

A G R E E M E N T

THIS AGREEMENT ("Agreement") is made and entered into this 10th day of July, 2018, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY," and Jail Education Solutions Inc. d/b/a Edovo, a Delaware corporation, 215 W. Superior, Suite 600, Chicago, Illinois, 60654 hereinafter referred to as "CONTRACTOR." COUNTY and CONTRACTOR may be referred to, herein, together as the "Parties" or, if referred to in the singular, a "Party."

W I T N E S S E T H:

WHEREAS, COUNTY, through its Sheriff-Coroner and Department of Public Health, desires to provide inmates incarcerated in the Fresno County Jail Facilities (the "Jail Facilities") with access to certain educational, vocational and treatment programming, through tablet and kiosk technology and related infrastructure in a closed system environment, as provided herein;

WHEREAS, COUNTY desires to provide inmates the ability to file various forms and to order commissary with said tablets and kiosks, as well as other services as depicted in this Agreement, as provided herein;

WHEREAS, COUNTY desires a turnkey system and sought bids for the provision of such services by issuing Request For Proposal ("RFP") No. 17-039, including "Addendum Number: One (1)," which are together attached hereto as Exhibit "A," and incorporated herein by this reference; and

WHEREAS, CONTRACTOR submitted a response to RFP 17-039.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

1. OBLIGATIONS OF THE CONTRACTOR

All references in this Agreement to "Equipment," include, but are not limited to, tablets, tablet charge carts, kiosks, and all other devices, electronics, hardware, and equipment that is provided to COUNTY, by the CONTRACTOR, as set forth in, or as a result of,

1 this Agreement. All Equipment that is provided by CONTRACTOR, either at the inception of this
2 Agreement, or throughout the duration of this Agreement, shall be new Equipment and in any
3 event shall not be used or refurbished Equipment, or equivalent to the Equipment, unless
4 explicitly agreed to in writing by COUNTY, prior to the provision of any used or refurbished, or
5 equivalent Equipment.

6 CONTRACTOR shall provide Equipment and service, as delineated herein and
7 pursuant to the terms of RFP 17-039, i.e. Exhibit "A", as well as all care necessary to
8 accomplish the desires depicted above, as provided herein.

9 CONTRACTOR's obligations are as follows:

10 A. Installation and Maintenance of Inmate Table and Kiosk Equipment

11 The CONTRACTOR shall install and maintain necessary major hardware,
12 internet protocol routing and switching, secure server, web proxy, kiosk devices, tablets and
13 wireless access points within the Jail Facilities to accommodate all of the tablets and kiosks
14 provided under this Agreement. In the event that there is any issue that in way relates to the
15 installation or maintenance of any of the foregoing that is not specifically set forth in this
16 Agreement, including any hardware or software related to same, it is and shall be
17 CONTRACTOR's obligation to ensure that such installation or maintenance occurs, at no
18 additional cost to the COUNTY, unless such issues are due to COUNTY's negligence or
19 intentional misuse, or are subject to the provisions outlined in Section 22 of this Agreement, i.e.
20 "Force Majeure".

21 i. CONTRACTOR covenants, promises, warranties and
22 represents that CONTRACTOR investigated the Jail Facilities, as identified in Section 1.A.ii,
23 where all Equipment in this Agreement will be placed, and CONTRACTOR covenants,
24 promises, warranties and represents that all Equipment outlined in this Agreement will not
25 conflict with other electronic devices or equipment in the Jail Facilities, will be useable as
26 described in this Agreement, will be able to transmit information and receive transmissions of
27 information as necessary to perform as described in this Agreement, and that the Jail Facilities,
28 as identified in Section 1.A.ii, are sufficient for full and complete use of all Equipment outlined in

1 this Agreement, so long as COUNTY does not materially change the scope of the Agreement.

2 ii. CONTRACTOR shall install and maintain wireless servers and
3 provide services in the following locations:

- 4 • Main Jail, 1225 M Street, Fresno, CA 93721;
- 5 • North Annex Jail, 1265 M Street, Fresno, CA 93721;
- 6 • South Annex Jail, 2280 Fresno Street, Fresno, CA 93721;
- 7 • Additional locations may be mutually agreed upon for services upon the
8 opening of the West Annex Jail, located on the same COUNTY footprint/square
9 block as the Main and North Jails (the current parking lot) or at other future
10 locations.
- 11 • Should COUNTY represent, at any time, that any of the locations identified
12 herein no longer exist, or no longer require CONTRACTOR's services, or should
13 new locations become available and require CONTRACTOR's services, such as
14 the West Annex Jail, which is set to open in 2020, COUNTY may, and
15 CONTRACTOR will therefore, amend this Agreement to provide for reductions or
16 additions of service, or for a change in location of services.

17 iii. Upon the effective date of this Agreement, CONTRACTOR
18 shall deliver two-hundred-and-fifty (250) fully charged tablets, two-hundred-and-fifty (250)
19 earbuds and (six) 6 tablet charging carts, which will be complete and ready for use in specific
20 areas identified by COUNTY. As to these initial tablets, COUNTY will pay the daily rate
21 identified in SECTION 5.A.i, COMPENSATION/INVOICING. The two-hundred-and-fifty (250)
22 earbuds and six (6) tablet charging carts will be provided at no cost to COUNTY.
23 CONTRACTOR shall be solely responsible, during the entire duration of this Agreement, for all
24 costs associated with providing and maintaining the charging carts unless such cost are due to
25 COUNTY's negligence or intentional misuse.
26

27 iv. Should COUNTY desire additional tablets, in addition to the
28 totals identified in Section 1.A.iii, the Sheriff-Coroner, or her/his designee, shall contact

1 CONTRACTOR for additional tablets, and CONTRACTOR shall promptly provide fully-charged
2 tablets. COUNTY will pay for any additional tablets at the daily price identified in SECTION
3 5.A.i, COMPENSATION/INVOICING. The total amount of tablets being used by COUNTY, at
4 any given time, under this Agreement, will not exceed three-hundred (300).

5 v. CONTRACTOR will be required to install and maintain
6 one-hundred-and-eight (108) kiosks in the locations identified in Section 1.A.ii above at no cost
7 to the COUNTY. The specific locations of these kiosks will be identified by COUNTY at least
8 thirty (30) days prior to their installation and CONTRACTOR, at no additional cost to COUNTY,
9 shall be responsible for the installation and all ongoing maintenance of all kiosks and kiosk
10 systems under this Agreement, including, but not limited to, any hardware and software
11 necessary for the COUNTY's use of the kiosks under this Agreement.

12 vi. In addition to the one-hundred-and-eight (108) kiosks
13 identified in Section 1.A.v, COUNTY may determine that additional kiosks are necessary.
14 Should COUNTY determine that additional kiosks are necessary, CONTRACTOR will install
15 and maintain the additional kiosks at the locations identified by COUNTY within forty-five (45)
16 days of COUNTY's request. COUNTY will pay for any additional kiosks at the price identified in
17 SECTION 5.A.ii, COMPENSATION/INVOICING.

18 vii. CONTRACTOR, at no additional cost to COUNTY, will be
19 responsible for the acquisition and continuity of bandwidth, including the procurement of said
20 bandwidth. COUNTY will pay CONTRACTOR the actual cost charged by the third party
21 providing the bandwidth, including installation costs charged by the third party, as identified in
22 SECTION 5.A.iv, COMPENSATION/INVOICING.

23 viii. CONTRACTOR shall continuously monitor tablet hardware
24 assets via a secure networking monitoring system and perform remote troubleshooting
25 whenever necessary or at the request of COUNTY's Inmate Services Director or his or her
26 designee. Should COUNTY desire CONTRACTOR to perform remote troubleshooting more
27 often or at reasonably regular intervals, CONTRACTOR will perform remote troubleshooting at
28 the times and reasonably regular intervals requested by COUNTY's Inmate Services Director or

1 his or her designee, at no additional cost to COUNTY. If non-tablet hardware failure is
2 detected by CONTRACTOR, CONTRACTOR will respond by remotely reconfiguring the
3 hardware asset within one (1) business day or by shipping a replacement asset to COUNTY
4 within three (3) business days. COUNTY will not be charged for these services, unless
5 CONTRACTOR provides written notice, via electronic mail, and as identified in SECTION 17
6 herein, that such hardware failure is due to COUNTY's negligence or intentional misuse, which
7 notice shall specifically state the reason for such COUNTY action. At such time,
8 CONTRACTOR may provide COUNTY with an invoice regarding the costs of repairing or
9 replacing the hardware asset and COUNTY will have the right to either pay for the replacement
10 or repair, or to forego replacement or repair. In no event will the cost of repair or replacement
11 exceed two-hundred-and-fifty-dollars (\$250.00), which includes all taxes, fees, and charges, if
12 any.

13 ix. Routine preventative maintenance will be performed by
14 CONTRACTOR's qualified repair personnel on a regular basis for all Equipment covered by this
15 Agreement, in accordance with the manner and schedule prescribed by the manufacturers of
16 the Equipment, or at sooner intervals as are necessary to ensure that the Equipment functions
17 as described within this Agreement.

18 x. Attached hereto is Exhibit B, CONTRACTOR's Service Level
19 Agreement. CONTRACTOR agrees to provide the services delineated in Exhibit B.

20 xi. CONTRACTOR will be solely responsible for replacement or
21 repair of tablets which are malfunctioning or defective based upon manufacturing defect or
22 other malfunction that is not the result of COUNTY's negligence or misuse.

23 xii. CONTRACTOR shall replace or repair each calendar year, at
24 no cost to COUNTY, up to five-percent (5%) of the total tablets, to be determined by the
25 average total tablets COUNTY used during the respective calendar year. Replacement or
26 repair under this Section 1.A.xii, is for physical damage that prevents or limits the use of the
27 tablets, regardless of the cause of any such physical damage, including but not limited to:
28 physically damaged screens, ports and buttons, and general case wear and tear. Additional

1 replacement or repair of physically damaged tablets, outside of the five-percent (5%) identified
2 within this Section 1.A.xii, will be conducted on an as needed basis, and in such case (i)
3 COUNTY shall pay CONTRACTOR at the rate identified in Section 1.A.viii, provided however,
4 prior to CONTRACTOR undertaking any work to replace or repair any such tablet,
5 CONTRACTOR shall confirm with COUNTY, in writing, regarding any replacement or repair for
6 which COUNTY maybe charged in this Section 1.A.xii, identifying all proposed costs associated
7 with said replacement or repair, including the proposed costs of associated with shipping, and
8 shall await COUNTY's approval of the proposed costs and request for replacement or repair of
9 the tablet, and (ii) CONTRACTOR shall provide an invoice to COUNTY for the total number of
10 additional tablets that have been replaced and repaired within five (5) business days after
11 completing any such work.

12 xiii. Prior to the program implementation, CONTRACTOR shall
13 conduct initial on-site testing of tablets, kiosks and the network. Should everything be
14 operational and ready for inmate use, CONTRACTOR shall verify such in writing to COUNTY's
15 Inmate Services Director. Upon issuance the foregoing verification, CONTRACTOR will work
16 with COUNTY to plan the on-site launch and training within the following thirty (30) days.

17 xiv. CONTRACTOR'S technicians and subcontractors will be
18 entering secured areas of Fresno County's Jail facilities. CONTRACTOR is aware that the
19 Sheriff-Coroner's Office maintains a NO HOSTAGE POLICY, and agrees and covenants that
20 CONTRACTOR knows all aspects of the NO HOSTAGE POLICY. CONTRACTOR also agrees
21 and covenants that CONTRACTOR will make all of CONTRACTOR's employees, technicians
22 and subcontractors aware of the NO HOSTAGE POLICY prior to performing any work on this
23 Agreement and that CONTRACTOR'S employees, technicians and subcontractors must
24 complete and satisfy the security background clearance requirements as determined by the
25 COUNTY in advance of beginning any work.

26 xv. CONTRACTOR shall designate, in writing, one (1) or more
27 authorized representatives who shall be the COUNTY'S point(s) of contact with
28 CONTRACTOR, and such designation (or change of designation) of such point(s) of contact

1 shall be provided to COUNTY's Inmate Services Director. Such point(s) of contact, so
2 designated, shall have full authority to bind CONTRACTOR with respect to all issues related to
3 the performance, enforcement, and issues identified in this Agreement.

4 xvi. COUNTY may make service requests, including repair
5 requests, and CONTRACTOR shall provide such services and or repairs in a timely manner.
6 Unless specifically stated otherwise in this Agreement, CONTRACTOR promises, covenants,
7 agrees, and represents, that CONTRACTOR will provide repair services, or address any issues
8 pertaining to CONTRACTOR's services under this Agreement, in the timelines requested by
9 COUNTY at the time of COUNTY's request. For any service or repair requests,
10 CONTRACTOR may be contacted at the following:

- 11 1. Telephone Service/Repair Requests: 855-976-8903
- 12 2. Email Service/Repair Requests: helpdesk@edovo.com
- 13 3. Edovo Support Portal URL for Service/Repair Requests:
14 edovo.desk.com

15 B. Tablet and Kiosk Specifications

16 i. CONTRACTOR shall provide all Equipment with inventory
17 numbering, which shall be sufficient for CONTRACTOR and COUNTY to identify each piece of
18 Equipment provided to COUNTY. It will be CONTRACTOR's responsibility to ensure that
19 CONTRACTOR keeps written records of all Equipment provided to COUNTY, including the
20 inventory numbers, the date(s) each piece of Equipment was provided to COUNTY, and the
21 date(s) each piece of Equipment was reacquired by CONTRACTOR.

22 ii. CONTRACTOR shall provide tablets that are of a "rugged design,"
23 meaning the tablet case is Lexan® brand polycarbonate, a similar grade material to the kinds
24 used in bullet resistant glass and other laminates found in police cars, windows in correctional
25 facilities, and military applications. The case on the tablets will protect the tablet from
26 tampering, general damage, and contraband storage. CONTRACTOR will only allow physical
27 access through the secure case on the tablets via the critical hardware buttons such as the
28 power button, volume buttons, and home button. The case on the tablets will also protect

1 against physical access to unnecessary components like the MicroSD card slot, and the rear
2 facing camera. The screens for all tablets will be protected via a laminated screen protector
3 designed to prevent cutting, abrasion, shattering, and peeling. CONTRACTOR covenants,
4 promises, and represents that all tablets that CONTRACTOR provides will withstand harsh and
5 destructive environments, such as the environment(s) present at correctional institutions.

6 iii. CONTRACTOR shall ensure that at least of five (5) the
7 aforementioned tablets, provided in the first two-hundred-fifty (250) tablets, will be configured to
8 comply with the Americans with Disabilities Act ("ADA"). If COUNTY desires additional ADA
9 compliant tablets, COUNTY will inform CONTRACTOR within thirty (30) days of the effective
10 date of this Agreement and CONTRACTOR will ensure that the requested number of additional
11 ADA compliant tablets are provided to COUNTY, at the same price as regular tablets.
12 COUNTY may later request additional ADA compliant tablets, at any time, and CONTRACTOR
13 will provide them within thirty (30) days of such a request. COUNTY will pay CONTRACTOR
14 for additional ADA tablets at the daily price identified in SECTION 5.A.i,
15 COMPENSATION/INVOICING.

16 iv. CONTRACTOR shall ensure that all kiosks provided pursuant to
17 this Agreement are installed in a manner that is compliant with the ADA and that said kiosks are
18 compliant with the ADA, at no additional cost to COUNTY.

19 v. CONTRACTOR shall equip the tablets (at a minimum) with
20 content including, but not limited to: academics from literacy and adult basic education to
21 college credit; vocational from career exploration to skill-building and interview preparation;
22 rehabilitation spanning substance abuse, anger management, parenting and other rehabilitation
23 material; entertainment content including 50+ radio stations, numerous games, and 100+
24 Hollywood quality movies; and content as described in Exhibit C, Tab XI (i) (Reports), "EDOVO
25 CONTENT TABLE". CONTRACTOR will provide other content on the tablets, including, but not
26 limited to, the following:

- 27 a. Basic Education;
- 28 b. Academic Advancement;

- c. Professional Life, Law & Finances;
- d. Religious Experience;
- e. Exploratory Content & Creation; and;
- f. Health & Well-Being;

CONTRACTOR shall maintain and make available the foregoing content throughout the duration of this Agreement. Should COUNTY request additional content, CONTRACTOR shall provide any such additional content, at no additional cost to COUNTY.

vi. CONTRACTOR shall, upon the request of COUNTY, install and maintain software on all tablets and kiosks so as to allow inmates to use the tablets and kiosks to access online legal databases, e.g. LexisNexis or Westlaw. COUNTY will identify which legal database(s) the inmates will access through the tablets and kiosks. This Section 1.B.vi is only applicable if and when COUNTY is able to obtain access to a legal database, for purposes of providing that access through the tablets and kiosks.

vii. COUNTY will provide CONTRACTOR with forms that COUNTY desires CONTRACTOR to make available to inmates through tablet and kiosk use (the "Inmate Forms"). CONTRACTOR shall install and maintain software for tablets and kiosks to allow inmates access and fill out the Inmate Forms provided by COUNTY, using said tablets and kiosks, and to then send any completed Inmate Forms to the appropriate persons, departments, or entities, as identified by COUNTY. These Inmate Forms include, but are not limited to, health services request forms, inmate grievance forms, inmate grievance appeal forms, inmate request forms, and commissary order forms. It is and shall be CONTRACTOR's responsibility to ensure that all Inmate Forms COUNTY provides are available to the inmates and that said Inmate Forms are automatically delivered to the appropriate persons, departments, and entities, promptly upon submission by any inmate using the tablets or kiosks. COUNTY will provide CONTRACTOR with all Inmate Forms necessary under this subsection at least thirty (30) days prior to when they are necessary and CONTRACTOR will ensure the Inmate Forms are accessible by the inmates within thirty (30) days after COUNTY provides them to CONTRACTOR.

1 viii. CONTRACTOR is aware of the sensitive nature of the Inmate
2 Forms, including the sensitive nature of potential information that may be included in those
3 forms once they are filled out by the inmates and/or staff. CONTRACTOR agrees to protect any
4 and all information the inmates or COUNTY staff enter into said forms from any manner of
5 observance or disclosure, whatsoever, by or to any person not specifically and explicitly
6 identified and authorized by COUNTY or its designee. Should CONTRACTOR discover or
7 suspect that any information placed in any Inmate Form, by either an inmate or COUNTY staff,
8 has been observed or disclosed by or to a person or persons not specifically and explicitly
9 identified or authorized by COUNTY to observe or disclose same, or that such information is at
10 risk of being observed or disclosed to or by a person or persons not specifically and explicitly
11 identified or authorized by COUNTY, CONTRACTOR must prevent and mitigate the
12 observance or disclosure and immediately notify COUNTY of such condition and corrective
13 action. This Section 1.B.viii is not intended, nor does it attempt to, modify or prevent any
14 disclosures that are compelled by law or valid court order.

15 ix. All tablets and kiosks provided pursuant to this Agreement will be
16 capable of, and will allow, inmates to message or receive messages, through email, or other
17 manners approved by COUNTY, with their families and other persons as approved or provided
18 by COUNTY. These messages will be electronically stored by CONTRACTOR during the
19 entire duration of this Agreement and will be provided to COUNTY, at any time after this
20 Agreement expires or terminates, as provided in Section 1.B.xix of this Agreement.

21 x. In addition CONTRACTOR will provide kiosks, and maintain
22 kiosks, in manner that allows inmates to conduct visitor visitation through electronic means,
23 achieved through the kiosks. CONTRACTOR will keep records of these visitations, in the
24 manner requested by COUNTY, which will be stored electronically by CONTRACTOR during
25 the entire duration of this Agreement and will be provided to COUNTY at any time after this
26 Agreement expires or terminates, as provided in Section 1.B.xix of this Agreement.

27 xi. CONTRACTOR shall provide a system and software that allows
28 COUNTY, without any restriction, to monitor all activities performed on, or actions on, or uses

1 of, all of the tablets and kiosks. This system and software shall have the capability to allow
2 COUNTY to remotely power off or disable the functionality of tablets or kiosks, either
3 individually or collectively, so long as the tablets are operational.

4 xii. CONTRACTOR shall provide COUNTY with mechanisms enabling
5 COUNTY to audit, analyze, or investigate all inmate activities performed on, or actions on, or
6 uses of, the tablets and kiosks.

7 xiii. CONTRACTOR shall install software and program tablets and
8 kiosks so that they provide a warning to any and all inmates, upon an inmate logging into any
9 tablet or kiosk, that any and all information that is entered into, stored, displayed, or retrieved
10 from the tablet or kiosk is viewable by COUNTY employees, staff, and other authorized
11 persons, and that the inmate should not consider any such information confidential. The exact
12 language of warning described in this Section 1.B.xiii shall be provided by the Sheriff-Coroner
13 or her/his designee prior to the time in which the tablets and kiosks are offered to the inmates.

14 xiv. Tablets and kiosks shall be capable of remitting necessary data to
15 the Fresno County Sheriff-Coroner's Office Jail Management System, (OffenderTrak, Version
16 6.3.5.1 by Motorola Corporation) running on Oracle 10G, on a MicroSoft Windows 64-bit
17 platform. The tablets and kiosks shall also be compatible or capable of remitting necessary
18 data to or with other software systems and platforms that COUNTY desires. CONTRACTOR
19 agrees to work with COUNTY in the event there are software compatibility issues and
20 reasonably resolve any and all issues.

21 xv. After the effective date of this Agreement, upon the request of
22 COUNTY, CONTRACTOR shall immediately, at no cost to COUNTY, provide two a (2) two-
23 hour in-person training program for COUNTY staff assigned to administer the tablets to
24 inmates, and/or the inmates. CONTRACTOR will record, save, store, and/or make available,
25 this training program, in electronic medium acceptable to COUNTY, so as to allow COUNTY to
26 re-use the training program for any staff who are not present for the initial training program.
27 CONTRACTOR will, at no cost to COUNTY, provide additional in-person training sessions
28 should there be new programs, software, or substantial issues which, in the opinion of

1 CONTRACTOR or COUNTY, require additional staff training. At any time, COUNTY may
2 request training or additional training, on any matter relating to tablet or kiosk use, for staff or
3 inmates, and CONTRACTOR will provide any requested or necessary training, for staff,
4 inmates, or other users of the services provided by CONTRACTOR, at no cost to COUNTY.
5 Any additional training sessions will be in-person and provided at a location and time selected
6 by COUNTY, and recorded, saved, stored, and/or available in an electronic medium acceptable
7 to COUNTY that allows COUNTY to provide the training programs to staff or inmates who are
8 not present for any training session. Alternatively, CONTRACTOR will provide any in-person
9 training COUNTY deems necessary and so requests within five (5) Fresno County business
10 days of COUNTY's request. In addition to the foregoing, CONTRACTOR will provide, at the
11 request of COUNTY, training manuals, as necessary, and at no cost to COUNTY.

12 xvi. CONTRACTOR may propose additional methods of operation,
13 organization, or proposals regarding how the tablets and kiosks are used, but for which are not
14 covered in this Agreement (e.g. new technology, etc). COUNTY will consider these ideas based
15 on their feasibility, cost and the impact on facility operations. Any such additional methods of
16 operation, organization, or proposals, if implemented, must be mutually agreed upon by the
17 Parties, pursuant to a written amendment to this Agreement, and executed by the Parties.

18 xvii. CONTRACTOR shall clearly outline, store and keep records of all
19 user fees, including fees associated with the tablets or kiosks. CONTRACTOR will provide any
20 and all records to COUNTY, in electronic, searchable form, within five (5) Fresno County
21 Business days after COUNTY requests such records. CONTRACTOR shall provide such
22 records in a format approved by COUNTY's Inmate Services Director or his or her designee,
23 and shall promptly respond to any and all COUNTY inquiries relating to user fees.

24 xviii. CONTRACTOR shall maintain complete and accurate records with
25 respect to the all services rendered through the tablets and kiosks and the costs associated
26 with same. All records shall be kept and prepared in accordance with generally accepted
27 accounting procedures, clearly identified and kept readily accessible to COUNTY.

28 CONTRACTOR will provide any and all records to COUNTY, in electronic, searchable form,

1 within five (5) Fresno County Business days after COUNTY requests such records.

2 CONTRACTOR shall provide such records in a format approved by COUNTY's Inmate
3 Services Director or his or her designee, and shall promptly respond to any and all COUNTY
4 inquiries relating to the user fees.

5 xix. CONTRACTOR shall maintain and make all records relating to this
6 Agreement or the services provided under this Agreement available to COUNTY for a period of
7 ten (10) years from the date of termination of this Agreement, at no cost to COUNTY.

8 CONTRACTOR agrees to immediately provide any and all records to COUNTY, upon a request
9 that is issued within ten (10) years of the termination of this Agreement, in an electronic,
10 accessible and searchable form, provided however, CONTRACTOR may provide an electronic
11 copy of all records relating to this Agreement and made available to COUNTY, at the time of
12 termination of this Agreement, all at no cost to COUNTY.

13 xx. In addition to the foregoing, CONTRACTOR will archive, encrypt,
14 and back up CONTRACTOR's primary data stores daily. CONTRACTOR will, separately,
15 perform a monthly encryption and storage of all primary data stores, in a separate redundant
16 fault tolerant storage system for a period of ten (10) years. CONTRACTOR shall store, and will
17 make these records available to COUNTY, up to ten (10) years after the expiration or
18 termination of this Agreement.

19 C. Removal of Equipment

20 Upon the termination of this Agreement, CONTRACTOR shall remove
21 and reacquire any and all Equipment located in the Jail Facilities within thirty (30) days
22 following the termination of this Agreement, with the cooperation of the COUNTY.

23 For any such Equipment that CONTRACTOR removes from the Jail
24 Facilities, CONTRACTOR will retain all title and ownership to the tablets, charging carts,
25 hardware, platform and licensed material so removed.

26 If CONTRACTOR fails to remove any or all of such Equipment from the
27 Jail Facilities within such time, COUNTY, through its Sheriff-Coroner or her/his designee, may
28 give CONTRACTOR a thirty (30) day notice to remove any or all such Equipment, the depth of

1 such notice is to be determined by COUNTY (the "Equipment Removal Notice"). For any such
2 Equipment identified by COUNTY in any such Equipment Removal Notice, which is not
3 removed within the time for removal specified by COUNTY, such Equipment will automatically
4 become the property of COUNTY, provided however, should CONTRACTOR begin the removal
5 of any Equipment within thirty (30) days after the date of the Equipment Removal Notice,
6 CONTRACTOR will be given a reasonable amount of time to remove all identified Equipment,
7 but not to exceed sixty (60) days' time after CONTRACTOR begins any such removal, after
8 which time all identified property not removed automatically becomes the property of COUNTY.

9 Upon the termination of this Agreement, CONTRACTOR may
10 request reimbursement for Equipment that is unaccounted for or missing at the time
11 CONTRACTOR attempts to remove its Equipment as provided in this Section 1.C.
12 CONTRACTOR warrants, promises, and covenants, that any amounts requested or charged
13 pursuant to this Section 1.C are inclusive of all taxes, fees, and charges, if any.
14 CONTRACTOR shall be allowed to charge for tablets that are unaccounted for or missing at
15 rates of one-hundred-dollars (\$100.00) for tablets that COUNTY had in its control for less than
16 or equal to one (1)-year, and fifty-dollars (\$50.00) for tablets that COUNTY had in their control
17 for more than one (1)-year. It is CONTRACTOR's obligation to provide proof of the date any
18 missing or unaccounted for tablet was provided to COUNTY, and the absence of such will
19 result in the CONTRACTOR being able to request reimbursement at no greater than fifty-
20 dollars (\$50.00) for each such missing or unaccounted for tablet. As to all other Equipment,
21 excluding tablets, CONTRACTOR shall be allowed to charge for Equipment that is
22 unaccounted for or missing at an amount of fifty-percent (50%) of the amount the
23 CONTRACTOR paid for such Equipment. As to such Equipment, excluding tablets, it is
24 CONTRACTOR's obligation, as a prerequisite to any reimbursement pursuant to this
25 Section 1.C, to provide proof of the amount CONTRACTOR paid for said Equipment. Any
26 request for reimbursement, pursuant to this Section 1.C, shall be sent by written notice
27 pursuant to Section 17 of this Agreement. Regardless of the amount of Equipment that is
28 unaccounted for or missing, CONTRACTOR cannot, in any event, pursuant to this Section 1.C,

1 charge more than, and COUNTY will not be obligated to pay more than, \$34,000.00 for missing
2 or unaccounted for Equipment. In addition, at the time of termination or expiration of this
3 Agreement and at COUNTY's request, COUNTY may keep all network hardware, as installed,
4 for an amount up to and including, but not in excess of, \$34,000.00.

5 2.OBLIGATIONS OF THE COUNTY

6 A. COUNTY will provide CONTRACTOR with a daily digital file of accurate
7 inmate identification information which will be uploaded to CONTRACTOR's File Transfer
8 Protocol (herein after "FTP") site by 9:00pm daily, Pacific Standard Time, and will at a minimum
9 contain: inmates' first and last names, jail ID numbers and dates of birth. COUNTY may
10 request and CONTRACTOR will, upon any such request, store any additional information in
11 CONTRACTOR's FTP. COUNTY may, at its discretion or at the discretion of COUNTY's
12 Inmate Services Director, or his or her designee, limit any such information that is provided to
13 CONTRACTOR, for any reason whatsoever.

14 B. COUNTY shall designate secure locations within the Jail Facilities for the
15 storage of tablets and other equipment related to this Agreement. It is CONTRACTOR's
16 responsibility to ensure that any selected or identified storage locations are capable of
17 providing and do provide wireless connectivity. COUNTY will be responsible for storage of
18 charge carts within wireless range during daily overnight charging of the tablets.
19 CONTRACTOR is responsible for identifying the options of charge cart storage to ensure
20 storage is in wireless range and informing the CONTRACTOR of such identified areas. If it is
21 determined that additional or different secure locations are necessary for storage of tablets
22 and/or wireless connectivity, CONTRACTOR and COUNTY will work together to identify
23 additional or different secure locations.

24 C. After CONTRACTOR provides the first two-hundred-and-fifty (250)
25 earbuds to COUNTY, it will be COUNTY's responsibility to provide any additional or further
26 earbuds to the inmates. COUNTY shall provide CONTRACTOR with examples of the earbuds
27 or headphones COUNTY proposes to provide to the inmates, prior to COUNTY providing any
28 earbuds or headphones to the inmates, so that CONTRACTOR can ensure that the earbuds

1 and/or headphones are compatible with the tablets and kiosks. Once CONTRACTOR has
2 confirmed, in writing, that the provided earbuds or headphones are compatible with the kiosks
3 and tablets, COUNTY shall make the earbuds and/or headphones approved by CONTRACTOR
4 available to the inmates, or available for purchase by the inmates, throughout the duration of
5 this Agreement. COUNTY and CONTRACTOR commit to approving the compatible earbuds or
6 headphones prior to the launch of tablets to inmates.

7 D. COUNTY shall provide CONTRACTOR, its officers, agents or
8 contractors, reasonable access to the tablets and kiosks to perform routine inspections and
9 make necessary repairs or maintenance, at such times that the COUNTY's operation of the Jail
10 Facilities will not be unreasonably disturbed.

11 E. COUNTY agrees that all products, software and hardware provided by
12 CONTRACTOR pursuant to this Agreement shall at all times remain the property of
13 CONTRACTOR, except as provided in Section 1.C.

14 F. COUNTY will appoint a Contract Administrator. Unless otherwise notified
15 by COUNTY, the Contract Administrator will be the Fresno County Inmate Services Director.

16 G. COUNTY shall monitor use of the tablets and kiosks in the same manner
17 that the COUNTY monitors the use of other property of the COUNTY in the Jail Facilities, take
18 appropriate action with regard to misuse of tablets and kiosks and report inmate misuse to
19 CONTRACTOR. In the event that a tablet or kiosk is damaged by intentional inmate misuse,
20 and to the extent COUNTY may charge said inmate with the expense of repairing or replacing
21 such tablet or kiosk, COUNTY will attempt to recover any such charges from the inmate.
22 Should any such amounts be recovered from an inmate, said amounts will be used to
23 compensate CONTRACTOR for any respective and necessary repair or replacement. In
24 regards to tablets, any amounts recovered by COUNTY and given to CONTRACTOR will be
25 deducted and credited by CONTRACTOR, against any amounts charged to or to be charged to
26 COUNTY. Assuming any repair or replacement has occurred and CONTRACTOR has done so
27 as part of COUNTY's annual five-percent (5%) allowance of repairs and replacements, as
28 identified in Section 1.A.xii of this Agreement, any amounts recovered by COUNTY and given

1 to CONTRACTOR will be credited towards the annual five-percent (5%) repairs or
2 replacements, as depicted in Section 1.A.xii, allowing the COUNTY to recuperate the annual
3 five-percent (5%) repairs or replacements that CONTRACTOR provides.

4 3. TERM

5 The term of this Agreement shall be for a period of three (3) years,
6 commencing on July 10, 2018 through and including July 31, 2021. This Agreement may be
7 extended for two (2) additional consecutive twelve (12) month periods upon written approval of
8 both parties no later than thirty (30) days prior to the first day of the next twelve (12) month
9 extension period. The Sheriff-Coroner or his or her designee is authorized to execute such written
10 approval on behalf of COUNTY based on CONTRACTOR'S satisfactory performance.

11 4. TERMINATION

12 A. Non-Allocation of Funds - The terms of this Agreement, and the services to
13 be provided hereunder, are contingent on the approval of funds by the appropriating government
14 agency. Should sufficient funds not be allocated, the services provided may be modified, or this
15 Agreement terminated, at any time by giving the CONTRACTOR thirty (30) days advance written
16 notice.

17 B. Events of Default; Termination

18 i. Event of Default by Either Party. Any or all of the following events or
19 conditions shall constitute an "Event of Default" by CONTRACTOR or COUNTY:

20 a. Any failure by a Party to pay the other Party any sum due hereunder
21 for a period of more than thirty (30) days after written notification by the other Party that such
22 nonpaying Party is delinquent in making payment;

23 b. Any other material failure by a Party to perform or comply with the
24 terms and conditions of this Agreement, or covenant contained herein, provided that such
25 failure continues for thirty (30) days after notice to such Party demanding that such failure to
26 perform be cured or if such cure cannot reasonably be effected in such thirty (30) days, the
27 Party shall be deemed not to have defaulted upon the commencement of a cure within such
28 thirty (30) days and diligent subsequent completion thereof within a reasonable time, but in any

1 event not to exceed ninety (90) days. Pursuant to this Section 4.B.i.b, "material failure"
2 includes CONTRACTOR breaching of any warranty or guaranty within this Agreement.

3 ii. Events of Default by CONTRACTOR. In addition to and separate
4 from the provisions of Section 4.B.i, herein, any or all of the following events or conditions shall
5 constitute an "Event of Default" by CONTRACTOR:

6 a. CONTRACTOR fails to furnish and install any or all of the tablets
7 and/or kiosks and make them fully operational and ready for use by COUNTY under the terms
8 of this Agreement, within the times specified in this Agreement;

9 b. Any representation or warranty furnished by CONTRACTOR to
10 COUNTY in this Agreement is false or misleading in any material respect when made;

11 c. Any or all of the tablets and/or kiosks fail to fully operate and
12 function according to the manufacturer's specifications, and, after thirty (30) days' written notice
13 thereof by COUNTY to CONTRACTOR demanding that such failure be cured, such failure
14 remains uncured;

15 d. CONTRACTOR persistently breaches or defaults under any material
16 terms or conditions of this Agreement, including breach of or default under any material
17 covenant, warranty or guaranty contained herein after fifteen (15) days' written notice thereof
18 by COUNTY to CONTRACTOR demanding that such breach or default cease, and such breach
19 or default remains uncorrected;

20 e. CONTRACTOR fails to perform or comply with any or all of the
21 material terms or conditions of this Agreement, including, without limitation, breach of any
22 material covenant, warranty or guaranty contained herein and, after thirty (30) days' written
23 notice thereof by COUNTY to CONTRACTOR demanding that such failure be cured, such
24 failure remains uncured;

25 f. Any liens, stop notices, claims, security interest or encumbrances
26 upon or against any of the tablets and/or kiosks, or properties of COUNTY, by any
27 subcontractor of CONTRACTOR or any third party, including persons providing labor, services,
28 supervision, management, services, equipment, supplies, goods or material for the tablets

1 and/or kiosks, which is not released or resolved to County's satisfaction in thirty (30) days;

2 g. CONTRACTOR files a bankruptcy petition, or its creditors file a
3 bankruptcy petition against CONTRACTOR, either of which proceeding shall not have been
4 dismissed within thirty (30) days of its filing, or there is an involuntary assignment for the benefit
5 of all creditors of CONTRACTOR or the liquidation of CONTRACTOR;

6 h. CONTRACTOR admits in writing to its inability to pay its debts as
7 they become due;

8 i. A receiver is appointed for CONTRACTOR;

9 j. CONTRACTOR fails to obtain and maintain the insurance coverages
10 required under this Agreement, and, after fifteen (15) days' written notice thereof by COUNTY
11 to CONTRACTOR demanding that such failure be cured, such failure remains uncured;

12 k. There is an illegal or improper use of funds by CONTRACTOR

13 l. There is a substantially incorrect or incomplete report submitted by
14 CONTRACTOR to the COUNTY; or

15 m. There is any improperly performed service by CONTRACTOR and,
16 after fifteen (15) days' written notice thereof by COUNTY to CONTRACTOR demanding that
17 such improperly performed service be performed properly, such CONTRACTOR continues to
18 improperly perform said service.

19 iii. COUNTY'S Remedies upon Event of Default by CONTRACTOR

20 If there is an Event of Default by CONTRACTOR, then COUNTY may serve
21 written notice thereof upon CONTRACTOR. Such notice shall contain the reason or reasons for
22 the Event of Default, and, unless within five (5) days after the serving of such notice, such
23 Event of Default is cured to COUNTY's satisfaction by CONTRACTOR, then COUNTY may,
24 upon the expiration of said five (5) days terminate this Agreement.

25 If an Event of Default by CONTRACTOR occurs in connection with any matter
26 under this Agreement, COUNTY may, without a waiver of other remedies that exist in law or
27 equity or under this Agreement, exercise any and all remedies under this Agreement, or at law
28 or equity, or institute other proceedings, including, without limitation, bringing an action or

1 actions from time to time for specific performance, and/or for the recovery of damages, and/or
2 for such other and further relief as the court may order.

3 If an Event of Default by CONTRACTOR occurs in connection with the tablets
4 and/or kiosks or any other matter under this Agreement, COUNTY also may suspend or
5 terminate this Agreement.

6 In no event shall any payment by the COUNTY constitute a waiver by the
7 COUNTY of any breach of this Agreement or any default which may then exist on the part of
8 the CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to
9 the COUNTY with respect to the breach or default. The COUNTY shall have the right to
10 demand of the CONTRACTOR the repayment to the COUNTY of any funds disbursed to the
11 CONTRACTOR under this Agreement, which in the judgment of the COUNTY were not
12 expended in accordance with the terms of this Agreement. The CONTRACTOR shall promptly
13 refund any such funds upon demand.

14 iv. Remedies of CONTRACTOR upon Event of Default of COUNTY

15 If an Event of Default by COUNTY occurs under this Agreement, CONTRACTOR
16 may, without a waiver of other remedies that exist in law or equity or under this Agreement,
17 exercise any and all remedies under this Agreement, or at law or equity, or institute other
18 proceedings, including, without limitation, bringing an action or actions from time to time for
19 specific performance, and/or for the recovery of damages, and/or for such other relief as the
20 court may order. For all claims arising out of or related to this Agreement, nothing in this section
21 establishes, waives, or modifies any claims presentation requirements or procedures provided by
22 law, including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the
23 Government Code, beginning with section 810).

24 If an Event of Default by COUNTY occurs in connection with this Agreement,
25 CONTRACTOR also may terminate this Agreement.

26 C. WITHOUT CAUSE

27 This Agreement may be terminated by either Party for any reason and at any time by
28 giving prior written notice of such termination to the other Party specifying the effective date

1 thereof at least sixty (60) days prior to the effective date. CONTRACTOR shall be entitled to
2 receive compensation for any satisfactory work completed prior to expiration of the Agreement
3 or receipt of the notice of termination, or commenced prior to receipt of the notice of termination
4 and completed satisfactorily prior to the effective date of the termination.

5 5. COMPENSATION/INVOICING:

6 CONTRACTOR will perform the services identified in this Agreement for the amounts set
7 forth in Section 5.A herein.

8 A. COUNTY agrees to pay CONTRACTOR and CONTRACTOR agrees to receive
9 compensation as follows:

- 10 i. Daily Tablet Rate: COUNTY will be charged one-dollar-and-fifty-cents (\$1.50),
11 per day, commencing on the day that COUNTY receives the fully operational and
12 charged tablet(s) and distributes to incarcerated users and ceasing on the day
13 that CONTRACTOR reacquires the tablet(s), per tablet, for the duration of time
14 that the COUNTY has had possession of the tablet(s). For purposes of this
15 Section 5.A.i, COUNTY is not obligated to pay CONTRACTOR for any tablet(s) in
16 its possession, but, for reasons outside of COUNTY's control, COUNTY is unable
17 to use, e.g. infrastructure not yet installed or inoperable. COUNTY is not
18 obligated to pay the Daily Tablet Rates during any period of time that this
19 Agreement is terminated or expired. No later than thirty (30) days after the
20 commencement of each one (1) calendar year anniversary of this Agreement,
21 CONTRACTOR may make a single request for up to a five-cent (\$0.05) increase
22 in the Daily Tablet Rate. Such requests must be in writing, to the Sheriff-Coroner,
23 or her designee, and the Sheriff-Coroner her designee may agree to such
24 increases, if at all, within thirty (30) days. In no event will the Daily Tablet Rate
25 ever exceed one-dollar-and-seventy-cents (\$1.70), per day, without an
26 Amendment to this Agreement.
- 27 ii. Kiosks: The initial one-hundred-and-eight (108) kiosks will be provided to
28 COUNTY, and maintained, repaired, or replaced by CONTRACTOR, at no cost to

COUNTY. In the event COUNTY wishes to increase the total amount of kiosks beyond one-hundred-and-eight (108), CONTRACTOR will charge COUNTY a one (1)-time charge of seven-hundred-dollars (\$700.00) for each kiosk.

CONTRACTOR will not charge COUNTY any daily rate for kiosks. Once CONTRACTOR provides any additional kiosk, CONTRACTOR will incur all costs associated with installation, additional Infrastructure, repair, replacement, and maintenance of said kiosk, at no cost to COUNTY.

iii. Infrastructure: "Infrastructure", for purposes of this agreement, means the information technology hardware, including routers, firewalls, servers, switches, and access points, including all low voltage cabling and fiber optic cabling needed for inter-connectivity of devices. CONTRACTOR may charge a one (1)-time grand total of \$154,000.00 for Infrastructure, which compensates CONTRACTOR for all Infrastructure costs, including installation of Infrastructure, which is to be charged to the COUNTY no sooner than thirty (30) days after the execution of this Agreement. The Infrastructure costs identified in this Section 5.A.iii include all Infrastructure necessary for the tablets and kiosks to be operational as described within this Agreement, and include costs to interface tablets and kiosks with all Inmate Forms provided by the Fresno County Sheriff, MDF Infrastructure and installation (quantity of 1), IDF Infrastructure and Installation (quantity of 9), Access Points (quantity of 86), Labor, Construction and Cabling Costs. Should CONTRACTOR need to modify the amount of any of the foregoing, or replace any of the foregoing with different hardware or software, in order to cause or allow the Equipment to operate as described within this Agreement, CONTRACTOR shall only do so with the express written consent of COUNTY, or its designee, and for no additional cost to COUNTY. CONTRACTOR will provide any additional and necessary Infrastructure at no cost to COUNTY.

iv. Bandwidth: CONTRACTOR will pay the third party vendor for bandwidth and COUNTY will reimburse CONTRACTOR for bandwidth costs, including

1 installation of bandwidth. COUNTY may pay up to \$10,000.00 per year for
2 bandwidth. CONTRACTOR will make every effort to negotiate bandwidth for the
3 lowest possible price.

4 v. Additional Services: COUNTY may pay up to \$20,000.00 per year for Additional
5 Services provided by CONTRACTOR and related to this Agreement, which
6 includes additional costs identified in this Agreement, but only upon the express
7 written consent of COUNTY, through its Sheriff-Coroner or her/his designee.

8 vi. Additional Expenses Due To Missing Or Unaccounted For Equipment: COUNTY
9 may pay up to and including, but not in excess of, \$34,000.00, pursuant to
10 Section 1.C, at the expiration or termination of this Agreement, for additional
11 expenses due to missing or unaccounted for Equipment.

12 vii. Costs Resulting From Purchase of Network Hardware: If at the expiration or
13 termination of the Agreement, COUNTY wishes to purchase network hardware,
14 pursuant to Section 1.C., COUNTY will pay up to and including, but not in excess
15 of, \$34,000.00.

16 B. CONTRACTOR shall submit monthly invoices in triplicate to the County of Fresno
17 Sheriff-Coroner's Office, at 2200 Fresno Street, Fresno, CA 93721, no later than first
18 day of each month. For Infrastructure costs, at such time that all Infrastructure is
19 installed and fully operational and when the first two-hundred-and-fifty (250) tablets, first
20 two-hundred-and-fifty (250) earbuds, six (6) charging carts, and one-hundred-and-eight
21 (108) kiosks, are delivered and fully operational, so as to allow COUNTY to begin
22 offering the tablets and kiosks to the inmates for full and complete use, as described in
23 this Agreement, CONTRACTOR may send COUNTY an invoice for the cost of
24 Infrastructure. COUNTY shall compensate CONTRACTOR within forty-five (45) days of
25 receiving any invoice.

26 C. It is the goal of this Agreement that the CONTRACTOR will charge inmates and the
27 persons they communicate with, or receive communications from, for messaging
28 services on the tablets and kiosks, and that such charges will subsidize all costs to

COUNTY. CONTRACTOR will charge inmates for messaging services at rates and according to rules and processes determined by COUNTY and COUNTY will have sole discretion, through its Sheriff-Coroner or her designee, regarding any additional services CONTRACTOR may charge for and the amounts CONTRACTOR may charge for said services. Any amounts recovered by CONTRACTOR, on COUNTY's behalf, will be credited towards amount(s) COUNTY is required to pay, or is indebted to, CONTRACTOR, if any. Should there be no amounts COUNTY is required to pay, or indebted to, CONTRACTOR, CONTRACTOR will and shall refund any excess amounts to COUNTY so that COUNTY may recuperate any and all amounts previously paid by COUNTY as a result of this Agreement. Should CONTRACTOR recover excess charges, above and beyond the amounts that COUNTY owes or is indebted to CONTRACTOR, and in the event COUNTY has recuperated all amounts previously expended on the Agreement, twenty percent (20%) of excess charges will be set aside for COUNTY and the remaining eighty percent (80%) will be kept by CONTRACTOR. Any amounts set aside for COUNTY will be accounted for, reported to COUNTY, and kept as a credit for COUNTY, and at all times COUNTY may, in the discretion of Sheriff-Coroner or her/his designee, use any set aside amounts for purchase of additional services related to this Agreement, for payment of costs, or for payment into the Inmate Welfare Trust.

- D. CONTRACTOR estimates that COUNTY should be able to recoup \$81,000.00 to \$149,693.00 in subsidies, per year, with the overall goal, being to provide the tablet and kiosk service at no or little cost to COUNTY.
- E. During the term of this Agreement, the costs of services performed under this Agreement shall not be in excess of \$821,640.00. In the event this Agreement is renewed for the first optional renewal term as provided in Section 3, the maximum payable by COUNTY to CONTRACTOR under this Agreement will be \$1,032,315.00. In the event this Agreement is renewed for the second optional renewal term as provided in Section 3, the maximum payable by COUNTY to CONTRACTOR under this Agreement will be

1 \$1,248,465.00. It is understood that all expenses incidental to CONTRACTOR'S
2 performance of services under this Agreement shall be borne by CONTRACTOR.

3 F. CONTRACTOR promises, covenants, and represents, that any and all costs specifically
4 identified in this Agreement, or later made as a result of an Agreement made between
5 CONTRACTOR and COUNTY, that result in COUNTY making any payment, include any
6 and all charges, costs and taxes, including any necessary sales taxes, and shipping
7 expenses.

8 G. Any and all costs, attributable to any services or equipment provided by CONTRACTOR,
9 which are not specifically identified in this Agreement, or for which no specific price is
10 identified in this Agreement, shall be provided to COUNTY at no cost to COUNTY,
11 unless COUNTY, through its Sheriff-Coroner or her/his designee, and CONTRACTOR
12 agree otherwise, through an amendment of this Agreement.

13 6. SECTION INTENTIONALLY OMITTED.

14 7. INDEPENDENT CONTRACTOR: In performance of the work, duties and
15 obligations assumed by CONTRACTOR under this Agreement, it is mutually understood and
16 agreed that CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and
17 employees will at all times be acting and performing as an independent contractor, and shall act in
18 an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or
19 associate of the COUNTY. Furthermore, COUNTY shall have no right to control or supervise or
20 direct the manner or method by which CONTRACTOR shall perform its work and function.
21 However, COUNTY shall retain the right to administer this Agreement so as to verify that
22 CONTRACTOR is performing its obligations in accordance with the terms and conditions thereof.

23 CONTRACTOR and COUNTY shall comply with all applicable provisions of
24 law and the rules and regulations, if any, of governmental authorities having jurisdiction over
25 matters the subject thereof.

26 Because of its status as an independent contractor, CONTRACTOR shall have
27 absolutely no right to employment rights and benefits available to COUNTY employees.
28 CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its

1 employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely
2 responsible and save COUNTY harmless from all matters relating to payment of
3 CONTRACTOR'S employees, including compliance with Social Security withholding and all other
4 regulations governing such matters. It is acknowledged that during the term of this Agreement,
5 CONTRACTOR may be providing services to others unrelated to the COUNTY or to this
6 Agreement.

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

9 9. NON-ASSIGNMENT: Except as specifically and otherwise provided in
10 Section 6, herein, CONTRACTOR may not sell, lease, assign, or otherwise transfer any of its
11 rights or obligations hereunder to any third party without the express written consent of
12 COUNTY, through the Board of Supervisors.

13 10. HOLD HARMLESS:
14 CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY'S
15 request, defend the COUNTY, its officers, agents, and employees from any and all costs and
16 expenses (including attorney's fees and costs), damages, liabilities, claims, and losses, and
17 any and all claims, damages, costs, fees, regulatory fines and penalties, and forms of legal
18 action involving Cyber Risks, occurring or resulting to COUNTY in connection with the
19 performance, or failure to perform, by CONTRACTOR, its officers, agents, or employees under
20 this Agreement, and from any and all costs and expenses (including attorney's fees and costs),
21 damages, liabilities, claims, and losses, and any and all claims, damages, costs, fees,
22 regulatory fines and penalties, and forms of legal action involving Cyber Risks, occurring or
23 resulting to any person, firm, or corporation who may be injured or damaged by the
24 performance, or failure to perform, of CONTRACTOR, its officers, agents, or employees under
25 this Agreement.

26 COUNTY agrees to indemnify, save, hold harmless, and at
27 CONTRACTOR'S request, defend the CONTRACTOR, its officers, agents, and employees
28 from any and all costs and expenses (including attorney's fees and costs), damages, liabilities,

1 claims, and losses occurring or resulting to CONTRACTOR in connection with the performance,
2 or failure to perform, by COUNTY, its officers, agents, or employees under this Agreement, and
3 from any and all costs and expenses (including attorney's fees and costs), damages, liabilities,
4 claims, and losses occurring or resulting to any person, firm, or corporation who may be injured
5 or damaged by the performance, or failure to perform, of COUNTY, its officers, agents, or
6 employees under this Agreement.

7 In the event of a claim of alleged infringement of patent rights, copyright, trade
8 secret rights, or intellectual property rights, to the fullest extent permitted by law,
9 CONTRACTOR agrees to and shall indemnify, save, hold harmless, and at COUNTY's request,
10 defend COUNTY, including its officers, officials, agents, and employees from any and all
11 demands, costs and expenses, penalties, attorney's fees and court costs, damages of any
12 nature whatsoever (including, without limitation, injury or damage to or loss or destruction of
13 property), judgments (including, without limitation, amounts paid in settlement and amounts
14 paid to discharge judgments), liabilities, claims and losses, suits, actions or proceedings of
15 every name, kind and description occurring or resulting to COUNTY, out of or in connection
16 with any claim that is based on the infringement (or assertions of infringement) of any of patent
17 rights, copyright, trade secret rights, or intellectual property rights with respect to services,
18 software, or any Equipment provided by CONTRACTOR as part of this Agreement, including,
19 but not limited to, their materials, designs, techniques, processes and information supplied or
20 used by CONTRACTOR or any of CONTRACTOR's subcontractor of any tier in performing or
21 providing any portion of CONTRACTOR's obligations as outlined in this Agreement. If, in any
22 suit, action, proceeding or claim relating to the foregoing, a temporary restraining order or
23 preliminary injunction is granted, CONTRACTOR shall make every reasonable effort to secure
24 the suspension of the injunction or restraining order. If, in any such suit, action, proceeding or
25 claim, the services, software or any Equipment provided by CONTRACTOR or any part,
26 combination or process thereof, is held to constitute an infringement and its use is enjoined,
27 CONTRACTOR shall immediately (a) pay the reasonable direct out-of-pocket costs and
28 expenses to secure a license to use such infringing work, replace the infringing work or modify

1 the same so that it becomes non-infringing, and (b) make every reasonable effort to secure for
2 the COUNTY a license, at no cost to COUNTY, authorizing COUNTY's continued use of the
3 infringing work. If CONTRACTOR is unable to secure such license within a reasonable time,
4 CONTRACTOR, at its own expense and without impairing performance requirements of the
5 services, software, or any Equipment provided by CONTRACTOR as part of this Agreement,
6 shall either replace the affected services, software, or any Equipment provided by
7 CONTRACTOR as part of this Agreement, combination or process thereof, with non-infringing
8 services, software, or other equipment, or modify the same so that they become non-infringing.

9 The provisions of this Section 10 shall survive the termination of this Agreement.

10 11. INSURANCE

11 Without limiting the COUNTY's right to obtain indemnification from
12 CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in full
13 force and effect, the following insurance policies or a program of self-insurance, including but not
14 limited to, an insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the
15 term of the Agreement:

16 A. Commercial General Liability

17 Commercial General Liability Insurance with limits of not less than One
18 Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars
19 (\$2,000,000). This policy shall be issued on a per occurrence basis. COUNTY may require
20 specific coverages including completed operations, products liability, contractual liability,
21 Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed
22 necessary because of the nature of this contract.

23 B. Automobile Liability

24 Comprehensive Automobile Liability Insurance with limits for bodily injury of
25 not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred
26 Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty
27 Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred
28 Thousand Dollars (\$500,000.00). Coverage should include non-owned vehicles used in

1 connection with this Agreement.

2 C. Professional Liability

3 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N.,
4 L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less
5 than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00)
6 annual aggregate.

7 D. Worker's Compensation

8 A policy of Worker's Compensation insurance as may be required by the
9 California Labor Code.

10 E. Technology Professional Liability (Errors and Omissions)

11 Technology professional liability (errors and omissions) insurance with limits
12 of not less than Two Million Dollars (\$2,000,000.00) per occurrence. Coverage shall
13 encompass all of the CONTRACTOR's duties and obligations that are the subject of this
14 Agreement. Coverage shall include, but not be limited to, any and all claims, damages, costs,
15 fees, regulatory fines and penalties, or forms of legal action involving Cyber Risks.

16 F. Cyber Liability

17 Cyber liability insurance with limits of not less than Two Million Dollars
18 (\$2,000,000.00) per occurrence. Coverage shall include, but not be limited to, any and all
19 claims, damages, costs, fees, regulatory fines and penalties, or forms of legal action involving
20 Cyber Risks. The cyber liability policy shall be endorsed to cover the full replacement value of,
21 damage to, alteration of, loss of, theft of, ransom of, or destruction of intangible property
22 (including but not limited to information or data) that is in the care, custody, or control of
23 CONTRACTOR.

24 For purposes of the technology professional liability insurance and the cyber
25 liability insurance required under this Agreement, Cyber Risks include, but are not limited to, (i)
26 security breaches, which include disclosure of, whether intentional or unintentional, information
27 provided by COUNTY, information provided by or obtained from any inmate, or personal-
28 identifying information relating to any inmate, to an unauthorized third party; (ii) breach of any of

1 CONTRACTOR's obligations under this Agreement relating to data security, protection,
2 preservation, usage, storage, transmission, and the like; (iii) infringement of intellectual property
3 including, but not limited to, infringement of copyright, trademark, and trade dress; (iv) invasion
4 of privacy, including any release of private information; (v) information theft by any person or
5 entity, whatsoever; (vi) damage to or destruction or alteration of electronic information; (vii)
6 extortion related to CONTRACTOR's obligations under this Agreement regarding electronic
7 information, including information provided by COUNTY, information provided by or obtained
8 from any inmate, or personal-identifying information relating to any inmate; (viii) network
9 security; (ix) data breach response costs, including security breach response costs; (x)
10 regulatory fines and penalties related to CONTRACTOR's obligations under this Agreement
11 regarding electronic information, including information provided by COUNTY, information
12 provided by or obtained from an inmate, or personal-identifying information relating to any
13 inmate; and (xi) credit monitoring expenses.

14 CONTRACTOR shall obtain endorsements to the Commercial General Liability
15 insurance naming the County of Fresno, its officers, agents, and employees, individually and
16 collectively, as additional insured, but only insofar as the operations under this Agreement are
17 concerned. Such coverage for additional insured shall apply as primary insurance and any other
18 insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees shall be
19 excess only and not contributing with insurance provided under CONTRACTOR's policies herein.
20 This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance
21 written notice given to COUNTY.

22 Within Thirty (30) days from the date CONTRACTOR signs and executes this
23 Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated
24 above for all of the foregoing policies, as required herein, to the County of Fresno, Inmate
25 Services Director, 1225 M street, Fresno, CA 93721, stating that such insurance coverages have
26 been obtained and are in full force; that the County of Fresno, its officers, agents and employees
27 will not be responsible for any premiums on the policies; that such Commercial General Liability
28 insurance names the County of Fresno, its officers, agents and employees, individually and

1 collectively, as additional insured, but only insofar as the operations under this Agreement are
2 concerned; that such coverage for additional insured shall apply as primary insurance and any
3 other insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees,
4 shall be excess only and not contributing with insurance provided under CONTRACTOR's policies
5 herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30)
6 days advance, written notice given to COUNTY.

7 In the event CONTRACTOR fails to keep in effect at all times insurance
8 coverage as herein provided, the COUNTY may, in addition to other remedies it may have,
9 suspend or terminate this Agreement upon the occurrence of such event, or purchase such
10 insurance coverage, and charge the cost thereof to CONTRACTOR. Such charges may be offset
11 by any amounts owed by COUNTY to CONTRACTOR under this Agreement.

12 All policies shall be issued by admitted insurers licensed to do business in the
13 State of California, and such insurance shall be purchased from companies possessing a current
14 A.M. Best, Inc. rating of A FSC VII or better.

15 12. AUDITS AND INSPECTIONS: The CONTRACTOR shall at any time during
16 business hours, and as often as the COUNTY may deem necessary, make available to the
17 COUNTY for examination all of its records and data with respect to the matters covered by this
18 Agreement. The CONTRACTOR shall, upon request by the COUNTY, permit the COUNTY to
19 audit and inspect all of such records and data necessary to ensure CONTRACTOR'S compliance
20 with the terms of this Agreement.

21 If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR
22 shall be subject to the examination and audit of the Auditor General for a period of three (3) years
23 after final payment under contract (Government Code Section 8546.7).

24 13. TITLE

25 In the event CONTRACTOR requests, and to the extent CONTRACTOR
26 has provided services through software and applications materials licensed to COUNTY by
27 CONTRACTOR, COUNTY shall promptly return the software and application materials to
28 CONTRACTOR upon termination of this Agreement, except as provided in Section 1.C.

COUNTY shall not infringe or misappropriate any intellectual property delivered pursuant to this Agreement.

Any copyrightable or patentable work created solely by CONTRACTOR under this Agreement shall be deemed owned by CONTRACTOR. To the extent services under this Agreement involve the development of previously patented inventions or copyrighted software, then upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product.

14. CONFIDENTIALITY:

Any Correspondence, records, or other written information (hereinafter "Records" for purposes of this Section 14) provided by CONTRACTOR to the COUNTY concerning CONTRACTOR's business operations (e.g. financial statements, financial information, technical information, or other information that in anyway relates to CONTRACTOR's business) which are the subject of a request for access thereto by a member of the public would qualify as a request under the Public Records Act will be handled as follows:

i. If the COUNTY receives any Records from the CONTRACTOR that are not labeled as confidential or exempt from disclosure to members of the public, such records shall not be exempt from disclosure to members of the public.

ii. If the COUNTY receives any Records from the CONTRACTOR that are labeled as confidential or exempt from disclosure to members of the public, the COUNTY, as applicable, will promptly notify the CONTRACTOR, in writing, of any request for access to such Record or Records by any member of the public. CONTRACTOR shall promptly respond to the COUNTY, as applicable, in writing (but in no event more than forty-eight (48) hours from the time and date that the COUNTY notifies the CONTRACTOR of the request), by informing the COUNTY, as applicable, as to whether the CONTRACTOR is agreeable or objects to the release of such Record or Records to the public. If the CONTRACTOR objects to such release,

1 such notice of the CONTRACTOR shall give the COUNTY, as applicable, the specific reason(s)
2 why the CONTRACTOR believes such Record or Records should not be released, citing the
3 specific facts and legal authority supporting its position. If the CONTRACTOR fails to timely
4 object to the release of the Record or Records to the member of the public requesting access
5 to such Record or Records, the CONTRACTOR shall be deemed to have waived any and all
6 rights, if any, to claim that the Record or Records are confidential or exempt from disclosure to
7 members of the public.

8 iii. If the County, as applicable, after considering such reason(s) given by the
9 CONTRACTOR, chooses to release or not to release the Record or Records, the COUNTY, as
10 applicable, may, in its sole discretion, release or not release such records.

11 iv. If the COUNTY, as applicable, chooses not to release such Record or
12 Records, CONTRACTOR shall, in addition to any other indemnification and defense provisions
13 in this Agreement, protect, indemnify and hold harmless the COUNTY, its elective and
14 appointive boards, officers, agents and employees, from any and all claims, suits, liabilities,
15 expenses, costs, damages, or judgments of any nature, including attorney fees arising out of,
16 or in any way connected with the COUNTY's failure or refusal to release such records to such
17 member of the public. In addition, if the member of the public requesting access to the Record
18 or Records pursues legal action against the COUNTY in order to obtain access to the Record
19 or Records, the CONTRACTOR shall, at its own expenses, appear through legal counsel in
20 such court action by joining in the defense of the COUNTY.

21 v. It is understood that CONTRACTOR's labeling of or requesting the COUNTY
22 to treat any Record or Records as confidential or exempt from disclosure to any member of the
23 public shall not, in and of itself, deem such Records or Record as being confidential or exempt
24 from disclosure to members of the public.

25 15. CONFIDENTIALY LAWS AND REGULATIONS:

26 All services performed by CONTRACTOR under this Agreement shall be in strict
27 conformance with all applicable Federal, State of California and/or local laws and regulations
28 relating to confidentiality.

1 16. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT:

2

3 A. The Parties to this Agreement shall be in strict conformance with all

4 applicable Federal and State of California laws and regulations, including but not limited to

5 Sections 5328, 10850, and 14100.2 *et seq.* of the Welfare and Institutions Code, Sections 2.1 and

6 431.300 *et seq.* of Title 42, Code of Federal Regulations (CFR), Section 56 *et seq.* of the

7 California Civil Code, Sections 11977 and 11812 of Title 22 of the California Code of Regulations,

8 and the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to

9 Section 1320 D *et seq.* of Title 42, United States Code (USC) and its implementing regulations,

10 including, but not limited to Title 45, CFR, Sections 142, 160, 162, and 164, and The Health

11 Information Technology for Economic and Clinical Health Act (HITECH) regarding the

12 confidentiality and security of patient information.

13 B. Except as otherwise provided in this Agreement, CONTRACTOR, as a

14 Business Associate of COUNTY, may use or disclose Protected Health Information (PHI) to

15 perform functions, activities or services for or on behalf of COUNTY, as specified in this

16 Agreement, provided that such use or disclosure shall not violate the HIPAA, USC 1320d *et seq.*

17 The uses and disclosures of PHI may not be more expansive than those applicable to COUNTY,

18 as the "Covered Entity" under the HIPAA Privacy Rule (45 CFR 164.500 *et seq.*), except as

19 authorized for management, administrative or legal responsibilities of the Business Associate.

20 C. CONTRACTOR shall protect, from unauthorized access, use, or disclosure

21 of names and other identifying information concerning persons receiving services pursuant to this

22 Agreement, except where permitted in order to carry out data aggregation purposes for health

23 care operations [45 CFR Sections 164.504 (e)(2)(i), 164.504 (3)(2)(ii)(A), and 164.504 (e)(4)(i)].

24 This pertains to any and all persons receiving services pursuant to a COUNTY funded program.

25 CONTRACTOR shall not use such identifying information for any purpose other than carrying out

26 CONTRACTOR's obligations under this Agreement.

27 D. CONTRACTOR shall not disclose any such identifying information to any

28 person or entity, except as otherwise specifically permitted by this Agreement, authorized by law,

1 or authorized by the client/patient.

2 E. For purposes of this Section 16, identifying information shall include, but
3 not be limited to name, identifying number, symbol, or other identifying particular assigned to the
4 individual, such as finger or voice print, or a photograph.

5 F. CONTRACTOR shall provide access, at the request of COUNTY, and in
6 the time and manner designated by COUNTY, to PHI in a designated record set (as defined in 45
7 CFR Section 164.501), to an individual or to COUNTY in order to meet the requirements of 45
8 CFR Section 164.524 regarding access by individuals to their PHI.

9 G. CONTRACTOR shall make any amendment(s) to PHI in a designated
10 record set at the request of COUNTY, and in the time and manner designated by COUNTY in
11 accordance with 45 CFR Section 164.526.

12 H. CONTRACTOR shall provide to COUNTY or to an individual, in a time and
13 manner designated by COUNTY, information collected in accordance with 45 CFR Section
14 164.528, to permit COUNTY to respond to a request by the individual for an accounting of
15 disclosures of PHI in accordance with 45 CFR Section 164.528.

16 I. CONTRACTOR shall report to COUNTY, in writing, any knowledge or
17 reasonable belief that there has been unauthorized access, viewing, use, disclosure, or breach of
18 Protected Information not permitted by this Agreement, and any breach of unsecured PHI of which
19 it becomes aware, immediately and without reasonable delay and in no case later than two (2)
20 business days of discovery. Immediate notification shall be made to COUNTY's Information
21 Security Officer and Privacy Officer, within two (2) business days of discovery. The notification
22 shall include, to the extent possible, the identification of each individual whose unsecured PHI has
23 been, or is reasonably believed to have been, accessed, acquired, used, disclosed, or breached.
24 CONTRACTOR shall take prompt corrective action to cure any deficiencies and any action
25 pertaining to such unauthorized disclosure required by applicable Federal and State Laws and
26 regulations. CONTRACTOR shall investigate such breach and is responsible for all notifications
27 required by law and regulation or deemed necessary by COUNTY and shall provide a written
28 report of the investigation and reporting required to COUNTY's Information Security Officer and

1 Privacy Officer. This written investigation and description of any reporting necessary shall be
2 postmarked within the thirty (30) working days of the discovery of the breach to the addresses
3 below:

4
5 County of Fresno
6 Dept. of Public Health Privacy
7 Officer
(559) 600-3200
1221 Fulton Mall
Fresno, CA 93721

County of Fresno
Information Technology Services
Information Security Officer;
(559) 600-5800
2048 N. Fine Ave
Fresno, CA 93727

8
9 J. CONTRACTOR shall make its internal practices, books, and records
10 relating to the use and disclosure of PHI received from COUNTY, or created or received by the
11 CONTRACTOR on behalf of COUNTY, available to the United States Department of Health and
12 Human Services upon demand.

13 K. Safeguards

14 CONTRACTOR shall implement administrative, physical, and technical safeguards as
15 required by 45 CFR 164.308, 164.310, and 164.312 that reasonably and appropriately protect
16 the confidentiality, integrity, and availability of PHI, including electronic PHI, that it creates,
17 receives, maintains or transmits on behalf of COUNTY; and to prevent access, use or
18 disclosure of PHI other than as provided for by this Agreement. CONTRACTOR shall develop
19 and maintain a written information privacy and security program that includes administrative,
20 technical and physical safeguards appropriate to the size and complexity of CONTRACTOR's
21 operations and the nature and scope of its activities. Upon COUNTY's request,
22 CONTRACTOR shall provide COUNTY with information concerning such safeguards.

23 CONTRACTOR shall implement strong access controls and other security safeguards
24 and precautions in order to restrict logical and physical access to confidential, personal (e.g.,
25 PHI) or sensitive data to authorized users only. Said safeguards and precautions shall include
26 the following administrative and technical password controls for all systems used to process or
27 store confidential, personal, or sensitive data:

28 ///

i. Passwords must not be:

- a. Shared or written down where they are accessible or recognizable by anyone else; such as taped to computer screens, stored under keyboards, or visible in a work area;
- b. A dictionary word; or
- c. Stored in clear text

ii. Passwords must be:

- a. Eight (8) characters or more in length;
- b. Changed every ninety (90) days
- c. Changed immediately if revealed or compromised; and
- d. Composed of characters from at least three of the following four groups from the standard keyboard:
 - Upper case letters (A-Z);
 - Lowercase letters (a-z);
 - Arabic numerals (0 through 9); and
 - Non-alphanumeric characters (punctuation symbols).

CONTRACTOR shall implement the following security controls on each workstation or portable computing device (e.g., the Equipment, tablets, kiosks, etc.) containing confidential, personal, or sensitive data:

1. Network-based firewall and/or personal firewall;
2. Continuously updated anti-virus software; and
3. Patch management process including installation of all operating system/software vendor security patches.

CONTRACTOR shall utilize a commercial encryption solution that has received FIPS 140-2 validation to encrypt all confidential, personal, or sensitive data stored on portable electronic media (including, but not limited to, tablets, compact disks and thumb drives) and on portable computing devices (including, but not limited to, tablets, laptop and notebook computers).

1 CONTRACTOR shall not transmit confidential, personal, or sensitive data via e-mail or
2 other internet transport protocol unless the data is encrypted by a solution that has been
3 validated by the National Institute of Standards and Technology (NIST) as conforming to the
4 Advanced Encryption Standard (AES) Algorithm.

5 L. Mitigation of Harmful Effects

6 CONTRACTOR shall mitigate, to the extent practicable, any harmful effect that is known
7 to CONTRACTOR of an unauthorized access, viewing, use, disclosure, or breach of PHI by
8 CONTRACTOR or its subcontractors in violation of the requirements of these provisions.

9 M. Contractor's Subcontractors

10 CONTRACTOR shall ensure that any of its contractors, including subcontractors, if
11 applicable, to whom CONTRACTOR provides PHI received from or created or received by
12 CONTRACTOR on behalf of COUNTY, agree to the same restrictions and conditions that apply
13 to CONTRACTOR with respect to such PHI; and to incorporate, when applicable, the relevant
14 provisions of these provisions into each subcontract or sub-award to such agents or
15 subcontractors.

16 N. Employee Training and Discipline

17 CONTRACTOR shall train and use reasonable measures to ensure compliance with the
18 requirements of these provisions by employees who assist in the performance of functions or
19 activities on behalf of COUNTY under this Agreement and use or disclose PHI and discipline
20 such employees who intentionally violate any provisions of these provisions, including
21 termination of employment.

22 O. Termination for Cause

23 Upon COUNTY's knowledge of a material breach of these provisions by
24 CONTRACTOR, COUNTY shall either:

- 25 i. Provide an opportunity for CONTRACTOR to cure the breach or end the violation and
26 terminate this Agreement if CONTRACTOR does not cure the breach or end the
27 violation within the time specified by COUNTY; or
28

- 1 ii. Immediately terminate this Agreement if CONTRACTOR has breached a material
2 term of these provisions and cure is not possible.

3 If neither cure nor termination is feasible, the COUNTY Privacy Officer shall report
4 the violation to the Secretary of the U.S. Department of Health and Human Services.

5 P. Judicial or Administrative Proceedings

6 COUNTY may terminate this Agreement in accordance with the terms and conditions of
7 this Agreement as written hereinabove, if: (1) CONTRACTOR is found guilty in a criminal
8 proceeding for a violation of the HIPAA Privacy or Security Laws or the HITECH Act; or (2) a
9 finding or stipulation that the CONTRACTOR has violated a privacy or security standard or
10 requirement of the HITECH Act, HIPAA; or other security or privacy laws in an administrative or
11 civil proceeding in which the CONTRACTOR is a party.

12 Q. Effect of Termination

13 Notwithstanding any other Section in this Agreement, upon termination or expiration of
14 this Agreement for any reason, CONTRACTOR shall return or destroy all PHI received from
15 COUNTY (or created or received by CONTRACTOR on behalf of COUNTY) that
16 CONTRACTOR still maintains in any form, and shall retain no copies of such PHI. If return or
17 destruction of PHI is not feasible, it shall continue to extend the protections of these provisions
18 to such information, and limit further use of such PHI to those purposes that make the return or
19 destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of
20 subcontractors or agents, if applicable, of CONTRACTOR. If CONTRACTOR destroys the PHI
21 data, a certification of date and time of destruction shall be provided to the COUNTY by
22 CONTRACTOR.

23 R. Disclaimer

24 COUNTY makes no warranty or representation that compliance by CONTRACTOR with
25 these provisions, the HITECH Act, HIPAA or the HIPAA regulations will be adequate or
26 satisfactory for CONTRACTOR's own purposes or that any information in CONTRACTOR's
27 possession or control, or transmitted or received by CONTRACTOR, is or will be secure from
28

1 unauthorized access, viewing, use, disclosure, or breach. CONTRACTOR is solely responsible
2 for all decisions made by CONTRACTOR regarding the safeguarding of PHI.

3 S. Amendment

4 The parties acknowledge that Federal and State laws relating to electronic data security
5 and privacy are rapidly evolving and that amendment of these provisions may be required to
6 provide for procedures to ensure compliance with such developments. The parties specifically
7 agree to take such action as is necessary to amend this agreement in order to implement the
8 standards and requirements of HIPAA, the HIPAA regulations, the HITECH Act and other
9 applicable laws relating to the security or privacy of PHI. COUNTY may terminate this
10 Agreement upon thirty (30) days written notice in the event that CONTRACTOR does not enter
11 into an amendment providing assurances regarding the safeguarding of PHI that COUNTY in
12 its sole discretion deems sufficient to satisfy the standards and requirements of HIPAA, the
13 HIPAA regulations and the HITECH Act.

14 T. No Third-Party Beneficiaries

15 Nothing express or implied in the terms and conditions of these provisions is intended to
16 confer, nor shall anything herein confer, upon any person other than COUNTY or
17 CONTRACTOR and their respective successors or assignees, any rights, remedies, obligations
18 or liabilities whatsoever

19 U. Interpretation

20 The terms and conditions in these provisions shall be interpreted as broadly as
21 necessary to implement and comply with HIPAA, the HIPAA regulations and applicable State
22 laws. The parties agree that any ambiguity in the terms and conditions of these provisions shall
23 be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA
24 regulations.

25 V. Regulatory References

26 A reference in the terms and conditions of these provisions to a section in the HIPAA
27 regulations means the section as in effect or as amended.

1 W. Survival

2 The respective rights and obligations of CONTRACTOR as stated in this Section shall
3 survive the termination or expiration of this Agreement.

4 X. No Waiver of Obligations

5 No change, waiver or discharge of any liability or obligation hereunder on any one or
6 more occasions shall be deemed a waiver of performance of any continuing or other obligation,
7 or shall prohibit enforcement of any obligation on any other occasion.

8 17. NOTICES: The persons and their addresses having authority to give and
9 receive notices under this Agreement include the following:

<u>COUNTY</u>	<u>CONTRACTOR</u>
COUNTY OF FRESNO	Edovo
Sheriff-Coroner's Office	Brian Hill, CEO
EMAIL: [michelle.lefors@fresnosheriff.org]	EMAIL: [brian@edovo.com]
2200 Fresno Street	215 W Superior St. Suite 600
Fresno, CA 93721	Chicago, Illinois 60654

15
16 All notices between the COUNTY and CONTRACTOR provided for or
17 permitted under this Agreement must be in writing and delivered either by personal service, by
18 first-class United States mail, by an overnight commercial courier service, or by secure e-mail
19 transmission. A notice delivered by personal service is effective upon service to the recipient. A
20 notice delivered by first-class United States mail is effective three COUNTY business days after
21 deposit in the United States mail, postage prepaid, addressed to the recipient. A notice delivered
22 by an overnight commercial courier service is effective one COUNTY business day after deposit
23 with the overnight commercial courier service, delivery fees prepaid, with delivery instructions
24 given for next day delivery, addressed to the recipient. A notice delivered by secure e-mail is
25 effective when transmission to the recipient is completed (but, if such transmission is completed
26 outside of COUNTY business hours, then such delivery shall be deemed to be effective at the
27 next beginning of a COUNTY business day), provided that the sender maintains a read-receipt of
28

1 the completed transmission. For all claims arising out of or related to this Agreement, nothing in
2 this section establishes, waives, or modifies any claims presentation requirements or procedures
3 provided by law, including but not limited to the Government Claims Act (Division 3.6 of Title 1 of
4 the Government Code, beginning with section 810).

5 18. GOVERNING LAW: Venue for any action arising out of or related to this
6 Agreement shall only be in Fresno County, California.

7 The rights and obligations of the parties and all interpretation and performance
8 of this Agreement shall be governed in all respects by the laws of the State of California.

9 19. COMPLIANCE WITH THE LAW

10 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the
11 rules and regulations, if any, of governmental authorities having jurisdiction over matters the
12 subject thereof. CONTRACTOR acknowledges public funds are used for payments made by
13 COUNTY under this AGREEMENT and for "public works" projects. Accordingly, if any work is
14 undertaken under this Agreement by or on behalf of COUNTY, CONTRACTOR shall comply
15 with, and shall ensure compliance by all contractors and subcontractors with, all applicable laws
16 and regulations, including the payment of prevailing wages pursuant to Section 1770 et. seq. of
17 the Labor Code.

18 20. CONSISTENT FEDERAL INCOME TAX POSITION

19 CONTRACTOR acknowledges that the Jail Facilities have been acquired, constructed,
20 or improved using net proceeds of governmental tax-exempt bonds (collectively, "Bond-
21 Financed Facilities"). CONTRACTOR agrees that, with respect to this Agreement and the Bond-
22 Financed Facilities, CONTRACTOR is not entitled to take, and shall not take, any position (also
23 known as a "tax position") with the Internal Revenue Service ("IRS") that is inconsistent with
24 being a "service provider" to the COUNTY, as a "qualified user" with respect to the Bond-
25 Financed Facilities, as "managed property," as all of those terms are used in Internal Revenue
26 Service Revenue Procedure 2017-13, and to that end, for example, and not as a limitation,
27 CONTRACTOR agrees that CONTRACTOR shall not, in connection with any federal income
28 tax return that it files with the IRS or any other statement or information that it provides to the

1 IRS, (a) claim ownership, or that it is a lessee, of any portion of the Bond Financed Facilities, or
2 (b) claim any depreciation or amortization deduction, investment tax credit, or deduction for any
3 payment as rent with respect to the Bond-Financed Facilities.

4 21. POSSESSORY INTEREST TAX

5 In the event it is ever determined that CONTRACTOR has a possessory interest through
6 the covenants, promises, representations, or services made in or provided as a result of this
7 Agreement, CONTRACTOR agrees to pay any possessory interest tax which may be levied. In
8 this respect, CONTRACTOR understands that CONTRACTOR's services are being provided
9 on property owned by a tax exempt public agency, that CONTRACTOR may be subject to
10 property taxation and that CONTRACTOR (the person in whom any potential possessory
11 interest may vest) may be subject to the payment of property taxes levied on any such interest.

12 22. FORCE MAJEURE

13 Notwithstanding anything stated herein to the contrary, neither the
14 CONTRACTOR nor the COUNTY shall be responsible for performance of its obligations under
15 this Agreement, to the extent that, or while, such Party's performance is prevented, hindered, or
16 delayed by fire, flood, earthquake, elements of nature, acts of God, acts of war (whether
17 declared or undeclared), terrorism (whether actual or threatened), riots, strikes, rebellion,
18 revolutions, or acts, omissions, circumstances, or events beyond such Party's reasonable
19 control, regardless of whether foreseen or unforeseen, including acts, omissions,
20 circumstances, or events caused by third parties including but not limited to a Party's
21 Contractors (individually or collectively, "Force Majeure"); provided, however, that Force
22 Majeure will in no event include acts, omissions, circumstances, or events caused by a third
23 party that is under contract with a Party where and to the extent that the acts, omissions,
24 circumstances, or events caused by the third party could have been avoided by commercially-
25 reasonable, timely, and diligent management or administration of the third party's performance
26 of its contractual rights, obligations, and duties under its contract by the Party to such contract.

27 For purposes of this Section 22, a "third party" shall not include any officer, agent,
28 employee, department, agency, board, commission, legislative, judicial, or administrative

1 branch, department, or authority of the State, or the COUNTY, as applicable.

2 During a Force Majeure, the Party affected by the Force Majeure shall give to
3 each other Party prompt written notice of the Force Majeure with the reasons relating thereto.
4 Upon giving such notice of Force Majeure, the obligations of the Party giving such notice of
5 Force Majeure, so far as they are affected by the Force Majeure, shall be suspended during,
6 but no longer than, the continuance of the Force Majeure, except for a reasonable time
7 thereafter required to resume performance. The Party whose performance is excused due to
8 the occurrence of a Force Majeure, during such period, shall keep the other Party reasonably
9 informed of the continuance of the Force Majeure.

10 23. DISCLOSURE OF SELF-DEALING TRANSACTIONS

11 This provision is only applicable if the CONTRACTOR is operating as a
12 corporation (a for-profit or non-profit corporation) or if during the term of the agreement, the
13 CONTRACTOR changes its status to operate as a corporation.

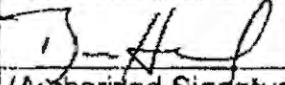
14 Members of the CONTRACTOR's Board of Directors shall disclose any self-
15 dealing transactions that they are a party to while CONTRACTOR is providing goods or
16 performing services under this agreement. A self-dealing transaction shall mean a transaction
17 to which the CONTRACTOR is a party and in which one or more of its directors has a material
18 financial interest. Members of the Board of Directors shall disclose any self-dealing
19 transactions that they are a party to by completing and signing a Self-Dealing Transaction
20 Disclosure Form, attached hereto as Exhibit D and incorporated herein by reference, and
21 submitting it to the COUNTY prior to commencing with the self-dealing transaction or
22 immediately thereafter.

23 24. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement
24 between the CONTRACTOR and COUNTY with respect to the subject matter hereof and
25 supersedes all previous Agreement negotiations, proposals, commitments, writings,
26 advertisements, publications, and understanding of any nature whatsoever unless expressly
27 included in this Agreement. Certain documents, i.e. Exhibits "A", "B", "C", and "D" constitute part
28 of the Agreement, but only to the extent they are incorporated into this Agreement. In the event

1 of any inconsistency in interpreting the documents which constitute this Agreement, the
2 inconsistency shall be resolved by giving precedence in the following order of priority: (1) the
3 text of this Agreement (excluding Exhibit "A", Exhibit "B", Exhibit "C", and Exhibit "D"); (2)
4 Exhibit "A," the COUNTY'S Request for Quotation/Proposal No. 17-039, which includes
5 "Addendum Number: One (1)"; (3) Exhibit "B", Edovo Service Levels; (4) Exhibit "C", Tab XI (i)
6 (Reports), "EDOVO CONTENT TABLE"; and (5) Exhibit "D".
7

8 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first
9 hereinabove written.
10

11 **CONTRACTOR: Jail Education
Solutions Inc. d/b/a Edovo**

12 
13 (Authorized Signature)

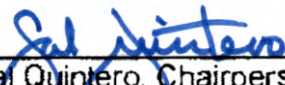
14 BRIAN Hill, CEO
15 Print Name & Title

16 215 W. Superior St. Ste 600

17 Chicago, IL 60604

18 Mailing Address
19
20
21
22
23

COUNTY OF FRESNO

12 
13 Sal Quintero, Chairperson of the
14 Board of Supervisors of the County of
15 Fresno

ATTEST:

Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

24 By: Susan Bishop
25 Deputy

26 **FOR ACCOUNTING USE ONLY:**

27 **ORG No.:**

Account No.:

28 **Requisition No.:**

EXHIBIT A

Request for Proposal No. 17-039 including Addendum Number
One (1)

COUNTY OF FRESNO



REQUEST FOR PROPOSAL

NUMBER: 17-039

INMATE TABLET SERVICE

Issue Date: December 1, 2016

Closing Date: January 25, 2017 at 2:00 PM PST

Proposal will be considered LATE when the official Purchasing time clock reads 2:01 PM PST

Submit all Proposals to:
County of Fresno - Purchasing
4525 E. Hamilton Avenue, 2nd Floor
Fresno, CA 93702-4599

Questions must be submitted on the Bid Page at Public Purchase or contact Nick Chin at Phone (559) 600-7110.

Undersigned agrees to furnish the commodity or service stipulated in the attached response at the prices and terms stated in this RFP.
Bid must be signed and dated by an authorized officer or employee.

COMPANY

ADDRESS

CITY

STATE

ZIP CODE

TELEPHONE NUMBER

E-MAIL ADDRESS

SIGNATURE (IN BLUE INK)

PRINT NAME

TITLE

TABLE OF CONTENTS

	<u>PAGE</u>
OVERVIEW.....	3
KEY DATES	4
GENERAL REQUIREMENTS & CONDITIONS	5
INSURANCE REQUIREMENTS	8
BID INSTRUCTIONS	9
SCOPE OF WORK	11
COST PROPOSAL.....	13
AWARD CRITERIA	14
PROPOSAL CONTENT REQUIREMENTS	15
TRADE SECRET ACKNOWLEDGEMENT	17
DISCLOSURE – CRIMINAL HISTORY & CIVIL ACTIONS.....	19
CERTIFICATION.....	21
REFERENCE LIST.....	22
PARTICIPATION.....	23
CHECK LIST	24

OVERVIEW

The County of Fresno on behalf of the Fresno County Sheriff-Coroner's Office is soliciting proposals for one qualified vendor to provide an inmate tablet service for the Fresno County Jail facilities. The County is interested in a turnkey software/hardware tablet system that supports and benefits the inmates' educational, vocational, religious, health and wellness and cognitive behavioral therapy needs. The County is interested in a system that can also operate via interface in real-time with the County's Jail Inmate Management data system in order to report and manage the activity on the tablet with a variety of reporting capabilities. This system will also operate at no cost/low cost to the County and/or Inmate Welfare Fund. The vendor will be responsible for providing 365 day support in order to cause only minor disruption or delays in operation of the tablets. The vendor will be responsible for all repairs of equipment, including those caused by intentional misuse by individuals or provide a proposal with identified costs associated with replacement or repair.

The County of Fresno currently operates three of four adult detention facilities that comprise the Fresno County Jails. On August 1, 2008 the Sheriff-Coroner's Office closed the Satellite Jail, which had a bed capacity of 300 beds. When operating the three (3) jail facilities, the Fresno County Jail has a bed capacity of 3291. Our normal inmate capacity is currently about 85% of the total beds available (this is based on an average daily population that was about 2,700 inmates).

The County of Fresno is currently in the process of building the new West Annex Jail Facility. The vendor selection for the inmate tablets will include the ability to provide service to this facility. The projected completion date is January 2019 with a plan for 300 inmate beds (construction should begin January 2017). The South Annex Jail will close to inmate housing when the transition to the West Annex Jail is complete. The locations of the adult correctional facilities are:

1. The South Annex Jail Facility, which is located at 2280 Fresno Street in the downtown area of the city of Fresno.
2. The Main Jail Facility, which is located at 1225 M Street, across the street from the South Annex Jail Facility.
3. The North Annex Jail Facility, which is located at 1265 M Street, next to the Main Jail Facility.
4. The West Annex Jail Facility will be on the same County footprint/square block as the Main Jail and North Jail (the current parking lot). Construction not started.
5. The Satellite Jail does not house inmates at this time. This site continues to be reevaluated for inmate use that includes possible inmate housing. It was previously rated for up to 300 beds. It is not scheduled for any inmate housing at this time.

The Fresno County Sheriff's Office's Jail Management System is OffenderTrak, Version 6.3.5.1 by Motorola Corporation, running on Oracle 10G, on a Microsoft Windows 64-bit platform. Any proposed transactions will be in real-time for the inmate accounts. This platform is being evaluated for possible replacement (CAD/RMS and possibly the JMS system).

The County is also requiring the vendor to provide various reporting, and accounting capabilities to comply with applicable Government Code sections that pertain to the handling of prisoner funds and County Auditor requirements. All records shall be maintained and accessible for a minimum of seven years.

The average daily population from September 1, 2016 through September 30, 2016 was 2600 inmates.

The County is requiring wireless access points, located in jail locations to handle the required tablet data/video. The County may need additional wireless access points in future locations and/or if any of the inmate programs or systems are expanded.

The main goals of this project is to provide our inmates with educational software that supports inmate educational, religious, vocational, health, and cognitive behavior therapy needs. The target population is isolation cells, lockdown cells and classrooms.

The vendor that best meets all County requirements and whose system is deemed most advantageous to the County will be selected as the preferred vendor. The County shall be the sole evaluator in the selection process.

KEY DATES

RFP Issue Date: December 1, 2016

Bidders' Conference: December 14, 2016 at 10:00 A.M.

Fresno County Main Jail
1225 "M" Street
Fresno, CA 93721

Only metered parking is available.

Written Questions for RFP Due: December 21, 2016 at 10:00 A.M.

Questions must be submitted on the Bid Page at Public Purchase.

RFP Closing Date: January 25, 2017 at 2:00 P.M.

County of Fresno - Purchasing
4525 E. Hamilton Avenue, 2nd Floor
Fresno, CA 93702

Site Inspection: Immediately following the bidders' conference.

BIDDERS' CONFERENCE & SITE INSPECTION:

A bidders' conference will be held in which the scope of the project and proposal requirements will be explained. Addenda will be prepared and distributed to all bidders if questions are submitted.

After the bidders' conference, we will be departing to various sites that pertain to this project. Each bidder shall have examined the site of work before bidding and shall be responsible for having acquired full knowledge of the job and of all problems affecting it. No variations or allowance from the contract sum will be made because of lack of such examination.

Bidders are to contact Nick Chin at County of Fresno - Purchasing, (559) 600-7110, if they are planning to attend.

GENERAL REQUIREMENTS & CONDITIONS

TERM: It is County's intent to contract with the successful bidder for a term of three years with the option to renew for up to two additional one year periods based on mutual written consent.

The County reserves the right to terminate any resulting contract upon written notice.

AWARD: The award will be made to the vendor offering the proposal that is deemed the most advantageous to the County. The award will be determined by factors other than price alone. Past performance and references may factor into the tentative awarding of a contract. The County will be the sole judge in making such determination. The County reserves the right to reject any and all proposals. Award Notices are tentative. Acceptance of an offer made in response to this RFP shall occur only upon execution of an agreement by both parties or issuance of a valid Purchase Order by Purchasing. After award, all bids shall be open to public inspection. The County assumes no responsibility for the confidentiality of information offered in a bid.

Award may require approval by the County of Fresno – Board of Supervisors.

PARTICIPATION: The bidder may agree to extend the terms of the resulting contract to other political subdivisions, municipalities, and tax-supported agencies. Such participating governmental bodies may make purchases in their own name, make payment directly to the bidder, and be liable directly to the bidder, holding the County of Fresno harmless.

CONFIDENTIALITY: Services performed by the bidder shall be in strict conformance with all applicable Federal, State of California and/or local laws and regulations relating to confidentiality, including but not limited to, California Civil Code, California Welfare and Institutions Code, Health and Safety Code, California Code of Regulations, Code of Federal Regulations.

The bidder shall submit to County's monitoring of said compliance.

The bidder may be a Business associate of County, as that term is defined in the "Privacy Rule" enacted by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). As a HIPAA Business Associate, vendor may use or disclose protected health information ("PHI") to perform functions, activities or services for or on behalf of County, as specified by the County, provided that such use or disclosure shall not violate HIPAA and its implementing regulations. The uses and disclosures of PHI may not be more expansive than those applicable to County, as the "Covered Entity" under HIPAA's Privacy Rule, except as authorized for management, administrative or legal responsibilities of the Business Associate.

The bidder shall not use or further disclose PHI other than as permitted or required by the County, or as required by law without written notice to the County. The bidder shall ensure that any agent, including any subcontractor, to which vendor provides PHI received from, or created or received by the vendor on behalf of County, shall comply with the same restrictions and conditions with respect to such information.

SUBCONTRACTORS: If a subcontractor is proposed, complete identification of the subcontractor and his tasks should be provided. The primary contractor is not relieved of any responsibility by virtue of using a subcontractor. A specialty contractor cannot contract for work outside of their classification even if they are going to subcontract that work to another licensee who does hold the classification. The only classification that may do that is the B – General Building contractor.

SELF-DEALING TRANSACTION DISCLOSURE: Contractor agrees that when operating as a corporation (a for-profit or non-profit corporation), or if during the term of the agreement the Contractor changes its status to operate as a corporation, members of the Contractor's Board of Directors shall disclose any self-dealing transactions that they are a party to while Contractor is providing goods or performing services under the agreement with the County. A self-dealing transaction shall mean a transaction to which the Contractor is a party and in which one or more of its directors has a material financial interest. Members of the Board of Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a Fresno County Self-Dealing Transaction Disclosure Form and submitting it to the County prior to commencing with the self-dealing transaction or immediately thereafter.

LOCAL VENDOR PREFERENCE: The Local Vendor Preference **does not** apply to this Request for Proposal.

CONFLICT OF INTEREST: The County shall not contract with, and shall reject any bid or proposal submitted by the persons or entities specified below, unless the Board of Supervisors finds that special circumstances exist which justify the approval of such contract:

1. Employees of the County or public agencies for which the Board of Supervisors is the governing body.
2. Profit-making firms or businesses in which employees described in Subsection (1) serve as officers, principals, partners or major shareholders.
3. Persons who, within the immediately preceding twelve (12) months, came within the provisions of Subsection (1), and who were employees in positions of substantial responsibility in the area of service to be performed by the contract, or participated in any way in developing the contract or its service specifications.
4. Profit-making firms or businesses in which the former employees described in Subsection (3) serve as officers, principals, partners or major shareholders.
5. No County employee, whose position in the County enables him to influence the selection of a contractor for this RFP, or any competing RFP, and no spouse or economic dependent of such employee, shall be employees in any capacity by a bidder, or have any other direct or indirect financial interest in the selection of a contractor.
6. In addition, no County employee will be employed by the selected vendor to fulfill the vendor's contractual obligations to the County.

DISCLOSURE: The bidder is required to disclose if, within the three-year period preceding the proposal, their owners, officers, corporate managers and partners have been convicted of, or had a civil judgment rendered against them for:

- fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
- violation of a federal or state antitrust statute;
- embezzlement, theft, forgery, bribery, falsification, or destruction of records; or
- false statements or receipt of stolen property

Within a three-year period preceding their proposal, they have had a public transaction (federal, state, or local) terminated for cause or default.

ORDINANCE 3.08.130 – POST-SEPARATION EMPLOYMENT PROHIBITED: No officer or employee of the County who separates from County service shall for a period of one year after separation enter into any employment, contract, or other compensation arrangement with any County consultant, vendor, or other County provider of goods, materials, or services, where the officer or employee participated in any part of the decision making process that led to the County relationship with the consultant, vendor or other County provider of goods, materials or services.

Pursuant to Government Code section 25132(a), a violation of the ordinance may be enjoined by an injunction in a civil lawsuit, or prosecuted as a criminal misdemeanor.

TIE BIDS: In the event of a tie score between two or more proposals at the completion of the evaluation process, the evaluation team will break the tie by re-evaluating the proposals and coming to a consensus on which proposal to award. Additional information or interviews may be requested from bidders with the tied proposals.

DATA SECURITY: Individuals and/or agencies that enter into a contractual relationship with the County for the purpose of providing services must employ adequate controls and data security measures, both internally and externally to ensure and protect the confidential information and/or data provided to contractor by the County, preventing the potential loss, misappropriation or inadvertent access, viewing, use or disclosure of County data including sensitive or personal client information; abuse of County resources; and/or disruption to County operations.

Individuals and/or agencies may not connect to or use County networks/systems via personally owned mobile, wireless or handheld devices unless authorized by County for telecommuting purposes and provide a secure connection; up to date virus protection and mobile devices must have the remote wipe feature enabled. Computers or computer peripherals including mobile storage devices may not be used (County or Contractor device) or brought in for use into the County's system(s) without prior authorization from County's Chief Information Officer and/or designee(s).

No storage of County's private, confidential or sensitive data on any hard-disk drive, portable storage device or remote storage installation unless encrypted according to advance encryption standards (AES of 128 bit or higher).

The County will immediately be notified of any violations, breaches or potential breaches of security related to County's confidential information, data and/or data processing equipment which stores or processes County data, internally or externally.

County shall provide oversight to Contractor's response to all incidents arising from a possible breach of security related to County's confidential client information. Contractor will be responsible to issue any notification to affected individuals as required by law or as deemed necessary by County in its sole discretion. Contractor will be responsible for all costs incurred as a result of providing the required notification.

AUDITS & RETENTION: The Contractor shall maintain in good and legible condition all books, documents, papers, data files and other records related to its performance under this contract. Such records shall be complete and available to Fresno County, the State of California, the federal government or their duly authorized representatives for the purpose of audit, examination, or copying during the term of the contract and for a period of at least three (3) years following the County's final payment under the contract or until conclusion of any pending matter (e.g., litigation or audit), whichever is later. Such records must be retained in the manner described above until all pending matters are closed.

E-PAYMENT OPTIONS: The County of Fresno provides an E-pay Program which involves payment of invoices by a secure Visa account number assigned to the supplier after award of contract. Notification of payments and required invoice information are issued to the supplier's designated Accounts Receivable contact by e-mail remittance advice at time of payment. To learn more about the benefits of an E-pay Program, how it works, and obtain answers to frequently asked questions, click or copy and paste the following URL into your browser: www.bankofamerica.com/epayablesvendors or call Fresno County Accounts Payable, 559-600-3609.

DISPUTE RESOLUTION: The ensuing contract shall be governed by the laws of the State of California.

Any claim which cannot be amicably settled without court action will be litigated in the U. S. District Court for the Eastern District of California in Fresno, CA or in a state court for Fresno County.

ASSIGNMENTS: The ensuing proposed contract will provide that the vendor may not assign any payment or portions of payments without prior written consent of the County of Fresno.

ASSURANCES: Any contract awarded under this RFP must be carried out in full compliance with The Civil Rights Act of 1964, The Americans With Disabilities Act of 1990, their subsequent amendments, and any and all other laws protecting the rights of individuals and agencies. The County of Fresno has a zero tolerance for discrimination, implied or expressed, and wants to ensure that policy continues under this RFP. The contractor must also guarantee that services, or workmanship, provided will be performed in compliance with all applicable local, state, or federal laws and regulations pertinent to the types of services, or project, of the nature required under this RFP. In addition, the contractor may be required to provide evidence substantiating that their employees have the necessary skills and training to perform the required services or work.

LICENSES AND CERTIFICATIONS: Any license(s) and/or certification(s) required in this RFP must be obtained by the bidder prior to submitting a proposal and must be active and in good standing. Proposals submitted without the proper license(s) and/or certification(s) will be deemed non-responsive.

PUBLIC CONTRACT CODE SECTION 7028.15: Where the State of California requires a Contractor's license; it is a misdemeanor for any person to submit a bid unless specifically exempted.

INSURANCE REQUIREMENTS

Without limiting the County's right to obtain indemnification from contractor or any third parties, contractor, at its sole expense, shall maintain in full force and effect, the following insurance policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the term of the Agreement:

- A. Commercial General Liability: Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). This policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed necessary because of the nature of this contract.
- B. Automobile Liability: Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000.00). Coverage should include owned and non-owned vehicles used in connection with this Agreement.
- C. Professional Liability: If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.
- D. This coverage shall be issued on a per claim basis. Contractor agrees that it shall maintain, at its sole expense, in full force and effect for a period of three years following the termination of this Agreement, one or more policies of professional liability insurance with limits of coverage as specified herein.
- E. Worker's Compensation: A policy of Worker's Compensation insurance as may be required by the California Labor Code.

Contractor shall obtain endorsements to the Commercial General Liability insurance naming the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by County, its officers, agents and employees shall be excess only and not contributing with insurance provided under Contractor's policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written notice given to County.

Within thirty (30) days from the date Contractor executes this Agreement, Contractor shall provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as required herein, to the County of Fresno, **Sheriff's Office, June Mayeda, 2200 Fresno St., Fresno, CA 93721**, stating that such insurance coverage have been obtained and are in full force; that the County of Fresno, its officers, agents and employees will not be responsible for any premiums on the policies; that such Commercial General Liability insurance names the County of Fresno, its officers, agents and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by County, its officers, agents and employees, shall be excess only and not contributing with insurance provided under Contractor's policies herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30) days advance, written notice given to County.

In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, the County may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

All policies shall be with admitted insurers licensed to do business in the State of California. Insurance purchased shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better.

BID INSTRUCTIONS

- All prices and notations must be typed or written in ink.
- Unless otherwise noted, prices shall remain firm for 180 days after the closing date of the bid.
- Proposals must be submitted on the forms provided in this RFP.
- Proposals must be submitted in a sealed package, with the bid number, closing date, and time on the outside of the package.
- Bidders must submit their proposals in a binder (one that allows for easy removal of pages) with index tabs separating the sections identified. Additional material may be submitted with the proposal as attachments. Any additional descriptive material that is used in support of any information in your proposal must be referenced by the appropriate paragraph(s) and page number(s).
- Bidders must submit **one original and seven copies** of your proposal no later than the proposal closing date and time as stated on the front of this document to County of Fresno Purchasing. Each copy to be identical to the original, include all supporting documentation (e.g. literature, brochures, reports, schedules etc.). The cover page of each proposal is to be appropriately marked "Original" or "Copy".
- County of Fresno will not be held liable for any costs incurred by vendors in responding to this RFP.
- Bidders are instructed not to submit confidential, proprietary and related information within the request for proposal. If you are submitting trade secrets, it must be submitted in a separate binder clearly marked "TRADE SECRETS", see Trade Secret Acknowledgement section.
- If a bidder finds any discrepancies or has any questions, submit all inquiries to the Bid Page at Public Purchase or contact Nick Chin at (559) 600-7110. Any change in the RFP will be made only by written addendum issued by the County. The County will not be responsible for any other explanations or interpretations.
- Failure to respond to all questions or to not supply the requested information could result in rejection of your proposal. Merely offering to meet the specifications is insufficient and will not be accepted. Each bidder shall submit a complete proposal with all information requested.
- Proposals received after the closing date and time will NOT be considered.
- Proposals will be evaluated by an evaluation team led by County Purchasing and may consist of County of Fresno department staff, community representatives from advisory boards, and other members as appropriate. If a proposal does not respond adequately to the RFP or the bidder is deemed unsuitable or incapable of delivering services, the proposal may be eliminated from consideration. Upon review and evaluation, the evaluation team will make the final recommendation to the County department.
- Appeals must be submitted in writing within seven (7) working days after notification of proposed recommendations for award. A "Notice of Award" is not an indication of County's acceptance of an offer made in response to this RFP. Appeals shall be submitted to County of Fresno Purchasing, 4525 E. Hamilton Avenue 2nd Floor, Fresno, California 93702-4599 and in Word format to gcornuelle@co.fresno.ca.us. Appeals should address only areas regarding RFP contradictions, procurement errors, proposal rating discrepancies, legality of procurement context, conflict of interest, and inappropriate or unfair competitive procurement grievance regarding the RFP process.

Purchasing will provide a written response to the complainant within seven (7) working days unless the complainant is notified more time is required. If the appealing bidder is not satisfied with the decision of Purchasing, he/she shall have the right to appeal to the County Administrative Office within seven (7) working days after Purchasing's notification; if the appealing bidder is not satisfied with CAO's decision, the final appeal is with the Board of Supervisors. Please contact Purchasing if the appeal will be going to the Board of Supervisors.

- All communication regarding this RFP shall be directed to an authorized representative of County Purchasing. The specific Analyst managing this RFP is identified on the cover page, along with his or her contact information, and he or she should be the primary point of contact for discussions or information pertaining to the RFP. Contact with any other County representative, including elected officials, for the purpose of discussing this RFP, its content, or any other issue concerning it, is prohibited unless authorized by Purchasing. Violation of this clause, by the vendor having unauthorized contact (verbally or in writing) with such other County representatives, may constitute grounds for rejection by Purchasing of the vendor's quotation.

The above stated restriction on vendor contact with County representatives shall apply until the County has awarded a purchase order or contract to a vendor or vendors, except as follows. First, in the event that a vendor initiates a formal appeal against the RFP, such vendor may contact the Purchasing Manager who manages that appeal as outlined in the County's established appeal procedures. All such contact must be in accordance with the sequence set forth under the appeal procedures. Second, in the event a public hearing is scheduled before the Board of Supervisors to hear testimony prior to its approval of a purchase order or contract, any vendor may address the Board at scheduled Board Meeting.

SCOPE OF WORK

The County of Fresno on behalf of the Sheriff-Coroner's Office is requesting proposals from qualified vendors to provide educational software, tablet hardware, and monitoring support design to benefit inmates who are incarcerated in the Fresno County Jail Facilities. The types of services requested should meet the inmate's educational, vocational, health and wellness and cognitive behavioral therapy needs.

1. Installation and Maintenance of Wireless Network Equipment

Contractor will be required to install and maintain wireless servers in the following locations at no cost to the County:

Main Jail 1225 "M" Street, Fresno, CA 93721

South Annex Jail 2280 Fresno Street, Fresno, CA 93721

North Annex Jail 1265 "M" Street, Fresno, CA 93721

Additional locations may be required once the West Annex Jail opens, located on the same County footprint/square block as the Main and North Jail (the current parking lot, or at other future needed locations).

Vendor shall provide a plan to set forth the infrastructure and operational guidelines to deploy 150 tablets and associated charging equipment and all required network services and infrastructure to support the tablets. An additional 150 tablets may be required as determined by the County.

Vendor shall provide a plan to set forth internet service for the tablets and associated equipment required to support the tablets.

System should be compatible with different software platforms.

System should also be compatible with the Fresno County Sheriff-Coroner's Office's Jail Management System OffenderTrak, Version 6.3.5.1 by Motorola Corporation, running on Oracle 10G, on a MicroSoft Windows 64-bit platform.

At its own expense, Contractor agrees to provide any additional equipment including, without limitation, cabling, wiring and conduit as required for the installation of the tablets and charging stations.

Contractor will provide a detailed plan for reporting troubles and how request for service will be handled. Service must be available 24 hours a day and 365 days a year and include a remote access plan. Plan needs to include whom to contact, phone numbers of contact persons, response times for completion of repairs and a detailed plan of how the vendor will correct potential problems.

Contractor shall designate one or more authorized representatives who shall be the County's point of contact. This person(s) shall have full authority to bind Contractor with respect to all issues.

Contractor's technicians must complete and satisfy the security background clearance requirements as determined by the County in advance of beginning any work. This clearance may take up to eight weeks depending on the Department of Justice (fingerprints).

Any subcontracting for the scope of work performed by the contractor shall be included in the contract and bind the contractor/subcontractor to any additional fees, rules of the County. The subcontractor shall be identified and included in the RFP response. The contractor will be responsible to ensure the subcontractor meets all of the proper insurance requirements and will serve as the liaison between the County and the subcontractor when necessary.

Tablets shall be a rugged design to withstand harsh and destructive environments and meet industry standards for correctional institutions. This shall include options available to comply with the American Disabilities Act.

Contractor shall provide a system that allows County to monitor all activities performed on tablets. System shall have the capabilities to allow County to remotely power off the tablets.

Contractor shall provide any needed training at no charge for staff and inmates.

Contractor shall provide a method of creating reports by inmate or multiple inmates for the purpose of investigation(s) by the county and full audit capabilities.

Contractor shall maintain complete and accurate records with respect to the services rendered and the cost incurred. All records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified and shall be kept readily accessible.

Leave-Behind Solution: The Contractor shall make the records available to County and maintain these records for a period of seven (7) years from contract termination. The Contractor may provide an alternate solution whereby they provide an electronic copy of the records to be given to the County upon the end/termination of the contract.

Transition Period: at the end of contract, should the selected vendor not be the same, the County requires a transitional plan. This plan should include the transition of kiosks and financials as it relates to those transactions that may be pending and/or are in-process.

Contractor shall comply with all California Public Records Act, California Government Code Section 6250, and provide support for County to comply with California Government Code Sections 26640, 26642, 26644, and 26646.

Contractor shall clearly outline all user fees associated with revenue generation, including fees associated with tablets.

Additionally, Contractor will outline the costs involved with revenue sharing and the options connected with providing reasonable cost to the inmates or their families.

Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances.

Contractor will be responsible for identifying any and all subcontractor's if used at the time of the response to this proposal.

Contractor will propose a method or option for installing kiosks in the inmate housing locations that will allow inmates to file miscellaneous forms such as, but not limited to, Inmate Grievance Forms, Health Service Request Forms, and Inmate Request Forms. The kiosks will also have the ability to allow inmates to order commissary. The current commissary provider is:

Canteen of Fresno, Inc.
527 L Street
Fresno, CA 93721
(559) 485-8800

The current medical provider is Corizon Health and the current phone provider is Legacy Communications.

Contractor may propose additional methods or ideas not specifically covered in the RFP. These ideas will be considered based on their feasibility, cost, the possibility of revenue being generated and the impact it would have on the facility operations.

COST PROPOSAL

Quotations may be prepared in any manner to best demonstrate the worthiness of your proposal. Include details and rates/fees for all services, materials, equipment, etc. to be provided or optional under the proposal. Bidders must submit a 5 year cost proposal with a breakdown of all costs not limited to:

1. Cost per tablet
2. Fees for educational programs and software
3. Inmate fees for media download (music, movies, videos etc.)
4. Internet installation and maintenance fees
5. Fees to interface tablets and kiosks with Sheriff's forms (Health Request Forms, Grievance Forms, Inmate Request Forms, Commissary Ordering Forms, etc.)

Bidders can also submit alternative cost proposals that would include revenue sharing.

AWARD CRITERIA

All proposals will be evaluated using the same criteria. While cost is important, other factors are also significant, and the County may not select the lowest cost proposal. The objective is to choose the proposal that offers the highest quality services and will best achieve the County's goals and objectives within a reasonable budget. Evaluations will be based on the criteria listed below:

COST

- As submitted under the "COST PROPOSAL" section.

CAPABILITY AND QUALIFICATIONS

- Do the service descriptions address all the areas identified in the RFP? Will the proposed services satisfy County's needs and to what degree?
- Does the bidder demonstrate knowledge or awareness of the problems associated with providing the services proposed and knowledge of laws, regulations, statutes and effective operating principles required to provide this service?
- The amount of demonstrated experience in providing the services desired in a California County.

MANAGEMENT PLAN

- Is the organizational plan and management structure adequate and appropriate for overseeing the proposed services?

PROPOSAL CONTENT REQUIREMENTS

It is required that the vendor submit his/her proposal in accordance with the format and instructions provided under this section.

- I. RFP PAGE 1 AND ADDENDUM(S) PAGE 1 (IF APPLICABLE) completed and signed by participating individual or agency.
- II. COVER LETTER: A one-page cover letter and introduction including the company name and address of the bidder and the name, address and telephone number of the person or persons to be used for contact and who will be authorized to make representations for the bidder.
 - A. Whether the bidder is an individual, partnership or corporation shall also be stated. It will be signed by the individual, partner, or an officer or agent of the corporation authorized to bind the corporation, depending upon the legal nature of the bidder. A corporation submitting a proposal may be required before the contract is finally awarded to furnish a certificate as to its corporate existence, and satisfactory evidence as to the officer or officers authorized to execute the contract on behalf of the corporation.
- III. TABLE OF CONTENTS
- IV. CONFLICT OF INTEREST STATEMENT: The Contractor may become involved in situations where conflict of interest could occur due to individual or organizational activities that occur within the County. **The Contractor must provide a statement addressing the potential, if any, for conflict of interest and indicate plans, if applicable, to address potential conflict of interest.** This section will be reviewed by County Counsel for compliance with conflict of interest as part of the review process. The Contractor shall comply with all federal, state and local conflict of interest laws, statutes and regulations.
- V. TRADE SECRET:
 - A. Sign where required.
- VI. CERTIFICATION – DISCLOSURE – CRIMINAL HISTORY & CIVIL ACTIONS
- VII. REFERENCES
- VIII. PARTICIPATION
- IX. EXCEPTIONS: This portion of the proposal will note any exceptions to the requirements and conditions taken by the bidder. If exceptions are not noted, the County will assume that the bidder's proposals meet those requirements. The exceptions shall be noted as follows:
 - A. Exceptions to General Conditions.
 - B. Exceptions to General Requirements.
 - C. Exceptions to Specific Terms and Conditions.
 - D. Exceptions to Scope of Work.
 - E. Exceptions to Proposal Content Requirements.
 - F. Exceptions to any other part of this RFP.
- X. VENDOR COMPANY DATA: This section should include:
 - A. A narrative which demonstrates the vendor's basic familiarity or experience with problems associated with this service/project.
 - B. Descriptions of any similar or related contracts under which the bidder has provided services.
 - C. Descriptions of the qualifications of the individual(s) providing the services.

- D. Any material (including letters of support or endorsement) indicative of the bidder's capability.
- E. A brief description of the bidder's current operations, and ability to provide the services.
- F. Copies of the audited Financial Statements for the last three (3) years for the agency or program that will be providing the service(s) proposed. If audited statements are not available, compiled or reviewed statements will be accepted with copies of three years of corresponding federal tax returns. This information is to be provided after the RFP closes, if requested. **Do not provide with your proposal.**
- G. Describe all contracts that have been terminated before completion within the last five (5) years:
 - 1. Agency contract with
 - 2. Date of original contract
 - 3. Reason for termination
 - 4. Contact person and telephone number for agency
- H. Describe all lawsuit(s) or legal action(s) that are currently pending; and any lawsuit(s) or legal action(s) that have been resolved within the last five (5) years:
 - 1. Location filed, name of court and docket number
 - 2. Nature of the lawsuit or legal action
- I. Describe any payment problems that you have had with the County within the past three (3) years:
 - 1. Funding source
 - 2. Date(s) and amount(s)
 - 3. Resolution
 - 4. Impact to financial viability of organization.

XI. SCOPE OF WORK:

- A. Bidders are to use this section to describe the essence of their proposal.
- B. This section should be formatted as follows:
 - 1. A general discussion of your understanding of the project, the Scope of Work proposed and a summary of the features of your proposal.
 - 2. A detailed description of your proposal as it relates to each item listed under the "Scope of Work" section of this RFP. Bidder's response should be stated in the same order as are the "Scope of Work" items. Each description should begin with a restatement of the "Scope of Work" item that it is addressing. Bidders must explain their approach and method of satisfying each of the listed items.
- C. When reports or other documentation are to be a part of the proposal a sample of each must be submitted. Reports should be referenced in this section and submitted in a separate section entitled "REPORTS."
- D. A complete description of any alternative solutions or approaches to accomplishing the desired results.

XII. COST PROPOSAL: Quotations may be prepared in any manner to best demonstrate the worthiness of your proposal. Include details and rates/fees for all services, materials, equipment, etc. to be provided or optional under the proposal.

XIII. CHECK LIST

TRADE SECRET ACKNOWLEDGEMENT

All proposals received by the County shall be considered "Public Record" as defined by Section 6252 of the California Government Code. This definition reads as follows:

"...Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975."

Each proposal submitted is Public record and is therefore subject to inspection by the public per Section 6253 of the California Government Code. This section states that "every person has a right to inspect any public record".

The County will not exclude any proposal or portion of a proposal from treatment as a public record except in the instance that it is submitted as a trade secret as defined by the California Government Code. Information submitted as proprietary, confidential or under any other such terms that might suggest restricted public access will not be excluded from treatment as public record.

"Trade secrets" as defined by Section 6254.7 of the California Government Code are deemed not to be public record. This section defines trade secrets as:

"...Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data or compilation of information that is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it."

Information identified by bidder as "trade secret" will be reviewed by County of Fresno's legal counsel to determine conformance or non-conformance to this definition. Such material should be submitted in a separate binder marked "Trade Secret". Examples of material not considered to be trade secrets are pricing, cover letter, promotional materials, etc.

INFORMATION THAT IS PROPERLY IDENTIFIED AS TRADE SECRET AND CONFORMS TO THE ABOVE DEFINITION WILL NOT BECOME PUBLIC RECORD. COUNTY WILL SAFEGUARD THIS INFORMATION IN AN APPROPRIATE MANNER.

Information identified by bidder as trade secret and determined not to be in conformance with the California Government Code definition shall be excluded from the proposal. Such information will be returned to the bidder at bidder's expense upon written request.

Trade secrets must be submitted in a separate binder that is plainly marked "Trade Secrets."

The County shall not in any way be liable or responsible for the disclosure of any proposals or portions thereof, if they are not (1) submitted in a separate binder that is plainly marked "Trade Secret" on the outside; and (2) if disclosure is required or allowed under the provision of law or by order of Court.

Vendors are advised that the County does not wish to receive trade secrets and that vendors are not to supply trade secrets unless they are absolutely necessary.

TRADE SECRET ACKNOWLEDGEMENT

I have read and understand the above "Trade Secret Acknowledgement."

I understand that the County of Fresno has no responsibility for protecting information submitted as a trade secret if it is not delivered in a separate binder plainly marked "Trade Secret." I also understand that all information my company submits, except for that information submitted in a separate binder plainly marked "Trade Secret," are public records subject to inspection by the public. This is true no matter whether my company identified the information as proprietary, confidential or under any other such terms that might suggest restricted public access.

Enter company name on appropriate line:

(Company Name) Has submitted information identified as Trade Secrets in a separate marked binder.**

(Company Name) Has not submitted information identified as Trade Secrets. Information submitted as proprietary confidential or under any other such terms that might suggest restricted public access will not be excluded from treatment as public record.

ACKNOWLEDGED BY:

Signature (in Blue Ink) () Telephone _____

Print Name and Title Date _____

Address _____

City State Zip _____

**Bidders brief statement that clearly sets out the reasons for confidentiality in conforming with the California Government Code definition.

DISCLOSURE – CRIMINAL HISTORY & CIVIL ACTIONS

In their proposal, the bidder is required to disclose if any of the following conditions apply to them, their owners, officers, corporate managers and partners (hereinafter collectively referred to as "Bidder"):

1. Within the three-year period preceding the proposal, they have been convicted of, or had a civil judgment rendered against them for:
 - a. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
 - b. violation of a federal or state antitrust statute;
 - c. embezzlement, theft, forgery, bribery, falsification, or destruction of records; or
 - d. false statements or receipt of stolen property
2. Within a three-year period preceding their proposal, they have had a public transaction (federal, state, or local) terminated for cause or default.

Disclosure of the above information will not automatically eliminate a Bidder from consideration. The information will be considered as part of the determination of whether to award the contract and any additional information or explanation that a Bidder elects to submit with the disclosed information will be considered. If it is later determined that the Bidder failed to disclose required information, any contract awarded to such Bidder may be immediately voided and terminated for material failure to comply with the terms and conditions of the award.

Any Bidder who is awarded a contract must sign an appropriate Certification Regarding Debarment, Suspension, and Other Responsibility Matters. Additionally, the Bidder awarded the contract must immediately advise the County in writing if, during the term of the agreement: (1) Bidder becomes suspended, debarred, excluded or ineligible for participation in federal or state funded programs or from receiving federal funds as listed in the excluded parties list system (<http://www.epls.gov>); or (2) any of the above listed conditions become applicable to Bidder. The Bidder will indemnify, defend and hold the County harmless for any loss or damage resulting from a conviction, debarment, exclusion, ineligibility or other matter listed in the signed Certification Regarding Debarment, Suspension, and Other Responsibility Matters.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS**

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

CERTIFICATION

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it, its owners, officers, corporate managers and partners:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Signature: _____
(in blue ink)

Date: _____

(Printed Name & Title)

(Name of Agency or Company)

REFERENCE LIST

VENDOR MUST COMPLETE AND RETURN WITH REQUEST FOR PROPOSAL

Firm: _____

Provide a list of at least five (5) customers for whom you have recently provided similar services. Be sure to include all requested information.

Reference Name: _____ Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone No.: (_____) _____ Project Date: _____
 Service Provided: _____

Reference Name: _____ Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone No.: (_____) _____ Project Date: _____
 Service Provided: _____

Reference Name: _____ Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone No.: (_____) _____ Project Date: _____
 Service Provided: _____

Reference Name: _____ Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone No.: (_____) _____ Project Date: _____
 Service Provided: _____

Reference Name: _____ Contact: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone No.: (_____) _____ Project Date: _____
 Service Provided: _____

Failure to provide a list of at least five (5) customers may be cause for rejection of this RFP.

PARTICIPATION

The County of Fresno is a member of the Central Valley Purchasing Group. This group consists of Fresno, Kern, Kings, and Tulare Counties and all governmental, tax supported agencies within these counties.

Whenever possible, these and other tax supported agencies co-op (piggyback) on contracts put in place by one of the other agencies.

Any agency choosing to avail itself of this opportunity, will make purchases in their own name, make payment directly to the contractor, be liable to the contractor and vice versa, per the terms of the original contract, all the while holding the County of Fresno harmless. If awarded this contract, please indicate whether you would extend the same terms and conditions to all tax supported agencies within this group as you are proposing to extend to Fresno County.

*** Note: This form/information is not rated or ranked for evaluation purposes.**

☐ Yes, we will extend contract terms and conditions to all qualified agencies within the Central Valley Purchasing Group and other tax supported agencies.

☐ No, we will not extend contract terms to any agency other than the County of Fresno.

(Authorized Signature in Blue Ink)

Title

CHECK LIST

This Checklist is provided to assist vendors in the preparation of their RFP response. Included are important requirements the bidder is responsible to submit with the RFP package in order to make the RFP compliant.

Check off each of the following (if applicable):

1. ☐ All signatures must be in **blue ink**.
2. ☐ Signed cover page of Request for Proposal (RFP).
3. ☐ Check <https://www2.co.fresno.ca.us/0440/Bids/BidsHome.aspx> for any addenda.
4. ☐ Signed cover page of each Addendum.
5. ☐ **One (1) original plus seven (7) copies** of the RFP have been provided.
6. ☐ Provide a Conflict of Interest Statement.
7. ☐ Signed *Trade Secret Form* as provided with this RFP (Confidential/Trade Secret Information, if provided, must be in a separate binder).
8. ☐ Signed *Criminal History Disclosure Form* as provided with this RFP.
9. ☐ Signed *Participation Form* as provided with this RFP.
10. ☐ *Reference List* as provided with this RFP.
11. ☐ Indicate all of bidder exceptions to the County's requirements, conditions and specifications as stated within this RFP.
12. ☐ Lastly, on the **LOWER LEFT HAND CORNER** of the sealed package transmitting your bid include the following information:

County of Fresno RFP No.	<u>17-039</u>
Closing Date:	<u>January 25, 2017</u>
Closing Time:	<u>2:00P.M.</u>
Commodity or Service:	<u>Inmate Tablet Service</u>

COUNTY OF FRESNO
ADDENDUM NUMBER: ONE (1)
RFP NUMBER: 17-039
INMATE TABLET SERVICE

Issue Date: December 28, 2016

IMPORTANT: SUBMIT PROPOSAL IN SEALED PACKAGE WITH PROPOSAL NUMBER, CLOSING DATE AND BUYER'S NAME MARKED CLEARLY ON THE OUTSIDE TO:

COUNTY OF FRESNO, PURCHASING
4525 EAST HAMILTON AVENUE, 2nd Floor
FRESNO, CA 93702-4599

CLOSING DATE OF PROPOSAL WILL BE AT 2:00 P.M., ON FEBRUARY 2, 2017.

PROPOSALS WILL BE CONSIDERED LATE WHEN THE OFFICIAL PURCHASING TIME CLOCK READS 2:01 P.M.

All proposal information will be available for review after contract award.

Questions must be submitted on the Bid Page at Public Purchase or contact **Nick Chin** at (559) 600-7110.

NOTE THE FOLLOWING AND ATTACHED ADDITIONS, DELETIONS AND/OR CHANGES TO THE REQUIREMENTS OF REQUEST FOR PROPOSAL NUMBER: 17-039 AND INCLUDE THEM IN YOUR RESPONSE. PLEASE SIGN IN BLUE INK AND RETURN THIS ADDENDUM WITH YOUR PROPOSAL.

- The bid closing has been moved to February 2, 2017 at 2:00 P.M.
- Attached Exhibit A – Commissary Contract and Exhibit B – Inmate Kiosk Contract.

ACKNOWLEDGMENT OF ADDENDUM NUMBER ONE (1) TO RFP 17-039

COMPANY NAME: _____ (PRINT)

SIGNATURE (In Blue Ink): _____

NAME & TITLE: _____ (PRINT)

Purchasing Use: NC/st

ORG/Requisition: 31114008 / 3111708017

QUESTIONS AND ANSWERS

Q1. Is there an ISV working on developing the software for the tablets already? If so, can we get the contact for them?

A1. No, currently there is not an ISV working on developing the software for the tablets.

Q2. RFP page 9 states, "If you are submitting trade secrets, it must be submitted in a separate binder clearly marked 'TRADE SECRETS', see Trade Secret Acknowledgement section," but there is a section under "Proposal Content Requirements" designated for trade secrets (Section V on RFP page 15). We assume you want the signed "Trade Secret Acknowledgement" form (RFP pages 17 and 18) to go here, while actual trade secret content goes in a separate binder. Please confirm or state the alternative.

A2. The "Trade Secrets Acknowledgement" form should be included with the bidder's original proposal and the trade secrets submitted in a separate binder.

Q3. Please provide the daily inmate population by month for the past 12 months or indicate whether the County undergone any significant increases or decreases in ADP in the last 12 months.

A3. There has not been a significant increase or decrease on the last 12 months. Average population is 2700 inmates.

Q4. Does the County anticipate any significant increases or decreases in ADP during the contract term?

A4. No.

Q5. What are the equipment requirements by housing unit/pod?

A5. Kiosks.

Q6. Are there any uninhabited housing units?

A6. No.

Q7. Other than the new West Annex Facility, do you have any planned demolition or facility expansion within the period of this contract?

A7. No.

Q8. Please list which housing units have restricted access.

A8. FF, 'A', and Annex Jail 2D.

Q9. Please describe inmate access to common areas, including what hours inmates are allowed into those areas.

A9. General Population inmates have access to common areas 24 hours a day.

Q10. Would the facility allow the awarded vendor to use dark fiber that has already been installed?

A10. No.

Q11. Which Internet/cable service provider do you recommend in your area?

A11. The County does not have a recommendation.

Q12. Do you currently have an inmate communications contract outside your phones and video for inmate messaging, grievances, requests, commissary ordering, and inmate kiosks?

A12. No.

Q13. Please provide a copy of your inmate communications contract for inmate messaging, grievances, requests, commissary ordering, and inmate kiosks.

A13. See Exhibit A (Commissary Contract) and Exhibit B (Inmate Kiosk Contract).

Q14. Due to the holidays, will the County consider extending the due date of the proposal?

A14. Yes, the due date has been extended to February 2nd, 2017 at 2:00 PM.

Q15. Would the County consider scheduling a mandatory live product demonstration as part of your evaluation criteria?

A15. After the initial screening of proposals and reference checks, the Proposal Review and Selection Committee may invite the bidders deemed most qualified to present a demonstration as part of the final selection process.

Q16. Are inmates allowed to access tablets during lockdown period?

A16. No.

Q17. Please tell us which company is your current law library provider.

A17. LexisNexis.

Q18. Do you currently conduct inmate education at your facility? If so, what kind of educational programs do have in place?

A18. Yes, The County currently offers GED, Adult Basic Education, and English as a Second Language. The County utilizes the HiSet exam for testing to obtain a High School Diploma.

Q19. Do you currently have remote or onsite video visitation in place? If so, who is your provider?

A19. Yes. Legacy Inmate Communications.

Q20. Do you have a current MP3/MP4 player contract? If so, please provide a copy of the contract and any addenda.

A20. No.

Q21. Do you have televisions in housing units?

A21. Yes.

Q22. Does your facility allow any other media devices in housing units such as MP3 players, radios or other devices?

A22. No.

Q23. What material are the walls made of?

A23. Block wall, concrete and metal.

Q24. Are there existing cable runs in place, or will we have to drill through the walls?

A24. Both.

Q25. Will the facility permit the use of conduit for housing cable?

A25. Yes.

Q26. Is there available fiber running between the buildings?

A26. No.

Q27. Can the County provide the typical total inmate spend per month on commissary/phones/visitation/messaging and other services.

A27. Unable to provide.

Q28. Please provide a copy of any current tablet-related agreement and all addenda.

A28. The County does not have a current tablet-related agreement.

Q29. The County is "interested in a system that can operate via interface in real-time with the County's Jail Inmate Management data system in order to report and manage the activity on the tablet with a variety of reporting capabilities..." Can the County discuss a bit the nature of these reports, what types of reporting and activity managements it's looking for?

A29. Access reports of inmates, programs completed, inmate activity on tablets (what are they accessing), etc.

Q30. The County is "requiring the vendor to provide various reporting, and accounting capabilities to comply with applicable Government Code sections that pertain to the handling of prisoner funds and County Auditor requirements." Can the County give define these Gov't code sections so this bidder can ensure compliance?

A30. **6250.** *In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.*

26640. *The sheriff shall take charge of, safely keep, and keep a correct account of, all money and valuables found on each prisoner when delivered at the county jail. Except when otherwise ordered by a court of competent jurisdiction, the sheriff shall pay such money or sums therefrom and deliver such valuables or portions thereof as the prisoner directs and shall pay and deliver all the remainder of his money and valuables to the prisoner or to his order upon his release from the jail or to his legal representative in case of his death or legal incapacity to make decisions.*

26642. *The sheriff shall pay into the general fund for the use and benefit of the county any money of a prisoner or the proceeds of the sale of his or her valuables remaining unclaimed for a period of one year after his or her release, or five years after his or her death, or 120 days after a notice has been sent to his or her last known address or, in the event of his or her death, one year after a notice has been sent to his or her last known next of kin.*

26644. *Any money and valuables of a prisoner and the accounts are subject to audit by the county auditor.*

26646. The sheriff, with the approval of the county auditor, may establish bank accounts in which money received by the sheriff for bail and fines may be deposited and disbursed to the courts of proper jurisdiction. All moneys received and disbursed through such bank accounts shall be properly and uniformly accounted for under such procedures as the auditor may deem necessary.

Q31. What data interface standards will be available from the OffenderTrak JMS to send and receive data (e.g., web services API, File Transfer Protocol, etc.). For instances where OffenderTrak is sending data, at what frequency are those made available in the data interface (e.g., daily, hourly, etc.)? Unfortunately, features of the OffenderTrak JMS are not available publicly online.

A31. If Vendor already has a web service, the County can write a client to communicate with it. The County can also FTP and can schedule the exports on whatever is mutually amicable.

Q32. Can the County please clarify whether or not in cell tablet access is desired in all Apod units within the Main Jail?

A32. Yes, in cell tablet access is desired.

Q33. Q33: Can the County confirm all lockdown units will not require a kiosk in the dayroom areas?

A33. No Kiosk in FF or Annex Jail 2D.

Q34. What are the RF signals being used by Corizon Health and Fresno County?

A34. Cellular runs 850/1,800/1,900 Mhz. Wi-Fi is 2.4Ghz.

Q35. Can you please clarify there is a specific number of in pod kiosks Fresno County desires? If yes, how many and where? (No counts are given in RFP.)

A35. A minimum of one per pod. Location of Kiosk to be determined.

Q36. Can you please confirm the tablet counts needed (150 initial, possible additional 150 later were discussed in the walkthrough)? (No counts are given in the RFP.)

A36. From RFP: 150 tablets and associated charging equipment and all required network services and infrastructure to support the tablets. An additional 150 tablets may be required as determined by the County.

Q37. It was mentioned that no blue prints can be provided, is there any layout summary that can be provided?

A37. The Annex Jail has three housing floors, Main Jail has one medical Floor (MJ2) and four housing floor 3-6, North Jail has four housing floors 2-5.

Q38. What do infirmory inmates spend on average month?

A38. Unable to provide.

Q39. What do LOCKDOWN inmates spend on average month?

A39. Unable to provide.

Q40. Based on walk through, can you confirm that they focus of the first phase of the tablet project is for LOCKDOWN inmates? Can you confirm you want to provide all infirmary patients access to tablets, even those that are not in LOCKDOWN classification?

A40. Yes, the focus is primarily on Lockdown inmates. Yes, prefer tablets for all inmates on infirmary floor.

Q41. How many LOCKDOWN inmates are in in infirmary on average basis?

A41. Three lockdown inmates, but prefer all inmates in the infirmary to have tablet access.

Q42. Are any in-pod kiosks needed in the infirmary?

A42. No.

Q43. Are only tablets needed in the infirmary? If so, how many tablets are needed in the infirmary?

A43. Yes. One per each inmate. Maximum of 38 inmates.

Q44. Does County want 1 or 2 kiosks in A Pod common areas on each floor of Main Jail? County has stated that it wants each lockdown inmate to have a tablet but also mentioned that County wants in-pod kiosks in each A POD of floors 3, 4, 5, 6 at Main Jail-does County want both tablets and in-pod Kiosks in Pod A of floors 3, 4, 5, 6 at Main Jail? Only tablets? Or only in-pod kiosks in these locations? Or both?

A44. Minimum of one kiosk. Yes, Tablet and Kiosk in 'A' pod.

Q45. Does County want 1 or 2 kiosks in B, C, D, E, F PODS in common areas on each floor of Main Jail? Unlike other F Pods in Main Jail, are 32 tablets needed in 6F since there are high profile inmates on LOCKDOWN housed in 6F? Is a standalone kiosk needed in 6F since this is a LOCKDOWN area with high profile inmates that all have tablets?

A45. Minimum of one kiosk in pods B, C, D, E, and F. 32 tablets minimum needed for 6F.

Q46. Does County want 1 shared in-pod kiosk for females in 3B at South? Does County want any tablets for females at 3B at South as part of tablet proposal for LOCKDOWN group? Does County want both tablets and in-pod kiosk at 3B at South?

A46. Minimum of one kiosk. Yes, both tablets and Kiosk.

Q47. With 72 inmates in each pod at North, how many kiosks is County looking to implement in each Pod at North?

A47. Minimum of one.

Q48. Will the County accept additional proposals +that provide the addition of inmate telephone use on the tablets?

A48. No.

Q49. Per the County's current contract with Legacy, which of the following items been implemented:

- (a) Cannon SecurPASS Whole Body Digital Security Imaging System,
- (b) Free Re-Entry Debit Calling Card,
- (c) State of the Art Cellular Telephone Detection Devices (Wolfhound Lite Telephone Detector),
- (d) Inmate Tip Line
- (e) Inmate E-mail
- (f) Voice Messaging Service as specified in Legacy's Response to RFP 915-5281 pages 120-121?

A49. A-Yes, B-Did not use, C- Have it, but not in use, D-No, E-No, F-Yes.

Q50. Scope of Work #1, "System should be compatible with different software platforms." Other than OffenderTrack, what other software programs is the system to be compatible?

A50. The County's assigned officers should be able to log into the vendor's application through any internet browser to manage the content and monitor the inmates' activities.

Q51. Scope of Work #1, "System shall have the capabilities to allow County to remotely power off the tablets." Will the County accept the ability to deactivate the tablets in ways other than remote power off?

A51. Yes.

Q52. Proposal Content Requirements, G. - Is this concerning only contracts involving Tablets or every contract in which the company is contracted?

A52. All contracts related to tablets, kiosks, and any other services requested in this RFP.

Q53. In regards to Wi-Fi, are you only wiring that subset?

A53. Wi-Fi is needed just in the Main Jail lockdown area and South Jail Lockdown area.

Q54. Are there only specific locations that need Wi-Fi?

A54. Yes.

Q55. Do you want kiosks throughout the facility?

A55. Yes.

Q56. Will you offer schematics for wiring?

A56. Schematics will be available to the awarded bidder at the time of installation.

Q57. Kiosk for grievances and request forms, do you want them mounted?

A57. This method is preferred.

Q58. In regards to the tablets, would you accept a 1 to 1 ratio?

A58. Yes.

Q59. What's the location of the 300 lockdown inmates?

A59. Main Jail 2nd floor; Main Jail Floors 3-6, Pods 'A' and 'FF'; Main Jail 6F; South Jail 2D and 3B.

Q60. Are there any Wi-Fi access points?

A60. There are limited areas in the Main and South Jail.

Q61. How many cell/inmates are in the infirmary?

A61. 16 cells/38 maximum.

Q62. On Main Jail 2nd floor, Infirmary, are the plates above the doors electrical and are there conduits behind them?

A62. Yes.

Q63. What is the average number of lockdown inmates in the infirmary?

A63. Three lockdown inmates, but prefer all inmates to have access.

Q64. Are all inmates housed in FF lockdown?

A64. Yes.

Q65. How many inmates per cell in FF?

A65. One.

Q66. Are FF and A pods the only areas that would require WIFI access?

A66. Also Annex Jail 2D, Annex Jail 3B, Main Jail 2nd Floor, and Main Jail 6F.

Q67. How many pods are on each housing floor?

A67. In the Main Jail, Floors 3-6, there are 6 pods (A-F) and FF

(a) In the North Jail Floors 2-5, there are 6 pods (A-F)

(b) On the South Jail 2nd Floor, there are 7 pods (2D, G1, 2, 3, 4, and F1, F2)

(c) On the South Jail 3rd Floor, there are 10 pods (A-D, G1, 2, 3, 4, and F1, F2)

(d) On the South Jail 4th Floor, there are 6 pods (A-F)

Q68. Would you want Kiosks in FF and A pods?

A68. No, in FF. Yes, in 'A' pods and 6F.

Q69. How many Kiosks do you want per pod?

A69. Minimum of one.

Q70. How many phones are in each pod in the Main Jail?

A70. Main Jail Floors 3-6, Pods B-F, have three phones per pod.

Q71. Are the phones in A pod in the dayroom?

A71. No. The phones are in the cells.

Q72. Is there conduit for the phones in A pod?

A72. Yes, in the plumbing chase between the cells.

Q73. How many inmates can be housed in each pod in the Main Jail?

A73. (a) In pods B-E, a total of 48 inmates max per pod.

(b) In A and F pods, only 32 per pod.

Q74. In the Main Jail, how many cells are there per pod?

A74. There are 16 cell per pod.

Q75. How many inmates can fit in each cell on Main Jail 2nd Floor?

A75. There are 8- single cells, 1- two man cells, and 7- four man cells.

Q76. Do they have phones in their cells on Main Jail 2nd Floor?

A76. Yes.

Q77. Is there conduit in the cells on Main Jail 2nd Floor?

A77. Yes.

Q78. How many inmates are can be housed in Main Jail 6F pod?

A78. 32, two inmates per cell.

Q79. Are there phones in the dayroom of Main Jail 6F pod?

A79. Yes, but they are not being used.

Q80. Are the TV's basic or are there competing channels?

A80. The TV's are local channels and each can be on a different channel.

Q81. Do pods A and F have TV's?

A81. Yes.

Q82. Are there cameras in the pods?

A82. Yes, there are cameras in the pods in the Main Jail.

Q83. Aside from phones in FF, do they have anything else?

A83. No, they only have phones.

Q84. Are cameras just in the dayrooms?

A84. Yes.

Q85. Are there cameras on Annex Jail 3rd Floor?

A85. Yes, but not in the pods.

Q86. Is there conduit on Annex Jail 3rd Floor?

A86. Yes.

Q87. Are there phones in the dayroom or cells of Annex Jail 3rd Floor?

A87. Annex Jail 3B and C are in the cells. The rest are in the dayroom.

Q88. How many video visitation screens are there in each housing unit?

A88. Annex Jail 3B, Annex Jail 4E, and North Jail 5A have one unit. No other housing unit has them.

Q89. Are all inmates in Annex Jail 3B pod lockdown status?

A89. Yes.

Q90. Are the inmates in Annex Jail 3B pod all females?

A90. Yes.

Q91. Are there phones in the cell of Annex Jail 2D pod?

A91. Yes.

Q92. Do you want any Kiosks in Annex Jail 2D pod?

A92. No, there's no dayroom in Annex Jail 2D pod.

Q93. Do you want Kiosks on Annex Jail 4th Floor?

A93. Yes.

Q94. How many inmates are there per housing unit on Annex Jail 4th Floor?

A94. A & C - 48, B - 8, E - 18, D & F - 28

Q95. Are there phones in F1 and F2?

A95. Yes.

Q96. Do F and G housing units on the Annex Jail 2nd and 3rd Floors have dayrooms?

A96. Yes.

Q97. Do you want Kiosks in all housing unit on Annex Jail 3rd Floor?

A97. Yes.

Q98. How many Kiosks per housing unit on Annex Jail 3rd Floor?

A98. Minimum one per pod.

Q99. Do you want Kiosks for F and G housing units?

A99. Yes.

Q100. How many cells are in each housing unit on Annex Jail 4th Floor?

A100. Between 9 and 12 cells for A, C, D, E, and F. 2 for B.

Q101. How many Kiosks do you want on Annex Jail 4th Floor?

A101. Minimum of one.

Q102. How many phones are in the dayroom and cells of Annex Jail 4th Floor?

A102. Annex Jail 4th Floor, Pods A, C, D, and F have two phones in the dayroom. Pod B has one and Pods E1-E9 have one in each cell.

Q103. How many different languages do you want the kiosks to support?

A103. A minimum of three: English, Spanish, and Hmong.

Q104. Do you want Kiosks in all pods in the North Jail?

A104. Yes.

Q105. How many housing floors are in the Annex Jail?

A105. 3 housing floors. Floors 2-4.

Q106. Do all pods in the North Jail have five phones?

A106. Yes.

Q107. Are there cameras in the North Jail?

A107. Not at this time, but they will be installed in the near future.

Q108. Is there conduit for cameras in the North Jail?

A108. There will be in the near future.

Q109. How are the pods configured in the North Jail?

A109. Open Dormitory with lower and upper tiers.

Q110. How many phones are there per tier in the North Jail?

A110. Three on the bottom, two on top.

EXHIBITS

- A. Commissary Contract
- B. Inmate Kiosks Contract

**COMMISSARY SERVICES MANAGEMENT AGREEMENT
Jail Facilities**

THIS AGREEMENT, executed this 27th day of October, 2015 between the COUNTY of Fresno, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and Canteen of Fresno, Inc., a California corporation, 527 "L" Street, Fresno, CA. 93721, hereinafter referred to as "CONTRACTOR." Hereinafter referred together as the "Parties".

Whereas, the COUNTY has need for services of an independent CONTRACTOR to provide commissary services at the Fresno County Jail Facilities, and;

Whereas, the COUNTY desires to contract for the provision of such services in connection with the operation of its Correctional Facilities, and;

Whereas, the CONTRACTOR represents that it is qualified and willing to provide such services.

NOW, THEREFORE, the parties agree as follows:

1. RESPONSIBILITIES OF THE COUNTY

A. GENERAL RESPONSIBILITIES:

- 1) COUNTY designates the Jail Programs and Services Bureau Captain, or his or her Assignee, as the liaison between CONTRACTOR and the COUNTY with respect to all communications, billing, and invoicing necessary for the performance of this contract.
- 2) COUNTY shall make necessary background checks on all personnel, which the CONTRACTOR assigns to work in the Fresno County Jail Facilities. Background checks must be completed on all CONTRACTOR personnel before placement into a COUNTY Jail Facility. The Sheriff reserves the right to refuse admittance at his/her sole discretion. The Sheriff reserves the right to require background checks of all personnel the CONTRACTOR assigns to service this agreement, regardless of whether the personnel normally access the Jail Facilities or not.

- 1 3) COUNTY will provide direction to CONTRACTOR employees in the event
2 of any disturbances or security related incidents while inside the facilities.
3 CONTRACTOR employees will immediately follow the directions of
4 correctional staff in such circumstances.
- 5 4) COUNTY shall immediately notify the CONTRACTOR of the
6 inaccessibility of any CONTRACTOR employee assigned to the Jail
7 Facilities. CONTRACTOR will immediately remove employee from the
8 facility.
- 9 5) COUNTY designated Jail Watch Commander will resolve disputes
10 involving jail staff and the CONTRACTOR in matters such as work
11 location and security measures.
- 12 6) COUNTY will provide ingress/egress, subject to security requirements, to
13 CONTRACTOR employees at all COUNTY Jail Facilities.
- 14 7) COUNTY will provide the CONTRACTOR access to the Fresno County
15 Offendertrak System (OTS). COUNTY will provide a detailed contingency
16 plan in case of system failure; modem or connection failure, file corruption
17 or other problems that result in the inability to obtain the inmate download
18 file. If CONTRACTOR does not receive the inmate download file in its
19 correct format by 7:00AM, commissary delivery will be delayed. All
20 ongoing equipment and on line charges shall be at CONTRACTOR'S
21 expense. All initial hook-up and installation charges shall be at
22 CONTRACTOR'S expense.
- 23 8) COUNTY shall make inmate accounts accessible to the CONTRACTOR.

24 **2. RESPONSIBILITIES OF THE CONTRACTOR**

25 CONTRACTOR shall perform all commissary management services for Fresno County Jail
Facilities and fulfill all responsibilities as identified in COUNTY'S request for quotation (RFP) No.

1 393-5351 dated May 13, 2015 and CONTRACTOR'S response to said RFP, dated July 2, 2015
2 both incorporated herein by reference and made part of this Agreement. A copy of RFP No.
3 393-5351 and CONTRACTOR'S Response, shall be retained and made available during the
4 term of this Agreement by the Sheriff- Coroner's Office Contract Coordinator.

5 In performance of this Agreement, CONTRACTOR will provide commissary services at
6 COUNTY'S Jail Facilities at the following locations:

7 1. Main Jail

8 1225 "M" Street, Fresno, CA 93721

9 2. South Annex Jail

10 2280 Fresno Street, Fresno, CA 93621

11 110 "M" Street, Fresno, CA 93721

12 3. North Annex Jail

13 1265 "M" Street, Fresno, CA 93721

14 The COUNTY reserves the right to modify, eliminate or add commissary service needs at
15 any location. Such modification or elimination of commissary service requirements shall not
16 affect the obligation of the CONTRACTOR with respect to other COUNTY facilities.

17 In performance of this Agreement, the CONTRACTOR also agrees to provide commissary
18 services at any future facility of the COUNTY, which is put into operation during the term of this
19 contract at the time, place and amount as designated by the COUNTY.

20 **A. GENERAL RESPONSIBILITIES:**

- 21 1) CONTRACTOR will designate the CONTRACTOR'S Commissary Service
22 Manager as liaison between COUNTY and CONTRACTOR with respect to all
23 notices, communications, and invoices necessary for execution and performance of
24 this contract.
25

- 1 2) CONTRACTOR agrees to comply with all Federal, State and local laws and
2 regulations governing the quality, transportation and delivery of commissary items,
3 and to procure and keep in effect all necessary licenses and permits, as required by
4 law.
- 5 3) CONTRACTOR agrees to comply with all applicable Federal, State and local laws
6 and regulations pertaining to wages and hours of employment.
- 7 4) The CONTRACTOR shall hire, administrate, supervise, and train all appropriate
8 personnel to accomplish the requirements of this contract.
- 9 5) CONTRACTOR is responsible for ensuring that all CONTRACTOR employees wear
10 appropriate CONTRACTOR provided uniforms and jail issued I.D. while on duty and
11 present in or around any of the Jail Facilities.
- 12 6) No CONTRACTOR employee shall report for duty in or around any Jail Facility, while
13 under the influence of alcohol or drugs. The odor of alcohol or observable physical
14 symptoms shall be presumptive of being under the influence.
- 15 7) No CONTRACTOR employee shall bring into or cause to be brought into the facilities
16 any alcohol, tobacco, drugs, or any COUNTY determined contraband.
- 17 8) It shall be the CONTRACTOR'S responsibility to ensure that all employees and
18 agents of the CONTRACTOR are informed of and observe all applicable rules,
19 regulations, policies and procedures pertaining to all Fresno County Jail Facilities.
20 All applicable rules, regulations, policies and procedures will be provided to
21 CONTRACTOR by COUNTY.
- 22 9) The CONTRACTOR shall provide to the COUNTY background information and a
23 resume for the individual who will be designated as the CONTRACTOR'S
24 commissary services manager. COUNTY's Division Commander and/or his or her
25 staff shall interview any proposed commissary manager prior to their placement into
the facility. If there is any change in the commissary manager during the term of this

1 Agreement, the same procedures will be required. The COUNTY reserves the right
2 to reject any commissary manager without cause.

3 10) CONTRACTOR shall provide to COUNTY the employment applications and
4 resumes, if available, of prospective CONTRACTOR employees, and have the
5 applicants complete an "Application for Facility Access County Service Provider" a
6 minimum of 30 days in advance of the employment date to provide the COUNTY
7 necessary time to complete the required background check.

8 11) All CONTRACTOR employees will be made aware by the CONTRACTOR of the
9 COUNTY'S "No Hostage Policy" within any Jail Facility.

10 **B. COMMISSARY ITEMS:**

11 1) CONTRACTOR shall develop a list of items to be offered to inmates. The
12 CONTRACTOR shall provide a variety of items, reflective of the ethnically diverse
13 inmate population. CONTRACTOR will also provide, as directed by the COUNTY,
14 items, which comply with, recognized religious tenets. Commissary items must be
15 approved by the Jail Programs and Services Bureau Captain.

16 a) CONTRACTOR shall submit in writing any proposed item additions or deletions
17 at least one month in advance of their offering to the Jail Program and Services
18 Bureau Captain for approval.

19 b) CONTRACTOR's items sold shall comply with the provisions of State of
20 California Code of Regulations, Title 15, Article 11 and any other Federal, State,
21 and local laws and regulations applicable to the Fresno County Jail Facilities
22 commissary services.

23 c) Commissary lists must accurately document actual items for purchase along with
24 cost. If any items sold vary from the approved list, the change must be noticed to
25 the COUNTY'S contract administrator.

- 1 d) CONTRACTOR shall provide for sale by COUNTY approved therapeutic and
2 over the counter medicine as needed.
- 3 e) CONTRACTOR will withhold commissary purchases and deny new commissary
4 purchases to those inmates identified by the Sheriff's staff to be in a disciplinary
5 status or when they may have lost their commissary privileges.
- 6 f) The CONTRACTOR must begin and complete delivery of commissary items at
7 the date and times determined by the COUNTY.
- 8 1) It shall be the CONTRACTOR'S responsibility to deliver commissary items to
9 the delivery points as designated by the COUNTY.
- 10 2) It is the CONTRACTOR'S responsibility to deliver all commissary items
11 directly to the housing units of all inmates housed at the Main Jail, North
12 Annex Jail, South Annex Jail and any future facilities.
- 13 3) It is the CONTRACTOR'S responsibility to remove all equipment used to
14 transport commissary items and any resulting waste from the various delivery
15 points as designated by the COUNTY.
- 16 4) CONTRACTOR shall provide vending machines for inmate use if approved
17 by Sheriff's staff at selected Jail Facilities, including the Main Jail, South
18 Annex, and North Annex Jail.
- 19 5) CONTRACTOR shall provide free of charge the "mycarepack.com" website to
20 accommodate an e-commerce solution that will be maintained by
21 CONTRACTOR at no cost to the COUNTY. Said website is to be for the sole
22 purpose of providing an additional point of service for inmate commissary and
23 gift packs for the convenience of relatives, friends, loved ones and other
24 interested parties.

25 C. PRICING:

- 1) CONTRACTOR agrees to maintain an adequate inventory in order to provide commissary service to inmates on a regular basis. Prices for products sold by CONTRACTOR shall be determined by mutual consent between CONTRACTOR and the COUNTY. Postage stamps and pre-stamped envelopes will be sold at face value with no markup. Purchases will be limited to a maximum of \$175.00 per inmate per week.
- 2) CONTRACTOR shall pay all federal, state, and local taxes associated with the operation of the commissary service.
- 3) CONTRACTOR will provide and distribute welfare/indigent kits as defined by the COUNTY to inmates. CONTRACTOR will also provide the COUNTY a sufficient number of welfare/indigent kits to be issued to each inmate at the time of booking. All welfare/indigent kits shall be provided at no expense to the COUNTY. The term "indigent inmate" is defined to mean any inmate who has less than \$2.00 on their books at the time the order is processed.
- 4) Any inmate who receives a welfare/indigent kit as defined by the COUNTY at the time of booking or any time during their incarceration may be charged up to \$1.50 by the CONTRACTOR for said issue.

D. OPERATIONAL ISSUES:

- 1) CONTRACTOR will ensure that every inmate who properly completes a commissary form, has been deemed eligible for commissary by the COUNTY, and has sufficient, verifiable trust funds, may purchase commissary items a minimum of once per week. Additional opportunities to purchase commissary items must be mutually agreed upon by both the COUNTY and the CONTRACTOR.
 - a) CONTRACTOR shall provide commissary order forms and shall update them as items change. The CONTRACTOR shall be responsible for the

1 delivery and pick up of the order forms from a pre-determined location at
2 each facility to be mutually agreed by COUNTY and CONTRACTOR.

3 2) CONTRACTOR will be required to store all inventory off-site. No on-site storage
4 or preparation area will be provided by the COUNTY.

5 3) CONTRACTOR agrees to meet on an as needed basis with designated jail
6 representatives for purposes of resolving all commissary service issues.

7 CONTRACTOR may be directed to maintain a written record of meetings and
8 supply a copy of these records to the jail representative.

9 4) CONTRACTOR shall be responsible for responding to all inmate grievances
10 concerning commissary service issues within 24 hours of receiving said
11 grievance from correctional staff.

12 5) The CONTRACTOR will provide the COUNTY with a detailed emergency plan
13 which addresses interruption of normal welfare/indigent delivery; i.e., loss of
14 power, water, electricity, fire, employee actions, etc., for any period of time for all
15 facilities.

16 6) CONTRACTOR will provide a method of handling backorders and restocking for
17 items that have been ordered and not delivered to the inmate because they may
18 have been released. CONTRACTOR shall maintain a 99.9% or greater
19 completed (no backorder) order percentage.

20 **3. COMPENSATION AND INVOICING**

21 **A. COMPENSATION TO CONTRACTOR:**

22 1) CONTRACTOR shall invoice the Fresno County Sheriff's Office business office on
23 a weekly basis for the prior week's commissary deliveries including personal
24 hygiene products, food and snacks, postage stamps, envelopes and
25 welfare/indigent kits for inmates with less than \$2.00 at the time of booking.

1 a) COUNTY shall pay CONTRACTOR'S invoice for commissary deliveries from
2 inmate accounts, only.

3 b) CONTRACTOR shall be responsible for posting commissary purchases to
4 each inmate's account. CONTRACTOR must provide COUNTY with a
5 complete audit trail of all transactions.

6 **B. COMPENSATION TO COUNTY**

7 CONTRACTOR shall pay COUNTY as full fixed commission, 48% of net sales of
8 commissary services. Net sales equal gross sales, less sales tax, less welfare/indigent
9 and less postage sales reimbursement. All food sales are non-taxable; all other
10 applicable sales are fully taxable at the current established sales tax rate.
11 CONTRACTOR shall remit 48% of weekly net sales to the Inmate Welfare Fund within
12 three (3) working days after CONTRACTOR receives remittance for the prior week's
13 sales.

14 **4. INDEPENDENT CONTRACTOR**

15 In performance of this work, duties and obligations assumed by CONTRACTOR under this
16 Agreement, it is mutually understood and agreed that CONTRACTOR, including any and all of
17 CONTRACTOR'S officers, agents, and employees will at all times be acting and performing as
18 an independent CONTRACTOR, and shall act in an independent capacity and not as an officer,
19 agent, servant, employee, joint venture, partner, or associate of the COUNTY. Furthermore,
20 COUNTY shall have no right to control or supervise or direct the manner or method by which
21 CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to
22 administer this Agreement so as to verify that CONTRACTOR is performing its obligations in
23 accordance with the terms and conditions thereof. CONTRACTOR and COUNTY shall comply
24 with all applicable provisions of law and the rules and regulations, if any, of governmental
25 authorities having jurisdiction over matters the subject thereof.

1 Because of its status as an independent CONTRACTOR, CONTRACTOR shall have
2 absolutely no right to employment rights and benefits available to COUNTY employees.
3 CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters
4 relating to payment of CONTRACTOR'S employees, including compliance with Social Security
5 withholding, and all other regulations governing such matters. It is acknowledged that during
6 the term of this Agreement, CONTRACTOR may be providing services to others unrelated to
7 the COUNTY or to this Agreement.

8 **5. HOLD HARMLESS**

9 CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY'S request,
10 defend the COUNTY, its officers, agents, and employees from any and all costs and expenses,
11 damages, liabilities, claims, and losses occurring or resulting to COUNTY in connection with the
12 performance, or failure to perform, by CONTRACTOR, its officers, agents, or employees under this
13 Agreement, and from any and all costs and expenses, damages, liabilities, claims, and losses
14 occurring or resulting to any person, firm, or corporation who may be injured or damaged by the
15 performance, or failure to perform, of CONTRACTOR, its officers, agents, or employees under this
16 Agreement. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any copyright
17 infringement or proprietary right claim arising from the use of the "mycarepack.com" website.

18
19 **6. INSURANCE**

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

23 **A. Commercial General Liability**

24 Commercial General Liability Insurance with limits of not less than One Million Dollars
25 (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000).

This policy shall be issued on a per occurrence basis. COUNTY may require specific
coverages including completed operations, products liability, contractual liability, Explosion-
Collapse-Underground, fire legal liability or any other liability insurance deemed necessary
because of the nature of this contract.

B. Automobile Liability

Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000.00). Coverage should include owned and non-owned vehicles used in connection with this Agreement.

C. Professional Liability

If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

D. Worker's Compensation

A policy of Worker's Compensation insurance as may be required by the California Labor Code.

CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees shall be excess only and not contributing with insurance provided under CONTRACTOR's policies herein. This insurance shall not be cancelled or changed without a minimum of thirty-(30) day's advance written notice given to COUNTY. Within Thirty (30) days from the date CONTRACTOR executes this Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as required herein, to the County of Fresno, Jail Programs and Services Bureau Captain, 1225 M Street, Fresno, CA 93721 this contract, stating that such insurance coverage have been obtained and are in full force; that the County of Fresno, its officers, agents and employees will not be responsible for any premiums on the policies; that such Commercial General Liability insurance names the County of Fresno, its officers, agents and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees, shall be excess only and not contributing with insurance provided under CONTRACTOR's policies herein; and

1 that this insurance shall not be cancelled or changed without a minimum of thirty (30) days
2 advance, written notice given to COUNTY.

3 In the event CONTRACTOR fails to keep in effect at all times insurance coverage as
4 herein provided, the COUNTY may, in addition to other remedies it may have, suspend or
5 terminate this Agreement upon the occurrence of such event.

6 All policies shall be with admitted insurers licensed to do business in the State of California.
7 Insurance purchased shall be purchased from companies possessing a current A.M. Best, Inc.
8 rating of B+ FSC VIII or better.

9 7. TERMINATION

10 A. Non-Allocation of Funds - The terms of this Agreement, and the services to be
11 provided thereunder, are contingent on the approval of funds by the appropriating
12 government agency. Should sufficient funds not be allocated, the services provided
13 may be modified, or this Agreement terminated, at any time by giving the
14 CONTRACTOR thirty (30) days advance written notice.

15 1) Breach of Contract - The COUNTY may immediately suspend or
16 terminate this Agreement in whole or in part, where in the determination
17 of the COUNTY there is:

18 An illegal or improper use of funds;

19 A failure to comply with any term of this Agreement;

20 A substantially incorrect or incomplete report submitted to the COUNTY;

21 Improperly performed service.

22 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any
23 breach of this Agreement or any default which may then exist on the part of the CONTRACTOR.

24 Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect
25 to the breach or default. The COUNTY shall have the right to demand of the CONTRACTOR the
repayment to the COUNTY of any funds disbursed to the CONTRACTOR under this Agreement,
which in the judgment of the COUNTY were not expended in accordance with the terms of this
Agreement. The CONTRACTOR shall promptly refund any such funds upon demand.

1 2) Without Cause - Under circumstances other than those set forth above,
2 this Agreement may be terminated by COUNTY upon the giving of thirty
3 (30) days advance written notice of an intention to terminate to
4 CONTRACTOR.

5 8. TERM

6 This Agreement shall become effective November 1, 2015 and terminate on December 31,
7 2018. This Agreement shall automatically be extended for two optional one-year extensions
8 upon the same terms and condition herein set forth, unless written notice of non-renewal is
9 given by either of the Parties to the other Party no later than November 1, 2018 or November 1,
10 2019, respectively.

11 9. INSPECTION OF RECORDS

12 The CONTRACTOR agrees to keep full and accurate records and shall follow accounting
13 and record keeping methods and practices customarily employed in business of like character
14 and as may be required by law. All dealings and transactions relating to the performance of
15 services hereunder shall be duly entered therein in the usual and ordinary course of business,
16 and the COUNTY and its duly authorized representatives, including the Auditor-
17 Controller/Treasurer, shall have full and free access, upon giving of reasonable notice, to said
18 records and accounts and may inspect or audit same at reasonable times at COUNTY expense
19 and during normal business hours of the CONTRACTOR. All records remain the property of the
20 COUNTY and will be immediately presented to COUNTY upon contract termination. If this
21 Agreement exceeds Ten Thousand Dollars (\$10,000.), CONTRACTOR shall be subject to the
22 examination and audit of the Auditor General for a period of three (3) years after final payment
23 under the contract (Government Code Section 8546.7).

24 10. NOTICES

25 Any notices to be given pursuant to the terms of this Agreement may be given either by
personal delivery in writing or by mail, registered or certified, with postage prepaid and return

1 receipt requested. Mailed notices shall be addressed to the parties at their respective business
2 address set forth below:

3 A. CONTRACTOR: Canteen of Fresno, Inc., 527 "L" Street, Fresno CA 93721.

4 Attention: Mr. Hugh M. Wilson III – President

5 B. COUNTY: Sheriff, 2200 Fresno Street, Fresno, CA 93621, Attention: Business
6 Manager.

7 **11. ASSIGNMENT**

8 Neither party hereto shall assign this Agreement or its rights or delegate its duties hereunder
9 without written consent of the other.

10 **12. NO AMENDMENT UNLESS IN WRITING**

11 No provision hereof may be waived, amended, altered, modified, cancelled, terminated or
12 otherwise changed or discharged except by an instrument in writing executed by the parties
13 hereto.

14 **13. COOPERATION**

15 CONTRACTOR shall cooperate with the COUNTY in investigating and responding to any
16 complaint received regarding commissary services provided to correctional facility inmates
17 under this Agreement.

18 **14. GOVERNING LAW**

19 This agreement shall be construed and interpreted according to the laws of the
20 State of California. It is expressly agreed that venue for any action or suit arising from or
21 connected with the rights and obligations created hereunder shall be in Fresno County,
22 California.

23 **15. DISCLOSURE OF SELF-DEALING TRANSACTIONS**

24 This provision is only applicable if the CONTRACTOR is operating as a corporation (a
25 for-profit or non-profit corporation) or if during the term of the agreement, the CONTRACTOR

1 changes its status to operate as a corporation.

2 Members of the CONTRACTOR's Board of Directors shall disclose any self-dealing
3 transactions that they are a party to while CONTRACTOR is providing goods or performing
4 services under this agreement. A self-dealing transaction shall mean a transaction to which the
5 CONTRACTOR is a party and in which one or more of its directors has a material financial
6 interest. Members of the Board of Directors shall disclose any self-dealing transactions that
7 they are a party to by completing and signing a Self-Dealing Transaction Disclosure Form,
8 attached hereto as Exhibit A and incorporated herein by reference, and submitting it to the
9 COUNTY prior to commencing with the self-dealing transaction or immediately thereafter.

10 **16. ENTIRE AGREEMENT**

11 This Agreement, including RFP No. 393-5351 and CONTRACTOR'S response thereto,
12 constitutes the entire agreement between the CONTRACTOR and COUNTY with respect to the
13 subject matter hereof and supersedes all previous negotiations, proposals, commitments,
14 writings, advertisements, publications, and understanding of any nature whatsoever unless
15 expressly included in this Agreement. In the event of any inconsistency among these
16 documents, the inconsistency shall be resolved by giving precedence in the following order of
17 priority: (1) to this Agreement; (2) to CONTRACTOR'S response to RFP No. 393-5351; (3) to
18 RFP No. 393-5351.

19 ///

20 ///

21
22 **2015 AGREEMENT FOR COMMISSARY SERVICES BETWEEN THE COUNTY OF**
23 **FRESNO AND CANTEEN OF FRESNO, INC.**

24 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be
25 Executed as of the day and year first herein above written.

2015 AGREEMENT FOR COMMISSARY SERVICES BETWEEN THE COUNTY OF FRESNO & CANTEEN

COUNTY OF FRESNO:

CONTRACTOR:

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Deborah A. Poochigian
Deborah A. Poochigian, Chairman
BOARD OF SUPERVISORS

Hugh M. Wilson III
Hugh M. Wilson III, President
Canteen of Fresno, Inc.

REVIEWED & RECCOMENDED FOR APPROVAL:

By Im Butti
Margaret Mims, Sheriff-Coroner

Scott Browning
Scott Browning
Chief Financial Officer

APPROVED AS TO LEGAL FORM:

By Daniel C. Cederborg
Daniel C. Cederborg, County Counsel

APPROVED AS TO ACCOUNTING FORM:

By Vicki Crow
Vicki Crow, Auditor Controller/Treasurer-Tax Collector

ATTEST:

Clerk to the Board of
Supervisors

Susan Bishop
Deputy

Fund: 0098
ORG: 1500
S/C 17700 4896
Acct. No.: 5057 7910 45.

AGREEMENT

THIS AGREEMENT is made and entered into this 12th day of July, 2016, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and TOUCHPAY Payment Systems, LP, a Texas limited partnership authorized to conduct business in the state of California, whose address is 7801 Mesquite Bend Drive, Suite 101 Irving, Texas hereinafter referred to as "CONTRACTOR".

WHEREAS, COUNTY desires to provide an inmate money handling kiosk service for the Fresno County Jail Facilities. The County desires a turnkey system and sought bids for the provision of such services by issuing Request For Proposal ("RFP") 680-5426; and

WHEREAS, CONTRACTOR submitted a response to RFP 680-5426 and was the most responsible respondent for the terms and conditions of RFP 680-5426.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. OBLIGATIONS OF THE CONTRACTOR

CONTRACTOR shall provide the below listed equipment and services pursuant to the terms of RFP 680-5426 and CONTRACTOR's Response to RFP 680-5426, both of which are incorporated herein by this reference:

A. Installation and Maintenance of Inmate Money Handling Kiosk Equipment

The CONTRACTOR will install and maintain a turn-key Inmate Money Handling Kiosk system that automates initial deposits made at intake/booking, deposits made by family and friends by several different methods, and withdrawals from inmate accounts upon inmate release from custody, self-bail, and withdrawals requested by inmate(s) family and friends and approved by the inmate. Contractor shall provide several options for placing money on an inmate's account. Minimum options include, but are not limited to, making: deposits in-person at lobby kiosk; deposits via internet utilizing a web-based portal; and deposits over the telephone using an

Interactive Voice Recognition (IVR). Contractor shall make daily deposits for the total amount of money withdrawn from kiosks, via a web-based portal or IVR into the COUNTY's Treasurer's account as determined by COUNTY's Auditor-Controller/Treasurer-Tax Collector through Automated Clearing house (ACH) transaction. The ACH transactions shall be identified by using the description 'Touchpay deposit for Sheriff Office'.

The system will operate via interface in real time with the County's Jail Inmate Management Data System in order to update inmate money balances as various deposit, withdrawal, and purchase transactions are made, and have a variety of reporting capabilities. This system will also operate at no cost to the County and minimal "industry standard" costs to the public, inmates' family and friends.

- i. The CONTRACTOR will be required to install and maintain 7 Kiosks in the following locations at no cost to the COUNTY.

Main Jail Pre-Booking Area (2)	1225 "M" Street, Fresno CA 93721
Main Jail Lobby (2)	1225 "M" Street, Fresno CA 93721
Main Jail ATM Lobby (1)	1225 "M" Street, Fresno CA 93721
South Jail Lobby (1)	2280 Fresno St., Fresno CA 93721
South Jail Attorney Lobby (1)	2280 Fresno St., Fresno CA 93721
North Jail Lobby (1)	1265 "M" Street, Fresno CA 93721

Additional locations may be required once the West Annex Jail opens, located on the same County footprint/square as the Main and North Jail (the current parking lot, or at other future needed locations).

The Main Jail pre-booking kiosks (two of them) shall be able to accept money and change for the purpose of putting the funds on their books. They will not

1 dispense money. Procedures are to be established to accept Release Cards
2 issued by Fresno County or other agencies that use the same vendor.

3
4 CONTRACTOR shall re-locate kiosks, as necessary to relieve congestion in the
5 jail lobby and booking areas, when requested by the COUNTY Contract
6 Administrator. This will be done at no cost to the County. The system must
7 meet American Disability Act (ADA) requirements.

8
9 ii. The CONTRACTOR shall be responsible for the installation and all ongoing
10 maintenance of all inmate kiosk system hardware and software at no cost to the
11 COUNTY. All repairs and issues arising after hours and on weekends shall be
12 reported through the CONTRACTOR'S after hour repair service.

13 iii. CONTRACTOR shall provide 24 hour service and repair upon request to
14 address critical malfunctions. A "critical Malfunction" is defined as any
15 malfunction (hardware or software) which does not allow for the acceptance of
16 funds at Booking or release of full funds at any kiosk. CONTRACTOR shall
17 respond to critical malfunctions as follows:

18 a. Provide a 24 hour number for reporting malfunctions.

19 b. During normal business hours (M-F, 8 am-5 pm), respond within 45 minutes
20 on site.

21 c. Outside of normal business hours, respond within 15 minutes by phone from
22 the time the 24 hour number is notified of the malfunction and within 1 hour
23 on site.

24 iv. CONTRACTOR shall provide a preventative maintenance plan to ensure that
25 all kiosks are fully operational at all times. CONTRACTOR'S technicians shall
26 respond to all requests for "non-critical malfunction" service regarding kiosks,
27 including all hardware and software, and promptly make appropriate repairs at
28 no cost to COUNTY, within five (5) days. A "non-critical" malfunction is defined

1 as a malfunction of equipment which in and of itself does not render
2 inoperative a kiosk from performing its essential functions (i.e. dispensing,
3 receiving funds, or properly recording funds).

4 v. At its own expense, CONTRACTOR agrees to provide any additional
5 equipment, including, without limitation, cabling, wiring, and conduit as required
6 for the installation of additional kiosks as needed in all occupied detention
7 facilities, and include any future facilities. COUNTY will provide internal power
8 and data support stub-out within reasonable reach of equipment.
9 CONTRACTOR shall be responsible for connecting their equipment as
10 necessary to ensure its equipment operates pursuant to the terms of this
11 Agreement.

12 vi. Because CONTRACTOR'S technicians and subcontractors may be entering
13 secured areas of the facilities and the Sheriff's Office maintains a NO
14 HOSTAGE POLICY, technicians and subcontractors must complete and
15 satisfy the security background clearance requirements as determined by the
16 COUNTY in advance of beginning any work.

17 vii. CONTRACTOR shall designate one or more authorized representatives who
18 shall be the COUNTY'S point of contact. This person (s) shall have full
19 authority to bind CONTRACTOR with respect to all issues.

20 viii. CONTRACTOR shall bear all risk of loss of damage to the hardware.

21 ix. CONTRACTOR shall guarantee at all times that sufficient funding is available
22 for immediate release to inmates being released from custody and for other
23 types of money releases (bail, to friends and family, etc.), on a 24/7/365 day
24 basis.

25 B. Kiosk Specifications

26 Kiosks supplied by CONTRACTOR shall:

27 i. Be of rugged design, able to withstand harsh and destructive environments,
28 and must have a means of providing an emergency power back-up source with

- 1 capacity of running up to 4 hours.
- 2 ii. Accept cash in \$100, \$50.00, \$20.00, \$10.00, \$5.00 and \$1.00 dollar and all
- 3 other applicable denominations for the purpose of depositing funds into an
- 4 inmates account and for the purpose of bail. Intake kiosk shall also accept
- 5 coins.
- 6 a) A countertop terminal will be provided in intake for those inmates who
- 7 return to custody with a Release Card issued by Fresno County or other
- 8 agencies that use the same vendor.
- 9 iii. CONTRACTOR will assume all liability for any counterfeit money accepted.
- 10 iv. Kiosks should accept all major credit cards and debit cards (Visa, MasterCard,
- 11 American Express, Discover, and any recognized bank credit and debit cards).
- 12 v. There shall be no cost to the inmate when money is returned to them upon
- 13 their release from custody, or when an inmate elects to release funds to a
- 14 person not in custody for the first transaction. Any additional release of funds
- 15 to persons not in custody may incur a service fee.
- 16 vi. Have a search system or capability that is able to find the in-custody status of
- 17 inmates by the identifying inmate Jail Identification number with automated,
- 18 self-service options. System will perform updates to inmate account balances
- 19 as transactions are processed, and shall have a documented automated back-
- 20 out process in the event an error is made on a transaction. The system will
- 21 not accept a deposit if an inmate is out of custody.
- 22 vii. System must be available in English and Spanish at a minimum. Other
- 23 languages will be provided upon request by the COUNTY Contract
- 24 Administrator. System must also meet all ADA requirements.
- 25 viii. CONTRACTOR must provide an integrated, real-time payment system for
- 26 every transaction.
- 27 ix. CONTRACTOR will provide a real time remote web-based reporting system
- 28 that will provide access only to its transactions for reporting purposes and will

1 provide access at the agency level, facility level, and inmate-transaction level
2 to authorized personnel. For security, the user management and authorization
3 will be administered by the COUNTY and will allow unlimited simultaneous
4 users.

- 5 x. CONTRACTOR will guarantee accuracy of all deposits into the system and all
6 payments out of the system. CONTRACTOR will be responsible for any fraud
7 or counterfeit currency that is accepted into the system. All fraudulent
8 transactions that are attempted will be reported to COUNTY at a pre-
9 determined time period that COUNTY Contract Administrator chooses.
- 10 xi. Both Lobby and Intake Kiosks will take a photo (JPEG) of each depositor and
11 attach to each standard transaction record that can be printed or emailed from
12 the web-reporting system.
- 13 xii. Intake Kiosks will be programmed to dispense a minimum of two (2) traceable
14 receipts for all transactions. Each receipt, at a minimum, will include the date,
15 time, inmate's name, Jail Identification number, and money amount.
16 Depositors will not have the ability to see account balance.

17
18 **C. Inmate Release/Funds**

- 19 i. Funds returned to an individual upon release in the form of a debit card shall be
20 immediately available and the individual shall be able to convert the card to cash
21 at no cost or fees. With every release card issued, the first point of sale
22 transaction is free to the cardholder, enabling them to obtain access to their
23 funds at no cost or fees. CONTRACTOR will provide at no cost to the COUNTY
24 an ATM Machine in the Main Jail Lobby that provides this service.
25 CONTRACTOR's Kiosk Topper screens will be programmed to display the
26 nearest location(s) to use the release card at no cost and any information as
27 requested by the COUNTY.
- 28 ii. Services fees can only be assessed if the inmate being released from the facility

1 takes the debit card instead of cashing out the debit card in the lobby at the
2 ATM/kiosk.

3 a. If an inmate is being released with funds over \$300, they may fill out a form to
4 have a check mailed to them for the entire amount or

5 b. They may elect to take the \$300 from the ATM/Kiosk and incur a service fee
6 only after 7 days following the initial withdrawal.

7 iii. Upon inmate's release, the debit card will not incur account maintenance fees
8 (no vendor fees) until 7 days after activation.

9
10 **D. Additional System Specifications**

11 i. CONTRACTOR shall provide several options for placing money on an inmate's
12 account. Minimum options include the lobby kiosks, deposit via the internet
13 utilizing a web-based portal, or over the telephone using an Interactive Voice
14 Recognition (IVR).

15 ii. There will be no costs associated with the initial cash funds that are deposited to
16 the inmate's trust account at the time of booking.

17 iii. CONTRACTOR will be responsible for all interface cost with Motorola. The cost
18 per interface is \$15,500. Interface fees may be assessed with additional
19 platforms, such as phone systems, commissary system, etc. as the COUNTY
20 moves towards an integrated electronic system (PC web based and/or Android
21 based systems).

22 iv. CONTRACTOR will bear all risk of damage to kiosks, and any loss associated
23 with counterfeit monies.

24 v. The COUNTY makes no representation regarding the number of inmates who will
25 be housed in its Jail Facilities during the duration of this Agreement, nor does
26 COUNTY make any representation regarding the number of transactions that will
27 occur on the kiosks during the term of this Agreement. CONTRACTOR
28 understands and agrees that the number of inmates housed in the COUNTY's

1 Jail Facilities may increase or decrease during the duration of this Agreement.
2 CONTRACTOR understands and agrees that increases or decreases in the
3 number of inmates housed in the Jail Facilities during the duration of this
4 Agreement, does not relieve the CONTRACTOR of any of its obligations under
5 this Agreement.

- 6 vi. CONTRACTOR shall provide any needed training at no charge to the COUNTY,
7 and information flyers or posters to the public, to outside agencies for initial
8 training upon installation and start-up, and additional instruction on an as need
9 basis thereafter.
- 10 vii. CONTRACTOR shall provide, in writing, to the COUNTY Contract Administrator,
11 customer service escalation and resolution procedures. Customers utilizing
12 telephonic deposit methods should be advised of the expected length of wait
13 time, which should be no more than 5 minutes. Upon request, CONTRACTOR
14 will be able to supply a report documenting service wait times. Customers
15 utilizing Internet deposit services shall be provided printable, electronic
16 verification receipts.
- 17 viii. CONTRACTOR shall be responsible for all cash collection and bank transactions
18 associated with the kiosks.
- 19 ix. CONTRACTOR may propose additional methods or ideas not covered in this
20 contract (e.g. new technology, additional deposit methods etc.) These ideas will
21 be considered based on their feasibility, cost, and the impact it would have on
22 facility operations.
- 23 x. CONTRACTOR shall provide a method of creating reports by inmate or multiple
24 inmates for the purpose of investigation(s) by the COUNTY and full audit
25 capabilities.
- 26 xi. CONTRACTOR shall maintain complete and accurate records with respect to
27 the services rendered and the cost incurred. All records shall be prepared in
28 accordance with generally accepted accounting procedures, shall be clearly

identified and shall be kept readily accessible.

- xii. Upon request, CONTRACTOR shall make such records available to COUNTY and maintain these records for a period of seven (7) years from contract termination. The CONTRACTOR may provide an alternate solution whereby they provide an electronic copy of the records to be given to the County upon the expiration/termination of the contract.
- xiii. CONTRACTOR shall refer all California Public Records Act requests to the Sheriff's Office, and provide support to COUNTY to comply with California Government Code Sections 26640, 26642, 22644, and 22646.
- xiv. CONTRACTOR shall clearly publish all user fees associated with revenue generation, including kiosk and remote load fees.
- xv. CONTRACTOR shall comply with all applicable federal, state and local laws, rules, regulations and ordinances.

E. TRANSACTION COSTS

- i. Booking/Intake Kiosk – NO COST
- ii. Release of Funds to Inmate – NO COST
- iii. Release of Funds to Third Party – NO COST
- iv. Inmate Commissary Purchases – NO COST
- v. Trust/Commissary – For cash, credit/debit card, MoneyPak, and ACH (Automated Clearing House) transactions onto an inmate's account for Trust Commissary Deposits, CONTRACTOR will charge the Depositor a base fee as follows;

Booking/Intake:

Booking/Intake Deposits	Transaction Fee
Any Amount	No Cost

Release of funds to a third party:

Release of Funds to a Third Party	Transaction Fee
1 st Transaction	No Cost
After 1 st Transaction	No Cost

Inmate release from custody:

Inmate Release/Transfer	Transaction Fee
Any Amount	No Cost

Trust/Commissary Deposits:**Cash Deposits:**

Deposit Amount	Lobby Kiosk	Telephone (IVR)	Online/Internet
\$0.00 - \$20.00	\$2.95	N/A	N/A
\$20.01 - \$100.00	\$3.95	N/A	N/A
\$100.01 - \$300.00	\$4.95	N/A	N/A
Additional/Optional Fees*			
None			

*List all additional fees and/or charges. This includes any percentage based fees.

Credit/Debit Deposits:

Deposit Amount	Lobby Kiosk	Telephone (IVR)	Online/Internet
----------------	-------------	-----------------	-----------------

\$0.00 - \$20.00	\$2.95 + 3.5%	\$2.95 + 3.5%	\$2.95 + 3.5%
\$20.01 - \$100.00	\$3.95 + 3.5%	\$3.95 + 3.5%	\$3.95 + 3.5%
\$100.01 - \$300.00	\$4.95 + 3.5%	\$4.95 + 3.5%	\$4.95 + 3.5%
Additional/Optional Fees*			
None			

*List all additional fees and/or charges. This includes any percentage based fees.

Other Deposits (Legacy Phone):

Deposit Amount	Lobby Kiosk	Telephone (IVR)	Online/Internet
\$0.00 - \$20.00	\$3.00	\$3.00 + 3.5%	\$3.00 + 3.5%
\$20.01 - \$100.00	\$5.00	\$5.00 + 3.5%	\$5.00 + 3.5%
\$100.01 - \$300.00	\$6.00	\$6.00 + 3.5%	\$6.00 + 3.5%
Additional/Optional Fees*			
None			

*List all additional fees and/or charges. This includes any percentage based fees.

Bail Deposits:

Cash Deposits:

Deposit Amount	Lobby Kiosk	Telephone (IVR)	Online/Internet
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1	\$0.00 - \$20.00	\$5.00	N/A	N/A
2				
3	\$20.01 - \$100.00	\$5.00 per \$100	N/A	N/A
4	\$100.01 - \$300.00	\$5.00 per \$100.00	N/A	N/A
5	Additional/Optional Fees*			
6				
7	None			
8				
9				

*List all additional fees and/or charges. This includes any percentage based fees.

Credit/Debit Deposits: Bail

12	Deposit Amount	Lobby Kiosk	Telephone (IVR)	Online/Internet
13				
14	\$0.00 - \$20.00	\$5.00 + 6.5%	\$5.00 + 6.5%	\$5.00 + 6.5%
15	\$20.01 - \$100.00	\$5.00 + 6.5%	\$5.00 + 6.5%	\$5.00 + 6.5%
16	\$100.01 - \$300.00	\$5.00 + 6.5%	\$5.00 + 6.5%	\$5.00 + 6.5%
17				
18	Additional/Optional Fees*			
19				
20	None			
21				

*List all additional fees and/or charges. This includes any percentage based fees.

F. REMOVAL OF EQUIPMENT

Upon the expiration or termination of this Agreement, CONTRACTOR, at no cost to County, shall remove any and all equipment installed by CONTRACTOR during the term of this Agreement. In the event that the removal of said equipment causes damage to COUNTY property, CONTRACTOR shall promptly repair such damage.

G. ADDITIONAL SERVICES.

If CONTRACTOR provides additional services under this Agreement, including, but not limited to, Canned Messaging, Voice Alert, or Topper Advertising, such additional services would need to be authorized by the parties pursuant to SECTION 7, "MODIFICATION," of this Agreement.

2. OBLIGATIONS OF THE COUNTY

- A. COUNTY grants CONTRACTOR authorization to install and maintain a turn-key Inmate Money Handling Kiosk system for automated initial deposits made at intake/booking, deposits made by family and friends by several different methods, and withdrawals from inmate accounts upon inmate release from custody, self-bail and withdrawals requested by inmate family and friends.
- B. COUNTY will provide at no cost to the CONTRACTOR power and internet access to all Kiosks installed in the facilities.
- C. COUNTY shall afford CONTRACTOR, its officers agents or contractors, reasonable access to the Inmate Money Handling Kiosks to perform routine inspections and make necessary repairs.
- D. COUNTY agrees that all products, software and hardware located at the COUNTY'S detention facilities by CONTRACTOR pursuant to this Agreement shall at all times remain the property of CONTRACTOR.
- E. COUNTY shall prefund an account designated by CONTRACTOR with Thirty-five Thousand and no/100Dollars (\$35,000.00). Such money shall come from COUNTY'S Inmate Trust Fund. This account shall be used by CONTRACTOR solely for issuing debit cards to released inmates. CONTRACTOR shall maintain this account as a reserve and, on every Monday, provide COUNTY with a weekly summary of the account that shall include, but not be limited to, the account balance, the number of withdrawals and total dollar amount of said withdrawals, and detail for each withdrawal. Based on the weekly summary report, COUNTY will replenish the prefund account with the total dollar amount of withdrawals from the previous week made by

CONTRACTOR. COUNTY shall have the right to inspect and review the account at any time for any reason. Within 30 days of termination of this Agreement, CONTRACTOR shall refund the remaining balance of the account to COUNTY. CONTRACTOR shall be liable for any portion of the Thirty-five Thousand and No/100's Dollars (35,000.00) prefund deposit not refunded to COUNTY and shall be responsible for refunding such money to COUNTY within 30 days.

F. COUNTY will appoint a Contract Administrator. The Contract Administrator will be the Jail Programs & Services Bureau Captain.

3. TERM

The term of this Agreement shall be for a period of three (3) years, commencing on May 1, 2016 through and including April 30, 2019. This Agreement may be extended for two (2) additional consecutive twelve (12) month periods upon written approval of both parties no later than thirty (30) days prior to the first day of the next twelve (12) month extension period. The Sheriff-Coroner or his or her designee is authorized to execute such written approval on behalf of COUNTY based on CONTRACTOR'S satisfactory performance.

4. TERMINATION

A. Non-Allocation of Funds – The terms of this agreement, and the services to be provided thereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated, at any time by giving the CONTRACTOR thirty (30) days advance written notice.

B. Breach of Contract – The COUNTY may immediately suspend or terminate this agreement in whole or in part, where in the determination of the COUNTY there is:

1. An illegal or improper use of funds;
2. A failure to comply with any term of this Agreement
3. A substantially incorrect or incomplete report submitted to the COUNTY;
4. Improperly performed service.

C. Without Cause – Under circumstances other than those set forth above, this Agreement

1 may be terminated by COUNTY upon the giving of thirty (30) days advance written
2 notice of an intention to terminate to CONTRACTOR.

3 5. COMPENSATION/INVOICING: There will be no compensation paid to the
4 CONTRACTOR by the COUNTY. There will be no revenue share to COUNTY on charges
5 collected by CONTRACTOR on deposits or on Topper screen displays. It is understood
6 that all expenses incidental to CONTRACTOR'S performance of services under this
7 Agreement shall be borne by CONTRACTOR.

8 6. INDEPENDENT CONTRACTOR: In performance of the work, duties and obligations
9 assumed by CONTRACTOR under this Agreement, it is mutually understood and agreed
10 that CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents,
11 subcontractors, and employees will at all times be acting and performing as an
12 independent contractor, and shall act in an independent capacity and not as an officer,
13 agent, servant, employee, joint venturer, partner, or associate of the COUNTY.
14 Furthermore, COUNTY shall have no right to control or supervise or direct the manner or
15 method by which CONTRACTOR shall perform its work and function. However, COUNTY
16 shall retain the right to administer this Agreement so as to verify that CONTRACTOR is
17 performing its obligations in accordance with the terms and conditions thereof.

18
19 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the
20 rules and regulations, if any, of governmental authorities having jurisdiction over matters
21 the subject thereof.

22
23 Because of its status as an independent contractor, CONTRACTOR shall have absolutely
24 no right to employment rights and benefits available to COUNTY employees.
25 CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its
26 employees all legally-required employee benefits. In addition, CONTRACTOR shall be
27 solely responsible and save COUNTY harmless from all matters relating to payment of
28 CONTRACTOR'S employees, including compliance with Social Security withholding and all

1 other regulations governing such matters. It is acknowledged that during the term of this
2 Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY
3 or to this Agreement.

4 7. MODIFICATION: Any matters of this Agreement may be modified from time to time by the
5 written consent of all the parties without, in any way, affecting the remainder.

6 8. NON-ASSIGNMENT: Neither party shall assign, transfer or sub-contract this Agreement
7 nor their rights or duties under this Agreement without the prior written consent of the other
8 party.

9 9. SUBCONTRACTORS: Notwithstanding the provisions of SECTION 8, "NON-
10 ASSIGNMENT," of this Agreement, the parties agree that CONTRACTOR may sub-
11 contract with Stored Value Cards, Incorporated d/b/a Numi Financial, a California
12 Corporation whose place of business is 1901 Camino Vida Roble, Suite #100 Carlsbad, CA
13 92008 to provide Prestige Prepaid MasterCard Program services CONTRACTOR is to
14 provide to this Agreement. Specifically, Numi Financial shall issue the debit cards released
15 to inmates discussed under Section 1 "OBLIGATIONS OF THE CONTRACTOR,"
16 Paragraph C-I, of this Agreement. COUNTY shall not be responsible for making payments
17 to Numi Financial for costs incurred in performance of said services. CONTRACTOR
18 shall be responsible for ensuring Numi Financial maintains in full force and effect, at all
19 times it provides services, the insurance policies or a program of self-insurance as set forth
20 in Section 11, "INSURANCE," of this Agreement. CONTRACTOR shall be responsible for
21 ensuring performance of said services by Numi Financial conforms to the terms of this
22 Agreement.

23 10. HOLD HARMLESS: CONTRACTOR agrees to indemnify, save, hold harmless, and at
24 COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any
25 and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting
26 to COUNTY in connection with the performance, or failure to perform, by CONTRACTOR,
27 its officers, agents, subcontractors, or employees under this Agreement, and from any and
28 all costs and expenses, including Attorney's fees and Court costs, damages, liabilities,

claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of CONTRACTOR, its officers, agents, subcontractors, or employees under this Agreement.

11. INSURANCE

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

A. Commercial General Liability

Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). This policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed necessary because of the nature of this contract.

B. Automobile Liability

Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000.00). Coverage should include owned and non-owned vehicles used in connection with this Agreement.

C. Professional Liability

If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

1 D. Worker's Compensation

2 A policy of Worker's Compensation insurance as may be required by the California
3 Labor Code.

4
5 E. Fidelity Bond/Crime Bond/Crime Insurance

6 CONTRACTOR shall maintain during the term of this agreement a Fidelity Bond or Crime
7 Bond /Insurance naming COUNTY as obigee or additional insured. The Bond is to be not
8 less than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00). The issuing Surety
9 shall be licensed to conduct business in the State of California and be acceptable to either
10 the director of Public Works & Planning or his designee or the County's Risk manager.

11
12 CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance
13 naming the County of Fresno, its officers, agents, and employees, individually and
14 collectively, as additional insured, but only insofar as the operations under this Agreement
15 are concerned. Such coverage for additional insured shall apply as primary insurance and
16 any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and
17 employees shall be excess only and not contributing with insurance provided under
18 CONTRACTOR's policies herein. This insurance shall not be cancelled or changed without
19 a minimum of thirty (30) days advance written notice given to COUNTY.

20
21 Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement,
22 CONTRACTOR shall provide certificates of insurance and endorsement as stated above
23 for all of the foregoing policies, as required herein, to the County of Fresno, Jail Programs
24 & Services Bureau Captain, 2200 Fresno Street, Fresno, California 93721, stating that
25 such insurance coverage have been obtained and are in full force; that the County of
26 Fresno, its officers, agents and employees will not be responsible for any premiums on the
27 policies; that such Commercial General Liability insurance names the County of Fresno, its
28 officers, agents and employees, individually and collectively, as additional insured, but only

insofar as the operations under this Agreement are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees, shall be excess only and not contributing with insurance provided under CONTRACTOR's policies herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30) days advance, written notice given to COUNTY.

In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

All policies shall be issued by admitted insurers licensed to do business in the State of California, and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better.

12. **AUDITS AND INSPECTIONS:** The CONTRACTOR shall at any time during business hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination all of its records and data with respect to the matters covered by this Agreement. The CONTRACTOR shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement.

13. **NOTICES:** The persons and their addresses having authority to give and receive notices under this Agreement include the following:

COUNTY
 COUNTY OF FRESNO SHERIFF
 2200 Fresno Street
 Fresno, CA 93721
 Attention: Business Manager

CONTRACTOR
 TouchPav Holdings, LP
 7801 Mesquite Bend Dr. Suite 101
 Irving, TX
 Attention: Dan Burgess Partner/Manager

Any and all notices between the COUNTY and the CONTRACTOR provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the parties, or in lieu of such personal services,

when deposited in the United States Mail, postage prepaid, addressed to such party.

14. GOVERNING LAW: Venue for any action arising out of or related to this Agreement shall only be in Fresno County, California.

The rights and obligations of the parties and all interpretation and performance of this Agreement shall be governed in all respects by the laws of the State of California.

15. DISCLOSURE OF SELF-DEALING TRANSACTIONS

This provision is only applicable if the CONTRACTOR is operating as a corporation (a for-profit or non-profit corporation) or if during the term of the agreement, the CONTRACTOR changes its status to operate as a corporation.

Members of the CONTRACTOR's Board of Directors shall disclose any self-dealing transactions that they are a party to while CONTRACTOR is providing goods or performing services under this agreement. A self-dealing transaction shall mean a transaction to which the CONTRACTOR is a party and in which one or more of its directors has a material financial interest. Members of the Board of Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a Self-Dealing Transaction Disclosure Form, attached hereto as Exhibit A and incorporated herein by reference, and submitting it to the COUNTY prior to commencing with the self-dealing transaction or immediately thereafter.

16. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the CONTRACTOR and COUNTY with respect to the subject matter hereof and supersedes all previous Agreement negotiations, proposals, commitments, writings, advertisements, publications, and understanding of any nature whatsoever unless expressly included in this Agreement. *In the event of any inconsistency in interpreting the documents which constitute this Agreement, the inconsistency shall be resolved by giving precedence in the following order of priority: (1) the text of this Agreement (excluding the County's RFP No. 680-5426; and the CONTRACTOR'S Proposal in response thereto); (2) the*

1 *CONTRACTOR'S proposal made in response to COUNTY'S RFP NO. 680-5426; and (3)*
2 *the COUNTY'S RFP No. 680-5426.*
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IN WITNESS WHEREOF, the parties hereto have executed
this Agreement as of the day and year first hereinabove written.

TOUCHPAY HOLDINGS, LP

COUNTY OF FRESNO

Daniel B. Burgess
Dan Burgess
Partner/Manager

Ernest Buddy Mendes
Ernest Buddy Mendes, Chairman, Board of
Supervisors

Daniel B. Burgess S.V.P.
Print Name & Title

ATTEST:

BERNICE E. SEIDEL, Clerk
Board of Supervisors

7801 Mesquite Bend #101

By Susan Bishop
Deputy

Irving, TX 75063
Mailing Address

DATE: 6-1-16DATE: July 12, 2016

REVIEWED & RECOMMENDED FOR APPROVAL

Margaret Mims
Margaret Mims, Sheriff-Coroner

APPROVED AS TO ACCOUNTING FORM

Vicki Crow
Vicki Crow CPA, Auditor/Controller/Treasurer-Tax
Collector

APPROVED AS TO LEGAL FORM

Daniel C. Cederborg
Daniel C. Cederborg, County Counsel

FOR ACCOUNTING USE ONLY:

FUND: 2250

SUBCLASS: 33410

EXHIBIT B
CONTRACTOR'S SERVICE LEVEL

EXHIBIT B
EDOVO SERVICE LEVELS

This Exhibit represents a Service Level Agreement ("SLA") between CONTRACTOR and COUNTY for the provisioning of services required to support and sustain CONTRACTOR's products. This SLA does not supersede current processes and procedures, as delineated in the Agreement, unless explicitly stated herein.

I. GENERAL OVERVIEW

A. Service Scope. The following services may covered by this SLA: (a) Edovo applications, (b) network services, (c) network hardware, and (d) content delivery.

B. COUNTY Requirements. COUNTY responsibilities and/or requirements in support of this SLA include:

1. Payment for all support costs, which are included in, and shall not exceed, the infrastructure costs and the daily tablet rates, as described in Section V of the Agreement, at the agreed intervals.

2. Reasonable availability of COUNTY representative(s) when resolving a service related incident or request. This includes service requests placed after hours. The CONTRACTOR will not be held to the terms of the Service Levels if the COUNTY does not provide access to resources, including but not limited to, on site access, security clearances to sites, technical support staff, operations staff, or any other resource needed to address the service request.

3. Provisioning of necessary electronic and/or network access to electronic equipment used for the delivery of services by the Service Provider to the Customer for the purpose of automated and/or remote service monitoring and remediation.

C. CONTRACTOR Requirements. CONTRACTOR responsibilities and/or requirements in support of this SLA include:

1. Meeting response times associated with service related incidents.

1 2. Appropriate notification to COUNTY for all scheduled maintenance.

2 D. Service Assumptions. Assumptions related to in-scope services and/or components
3 include:

4 1. Changes to services will be communicated and documented to all stakeholders.
5 Changes that are not communicated to all stakeholders cannot be supported by this Service
6 Level Exhibit

7 2. The COUNTY will be responsible for providing adequate and reliable electrical
8 services at all locations that the CONTRACTOR provisions service delivery.

9 3. In instances of shared technology infrastructure, the COUNTY will be responsible for
10 providing adequate and reliable technology infrastructure connectivity to the CONTRACTOR.

11 4. Service requests placed that result in a root cause determination being lack of the
12 aforementioned Service Assumptions will be billed to the COUNTY at a professional services
13 rate of \$200/hr, but will not, in any event, cause COUNTY's Additional Services to exceed the
14 amounts identified in Section 5.A.v of the Agreement.

15 II. SERVICE MANAGEMENT. The following sections provide relevant details on service
16 availability, monitoring of in-scope services and related components.

17 A. Staffed Service Support.

18 • Telephone support: Available by calling the Edovo NOC at 855-976-8903

19 • Email support: Available by emailing the Edovo NOC at noc@edovo.com

20 B. Automated Service Support.

21 1. The Edovo NOC monitors all supported devices 24/7 from the primary datacenter site
22 located in Chicago, in addition to several remote and distributed monitoring locations within
23 North America.

24 2. Automated remediation of issues may occur as a result of proactive network
25 monitoring. This remediation will be documented by the CONTRACTOR and is available to the
26 COUNTY upon request.

27 C. Service Requests. All Service Requests must be provided via telephone, email, or the
28 Edovo Support Portal

- Telephone Service Requests: Available by calling the Edovo NOC at 855-976-8903
- Email Service Requests: Available by emailing the Edovo NOC at noc@edovo.com
- Edovo Support Portal URL for Service Requests: edovo.desk.com

In support of services outlined in this Agreement, the CONTRACTOR will respond to service related incidents and/or requests submitted by the COUNTY within the following time frames:

Classification	Response Time
High Priority	Within 0-8 normal business hours
Medium Priority	Within 36 business hours
Low Priority	Three business days

D. Service Priority. All Service Requests are classified as Low, Medium or High priority. Requests classified as Low Priority include but are not limited to:

- End User Devices or Peripherals
- Requests for information not related to a current service outage
- Requests regarding an issue affecting a single customer at a single site
- Requests classified as Medium Priority include but are not limited to:
 - On site infrastructure hardware related requests
 - Requests regarding an issue affecting more than one customer at a single site
- Requests classified as High Priority include but are not limited to:
 - Requests related to Edovo Applications
 - Requests related to core network services
 - Requests regarding an issue affecting multiple customers at multiple sites

EXHIBIT C

Tab XI Edovo Content Table



**REQUEST FOR PROPOSAL FOR INMATE TABLET SERVICE
SOLICITATION NUMBER: 17-039**

TAB XI (i)(Reports)

**PRESENTED TO COUNTY OF FRESNO
FEBRUARY 2nd, 2017**



Basic Education

Literacy	• Edovo “Build to Read” Foundational Literacy • Edovo Foundational Literacy (course in development) • Edovo Literacy Library • Edovo Reading Comprehension • Introductory phonics videos for beginning readers • ORCA and Story Shares publishers • Reading Plus
Language Learning	• ESL for Spanish Speakers (video plus questions) • Full Spanish interface (in development) • Transparent Language Online

Academic Advancement

Core Curriculum	• English Language Arts Foundations I, II, III
High School Equivalency	• Core Curriculum GED material • Dropping Back In • GED Checklist • i-Pathways
College	• Continuing Your Education: An Introduction to College Courses • Beginning Algebra • Business Law & Ethics • Economics 101: Principles of Microeconomics • Intro to Business Communications (not credit earning) • Intro to Legal Studies (not credit earning) • Political Science • Psychology 101 • Real World Math

Professional Life, Law & Finances

Employment	• Vocational Skill-Building • Career Exploration • Trade-specific Courses
Job Preparation & Entrepreneurship	• Cisco Networking Certification • Commercial Driver's License Certification • Digital Literacy • Illegal to Legal Business Success for (Ex) Criminals • Introduction to Customer Service • Introduction to Customer Service Management • ServSafe Certification • SquareUp
Personal Finance	• Introduction to Personal Finance • Introduction to Credit Reports and Credit Score
Legal Information	• Basic Legal Information (English & Spanish) • In-House Legal Sessions: Topics in the Criminal Justice System • Introduction to Constitutional Rights • Introduction to the Courtroom • Introduction to the Criminal Process • Full Law Library (available with subscription)

Religious Experience

Religion and Spirituality	• Bible Correspondence Course • Topics in Judaism • Topics in Islam • Video Sermon Library (in development)
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Exploratory Content & Creation

Edovo Exploration Content	• Educational & Instructional Videos • Khan Academy Lite & GED Assistance • Library of E-Books, & Poetry • Library of Inspirational Videos: Life After Incarceration • Manuals & Resources for Vocational Training • Podcasts & Documentaries
Creative Content	• Edovo Beats • Make Big Talk

Health & Well Being

Mind	• 12 Step Program • Anger Management (SAMSHA based) • Headspace • How to Find a Substance Abuse Treatment Program • Mindfulness-Based Substance Abuse Treatment
Body	• Neila Ray: Fitness & Nutrition • Personal Hygiene • Reproductive Health
Health Literacy & Access	• Health Insurance Basics • How to Apply for Health Insurance • Properly Utilizing Health Services • Topics in Health: LGBTQ • Topics in Health: Women • Topics in Health: Veterans • Florida Literacy Coalition: Staying Healthy • Healthy Roads Media Library

EXHIBIT D

Self-Dealing Transaction Disclosure Form

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest."

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the Corporation has the transaction;
and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Exhibit D

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
(5) Authorized Signature			
Signature:		Date:	