's tariffs, catalogs, price lists and any regulatory filing requirements, as filed with appropriate state and federal regulatory commissions. In the event of conflict, tariffs, catalogs or price lists shall prevail.

22. LAWFULNESS OF AGREEMENT. This Agreement and the parties' actions under this Agreement shall comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders. Any change in rates, charges or regulations mandated by the legally constituted authorities will act as a modification of any agreement to that extent without further notice.

23 NONWAIVER. The failure of either party to enforce strict performance of any provision of this Agreement shall not be construed as a waiver of its right to assert or rely upon such provision or any other provision of this Agreement.

24. GOVERNING LAW. This Agreement shall be interpreted, construed and enforced in all aspects in accordance with the laws of the State of Oregon.

24.1. All security regulations which apply to Lane County Sheriff's Office employees, in particular those assigned to the Corrections Division, shall apply to the CONTRACTOR and its employees, agents, licensees, contractors or invitees, or when said persons are at the detention facilities or are dealing with facility inmates.

25. INSURANCE - CONTRACTOR shall provide all insurance called for on the page entitled "Insurance Coverage Required". As evidence of the insurance coverages required by this contract, the CONTRACTOR shall furnish a certificate of insurance to: Lane County Risk Management Division, 125 E. 8th Ave., Eugene, Oregon, 97401. The certificate will specify parties who are Additional Insured and must include a notice provision regarding cancellations. Insurance coverages required under this contract shall be obtained from insurance companies authorized to do business in the State of Oregon.

25.1. CONTRACTOR shall not cancel, materially change, or fail to renew insurance coverages. CONTRACTOR shall notify Lane County Risk Manager, 125 E. 8th Ave., Eugene, Oregon, 97401, of any material reduction or exhaustion of aggregate limits. Should any policy be canceled before final payment by Lane County to CONTRACTOR and should CONTRACTOR fail to immediately procure other insurance as specified, COUNTY reserves the right to procure such insurance and to deduct the cost thereof from any sum due CONTRACTOR under this contract.

25.2. Responsibility for payment of damages: Nothing contained in these insurance requirements is to be construed as limiting the extent of CONTRACTOR's responsibility for payment of damages resulting from CONTRACTOR's operation under this contract.

25.3. The CONTRACTOR agrees not to refuse to hire, discharge, promote or demote or discriminate against any person otherwise qualified, in any matter of compensation and/or benefits, performance of services or otherwise, solely because of race, creed, sex, color, national origin or ancestry, age, marital status, mental or physical disability, or political affiliation or belief.

26. **AMENDMENTS AND MODIFICATIONS** - Amendments and modifications to this Agreement, except for additions or deletions of Telephones as described above, must be in writing and signed by an authorized representative of each Party.

27. **SEVERABILITY** - In the event that a court, governmental agency, or regulatory body with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.

28. **ADVERTISING/PUBLICITY.** Except as otherwise provided and required under Oregon's public records law, Space Provider may not make any disclosure to any other person or any public announcement regarding this Agreement or any relation between Qwest (and/or any of its affiliate's) names, marks, codes, drawings, or specifications without Qwest's prior written consent from Qwest's Senior Vice President of Corporate Communications. Qwest shall have the right to terminate this Agreement and any other agreements between the parties if Space Provider violates this provision.

29. **ENTIRE AGREEMENT** - This Agreement constitutes the entire agreement and understanding between the parties, and supercedes all offers, negotiations and other agreements concerning the subject matter contained herein.

EXECUTED this _____ day of _____, 2001

Lane County

Qwest Corporation

(Signature)

By:
Title
Date

(Signature)

By: *Janice Eddy*
Title *Senior Director*
Date *4-27-2001*

By: _____
Jan E. Clements, Sheriff

APPROVED AS TO FORM:

Name Printed/Title

Date