

PUBLIC TELEPHONE SERVICE AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of February, 1999, between the COUNTY OF FRESNO, a political subdivision of the State of California, hereinafter called the "COUNTY", and GATEWAY TECHNOLOGIES, INC., a Texas corporation, located at 1544 Valwood Parkway, Suite 102, Carrollton, TX 75006, hereinafter called "CONTRACTOR".

WHEREAS, COUNTY desires to provide Local, IntraLATA, InterLATA and Interstate telephone service to inmates incarcerated in COUNTY detention facilities and Victim Notification service to victims of inmates incarcerated in COUNTY detention facilities (cumulatively referred to as "the services"), and sought bids for the provision of such services by issuing Request For Proposal ("RFP") 915-2950; and

WHEREAS, CONTRACTOR submitted a response to RFP 915-2950 and was the highest responsible respondent; and

WHEREAS, CONTRACTOR is qualified and willing to provide the services under the terms and conditions of RFP 915-2950 and this Agreement; and

WHEREAS, California Penal Code Section 4025(d) provides that there shall be deposited in the Inmate Welfare Fund any money, refund, rebate, or commission received from a telephone company when the money, refund, rebate or commission is attributable to the use of pay telephones which are primarily used by inmates while incarcerated.

NOW, THEREFORE, IT IS AGREED by the parties hereto as follows:

I. Equipment and Services To Be Provided By CONTRACTOR.

CONTRACTOR shall provide the below listed equipment and services pursuant to the terms of RFP 915-2950, which is incorporated herein by this reference:

A. Installation and Maintenance of Inmate Telephone Equipment The

CONTRACTOR will be required to install and maintain public telephone equipment for inmate use and other necessary appurtenances within the

COUNTY's detention facilities. Fresno County operates 4 facilities with a capacity of 2300 inmates. Currently there are approximately 288 inmate lines within the facilities. CONTRACTOR will be responsible for all repairs of equipment, including those caused by the intentional misuse by inmates.

B. Local, IntraLATA, InterLATA and Interstate and Phone Service.

CONTRACTOR shall install and provide Local, IntraLATA, InterLATA, and Interstate Telephone Service for inmate use within the COUNTY's detention facilities. CONTRACTOR's provision of these services shall be at its sole cost and expense. CONTRACTOR shall maintain Local, IntraLATA, InterLATA and Interstate inmate telephone services at all times. All repair work shall be done in such a manner as to minimize the disruption of telephone service and assure the integrity of the facility security at all times. CONTRACTOR shall be responsible for all billing and collections, but may contract with third parties to perform this function which shall be reported to and agreed to by the COUNTY. CONTRACTOR will assume responsibility for fraudulent billings.

C. Provide On-Site Phone Monitoring Capabilities

CONTRACTOR shall provide all equipment and services necessary to allow COUNTY to monitor phone activity on all phones. Two monitoring stations are to be provided by CONTRACTOR. Monitoring capabilities shall include the ability to record phone calls, live monitoring, and to restrict the recording of certain numbers. The equipment shall allow for interactive searches of records using several search and sort criteria, i.e., number called, number of times called, phone initiating call, attempted 3-way calls, etc. CONTRACTOR'S provision of this equipment and services shall be at CONTRACTOR'S sole cost and expense.

D. Provide Three Way Call Blocking Capabilities

1 CONTRACTOR shall provide all equipment and services necessary to
2 disconnect attempted three-way call connections as referenced in
3 CONTRACTOR'S response to RFP 915-2950. CONTRACTOR shall
4 allow COUNTY to generate reports detailing attempted and disconnected
5 three way call attempts. Tolerance for non-disconnect is to be no greater
6 than 5%. CONTRACTOR shall demonstrate accuracy of this feature in
7 written reports. CONTRACTOR'S provision of this equipment and
8 services shall be at CONTRACTOR'S sole cost and expense.

9 E. Provide Call Branding

10 CONTRACTOR shall provide, at its sole cost and expense, all equipment
11 and services necessary to play a prerecorded message that the receiving
12 party will hear as referenced in CONTRACTOR'S response to RFP 915-
13 2950.

14 F. Private Call Blocking

15 CONTRACTOR shall provide all equipment and services necessary to
16 allow COUNTY to block certain numbers from being called as referenced
17 in CONTRACTOR'S response to RFP 915-2950.

18 G. Provide Call Duration

19 CONTRACTOR shall provide, at its sole cost and expense, all equipment
20 and services necessary to allow COUNTY to adjust the duration of phone
21 calls by individual inmate telephone as referenced in CONTRACTOR'S
22 response to RFP 915-2950.

23 H. Provide Curfew Timing

24 CONTRACTOR shall provide, at its sole cost and expense, all equipment
25 and services necessary to allow COUNTY to set the times that phones will
be turned on and off by individual inmate telephone as referenced in
CONTRACTOR'S response to RFP 915-2950.

1 I. Provide Multi-lingual Voice Prompts and Announcements

2 CONTRACTOR shall provide, at its sole cost and expense, all equipment
3 and services necessary to allow inmates different language options as
4 referenced in CONTRACTOR'S response to RFP 915-2950. Languages to
5 be used will be determined by COUNTY? Example: Spanish, Hmong,
6 Laotian, etc.

7 J. Fraud Detection/Prevention

8 CONTRACTOR shall provide, at its sole cost and expense, all equipment
9 and services necessary to provide for detection and prevention of fraudulent
10 phone calls. CONTRACTOR will provide a plan for accomplishing this
11 goal as referenced in CONTRACTOR'S response to RFP 915-2950.

12 K. Provide a Detailed Service Response Plan

13 CONTRACTOR shall provide a detailed plan for reporting troubles and
14 how requests for service will be handled as referenced in
15 CONTRACTOR'S response to RFP 915-2950.

16 L. Provide a Detailed Transition Plan From Current Service Provider to
17 CONTRACTOR

18 CONTRACTOR shall provide a detailed plan showing how the transition
19 will take place from the current telephone service provider to
20 CONTRACTOR. Included in the plan should be a summary of any
21 potential problems that may occur as a result of the change in service and
22 how the CONTRACTOR will correct potential problems.

23 M. Sheriff's Department (IWF) Compensation

24 CONTRACTOR shall pay the Sheriff's Department any money, refund,
25 rebate, or commission that is attributed to the use of pay telephones which
are primarily used by inmates while incarcerated as referenced in
CONTRACTOR'S response to RFP 915-2950.

1 N. Automated Victim Notification System (VINES)

2 CONTRACTOR shall provide, at its sole cost and expense, the Victim
3 Information Notification Everyday System (VINES), as referenced in
4 CONTRACTOR'S response to RFP 915-2950.

5 O. Site Administrator

6 CONTRACTOR shall notify COUNTY, in writing, within 5 days of the
7 execution of this Agreement, of the identity of CONTRACTOR'S Site
8 Administrator. The Site Administrator shall be responsible for handling
9 inquiries regarding the service provided under, and the administration of,
10 this Agreement. The Site Administrator shall respond on site when
11 requested by the COUNTY within a reasonable amount of time.
12 CONTRACTOR shall notify COUNTY in writing within 5 days of any
13 change in the Site Administrator.

14 P. Equipment to be provided by CONTRACTOR

15 CONTRACTOR shall purchase and provide to COUNTY the below listed
16 equipment:

- 17 1. Three acoustically coupled telecommunication devices for
18 the deaf ("TDD's") for use by inmates as referenced in
19 CONTRACTOR'S response to RFP 915-2950. Equipment to
20 be provided within 30 calendar days of execution of this
21 agreement. All rights, title and interest to such equipment
22 will be in the COUNTY, and the COUNTY will be
23 responsible for maintaining such equipment.
- 24 2. Eight (8) color printers equal to or better than the Hewlett
25 Packard DeskJet 1600CM color printer. Equipment to be
provided within 30 calendar days of execution of this
agreement. All rights, title and interest to such equipment

will be in the COUNTY, and the COUNTY will be responsible for maintaining such equipment.

3. Thirty (30) digital phone pagers as referenced in CONTRACTOR'S response to RFP 915-2950. Equipment to be provided within 30 calendar days of execution of this agreement. All rights, title and interest to such equipment will be in the COUNTY.

4. Video Conferencing System as referenced in CONTRACTOR'S response to RFP 915-2950. Equipment to be provided within 60 calendar days of execution of this agreement. All rights, title and interest to such equipment will be in the COUNTY, and the COUNTY will be responsible for maintaining such equipment.

II. County's Obligations.

A. COUNTY grants CONTRACTOR permission to provide all Local, IntraLATA, InterLATA and Interstate telephone service for inmate use within COUNTY's detention facilities listed below:

Name of Facility	Address
Main Detention Facility (1164 inmates)	1225 'M' Street Fresno CA 93721
South Annex Jail (669 inmates)	2280 Fresno Street Fresno, CA 93721
North Annex Jail (432 inmates)	1265 'M' Street Fresno, CA 93721
Satellite Jail (200 inmates)	110 'M' Street Fresno, CA 93721

1 B. COUNTY shall afford CONTRACTOR, its officer, agents or contractors,
2 reasonable access to the inmate Local, IntraLATA, InterLATA and Interstate telephone
3 system(s), to perform routine inspections and make necessary repairs.

4 C. COUNTY agrees that all products and software located at COUNTY's
5 detention facilities by CONTRACTOR pursuant to this Agreement shall at all times remain
6 the property of CONTRACTOR, except that equipment listed in Section II above.

7 III. Term.

8 The term of this Agreement shall be for a period of three (3) years commencing on
9 the 1st day of February, 1999. Thereafter, this Agreement shall automatically renew for a one
10 (1) year term on the 1st day of February each successive year unless COUNTY provides
11 CONTRACTOR written notice of COUNTY's intent not to renew at least 30 days prior to the
12 end of the then current term.

13 IV. Termination.

14 This Agreement may be terminated by the COUNTY or CONTRACTOR upon
15 thirty (30) days advance written notice.

16 V. Compensation.

17 CONTRACTOR shall pay COUNTY as referenced in CONTRACTORS response
18 to RFP 915-2950. In case of termination by the COUNTY, the COUNTY agrees to refund any
19 unearned advance commission payments to the CONTRACTOR.

20 VI. Assignment.

21 Neither party may assign, transfer, or subcontract this Agreement nor their
22 obligations or rights under this Agreement without the prior written consent of the other party.

23 VII. Independent Contractor.

24 In performance of the work, duties, and obligations assumed by CONTRACTOR
25 under this Agreement, it is mutually understood and agreed that CONTRACTOR, including
any and all of CONTRACTOR's officers, agents, and employees will at all times be acting
and performing as an independent contractor, and shall act in an independent capacity and not

1 as an officer, agent, servant, employee, joint venture, partner, or associate of the COUNTY.
2 Furthermore, COUNTY shall have no right to control or supervise or direct the manner or
3 method by which CONTRACTOR shall perform its work and function. However, COUNTY
4 shall retain the right to administer this Agreement so as to verify that CONTRACTOR is
5 performing its obligations in accordance with the terms and conditions thereof.
6 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the
7 rules and regulations, if any, of governmental authorities having jurisdiction over matters the
8 subject thereof.

9 Because of its status as an independent contractor, CONTRACTOR shall have
10 absolutely no right to employment rights and benefits available to COUNTY employees.
11 CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its
12 employees all legally required employee benefits. In addition, CONTRACTOR shall be
13 solely responsible and save COUNTY harmless from all matters relating to payment of
14 CONTRACTOR's employees, including compliance with Social Security, withholding, and
15 all other regulations governing such matters. It is acknowledged that during the term of this
16 Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY
17 or to this Agreement.

17 VII Hold-Harmless

18 CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY's
19 request, defend the COUNTY, its officers, agents, and employees from any and all costs and
20 expenses, damages, liabilities, claims, and losses occurring or resulting to COUNTY in
21 connection with the performance, or failure to perform, by CONTRACTOR, its officers,
22 agents, or employees under this Agreement, and from any and all costs and expenses,
23 damages, liabilities, claims, and losses occurring or resulting to any person, firm, or
24 corporation who may be injured or damaged by the performance, or failure to perform, of
25 CONTRACTOR, its officers, agents, or employees under this Agreement.

IX. Insurance.

1 Without limiting the COUNTY's right to obtain indemnification from
2 CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in
3 full force and effect the following insurance policies throughout the term of this Agreement:

4 a. Comprehensive Automobile Liability Insurance for the operation, maintenance
5 and use of automobiles, including non-owned automobiles, with limits of not less than
6 \$100,000.00 per person and \$300,000.00 per occurrence for personal injury and \$50,000.00
7 for property damage.

8 b. Worker's Compensation Insurance as may be required by the California Labor
9 Code. Such insurance policies shall name the COUNTY, and its officer, agents, employees,
10 and servants, individually and collectively, as additional insured, but only insofar as the
11 operations under this Agreement are concerned (Automobile Liability only). Such coverage
12 for additional insured shall apply as primary insurance and any other insurance, or self-
13 insurance, maintained by the COUNTY, and its officers, agents, employees, and servants,
14 shall be excess only and not contributing with insurance provided under the
15 CONTRACTOR's policies herein. This insurance shall not be canceled or changed without a
16 minimum of thirty- (30) days advance, written notice given to COUNTY.

17 Prior to the commencement of performing its obligations under this Agreement,
18 CONTRACTOR shall provide certificates of insurance on the foregoing policies (Automobile
19 Liability only), as required herein, to the COUNTY's Sheriff's Department, stating that such
20 insurance coverages have been obtained and are in full force: that the COUNTY, its officers,
21 agents, and employees will not be responsible for any premiums on the policies; that such
22 insurance names the COUNTY, its officers, agents, and employees, individually and
23 collectively, as additional insured, but only insofar as the operations under this contract are
24 concerned; that such coverage for additional insured shall apply as primary insurance and any
25 other insurance, or self-insurance, maintained by the COUNTY, its officers, agents, and
employees, shall be excess only and not contributing with insurance provided under the
CONTRACTOR's policies herein; and that this insurance shall not be canceled or changed

1 without a minimum of thirty (30) days advance, written notice given to COUNTY. In the
2 event CONTRACTOR fails to keep in effect at all times insurance coverage as herein
3 provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate
4 this Agreement upon the occurrence of such event.

5 **X. Audits and Inspections.**

6 The CONTRACTOR shall at any time during business hours, and as often as the
7 COUNTY may deem necessary, make available to the COUNTY for examination all of its
8 records and data with respect to the matters covered by this Agreement. The CONTRACTOR
9 shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such
10 records and data necessary to ensure CONTRACTOR's compliance with the terms of this
11 Agreement. If this Agreement exceeds Ten Thousand and No./100 Dollars (\$10,000.00),
12 CONTRACTOR shall be subject to the examination and audit of the auditor General for a
13 period of three (3) years after final payment under contract (Government Code Section
14 8546.7).

15 **XI. Notices.**

16 Any and all notices between the COUNTY and the CONTRACTOR provided for
17 or permitted under this Agreement or by law shall be in writing and shall be deemed duly
18 served when personally delivered to one of the parties, or in lieu of such personal service,
19 when deposited in the United States Mail, postage prepaid, addressed as follows:

20 To: COUNTY OF FRESNO
21 Fresno County Jail
1225 "M" Street
Fresno, CA 93721
Attn: Inmate Welfare Fund Advisor

20 TO: GATEWAY TECHNOLOGIES, INC.
544 Valwood Parkway, Suite 102
Carrollton, TX 75006
Attn: Vice President/Marketing

22 **XII. Compliance with Laws**

23 CONTRACTOR shall comply with all applicable federal, state and local laws in
24 performing this Agreement.

25 **XIII. Modification**

1 Any matters of this Agreement may be modified from time to time by the written
2 consent of all the parties without, in any way, affecting the remainder.

3 XIV. Governing Law.

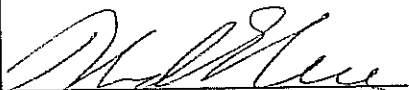
4 Venue for any action arising out of or relating to this Agreement shall only be in
5 Fresno County, California. The rights and obligations of the parties and all interpretation and
6 performance of this Agreement shall be governed in all respects by the laws of the State of
7 California.

8 XV. Entire Agreement.

9 This Agreement constitutes the entire agreement between the CONTRACTOR and
10 COUNTY with respect to the subject matter hereof and supersedes all previous negotiations,
11 proposals, commitments, writings, advertisements, publications, and understandings of any
12 nature whatsoever, unless expressly included in this Agreement. In the event of any
13 inconsistency between the documents which constitute this Agreement, such inconsistency
14 shall be resolved by giving precedence in the following order of priority: (1) This agreement,
15 excluding RFP 915-2950 and CONTRACTOR's response thereto; (2) RFP 915-2950; and (3)
16 CONTRACTOR's response to RFP 915-2950.
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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of
2 the day and year first herein above written.


3 CONTRACTOR:
4 GATEWAY TECHNOLOGIES, INC.

5 
6 RICHARD E. CREE, President
7 75-2212916

8 REVIEWED & RECOMMENDED
9 FOR APPROVAL

10 
11 RICHARD PIERCE, Sheriff

12 APPROVED AS TO LEGAL FORM
13 PHILLIP S. CRONIN, County Counsel

14 By 

JAN 12 1999
COUNTY OF FRESNO

SHARON LEVY
/S/

SHARON LEVY, Chairperson
BOARD OF SUPERVISORS

ATTEST: Shari Greenwood *NR*
Clerk of the Board of Supervisors

By
Deputy

APPROVED AS TO ACCOUNTING
FORM
GARY W. PETERSON, Auditor-Controller

By 