

**AGREEMENT BETWEEN THE COUNTY OF TEHAMA AND
INMATE PHONE SERVICES**

This agreement is entered into between the County of Tehama, through its Probation Department, (“County”) and Inmate Phone Services (“Contractor”) for the purpose of secure and reliable inmate telephone system..

1. **RESPONSIBILITIES OF CONTRACTOR**

During the term of this agreement, Contractor shall provide the following services at no cost to the County:

- a. Contractor shall provide a fully operational, local and long distance, secure and reliable Inmate Telephone System (ITS). The ITS system shall be inclusive of all equipment, setup, infrastructure and network, training, operation and ongoing repairs and maintenance of the entire system and its components.
- b. Creation of a centralized database which shall contain all data elements necessary for provision of monitoring services, reporting and historical call transaction information.
- c. Contractor personnel to include ITS System Administrator, Field Repair/Site Technicians and Service Representatives to perform oversight, operational assistance and maintenance and repair to the ITS system and equipment.
- d. Ongoing maintenance, repair, and/or replacement and/or upgrade of all equipment and systems as necessary to ensure service delivery.
- e. Provision of all necessary training and instructional materials necessary for use of the telephone services as applicable to wards, families, and/or County staff.
- f. Provision of all related support services not otherwise indicated herein.
- g. Contractor shall adhere to any and all municipal, state or federal requirements for ITS installation, certification, training or registration during the life of the agreement.
- h. Contractor shall be responsible for compliance with all regulatory requirements imposed by local, state and federal regulatory agencies for all ITS and related services provided throughout the duration of the agreement.

- i. Contractor shall be responsible for making all ITS modifications necessary to all wards to place calls in compliance with any industry dialing requirements change(s) at no cost to County.
- j. Contractor shall be responsible for complying with and updating the ITS for any regulatory changes and requirements during the life of the agreement. These regulatory changes include federal, state or local municipal modifications. These changes shall be made within a time frame agreed to by the County and at no cost to the County.

Equipment Requirements:

All required equipment, hardware, and software for setup and maintenance of the ITS shall be provided by Contractor. Contractor shall use existing station cabling installed for the telephone instruments. Contractor shall comply with County's security guidelines on institutional and facility security policies. Violations of these rules may result in termination of the agreement in county's discretion. Prior to beginning work, Contractor shall contact County to obtain a copy of any specific additional institutional or facility rules. Contractor shall provide all coordination required with Local Exchange Carriers ("LEC") and other carriers during installation and for the duration of the agreement. Contractor shall provide and attach required surge protection for the ITS and its components. The use of traditional "power strips" for surge protection is not acceptable. Contractor shall provide and attach required lightning protection equipment on all network services supplies for the ITS.

Contractor shall provide an Inmate Telephone Services (ITS) with a technology system fully supported by an infrastructure which has the capability to provide specified services such as secure and real-time monitoring of telephone call meeting the County's system security requirements. The ITS system shall contain security features, which prevent unauthorized individuals from accessing any information held by Contractor. Secure access to the system and the database shall be maintained at all times. Contractor shall provide complete support of all systems and software necessary to ensure provision of services at all times for the duration of the resulting agreement. The system shall allow for the County to program times when the system will be operation; i.e., available or

unavailable for ward calls. The system shall contain an automated announcement function capable of processing calls on a selective bi-lingual basis: English and Spanish. During the call set set-up process, the system shall provide a pre-recorded announcement and containing a toll free number for the consumer's use. This announcement shall be heard by the answering party. The announcement shall also include the statement "All telephone calls will be recorded except attorney calls." The system shall have the capability to be deactivated (shut down), by County or Contractor staff, quickly and selectively, at an individual facility, partial facility (single cell) or on a global basis and to restrict all access. The system shall be capable of deactivating the PIN feature by individual inmate telephone, groups of telephones and/or entire institutions, at the County's option. Regardless of this deactivation, the system shall restart inmate calls to prepaid collect and normal collect calls. At no time shall the inmate telephones be unrestricted due to the deactivation of the PIN feature. The system shall provide the capability to flag any individual telephone number in the inmate's "Approved Number List" as "Do Not Record".

Telephone Service Equipment Requirements:

Throughout the term of the agreement, Contractor shall own all systems and equipment (Monitoring/Recording Terminals, Inmate Telephone Stations, Coin-Operated Telephone Stations, etc.) and shall conduct all maintenance, repairs, upgrades and replacement to systems and equipment at no cost to the County.

Equipment Service and Maintenance Requirements:

Contractor shall provide equipment to support service delivery as specified herein at all designated facilities that are fully functional in regards to all labor, materials, service hardware and/or software. Contractor shall further warrant that any equipment installed for the County shall be free of defects, irregularities, code violations and shall operate as designed and proposed or negotiated. Should the equipment not operate as designed and proposed or negotiated, or violate any local, state or federal code, rule or ordinance, Contractor shall correct the defect or irregularity or bring the service to within code, rule or ordinance at no cost to the County, including payment for any fines or penalties associated therewith. Time is of the essence in completing emergency and other service

required by the facility (within a 12-hour period of notification to the Contractor) to return the system to normal operating status. In the event of extraordinary obstacles to service for which Contractor exceeds the time-to-service requirement, notification and a detailed plan of service shall be immediately provided to the County by the Contractor. Any and all repairs / replacements to the telephone system at the Tehama County Juvenile Detention Facility are the responsibility of Inmate Phone Services, including cost of equipment and labor cost required to service the equipment.

Charges:

Charges for calls to ward or the called party, as applicable, shall include only the time from the point at which the called party accepts the call and shall end when either party returns to an on-hook condition or until either party attempts a hook flash. There shall be no charges to the called party for any setup time for either collect or prepaid calls.

Contractor shall charge wards at the rates stated in the Ward Call Costing Matrix attached hereto as Exhibit A and incorporated by reference.

2. RESPONSIBILITIES OF THE COUNTY

The County is responsible for the wards and for the operation of, and supervisory and protective care, custody and control of all buildings, grounds, property and matters connected with the Juvenile Detention Facility.

Contractor shall not be entitled to payment or reimbursement from the county for any tasks or services performed.

3. COMPENSATION

The Contractor shall pay to the County each month a 30% commission of gross revenues received by Contractor for services under this agreement derived from intrastate calls only (no commission whatsoever shall be paid to County for any interstate call), less standard monthly telephone company charges. The Contractor shall be responsible for collections and fraud, and shall not make any deductions from gross revenue for uncollectible accounts, billing fees or other administrative costs prior to applying the commission percentage. Notwithstanding the above, gross revenues shall not include taxes charged by an appropriate government entity. The monthly commission amount is therefore obtained by multiplying the commission percentage

times each month's total revenues receives, less standard monthly telephone company charges. The County shall be provided, along with each monthly commission payment, a statement indicating a breakdown of fees, revenues and call times.

4. **TERM OF AGREEMENT**

This agreement shall commence on July 1, 2019, and shall terminate June 30, 2023, unless terminated in accordance with section 6 below.

5. **TERMINATION OF AGREEMENT**

If Contractor fails to perform his/her duties to the satisfaction of the County, or if Contractor fails to fulfill in a timely and professional manner his/her obligations under this agreement, or if Contractor violates any of the terms or provisions of this agreement, then the County shall have the right to terminate this agreement effective immediately upon the County giving written notice thereof to the Contractor. Either party may terminate this agreement on 30 days' written notice. County shall pay contractor for all work satisfactorily completed as of the date of notice. County may terminate this agreement immediately upon oral notice should funding cease or be materially decreased, or should the Tehama County Board of Supervisors fail to appropriate sufficient funds for this agreement in any fiscal year.

The County's right to terminate this agreement may be exercised by Chief Probation Officer.

6. **ENTIRE AGREEMENT; MODIFICATION**

This agreement for the services specified herein supersedes all previous agreements for these services and constitutes the entire understanding between the parties hereto. Contractor shall be entitled to no other benefits other than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Contractor specifically acknowledges that in entering into and executing this agreement, Contractor relies solely upon the provisions contained in this agreement and no other oral or written representation.

7. **NONASSIGNMENT OF AGREEMENT**

Inasmuch as this agreement is intended to secure the specialized services of Contractor, Contractor may not assign, transfer, delegate or sublet any interest herein without the prior written consent of the County.

8. **EMPLOYMENT STATUS**

Contractor shall, during the entire term of this agreement, be construed to be an independent contractor and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow County to exercise discretion or control over the professional manner in which Contractor performs the services which are the subject matter of this agreement; provided always, however, that the services to be provided by Contractor shall be provided in a manner consistent with the professional standards applicable to such services. The sole interest of the County is to insure that the services shall be rendered and performed in a competent, efficient and satisfactory manner. Contractor shall be fully responsible for payment of all taxes due to the State of California or the Federal government, which would be withheld from compensation of Contractor, if Contractor were a County employee. County shall not be liable for deductions for any amount for any purpose from Contractor's compensation. Contractor shall not be eligible for coverage under County's Workers Compensation Insurance Plan nor shall Contractor be eligible for any other County benefit.

9. **INDEMNIFICATION**

Contractor shall defend, hold harmless, and indemnify Tehama County, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of County), damages, judgments, or decrees by reason of any person's or persons' injury, including death, or property (including property of County) being damaged, arising out of contractor's performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, whether by negligence or otherwise. Contractor shall, at its own expense, defend any suit or action founded upon a claim of the foregoing. Contractor shall also defend and indemnify County against any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency against the County with respect to Contractor's "independent contractor" status that would establish a liability for failure to make social security or income tax withholding payments, or any other legally mandated payment.

10. **INSURANCE**

Contractor shall procure and maintain insurance pursuant to Exhibit A, "Insurance Requirements For Contractor," attached hereto and incorporated by reference.

11. **PREVAILING WAGE**

Contractor certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the Services hereunder are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with and to require its subcontractors to fully comply with such Prevailing Wage Laws, to the extent that such laws apply. If applicable, County will maintain the general prevailing rate of per diem wages and other information set forth in Labor Code section 1773 at its principal office, and will make this information available to any interested party upon request. Contractor shall defend, indemnify and hold the County, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure of the Contractor or its subcontractors to comply with the Prevailing Wage Laws. Without limiting the generality of the foregoing, Contractor specifically acknowledges that County has not affirmatively represented to contractor in writing, in the call for bids, or otherwise, that the work to be covered by the bid or contract was not a “public work.” To the fullest extent permitted by law, Contractor hereby specifically waives and agrees not to assert, in any manner, any past, present, or future claim for indemnification under Labor Code section 1781.

Contractor acknowledges the requirements of Labor Code sections 1725.5 and 1771.1 which provide that no contractor or subcontractor may be listed on a bid proposal or be awarded a contract for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5, with exceptions from this requirement specified under Labor Code sections 1725.5(f), 1771.1(a) and 1771.1(n).

If the services are being performed as part of the applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, Contractor acknowledges that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

12. **NON-DISCRIMINATION**

Contractor shall not employ discriminatory practices in the treatment of persons in relation to the circumstances provided for herein, including assignment of accommodations, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

13. **GREEN PROCUREMENT POLICY**

Tehama County Resolution No. 49-2002, the Green Procurement Policy (available upon request) supports recycling and waste reduction, and promotes the purchase of products made with recycled materials when product fitness and quality are equal and they are available at no more than the total cost of non-recycled products. Contractor is encouraged to conform to this policy.

14. **COMPLIANCE WITH LAWS AND REGULATIONS**

All services to be performed by Contractor under to this Agreement shall be performed in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. Any change in status, licensure, or ability to perform activities, as set forth herein, must be reported to the County immediately.

15. **LAW AND VENUE**

This agreement shall be deemed to be made in, and shall be governed by and construed in accordance with the laws of the State of California (excepting any conflict of laws provisions which would serve to defeat application of California substantive law). Venue for any action arising from this agreement shall be in Tehama County, California.

16. **AUTHORITY**

Each party executing this Agreement and each person executing this Agreement in any representative capacity, hereby fully and completely warrants to all other parties that he or she has full and complete authority to bind the person or entity on whose behalf the signing party is purposing to act.

17. **NOTICES**

Any notice required to be given pursuant to the terms and provisions of this agreement shall be in writing and shall be sent first class mail to the following addresses:

If to County: Richard A. Muench, Chief Probation Officer
Tehama County Probation
P.O. Box 99
Red Bluff, CA 96080

If to Contractor: Inmate Phone Services
P.O. Box 8836
Calabasas, CA 91372
Phone: 818-707-2300

Notice shall be deemed to be effective two days after mailing.

18. **NON-EXCLUSIVE AGREEMENT:**

Contractor understands that this is not an exclusive agreement, and that County shall have the right to negotiate with and enter into agreements with others providing the same or similar services to those provided by Contractor, or to perform such services with County's own forces, as County desires.

19. **RESOLUTION OF AMBIGUITIES:**

If an ambiguity exists in this Agreement, or in a specific provision hereof, neither the Agreement nor the provision shall be construed against the party who drafted the Agreement or provision.

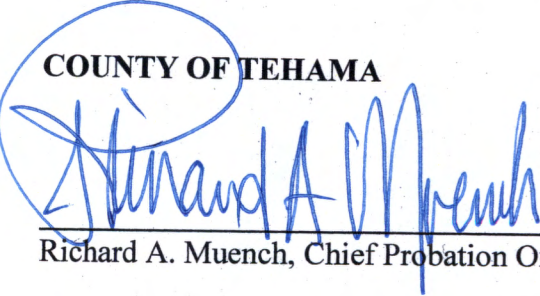
20. **NO THIRD PARTY BENEFICIARIES:**

Neither party intends that any person shall have a cause of action against either of them as a third party beneficiary under this Agreement. The parties expressly acknowledge that is not their intent to create any rights or obligations in any third person or entity under this Agreement. The parties agree that this Agreement does not create, by implication or otherwise, any specific, direct or indirect obligation, duty, promise, benefit and/or special right to any person, other than the parties hereto, their successors and permitted assigns, and legal or equitable rights, remedy, or claim under or in respect to this Agreement or provisions herein.

21. **EXHIBITS:**

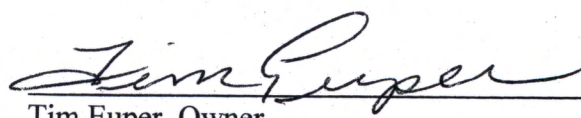
Contractor shall comply with all provisions of Exhibits A, attached hereto and incorporated by reference. In the event of a conflict between the provisions of the main body of this Agreement and any attached Exhibit(s), the main body of the Agreement shall take precedence.

IN WITNESS WHEREOF, County and Contractor have executed this agreement on the day and year set forth below.

COUNTY OF TEHAMA

Richard A. Muench, Chief Probation Officer

Date: 5-19-19

INMATE PHONE SERVICES


Tim Euper, Owner

Date: 5/3/2019

Approved as to form by
Tehama County Counsel

Richard Stout
County Counsel

Vendor Number

2036 415-301800
Budget Account Number

Exhibit A

INSURANCE REQUIREMENTS FOR CONTRACTOR

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work described herein and the results of that work by Contractor, his/her agents, representatives, employees or subcontractors. At a minimum, Contractor shall maintain the insurance coverage, limits of coverage and other insurance requirements as described below.

Commercial General Liability (including operations, products and completed operations) \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If coverage is subject to an aggregate limit, that aggregate limit will be twice the occurrence limit, or the general aggregate limit shall apply separately to this project/location.

Automobile Liability

Automobile liability insurance is required with minimum limits of \$1,000,000 per accident for bodily injury and property damage, including owned and non-owned and hired automobile coverage, as applicable to the scope of services defined under this agreement.

Workers' Compensation

If Contractor has employees, he/she shall obtain and maintain continuously Workers' Compensation insurance to cover Contractor and Contractor's employees and volunteers, as required by the State of California, as well as Employer's Liability insurance in the minimum amount of \$1,000,000 per accident for bodily injury or disease.

Professional Liability (Contractor/Professional services standard agreement only)

If Contractor is a state-licensed architect, engineer, contractor, counselor, attorney, accountant, medical provider, and/or other professional licensed by the State of California to practice a profession, Contractor shall provide and maintain in full force and effect while providing services pursuant to this contract a professional liability policy (also known as Errors and Omissions or Malpractice liability insurance) with single limits of liability not less than \$1,000,000 per claim and \$2,000,000 aggregate on a claims made basis. However, if

coverage is written on a claims made basis, the policy shall be endorsed to provide coverage for at least three years from termination of agreement.

If Contractor maintains higher limits than the minimums shown above, County shall be entitled to coverage for the higher limits maintained by Contractor.

All such insurance coverage, except professional liability insurance, shall be provided on an “occurrence” basis, rather than a “claims made” basis.

Endorsements: Additional Insureds

The Commercial General Liability and Automobile Liability policies shall include, or be endorsed to include “Tehama County, its elected officials, officers, employees and volunteers” as an additional insured.

The certificate holder shall be “County of Tehama.”

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions of \$25,000 or more must be declared to, and approved by, the County. The deductible and/or self-insured retentions will not limit or apply to Contractor’s liability to County and will be the sole responsibility of Contractor.

Primary Insurance Coverage

For any claims related to this project, Contractor’s insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of Contractor’s insurance and shall not contribute with it.

Coverage Cancellation

Each insurance policy required herein shall be endorsed to state that “coverage shall not be reduced or canceled without 30 days’ prior written notice certain to the County.”

Acceptability of Insurers

Contractor’s insurance shall be placed with an insurance carrier holding a current A.M. Best & Company’s rating of not less than A:VII unless otherwise acceptable to the County. The County

reserves the right to require rating verification. Contractor shall ensure that the insurance carrier shall be authorized to transact business in the State of California.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance that meets all the requirements stated herein.

Material Breach

If for any reason, Contractor fails to maintain insurance coverage or to provide evidence of renewal, the same shall be deemed a material breach of contract. County, in its sole option, may terminate the contract and obtain damages from Contractor resulting from breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

Policy Obligations

Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Verification of Coverage

Contractor shall furnish County with original certificates and endorsements effecting coverage required herein. All certificates and endorsements shall be received and approved by the County prior to County signing the agreement and before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements.

The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

EXHIBIT B

| TEHAMA JUVNILE HALL – CALLING RATES | | |
|--|----------------------|----------------------|
| CALL TYPE | PRE-PAID | COLLECT |
| | PER MIN. RATE | PER MIN. RATE |
| LOCAL | \$0.25 | \$0.25 |
| INTRALATA (In State) | \$0.25 | \$0.25 |
| INTERLATA (In State) | \$0.25 | \$0.25 |
| INTERSTATE (Out of State) | \$0.21 | \$0.25 |