

**City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

**Agreement between the City and County of San Francisco and
Global Tel*Link**

This Agreement is made this **First day of June, 2010**, in the City and County of San Francisco, State of California, by and between: **GLOBAL TEL*LINK**, 2609 Cameron Street, Mobile, AL 36607, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing".

Recitals

WHEREAS, the Sheriff's Department ("Department") wishes to contract for Inmate Telephone Services; and,

WHEREAS, a Request for Proposal ("RFP") was issued on November 2, 2009, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract; and,

WHEREAS, approval for this Agreement was obtained from the San Francisco Board of Supervisors on May 18, 2010, File Number 100442:

Now, **THEREFORE**, the parties agree as follows:

1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. Term of the Agreement. Subject to Section 1, the term of this Agreement shall be from June 1, 2010 to May 31, 2013.

In addition, the City shall have two options to extend the term, for a period of one year each, by mutual agreement in writing. The maximum contract period shall not be more than five (5) years.

3. Effective Date of Agreement. This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

4. Services Contractor Agrees to Perform. The Contractor agrees to perform the services provided for in Appendix A, "Description of Services," attached hereto and incorporated by reference as though fully set forth herein.

5. Compensation. Contractor shall pay the Sheriff's Department an annual payment of One Hundred Thousand Dollars (\$100,000.00) payable within thirty (30) days of contract execution and annually 30 days after the contract anniversary date. In addition, Contractor shall pay the Sheriff's Department a commission rate of **sixty percent (60%)** calculated on all Gross Revenue generated by and through the ITS including but not limited to all collect, debit, pre-paid inmate telephone calls, and coin operated telephones. "Gross Revenue" shall include, but not be limited to, all surcharges, per minute fees and any additional fees generated by the completion of all Local, Intralata/Intrastate, Interlata/Intrastate, Interlata/Interstate and International collect, debit and pre-paid inmate telephone calls placed from Contractor's equipment located at the Facilities.

6. Guaranteed Maximum Costs. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

7. Commission Payments; Reports. The Contractor shall provide a monthly commission payment by check to the Sheriff's Department no later than the fifteenth (15th) day of the month following the month on which the payment is based. Each commission payment shall be accompanied by a traffic detail report, a billing file, and a Call Detail Report ("CDR") for that month. A detailed description of the required contents of the traffic detail report, the billing file, and the CDR is provided in Appendix A, Section 2.A., "Reports: Commission Payment and Reporting". The commission check and required reports shall be delivered by Contractor to the City at the address specified in the section entitled "Notices to the Parties," or to an agent as designated by the Sheriff in writing.

Late charges for commission payments shall be equal to five percent (5%) per month of the commission due. Reports received by the Sheriff's Department or its Designated Agent after the due date, as well as incomplete reports, are subject to late charges. Late charges for reporting shall be a fee of \$750 per month for each report not received by the fifteenth (15th) day of the month following the month of traffic.

8. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor,

subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. Disallowance. "Left blank by agreement of the parties."

10. Taxes. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor. Contractor recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

(1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

(2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

(3) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

(4) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

11. Payment Does Not Imply Acceptance of Work. The granting of any commission payment by the Contractor, or the receipt thereof by the City, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

12. Qualified Personnel. Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

13. Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

14. Independent Contractor; Payment of Taxes and Other Expenses

a. Independent Contractor. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

b. Payment of Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

15. Insurance

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable; and

(4) Errors & Omissions with limits not less than \$1,000,000

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.

e. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

f. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

g. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

h. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

i. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

j. If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

16. Indemnification. Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter. Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

The parties stipulate that the Contractor has no responsibility to advise the City with respect to any applicable law, regulation, or guideline that may govern or control telephone call recordation or monitoring by the City or compliance therewith. The City has its own legal counsel to advise it concerning any and all such applicable law, regulation, or guideline, and compliance therewith. The Contractor disclaims any responsibility to provide, and in fact has not provided, the City any legal advice concerning such applicable law, regulation, or guideline, or compliance therewith. The City agrees to indemnify, defend, and hold the Contractor harmless from any liability, claims, suits, proceedings, damages, costs and expenses (including attorney's fees) relating to any claims made against the

Contractor by any person arising out of failure of the City to comply with such applicable law, regulation, or guideline.

17. Incidental and Consequential Damages. Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

18. Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

19. Liquidated Damages. "Left blank by agreement of the parties."

20. Default; Remedies

a. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

(1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

- | | |
|-----------------------------------------------------|---------------------------------------|
| 8. Submitting false claims | 37. Drug-free workplace policy, |
| 10. Taxes | 53. Compliance with laws |
| 15. Insurance | 55. Supervision of minors |
| 24. Proprietary or confidential information of City | 57. Protection of private information |
| 30. Assignment | 58. Graffiti removal |

(2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

(3) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

(4) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

b. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

c. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

21. Termination for Convenience

a. City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

b. Upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

(1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.

(2) Not placing any further orders or subcontracts for materials, services, equipment or other items.

(3) Terminating all existing orders and subcontracts.

(4) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.

(7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

c. Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

(1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

(2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(3) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(4) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the services or other work.

d. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically enumerated and described in the immediately preceding subsection (c). Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection (c).

e. In arriving at the amount due to Contractor under this Section, City may deduct: (1) all payments previously made by City for work or other services covered by Contractor's final invoice; (2) any claim which City may have against Contractor in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and (4) in instances in which, in the opinion of the City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

f. City's payment obligation under this Section shall survive termination of this Agreement.

22. Rights and Duties upon Termination or Expiration. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement:

- | | |
|-----------------------------------------------------------------|-----------------------------------------------------|
| 8. Submitting false claims | 16. Indemnification |
| 9. Disallowance | 17. Incidental and Consequential Damages |
| 10. Taxes | 18. Liability of City |
| 11. Payment does not imply acceptance of work | 24. Proprietary or confidential information of City |
| 13. Responsibility for equipment | 26. Ownership of Results |
| 14. Independent Contractor; Payment of Taxes and Other Expenses | 27. Works for Hire |
| 15. Insurance | 28. Audit and Inspection of Records |
| | 48. Modification of Agreement. |

- | | |
|---------------------------------------------------------|----------------------------------------------|
| 49. Administrative Remedy for Agreement Interpretation. | 52. Entire Agreement |
| 50. Agreement Made in California; Venue | 56. Severability |
| 51. Construction | 57. Protection of private information |

Subject to the immediately preceding sentence, upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. The Contractor acknowledges that the records, call documentation, reports, data, etc., contained in the ITS are the property of the Sheriff's Department. The Contractor agrees that the workstations shall become the property of the Sheriff's Department after expiration, cancellation, or termination of this Agreement so that the Sheriff's Department will have continued access to all the call records, call recordings, documentation, reports, data, etc. that are contained in the ITS. Further, the call detail records, call recordings, documentation, reports, data, etc. shall be provided to the Sheriff's Department by the Contractor in a workable, software-compatible format at no cost to the Sheriff's Department. This subsection shall survive termination of this Agreement.

23. Conflict of Interest. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

24. Proprietary or Confidential Information of City. Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

25. Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To City: SAN FRANCISCO SHERIFF'S DEPARTMENT
 ATTN: Maureen Gannon, Chief Financial Officer
 #1 Dr. Carlton B. Goodlett Place, Room 456
 San Francisco, CA 94102-4676
 maureen.gannon@sfgov.org
 Fax# 415 554-7050

To Contractor: GLOBAL TEL*LINK (GTL)
 ATTN: Mr. Paul Turner
 2609 Cameron Street
 Mobile, AL 36607
 pturner@gtl.net

Any notice of default must be sent by registered mail.

26. Ownership of Results. Ownership of Results "Left Blank by Agreement of the Parties".

27. Works for Hire. Works for Hire “Left Blank by Agreement of the Parties”.

28. Audit and Inspection of Records. Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

29. Subcontracting. Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing, and such approval shall not be unreasonably withheld or delayed. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

30. Assignment. The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement, except that the Contractor shall have the right to assign this Agreement or any interest herein at any time to any parent, successor or subsidiary of the Contractor without the consent of the City.

31. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

32. Earned Income Credit (EIC) Forms. Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

33. Local Business Enterprise Utilization; Liquidated Damages “Left blank by agreement of the parties.”

34. Nondiscrimination; Penalties

a. Contractor Shall Not Discriminate. In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts. Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. Nondiscrimination in Benefits. Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract. As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

e. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

35. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person

executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

36. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

37. Drug-Free Workplace Policy. Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

38. Resource Conservation. Chapter 5 of the San Francisco Environment Code ("Resource Conservation") is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

39. Compliance with Americans with Disabilities Act. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

40. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

41. Public Access to Meetings and Records. If the Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

42. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or

loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

43. Requiring Minimum Compensation for Covered Employees

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a

breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

44. Requiring Health Benefits for Covered Employees. Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission..

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

45. First Source Hiring Program; "Left blank by agreement of the parties."

46. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the

performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

47. Preservative-treated Wood Containing Arsenic. Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

48. Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director of HRC any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (HRC Contract Modification Form).

49. Administrative Remedy for Agreement Interpretation. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Purchasing who shall decide the true meaning and intent of the Agreement.

50. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

51. Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

52. Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48, "Modification of Agreement."

53. Compliance with Laws. Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

54. Services Provided by Attorneys. Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

55. Supervision of Minors. "Left blank by agreement of the parties."

56. Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

57. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

58. Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Contractor to comply with this section of this Agreement shall constitute an Event of Default of this Agreement.

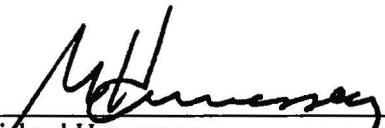

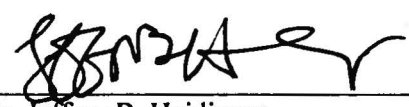
59. Food Service Waste Reduction Requirements. Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this

Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

60. Slavery Era Disclosure; "Left blank by agreement of the parties."

61. Cooperative Drafting. This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY	CONTRACTOR
<p>Recommended by:</p> <p> Michael Hennessey Sheriff San Francisco Sheriff's Department</p> <p>Approved as to Form:</p> <p>Dennis J. Herrera City Attorney</p> <p>By:  Salie Gibson Deputy City Attorney</p>	<p>Global Tel*Link</p> <p>By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.</p> <p>I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.</p> <p> Mr. Jeffrey B. Haidinger</p> <p>President - Services 12021 Sunset Hills Road, Suite 100 Reston, VA 20190</p> <p>City vendor number: 32285</p>

Appendices

- A. Services to be provided by Contractor
- B. Calculation of Charges
- C. Subcontractors

Appendix A
Services to be provided by Contractor

1. Description of Services

This Contract is made by and between the San Francisco Sheriff's Department, (hereafter, "Sheriff's Department") and Global Tel*Link (hereafter, "Contractor").

Contractor agrees to perform the following services:

A. Scope

- 1) Provide a fully operational, secure, flexible and reliable inmate communications systems. Essential administrative functions are to include monitoring and recording ("M&R"). The Inmate Telephone System (ITS) shall be capable of data/ record-keeping, archiving and custom data retrieval. The accounting system for generated revenue tracking shall be user friendly, clear, concise, and well documented.
- 2) The Contractor shall install, operate and maintain at its own expense The ITS, inclusive but not limited to all related hardware, software, and firmware to enable inmates to make auto-collect local, long distance, debit local, long distance and international calls and pre-paid local, long distance and international calls from the facilities. Select Phones at the booking center shall operate free of charge. The single prime Contractor shall remain solely responsible for the performance and reliability of the system.
- 3) The Contractor's ITS is to ensure; lawful and legitimate use of the system, user friendly interfaces, a restricted environment accountability and maximum revenue generation.

B. Transition/Operations Plan

- 1) 60-day Installation Period: A 60-day installation period shall begin with the coordinated transition team, consisting of both PCS and GTL personnel as well as SFSD staff, working on the removal of old equipment, and installation of new equipment and wiring.
- 2) 30-day Final Completion: A 30 day debugging/fine-tuning period shall begin upon completion of the 60 day installation completion period. Following 30 day period, and upon final review and approval by the Sheriff's Department, full commencement of the system will begin.
- 3) Documentation/Project Manual: All system documentation, including but not limited to tables, addresses, passwords, flowcharts, identifiers, phone numbers are to be provided in hard copy/ electronic versions. The ITS Contractor shall publish a confidential project manual for reference to the entirety of ITS. This manual will have all approved form blanks, system architecture, templates, matrixes, flowcharts, telephone numbers system guidelines, rules and all other project data for reference. The Manual shall be continuously updated.
- 4) Transitional down time shall be as approved in the coordinated transition team meetings but in no case shall any portion of the ITS lose it intended usage capability for more than one day. There shall be no loss of service for intake phones at CJ#1.

C. Components

The Contractor shall provide all components for the ITS, including a sufficient, quality/quantity of communication capacity to the ITS to allow background recording,

monitoring and downloading with no effect on system performance. The system is inclusive of equipment and services required to provide the services.

Components include but are not limited to; new telephones, conduit, lines, conductors, terminal strips, telephone cutoff switches (one per each phone), secure switch panels, backboards, pedestals, cabinets, enclosures, racks and other miscellaneous appurtenances. In addition, electronics, utilities, electrical interfaces, and uninterruptible power supplies are required for complete system monitoring, recording and administration of the ITS.

- 1) The Sheriff's Department administrative interfaces: Install work stations at the designated facilities as directed by the Sheriff's Department for a secure, confidential, password protected monitoring and recording system. The ITS shall provide for "state of the art" proven redundant data storage/archiving, playback capability. Archiving must meet the 3-year capacity requirement, and must sort using various parameters. These parameters include, but are not limited to, time and date, location, phone source, facility, telephone numbers, inmate identifier, and password access code. Any and all loaded programs are to be as approved by the Sheriff's Department.
- 2) The system shall have the capacity to expand. All critical administrative and Monitoring and Recording (herein to be called M&R) equipment is to be continuously monitored for functional operation. Reports on regular system checks and diagnostics are to be provided.

D. Lines

- 1) Reception quality: At a minimum, Contractor shall provide ITS reception quality equal to the toll quality offered to the general public and must meet all telecommunication industry standards. The Sheriff's Department shall be the final determiner as to whether reception quality is adequate.
- 2) Provide "Channel Banks" for breakout of T-1 lines at each location. Contractor must provide a sufficient number of telephone/trunk lines to the ITS to allow inmates the opportunity to place calls at least 99.5% of the allowable time. The Sheriff's Department shall be the final determiner on acceptability of the frequency of dropped calls. Busy signals must be kept to a 5 minute maximum. System design shall meet capacity demands, and have growth potential.
- 3) Redundancy: Provide sufficient, redundant; trunk, feeder, T-1, data lines and alternate data paths for potential losses, as required for this ITS.
- 4) Provide outside/offsite test-lines for system checks as required.

E. Electronics: Electronic component failures shall not cause system failures.

Contractor shall:

- 1) Provide computers, file-servers, modems M&R stations, firewalls, security measures and communications instruments as required.
- 2) Provide redundant measures, hot swappable and by-passable components and RAIDed arrays as required for reliable operation.
- 3) Provide diagnostic field tools as required to efficiently resolve issues.

F. Existing Infrastructure: The Contractor may, with the permission of the Sheriff's Department utilize conduit and wire or other components that are currently part of the existing system, as further described in Section R, "Existing Conditions".

G. Debit Card Application: The current Commissary Provider ("CP") is administering the distribution/selling of the debit cards sold to the inmates. The CP shall purchase the cards from the ITS Contractor for resale to the inmates. Inmates may purchase debit cards once a week (presently on Tuesdays) by selection from the CP menu. Delivery of the debit card and operational ITS service for the inmate occurs approximately one day later. Each card has unique identifiers to code the card. ITS contractor is to sell the cards at a fixed cost to the CP. There shall be no changes to this charge without the Sheriff's Department approval.

- 1) The ITS shall provide the inmate with the balance of their debit and/or pre-paid account at the time of the call. The pre-paid and/or debit application shall allow international calls.
- 2) Debit Cards are available in \$10.00 denominations at the facilities through the Jail Commissary provider. Contractor shall observe the following:
 - a. The chargeable value of the debit cards shall be in denominations as determined by the Sheriff's Department. Presently the value of the card is \$10.00. Inmate purchase cards from the commissary provider for \$10.50.
 - b. The actual value available to prisoners in the Sheriff's Department's facilities for each debit card shall be equal to the amount of charge available on the card (currently \$10.00).
 - c. Inmate's friends and family may input cash or money orders at the Money Intake window at County Jail #1 Lobby at 425 7th Street San Francisco, CA, or may mail money orders referencing the inmate's jail tracking number to credit the inmates account. Money credited to the inmates account may be used to purchase phone debit cards.
- 3) The pre-paid and/or debit application shall have the capability to terminate a debit account and refund income to the inmate. Funds not returned for whatever reason shall be accounted for via the reporting process. A refund will only be made if requested by the facility or commissary provider to ensure requests are legitimate. Inmate's requests for refunds will be denied.
- 4) Calling cards are portable and can be carried by the individual to any San Francisco Sheriff's Department facility.

H. ITS: Inmate phone system shall be suitable for the intended purpose and the environment expected inclusive of but not limited to: planning, design installation, administration and maintenance.

- 1) Charges to the value remaining in the Inmate Debit Card shall be assessed as described in Appendix B.
- 2) The Sheriff's Department or its authorized agent shall have sole access to prisoner trust accounts (Inmate Trust Fund).
- 3) During the jail facilities allotted time for phone access, inmates may utilize the ITS system by following the pre-recorded voice prompt instructions to either gain outside communications, or to get an audio statement of the current balance in their individual trust fund account. The Sheriff's Department shall be able to access the ITS at any time via an administrative workstation to get traffic records as required. Debit card balances shall also be recorded and searchable by SFSO staff using individual inmate account numbers.
- 4) Automatic and customizable call blocking features: The Sheriff's Department shall be allowed to block certain telephone numbers from being called regardless of connection method employed by inmates or remaining balances. Primary requests to block numbers will be routed to the ITS Contractor for action. The Sheriff's Department shall retain the capability to block numbers.

- 5) The Contractor's telephones installed in the Intake & Release Center on the first floor of 425 7th Street (CJ#1), shall allow inmates to make telephone calls to locations within the local calling area free of charge. Inmate calls to locations outside of the local calling area may only be made via a collect call.

I. Monitoring/Recording:

- 1) ITS shall digitally store recorded and logged telephone calls online for a minimum of one (1) year, and archived for three (3) years. Only authorized official representatives from the Sheriff's Department shall have the capability of accessing and copying recorded telephone calls. The Contractor shall be responsible for supplying all backup disks/CDs/media for the storage of call and visitation recordings at no cost to the Sheriff's Department throughout the life of the Agreement and any renewal terms.
- 2) The monitoring and recording of calls shall be selectively programmable by one or all of the following:
 - a. Housing Unit;
 - b. Start and Stop Time and Date of Call;
 - c. Called Number
- 3) The ITS shall be capable of showing real time call activity on a workstation. This activity shall be detailed by date of call, start time of call, stop time of call, originating telephone station number and called number.
- 4) The ITS shall provide the capability to copy the recorded telephone conversations onto a compact disc (CD) or other storage device in audio or MP3/data format with tamper free capabilities. The storage device shall be provided by the Contractor and located with the recording equipment in the area designated by The Sheriff's Department. The storage device shall produce transfer recordings with virtually no loss in quality and shall be capable of placing an audio time and visual date stamp within the recording. The storage device shall have a monitor amplifier and speaker so that the Investigator may confirm accurate transfers of the recorded information.
- 5) Time and date entries for each recorded conversation shall be displayed on a per channel basis. The ITS shall display all conversations in chronological order to facilitate research and playback.
- 6) Contractor shall provide The Sheriff's Department with the number of workstations and printers specified at in Section I.10.
- 7) The workstations shall each include a CD/DVD burner. At the request of the Sheriff's
- 8) Department, Contractor shall provide remote access to the ITS at no cost. The provision of remote access shall allow The Sheriff's Department the same features and functionalities, permitted by the user's level of access on the dedicated workstation(s) supplied by Contractor.
- 9) The Contractor shall provide an uninterrupted power supply source to ensure there is no loss of recordings or real time call data in the event of a power failure.
- 10) Workstations-Contractor shall provide the following workstations:
 - a. Two workstations and two printers: one workstation and printer at the San Bruno facility, #1 Morland Drive, San Bruno, CA 94066, and one workstation and printer in downtown San Francisco at 425 7th Street, San Francisco, CA 94103.
 - b. One workstation and one printer at the Hall of Justice, 850 Bryant Street San Francisco, CA 94103
 - c. Two workstations and two printers at Investigative Services Unit, 25 Van Ness Avenue, San Francisco, CA 94102
- 11) The ITS system shall allow the Sheriff's Department to selectively monitor any call placed by an inmate.
 - a. ITS shall allow the Sheriff's Department to electronically search telephone logs by any/all of the following: date, time, location, and telephone number.

- b. There shall be a recorded message which activates prior to any call being placed to notify prisoners that all calls may be recorded or monitored at any time. System shall allow inmate selection of keypad menu for selected language. (English, Spanish, Cantonese).
- 12) The ITS may only allow outgoing calls. Incoming calls are not permitted.
 - 13) Contractor shall supply a custom filter to deny all calls to "800" prefixes or any other prefixes as requested by the Sheriff's Department.
 - 14) The system shall limit each telephone call to a maximum time between ten (10) and fifteen (15) minutes, as agreed by the Sheriff's Department. The maximum time maybe changed at the sole discretion of the Sheriff's Department. The system shall notify each caller when the length of the call is within one (1) minute of the maximum time period. Such notification is not to intrude upon the inmates' time allowance.
 - 15) Although full capability to monitor all communications shall exist, the following categories are exempt from monitoring and recording at this time:
 - a. Prisoner telephone calls to the Public Defender's office, or other legal representatives such as private attorneys and the Sheriff's Department Prisoner Legal Service Offices, prisoner's medical provider, or religious counselor in compliance with applicable law.
 - b. Inmates shall be allowed to call the Public Defender's Office without charge or the use of their individual inmate account number. Clear multi-language signage with instructions for making such calls in English, Spanish and Cantonese are to be affixed in the immediate vicinity of the phones in a location approved by the Sheriff's Department. Inmate calls to the Public Defender's Office shall not be recorded or monitored. The ITS monitoring and recording system shall have the Public Defender's Office number on default to not record or monitor.
 - c. The Sheriff's Department may designate other telephone numbers the ITS must protect from monitoring and recording. All statistical information regarding exempt calls must be provided to the Sheriff's Department by the ITS.
 - d. Visitation calls may only be recorded at the direction and authorization of the Sheriff.
 - 16) The system shall continuously operate for the duration of the contract, 24 hours per day, 7 days a week, with no exceptions.
 - 17) The system shall have the capability of notifying call recipient that the call is being placed from a county jail.
 - 18) The system shall have the capability of automatically blocking calls to a telephone number that repeatedly refuses calls.
 - 19) The system shall have a 3-way call detection feature that will cause a call to be terminated, based on criteria set by the Sheriff.
 - 20) The Contractor's ITS shall be compatible and/or integrate with all other components and systems. Compatibility shall extend to related systems such as the Commissary operation or items within shared closets, as well as unrelated systems such as radio systems, and repeaters.
 - 21) Contractor's system shall be password protected, with multiple password security levels allowing access only to the Sheriff's Department personnel to whom the passwords are issued. The Sheriff's Department will select the level of access each password allows. In order to preserve the Chain of Evidence of the system for legal purposes, Contractor agrees that:
 - a. No person with access to the System shall be able to modify telephone recordings or other data related to telephone calls stored therein.
 - b. No person with access to the system should be able to change any setup feature that could alter the data collected regarding a telephone call (e.g. date, time, duration, telephone number called, location where call was made, inmate account

number assigned to call, etc.) without the prior consent of the Sheriff's designated authorized representative, and without a written record of the change in access including the date, time of the change and designated person making the change.

- c. Contractor shall make available all of Contractor's employees involved in altering any component of the system's data or setup, to testify in court regarding the veracity of the data generated by the system, if requested by the Sheriff's Department. Contractor shall assume all costs connected to this request.
 - d. Contractor shall prevent the ITS from being accessed via the Internet.
- 22) Contractor's system shall be capable of producing printed reports on all aspects of the system. Reported data shall include, but not be limited to: phone number, location of where call originated, duration of the call, inmate debit card used in call, cost of the call and type of the call (e.g. local, long distance, debit collect, etc).
- 23) The system shall allow an authorized user with the appropriate level of password protected access to search data and generate reports based on various parameters equal to or exceeding the type of reports currently available on the existing system installed in the Sheriff's Department facilities.
- a. Reports generated on the system shall have a customized user header on each page that will allow the Sheriff's Department to include all the parameters of the report search including, but not limited to, the Sheriff's Department title (San Francisco Sheriff's Department), name of operator requesting the report, date of report, type of data and limits of search.
 - b. Reports generated on the system shall have customized user footer on each report indicating the page #, number of pages, date or any other identifier as requested.
- 24) The system shall have all capabilities to manage system information equal to or exceeding those currently available on the existing ITS. These capabilities shall include but not be limited to:
- a. Blocking telephone numbers from being called from the system.
 - b. Collect Call Limitations: System shall be able to establish a nuisance threshold (a limited number of times an inmate can call a number, with the called party rejecting the collect call request). System shall then have the capability to make inmates calls surpassing the threshold to a particular number returned to debit basis only.
 - c. Limiting the calling hours on particular telephone numbers.
 - d. Allowing free telephone calls from certain telephones (i.e. located in the Sheriff's Department's booking facility), and to certain numbers.
 - e. Allowing "private" (non-recorded or monitored) calls to certain numbers.
 - f. Restricting debit card calls to certain times of the day, and to certain numbers.
 - g. Contractor shall monitor the system to detect fraud or possible fraudulent or abusive activities, such as, but not limited to excessive calls to a particular number and third party calls (e.g., conference calls).
 - h. Contractor must have an avenue to handle end-user requests.

J. Visitation: Contractor shall provide M&R service capability at the Sheriff's Department visitation telephones. Included, at a minimum: all designs, coordination, material, and labor. ITS shall set visitation phones on default to not record. Full monitoring and recording implementation of visit calls can occur only under the direction and authorization of the Sheriff.

K. Intake Phones: Provide a communication service for the Intake/Booking area at CJ#1 (downtown). This direct-call service should be "free" to the inmates and should operate without the use inmates individual account number.

- 1) **Portable Phones:** Provide modular units for the occurrence of mass arrests. Portable Phones shall be custom mounted on metal four wheel dollies for easy and stable transport and stable end-use. Portable units shall have a platform of aluminum or finished metal, with poly-urethane, non-marring, ball-bearing, smooth running lockable wheels. Units should also have a push-cart handle that could be securely fixed to a location if the need arises. Provision of a plug-in for plausible extension cord is required. Phone outlets at predetermined locations for interconnectivity to ITS must be provided.
- 2) **Intake Phone System Workaround:** In case of ITS failure provide an easily switchable bypass to remove the intake phone system from the ITS and to access outside lines directly upon failure of the ITS. Such workaround can be provided as follows: Cutoff switching at an agreed upon location from the ITS with an analog land line cut-in interface for standard phone service. This is to meet legal requirements to provide phone calls within the first 2-hours of custody.
- 3) **Provide hands-free suicide resistant phones at specific locations per Installation/Security requirements below.**

L. Informant Lines (IL): Contractor shall provide a confidential informant line for inmates. This Line is to be routed to a destination provided for and designated by the Sheriff's Department. The line will be used solely by inmates providing information to the Department. There is no charge associated with the use of this line.

M. Pay Phones: Contractor shall provide coin operated public pay phones at the lobbies of all jails. The public pay phones shall allow local and long distance collect calling.

N. Maintenance: ITS Contractor is to provide 24/7 support for all aspects of this system.

O. Accounting & Administration: Contractor shall provide software based administrative system to view traffic reports and accommodate custom inquiries. The San Bruno workstation and the two Sheriff's Department Investigative Unit stations can double as the M&R interface station. The San Francisco workstation shall be the sole determiner of properly implemented ITS traffic and/or financial tracking requirements. The Contractor is to cooperate in the provision of such data/reports. System is to provide summary narrative portions to accurately complete the reports. Administrative Work Stations are to be provided as follows:

- 1) Networked stations shall be of the same ergonomic quality construction, backed-up/raided, UPS protected, Energy Star compliant and with ergonomic office chairs. One printer shall provided for the San Bruno office and be capable of color reproduction to an 11x17 two sided printing.
- 2) Computers are to be preloaded with licensed full versions of office suite programs, equal to: Microsoft Office Suite Pro, Flowcharting, Adobe Acrobat and computer protection programs (anti-virus etc.) or others as needed.
- 3) Provide updated full versions of programs for the duration of the contract.
- 4) Provide training as required on the use of this system.
- 5) Provide custom graphic interface screens with clear tabs and instructions to move within the program to access all features and be user friendly.

P. Cooperation

- 1) A coordinated transition team shall be formed for a smooth and orderly transition from the current system under PCS to the new system. The newly awarded Contractor is

bound to cooperate with the old provider and is reciprocally bound to cooperate with the next provider.

- 2) The Contractor shall cooperate fully and in a timely fashion to provide reports, summaries, audit support, adjustments to system parameters as required for a seamless transition. Upon proper notification, the Sheriff's Department shall have the authority to call meetings and shall have access to Contractor's decision making personnel at any/all times.
- 3) Upon expiration, termination, or cancellation of the Agreement, the Contractor shall cooperate in an orderly transfer of responsibilities and/or the continuity of the services required under the terms of the Agreement to an organization designated by the Sheriff's Department. The Contractor shall provide and/or perform any or all of the following responsibilities:
 - a. The Contractor acknowledges the records, call documentation, reports, data, etc., contained in the ITS are the property of the Sheriff's Department. The Contractor agrees that the workstations shall become the property of the Sheriff's Department after expiration, cancellation, or termination of this Agreement so that the Sheriff's Department will have access to all the call records, call recordings, documentation, reports, data, etc. that are contained in the ITS. Further, the call detail records, call recordings, documentation, reports, data, etc. shall be provided to the Sheriff's Department by Contractor in a workable, software-compatible format at no cost to the Sheriff's Department.
 - b. The Contractor shall discontinue providing service or accepting new assignments under the terms of the Agreement, on the date specified by the Sheriff's Department. The Contractor agrees to continue providing all of the services in accordance with the terms and conditions, requirements and specifications of the Agreement for a period not to exceed ninety (90) calendar days after the expiration, termination or cancellation date. Commissions will be due and payable by Contractor to the Sheriff's Department, or it's Designated Agent, at the compensation rate provided in the Agreement until collect, debit and/or pre-paid calls are no longer handled by Contractor.

Q. Installation

Maximum Security: Inmate/Visit installations are to be maximum security. Repeated failure of components and installations shall cause the ITS Contractor to be subject to the use of alternate designs, components and installation as directed by the Sheriff's Department at no additional cost to the contract.

Security - Inmate interfaces: All Inmate components are to be of a maximum security environmental standard. Contractor to provide adequate number and type of spare parts at the facilities.

- 1) Phone set housing shall be stainless steel and shall be sturdy, non-coin, vandal resistant, steel armored and securely attached to structure. The telephone hand-sets shall be composed of durable, tamper-free equipment suitable for a correctional/detention environment. Plastics/resins etc for the handsets shall be shatterproof and tamper resistant.
- 2) The telephones are to have no removable parts. The ITS Contractor must comply with Federal Communication and/or Utility Commissions regulations.
- 3) Security Torx screws must be used as the installation standard. Use pick resistant caulking; heavy duty anchors, concealed installation.
- 4) Use maximum security installation to prevent the concealment and passage of contraband. Details will be reviewed and approved by the Sheriff's Department.

- 5) Use Suicide resistant components in holding cells, sobering cells or as directed by the Sheriff's Department and/or the state authority having jurisdiction - the California Corrections Standards Authority. Sobering cells are to have phones that are hands free and flush to the wall. All inmate jail phones in high risk areas are to have cords no longer than 8 inches.

R. Existing Conditions

- 1) Contractor may utilize existing conduit, conductors or other components that are part of the current ITS, and will be left in place by current contractor.
- 2) The use of any existing items including but not limited to raceway, conduit, electrical/communication room space shall be as approved by the Sheriff's Department.
- 3) Contractor planning and space usage shall take into account the existing conditions and limited spaces for equipment.
- 4) The Contractor shall inform the Sheriff's Department of any plan to alter existing infrastructure. Planning and approval by the Sheriff's Department shall precede work within the confines of the older structures of CJ#3 and CJ#4 (Hall of Justice 6th and 7th floors located at 850 Bryant Street) where asbestos containing material is known to exist and elsewhere as appropriate. Routing shall take into consideration such hazards.
- 5) HAZMAT: Existing hazardous material reports will be disclosed and the Sheriff's Department shall be responsible to abate Contractors pre-approved proposed work. Contractor operations shall take into account reasonable time to complete abatement work. Upon finding potentially hazardous material, work shall be suspended. Work will resume only after a resolution has been reviewed and approved by the Sheriff's Department.
- 6) Contractor is responsible for all other non-hazardous material work coordination. This may include but not limited to UDS (subsurface/ underground detection i.e. Ferro scan, x-ray, tracing etc.), and pathway planning and installation including coring, structural /non/structural repairs or patching as approved by licensed professionals and/or the Sheriff's Department as applicable.
- 7) Power: Telephone station equipment where powered by the telephone line shall require no additional power source. A power source will be available at the demarcation location within electrical rooms.
- 8) Dedicated standard power sources shall otherwise be secured as necessary. Contractor shall provide, at a minimum, monitored line conditioners, fault detection; UPS's and otherwise protected power supply and backup systems for reliable power with no power transition faults.
- 9) The extent of any specific buildings' backup power generation varies:
 - a. San Bruno Site: CJ#5 East – Building on full Emergency Backup
 - b. Downtown:
 - CJ#6 West – Partial backup
 - CJ#1-#2 & #3-#4: Partial backup
 - ISU at 25 Van Ness, No backup

S. Materials

- 1) ITS components rated for the penal environment, must perform as intended in the jail environment.

- 2) In-stock and over-the-counter parts and systems should be used for standard usage and repairs. Spare parts may be stored on-site, within a secure and mutually agreed upon location. Contractor will provide the following cabinet and locking keys at two locations; one cabinet at San Bruno facility, and one at a San Francisco facility.

Strong-Hold® cabinet, with locking doors
Standard, floor standing
4-ft. wide X 2-ft. deep x 5-ft tall.

T. Software

- 1) Contractor shall provide all computer access jacks, terminals, software, archiving and retrieving equipment, and programming necessary for the Sheriff's Department to access ITS and all related systems, such as the M&R system. All information regarding blocked phone numbers, and any additional information regarding the use and usage of the ITS must be included in the software design.
- 2) As potential upgrades to software become available, Contractor shall represent and warrant that the Sheriff's Department shall be awarded the right to use or refuse the upgrade. Any approved upgrade to the ITS, and any accompanying hardware, will be at no cost to the Department, and will be authorized by notification in writing. ITS Contractor shall maintain upgrades to all programs, firmware, etc. for the most stable balance between "state of the art" and proven systems. Contractor shall archive any previously used version and any restoration products in the event a need arises to access them.
- 3) Contractor shall warrant and keep current all licenses throughout the term of the contract, including amended extension periods.
- 4) Any upgrades or routine system diagnostic monitoring and back-up shall be accomplished with minimum system operation interruptions, shall be performed at low usage periods, and at no cost to the Sheriff.

U. General ITS

- 1) A minimum of twenty (20%) percent of the telephone sets must be amplified or volume controlled for the hearing impaired.
- 2) Notification and Messaging: English, Spanish and Cantonese shall be available for all messaging and notifications.
 - a. Contractor must accurately translate any legal information, as required.
 - b. Signage shall include brief dos and don'ts.
 - c. Provide all signs and written instructions in durable, heavy-duty, laminated covers. All language shall be as agreed upon with the Sheriff's Department.
 - d. Signs in clear, simple language in English, Spanish and Cantonese shall be posted in each housing unit, holding location and ITS phone location. Signs must be placed in a securely fastened, permanent manner, under 3/8" polycarbonate (Lexan®) sheeting and in a location to prevent inmate tampering. It shall be the contractor's responsibility to update and post all signage. All signage should be intended to be readable from a reasonable distance to minimize the time inmates need to learn to use the system.
 - e. Contractor shall have all voice prompts and messages professionally reviewed and certified. All phone button prompts must be clearly identified.

V. Training

- 1) Contractor shall provide training to The Sheriff's Department's staff at the location where the equipment is installed. Additional training shall be provided to new staff assigned at no cost to The Sheriff's Department. Training manuals shall be provided to The Sheriff's Department's staff at all training meetings and will become the property of The Sheriff's Department.
- 2) Informational pamphlets shall be available for inmates relative to the applicable features and functionalities of the ITS, when requested by The Sheriff's Department.

W. Field Representative

- 1) The ITS Contractor shall provide the services of an on-site Field Representative (s) as required. The designated representative will deal with the day to day system problems, issues & emergencies for the duration of the contract and into the close-out transition period. Representative shall have professional communications, troubleshooting and reporting skill sets for interaction with the Sheriff's Department management and inmates. Such person shall be named; background checked and be actively involved during the system transition and operational startup process.
- 2) The Contractors' resources shall be available at all times for the duration of the contract (24/7). Field Representative shall provide 24/7 support when called-in by either Contractor's offsite system monitoring or by authorized administrative personnel.
- 3) Normal Duties:
 - a. Representative shall be required to be on-site a minimum of two days per week to deal with standard system and inmate issues after the transition and the required regular meetings with the Sheriff's Department authorized representatives.
 - b. Representative shall have all tools made available in order to expediently monitor progress of offsite repairs. Representative shall have a laptop with all communications and remote diagnostic means and methods for automatic access of the system.
 - c. Phone Response Time: Immediate – not to exceed 30 minutes.
 - d. Service Response Time: Not to exceed 3-hours.
 - e. Field Representative shall have access and authority of the Contractor to provide complete resources for expedient field support.
 - f. A San Bruno representative is to be notified of any system failure within one hour. System outages exceeding 4 hours must be escalated to ITS upper management.

X. Prior Notice: Contractor agrees to give the Sheriff's Department as much prior notice as possible if Contractor intends to change the Sheriff's Department account representative. Changes of account representative shall be subject to the Sheriff's Department approval, provided that said change is due to circumstances within Contractor's control. Contractor agrees to change account representative upon request by the Sheriff's Department for stated cause.

Y. Maintenance and Repair: Contractor shall, at their own expense check, service and repair, upgrade and/or replace as necessary any of Contractor's equipment installed in the Sheriff's Department's facilities that contribute to the operation of the system. This includes, but is not limited to, telephones, computerized operating equipment, conduit and wiring, pedestals and wall mount units. All equipment must be in good working order. Such service shall be provided on an "as needed" basis, as well as on a regularly scheduled basis. The Sheriff's Department may communicate with (e.g., call, fax, e-mail etc) Contractor's designated service representative at any time. Contractor shall provide maintenance service for such equipment on a prompt and timely basis as follows:

- 1) Contractor agrees to commence any normal repair service requirement by the Sheriff's Department on the next regular workday following the request for service.
- 2) When authorized, Department representatives report emergencies; Contractor shall provide service within 3-hours of the request for service. An emergency may result from significant inmate unrest or significant increase in inmate population due to civil unrest or similar circumstances.
- 3) Without requiring a specific request by the Sheriff's Department, Contractor shall provide regular, preventative inspections to maintain equipment in safe, good working condition. Failure of the Sheriff's Department to notify Contractor of problems with Contractor equipment does not relieve Contractor of responsibility.
- 4) If the Sheriff's Department is not satisfied with Contractor's equipment maintenance services, at the Sheriff's Department's request, Contractor shall change service personnel and/or providers. Contractor shall not change service provider and/or representative (technician) without prior approval of the Sheriff's Department.
- 5) The Sheriff's Department makes no guarantees regarding the safekeeping of any of Contractor's equipment. Contractor shall provide timely service, repair and/or replacement on any and all of Contractor's equipment.

Z. Remote Diagnostic: Contractor's home office shall continuously monitor all critical administrative systems and equipment; including, but not limited to, the M&R system, critical lines and system components. Reports are to be provided on a regular basis. Primary responsibility to detect system anomalies shall rest with the Contractor. The home office shall contact the Field Representative immediately with any on-site or off-site issues. Contractor shall have the capability to perform remote diagnostics to the ITS to determine the location of any problem to the system, telephone unit, or telephone line. Remote diagnostic tests shall be performed routinely. Contractor shall provide records on each telephone, and equipment bank at a minimum of once a day. Contractor shall provide their IT security policy.

AA. Security

- 1) All installation, service, maintenance and repair of Contractor Telephones shall be performed in strict compliance with San Francisco Sheriff's Department Jail Clearance Policy.
- 2) The ITS Contractor will be working within a public correctional environment. The authority of the Sheriff's Department shall be followed at all times. All material placement, practices, installations, troubleshooting, investigations and solutions shall be conducted in a behavior mindful of the environment. If any ITS Contractor employee is found to be in violation of the expected conduct code, then the Sheriff's Department will issue a formal communication to the Contract that immediate action must be taken to remove the offender. The Sheriff's Department has the right to pull the clearance of any individual. The ITS Contractor is solely responsible to provide qualified alternates for positions that are vacate.
- 3) The Sheriff's Department security requirements shall apply to all maintenance series, including but not limited to the provision of cut-off switches for ITS at mutually agreed upon locations. All lines shall have individual cutoff switch banks and a group switch remotely operated by the Sheriff's Department at designated control stations. A demarcation line will be established. Such remote switches shall have programmable automatic operation as requested by the Sheriff's Department. The Sheriff's Department must approve this system before integration into the overall ITS. Contract shall provide labels for the switches designating the corresponding phone locations.

BB. Reconciliation

- 1) The Sheriff's Department will have the right from the Effective Date of the Agreement and for a period of three (3) years after the termination date of the Agreement, upon ten (10) business day's written notice, to fully reconcile or examine any and all Contractor information pertaining to the Agreement. The Sheriff's Department will also have the right to have another independent Agency of the Sheriff's Department's exclusive choice, perform any or all reconciliations and examinations pertaining to this Agreement.
- 2) Contractor shall maintain accurate, complete and auditable records fully reflecting the Gross Revenues from which commissions can be determined, including all call detail, EMI billing records, pre-paid card sales, and commissioning reports during the term of the Agreement and for no less than three (3) years after the term of the Agreement covered thereby in accordance with generally accepted accounting principles. Failure by the Contractor to comply with this full reconciliation rights provision will be grounds for termination of the Agreement at the Sheriff's Department's sole discretion.

CC. Carriers and Provider

Contractor shall promptly notify the Sheriff's Department in writing of any local and/or long distance telephone service carriers and or providers involved in the provision of telephone service at the Sheriff's Department Facilities. Contractor shall also notify the Sheriff's Department of any rules, regulations and/or practices employed by such carriers or providers that will have any effect on the options, and/or features of the system.

- 1) If the Sheriff's Department finds that any rule, regulation and/or practice of any of Contractor's carriers or providers interferes with or negatively impacts any aspect of the service, options, and/or features of the Contractor's system, the Sheriff's Department and Contractor agree to comply with cessation of such rule, regulation and/or practice, either by said carrier or provider, or by a change of carrier and/or provider, unless cessation of such rule, regulation or practice would violate the law..

DD. Facilities Serviced

1) **Facility Locations:**

County Jail #1
425 7th Street
San Francisco, CA 94103

County Jail #2
425 7th Street
San Francisco, CA 94103

County Jail #3
850 Bryant Street
6th Floor
San Francisco, CS 94103

County Jail #4
850 Bryant Street
7th Floor
San Francisco, CS 94103

County Jail #5 & #6
1 Moreland Drive
San Bruno, CA 94066

2) Facility Requirements

	<u>CJ #1</u>	<u>CJ #2</u>	<u>CJ #3</u>	<u>CJ #4</u>	<u>CJ #5</u>	<u>CJ #6</u>
Inmate Telephones Required:	17	78	68	62	66	30
Visitation Telephones Required:	4	10	46	52	32	16
Portable/Cart Phones Required:	2	3	5	5	0	0
TDD Units Required:	1	0	1	0	0	1
Coin Pay Telephones Required:	0	2	0	1	2	1

2. Reports

Contractor shall submit written reports as requested by the Sheriff's Department. Format for the content of such reports shall be determined by the Sheriff's Department. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

A. Commission Payment and Reporting

- 1) The Contractor shall provide commission payments, traffic detail reports, billing files and Call Detail Records (CDRs) reports no later than the fifteenth (15th) day of the month following the month of traffic. The commission check and the required reports should be sent directly to the Sheriff's Department or an agent designated by the Department in writing. The CDRs and billing files shall be accompanied by a complete file map and complete field legend. Late charges for commission payments shall be equal to five percent (5%) per month of the commission due. Reports received by the Sheriff's Department or its Designated Agent after the due date, as well as incomplete reports, are subject to late charges. Late charges for reporting shall be a fee of \$750 per month for each report not received by the fifteenth (15th) day of the month following the month of traffic.
- 2) **Traffic detail reports** shall include a detailed breakdown of the traffic for all collect, debit and pre-paid calls for each inmate telephone or inmate telephone station at the facilities. Traffic detail shall include, at a minimum, each of the following items for each inmate telephone station broken down by collect, debit and pre-paid call types:
 - (a) Facility Name
 - (b) Facility ID#
 - (c) Facility Street Address, City, State, and Zip Code
 - (d) Automatic Number ID, or inmate telephone and/or inmate telephone station
 - (e) Total Gross Local Revenue and Commission per inmate telephone or inmate telephone station

- (f) Total Gross Intralata/Intrastate Revenue and Commission per inmate telephone or inmate telephone station
 - (g) Total Gross Interlata/Intrastate Revenue and Commission per inmate telephone or inmate telephone station
 - (h) Total Gross Interlata/Interstate Revenue and Commission per inmate telephone or inmate telephone station
 - (i) Total Gross International Revenue per inmate telephone or inmate telephone station
 - (j) Commission Rate
 - (k) Total Commission Amount (including, but not limited to, Local, Intralata/Intrastate, Interlata/Intrastate, and Interlata/Interstate
 - (l) Period Dates
 - (m) Total Minutes of use per inmate telephone or inmate telephone station for each call type
 - (n) Total Number of Calls per inmate telephone or inmate telephone station for each call type.
 - (o) Total Debit Usage for each call type
 - (p) Total Pre-paid Usage for each call type
 - (q) Total Pre-Paid Card Purchases
- 3) The **Billing Files** shall contain all fields in the exact format and exact content as those prepared and submitted for billing to the called party. The billing files shall contain, but shall not be limited to, the following fields:

- (a) Site ID
- (b) Site Name
- (c) Batch ID
- (d) Row ID
- (e) From ANI
- (f) To ANI
- (g) Begin Time
- (h) End Time
- (i) Duration
- (j) Call Amount
- (k) Type of Call
- (l) Originating City
- (m) Bill City
- (n) Bill State
- (o) Traffic Period
- (p) Additional Charges and/or Fees (USF, billing statement fees, etc.)

- 4) The **System Platform CDRs** shall contain all calls (both attempted and completed) which originated from the facilities for each day and each time of the day for the period for which said raw CDRs are requested. The raw CDRs shall contain the unedited data including all fields and all field content. When requested, these records shall be accompanied by a complete file map and complete file legend. The CDRs shall contain, but shall not be limited to, the following fields:

- a. Origination Number
- b. Dialed Number
- c. Facilities

- d. Facilities Identifier
- e. Call Date
- f. Call Time
- g. Termination Reason
- h. Termination Code
- i. Trunk
- j. Duration in Seconds
- k. Call Amount
- l. Bill Type
- m. Station
- n. Completion Status
- o. Inmate ID
- p. Call Type
- q. Validation Result

- 5) **Collect thresholds** will be set at \$35.00 per day and \$100.00 per month. The threshold can be raised or lowered upon mutual agreement between the Sheriff's Department and Contractor. Usage limits only apply to collect calls billed through the customer's telephone service provide.
- 6) Commission discrepancies must be resolved by Contractor within thirty (30) days of receipt of notification of a discrepancy from the Sheriff's Department or its Designated Agent, or such

3. Department Liaison

In performing the services provided for in this Agreement, Contractor's liaison with the Sheriff's Department will be Mr. Kevin Lyons.

**Appendix B
Calculation of Charges**

1. Rate Requirements

- A.** The Contractor shall submit a request in writing to receive approval from the Sheriff's Department for any calling rate increases and/or decreases for inmate telephone calls before any new calling rates are implemented. The Sheriff's Department will respond in writing to Contractor's request, with any approved changes becoming part of the contract by a formal Amendment, mutually signed by the parties. Should Contractor decrease the calling rates without the express written approval of the Sheriff's Department, the Contractor shall be responsible for paying commissions on the Gross Revenue as determined by applying the calling rates prior to the unapproved change, unless said calling rate decrease is mandated by statute or law. In such a case, Contractor shall have the ability to change the rate with notice to City, but without liability, payment of commission based on the calculation of Gross Revenue under the prior rate, or express written approval, prior to the change. Should Contractor increase the calling rates without the express written approval of the Sheriff's Department, Contractor must issue credits to all customers that are overcharged. A list of the issued credits shall be provided to the Sheriff's Department and/or its Designated Agent as documentation. No commission refund shall be due from the Sheriff's Department to Contractor for unapproved rate increases.
- B.** The Contractor shall implement any rate adjustments requested by the Sheriff's Department within ten (10) days of said request, subject to regulatory approval.
- C.** The Sheriff's Department agrees that the following description of charges, fees and taxes are cost recovery in nature, and therefore not considered revenue by GTL, and no commissions will be paid on these charges, fees and taxes:

Description of Charge	When Applied	Amount
Singe Bill Fee	Monthly per Paper Invoice	\$2.49
Automated IVR Deposit of \$25*	Per Transaction	\$6.75
Automated IVR Deposit of \$50*	Per Transaction	\$6.75
Credit Card Deposit through GTL Website**	Per Transaction	\$9.50
AdvancePay Account Close-Out Fee	One Time	\$5.00
Regulatory Recovery Fee - Prepaid Collect and Debit	Per Transaction	\$0.00
Regulatory Recovery Fee - Collect	Per Month	\$1.99
Deposit sent to GTL via Western Union***	Per Transaction	\$0.00
Certified Check or Money Order mailed to GTL	Per Transaction	\$0.00

- D. Both parties have mutually agreed upon the rates for inmate telephone calls, as detailed below.

CALL TYPE	COLLECT		PRE-PAID COLLECT		DEBIT AND/OR INMATE BASED PRE-PAID	
	Surcharge	Per Minute Rate	Surcharge	Per Minute Rate	Surcharge	Per Minute Rate
Local	\$2.80	\$0.11	\$2.80	\$0.11	\$1.25	\$0.10
Intralata/Intrastate	\$2.80	\$0.15	\$2.80	\$0.15	\$2.53	\$0.10
Interlata/Intrastate	\$3.00	\$0.69	\$3.00	\$0.69	\$2.83	\$0.21
Interlata/Interstate	\$3.95	\$0.69	\$3.95	\$0.69	\$3.60	\$0.52
International	n/a	n/a	n/a	n/a	\$3.95	\$1.60

2. Compensation

- A. Contractor shall pay the Sheriff's Department a commission rate of **sixty percent (60%)** calculated on all Gross Revenue generated by and through the ITS including but not limited to all collect, debit, pre-paid inmate telephone calls, and coin operated telephones. Gross Revenue shall include, but not be limited to, all surcharges, per minute fees and any additional fees generated by the completion of all Local, Intralata/Intrastate, Interlata/Intrastate, Interlata/ Interstate and International collect, debit and pre-paid inmate telephone calls placed from Contractor's equipment located at the Facilities.
- B. The Sheriff's Department agrees that Contractor shall charge a billing fee (also known as Bill Cost Recovery Fee) to the called party in the amount of \$1.99 and a single bill fee in the amount of \$2.49. In addition, Contractor may charge set-up fees (also known as processing or transaction fees) to the called party associated with pre-paid calls in the amount of \$6.75 when funds are deposited via the telephone or internet. These fees shall be considered revenue but are excluded from commission.
- C. Any new or additional fees and/or charges proposed by Contractor must be approved in advance by the Sheriff's Department and prior to implementation. The Sheriff's Department and Contractor shall mutually agree on whether the new or additional fees and/or charges shall be included in Gross Revenues, and if so, the level of commission to be paid on the additional fees and/or charges.
- D. Any charges/fees added by Contractor without the express written consent of the Sheriff's Department shall carry a fine of Three Hundred Fifty Dollars (\$350.00) per day from the date the additional charges/fees were first added through the date the charges/fees were discontinued. Additionally, Contractor shall refund each called party for the unapproved charges/fees from the date the charges/fees were implemented until the date the charges/fees were discontinued. If approved by the Sheriff's Department, the additional fees/charges will be commissioned as mutually agreed upon.
- E. Regulatory required charges and taxes that are intended to be paid by the called party and then remitted 100% by the billing party to the appropriate governmental agency are excluded from the Gross Revenue. Pre-paid calls include, but are not limited to, those calls completed by using a pre-paid card as well as all calls which have been pre-paid by

any person or entity and by any method of payment. Contractor shall pay commission on the Gross Revenue before any deductions are made for unbillable calls, bad debt, uncollectible calls, fraudulent calls, LEC adjustments, or any other Contractor expenses. A collect call is deemed to be complete and commission due when the called party accepts the call regardless if Contractor can bill or collect the revenue on the call. A debit call is deemed to be complete and commission due when a connection is made between the inmate and the called party, whether such connection be established by positive acceptance or by live or automated machine pick-up. Calls to telephone numbers that appear on the free call list supplied by the Sheriff's Department shall not generate revenue for Contractor and shall not be commissionable to the Sheriff's Department. Only those numbers designated by the Sheriff's Department on the free call list shall be marked as "Free" in the ITS.

- F.** Additionally, the Sheriff's Department shall not be liable for any of Contractor's costs including, but not limited to, taxes, shipping charges, network charges, insurance, interest, penalties, termination payments, attorney fees, or liquidated damages.
- G.** Commission for debit calls shall be based upon total Gross Revenues, as specified above, generated from debit call usage. On the fifteenth (15th) day following the month of traffic, Contractor shall submit a monthly invoice and corresponding usage report to The Sheriff's Department and/or its Designated Agent for the full amount of the debit usage (less any issued credits/adjustments) for the prior traffic month.
- H.** Commission shall be due to the Sheriff's Department upon the Sheriff's Department's purchase of debit cards from Contractor but shall be payable under Section E, Commission Payment and Reporting. Additionally, the Sheriff's Department shall not be liable for any of Contractor's costs including, but not limited to, taxes, shipping charges, network charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages or any other Contractor costs.
- I.** In addition to the commission described above, Contractor shall pay the Sheriff's Department an annual payment of One Hundred Thousand Dollars (\$100,000.00) payable within thirty (30) days of contract execution and annually 30 days after the contract anniversary date.

**Appendix C
Subcontractors**

Cooper Communications Group (CCG)

