



Kelly E. Johnson, C.P.M., C.P.C.M.
Harris County Purchasing Agent

November 2, 2010

Commissioners Court
Harris County, Texas

RE: Job No. 10/0097

Members of Commissioners Court:

Please approve the following award on the basis of best proposal meeting requirements and the attached Order authorizing the County Judge to execute the Agreement for the following:

Description: Public Telephones (Coin & Coin-less), Local and Long Distance Services, Inmate and Public Telecommunications Device for the Deaf (TDD) and Video Visitation for Harris County Sheriff's Office, Harris County and the Harris County Hospital District

Proposals Received: Five (5) on May 17, 2010 (see attached)

Vendor: Evercom Systems, Inc. (Securus)

Term/Renewals: January 1, 2011 through December 31, 2015 with three (3), three (3) year renewal options

Amount: See confidential attachment

Evaluated by: X Evaluation Committee X Harris County Purchasing

Harris County will receive revenue from the use of public telephones and long distance services.

Vote of the Court:	Yes	No	Abstain
Judge Emmett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sincerely,

Kelly E. Johnson

Kelly E. Johnson
Purchasing Agent

ry

Presented to Commissioner's Court

NOV 09 2010

APPROVE GIL

Recorded Vol _____ Page _____

PAK/jig

Attachments

cc: Harris County

Vendors w/o attachment

us- orig letter 1 Agent

Per- copy letter 2 Agents

And- copy letter 1 Agent

FOR INCLUSION ON COMMISSIONERS COURT AGENDA NOVEMBER 9, 2010

1001 Preston, Suite 670, Houston, TX 77002 Tel 713-755-5036 Fax 713-755-6695



Bullock's to that copy

CONFIDENTIAL UNTIL APPROVED BY COMMISSIONERS COURT

Request for Proposal for Public Telephones (Coin & Coin-less), Local and Long Distance Services, Inmate and Public Telecommunications Device for the Deaf (TDD) and Video Visitation for Harris County Sheriff's Office, Harris County and the Harris County Hospital District

Five (5) proposals were received as follows:

Vendors

1. Evercom Systems Inc. (Securus)
2. Value Added Communications, Inc. (VAC)
3. Global Tel Link Corporation (GTL)
4. Public Communications Services, Inc. (PCS)
5. Inmate Calling Solutions, LLC dba ICSolutions (ICS)

Evaluation Information

The Evaluation Committee consisted of representatives from Information Technology (ITC), Sheriff's Office, Juvenile Probation, Commissioner Precinct 2, 911 Emergency Network, and a representative from the Office of the Harris County Purchasing Agent. Upon careful evaluation of the proposals, vendor presentations and best and final offers, the Evaluation Committee selected Evercom Systems Inc. (Securus) on the basis of best proposal meeting requirements and needs of Harris County. Securus demonstrated they have the personnel, resources and experience to fulfill requirements, and offered the best revenue to Harris County while maintaining moderate inmate calling rates. All vendors were allowed to provide demonstrations of proposed technology and software. Securus' SS7 fraud detection was demonstrated and has the capabilities to fulfill and exceed requirements.

Value Added Communications, Inc., Global Tel Link Corporation, Public Communications Services, Inc. and Inmate Calling Solutions, LLC dba ICSolutions were eliminated for not meeting requirements in regards to technology, and proposed revenue offered was not as advantageous for Harris County.

Amount (Revenue)

\$7,800,000 includes first year signing bonus and pre-paid commissions to be paid to Harris County within forty-five (45) days of system installation

This project was developed and issued as a Request for Proposal and, as such, it is requested that the evaluation and cost information remain confidential until Commissioners Court approves the award and an Agreement is executed. At that time, all responses may become available for public review under the "Public Information Act".

CONFIDENTIAL UNTIL APPROVED BY COMMISSIONERS COURT

Request for Proposal for Public Telephones (Coin & Coin-less), Local and Long Distance Services, Inmate and Public Telecommunications Device for the Deaf (TDD) and Video Visitation for Harris County Sheriff's Office, Harris County and the Harris County Hospital District

Vendors	Commission % to Harris County			Signing Bonus	Pre-Paid Commissions to Harris County
	Inmate Call Rate	Local Inmate/Public	Long Distance Inmate/Public		
Evercom Systems Inc. (Securus) ¹	\$3.90	70% / 70%	70% / 70%	\$1,000,000	\$6,800,000
Value Added Communications, Inc.	\$3.90	70% / 55%	70% / 55%	\$0	\$560,000 ²
Global Tel Link Corporation	\$3.90	69.5% / 69.5%	69.5% / 69.5%	\$250,000	³
Public Communications Services, Inc.	\$4.00	65% / 65%	65% / 65%	\$1,600,000	\$0
Inmate Calling Solutions, LLC dba ICSolutions	\$3.95	60% / 60%	60% / 60%	Technology Fund ⁴	\$0

¹ As call volume increases, commission rates increases to 72%-74%

² 10% of previous years revenue will be pre-paid

³ 80% of previous years revenue will be pre-paid

⁴ Technology Fund—generated as a percentage of Harris County revenue held in a Trust, to be used to purchase new technology for Harris County with Inmate Calling Solutions, LLC dba ICSolutions

This Master Services Agreement (this "Agreement") is by and between Harris County, TX ("County" or "Customer"), a body corporate and politic under the laws of the State of Texas acting by and through the Harris County Information Technology Center, and Evercom Systems, Inc., a Delaware corporation and a wholly owned subsidiary of Securus Holdings, Inc., ("we," "us," or "Provider"), pursuant to the County's Request for Proposals Job No. 10/0097. The County and Provider are referred to herein collectively as the "parties" and individually as a "party." This Agreement supersedes any and all other agreements (oral, written, or otherwise) that may have been made between the parties and shall be effective as of the last date signed by either party (the "Effective Date").

Whereas the Customer desires that Provider install an inmate telecommunication system, and provide telecommunications and maintenance services according to the terms and conditions in this Agreement, and according to the Schedule and Work Orders, which are incorporated by reference into this Agreement;

Whereas the Provider agrees to install the inmate telecommunications system and provide telecommunications and maintenance services according to the terms and conditions in this Agreement, and according to the Schedule and Work Orders, which are incorporated by reference into this Agreement;

Now therefore, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Applications. This Agreement specifies the general terms and conditions under which we will perform certain inmate-related services and applications (the "Application(s)") for you. Additional terms and conditions with respect to the Applications will be specified in the schedules entered into by the parties and attached hereto (the "Schedules"). The Schedules are incorporated into this Agreement and are subject to the terms and conditions of this Agreement. In the event of any conflict between this Agreement and a Schedule, the terms of the Schedule shall govern. In the event of any conflict between any two Schedules for a particular Application, the latest in time shall govern.

2. Use of Applications. You grant us the exclusive right and license to install, maintain, and derive revenue from the Applications through our inmate systems (including, without limitation, the related hardware and software) (the "System") located in and around the inmate confinement facilities identified on the Schedules (the "Facilities"). You are responsible for the manner in which you use the Applications. Unless expressly permitted by a Schedule or separate written agreement with us, you will not resell the Applications or provide access to the Applications (other than as expressly provided in a particular Schedule), directly or indirectly, to third parties. During the term of this Agreement and subject to the remaining terms and conditions of this Agreement, Provider shall be the sole and exclusive provider of inmate related communications, including but not limited to voice, video and data (phone calls, video calls, messaging, prepaid calling cards, and e-mail) at the Facilities in lieu of any other third party providing such inmate communications, including without limitation, Customer's employees, agents or subcontractors.

3. Compensation. Compensation for each Application, if any, and the applicable payment addresses are as stated in the Schedules.

4. Term. The initial term of this Agreement (the "Initial Term") shall begin on the Effective Date and shall end on the date that is five (5) years thereafter. Unless one party delivers to the other written notice of non-renewal at least ninety (90) days before the end of the then current term, this Agreement shall automatically renew for three (3) successive periods of three (3) years each (the "Renewal Term(s)"). The Initial Term together with any Renewal Term(s) shall collectively be referred to herein as the "Term." Notwithstanding anything to the contrary, the terms and conditions of this Agreement shall continue to apply to each Schedule for so long as we continue to provide the Application to you after the expiration or earlier termination of this Agreement.

5. Service Level Agreement and Limited Remedy. We are committed to providing you with reliable, high quality Applications, and we offer certain assurances about the quality of our Applications (the "Service Level Agreement"). The Service Level Agreement for each Application is as set forth in the applicable Schedule. **THE SERVICE LEVEL AGREEMENT SETS FORTH THE SOLE AND EXCLUSIVE REMEDIES FOR FAILURE OR DEFECT OF AN APPLICATION. WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTY ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, AND NONINFRINGEMENT.**

6. Software License. We grant you a personal, non-exclusive, non-transferable license (without the right to sublicense) to access and use certain proprietary computer software products and materials in connection with the Applications (the "Software"). The Software includes any upgrades, modifications, updates, and additions to existing features that we implement in our discretion, but if available, no less than once a quarter (the "Updates"). Updates do not include additional features and significant enhancements to existing features. You are the license holder of any third-party software products we obtain on your behalf. You authorize us to provide or preinstall the third-party software and agree that we may agree to the third party End User License Agreements on your behalf. Your rights to use any third-party software product that we provide shall be limited by the terms of the underlying license that we obtained for such product. The Software is to be used solely for your internal business purposes in connection with the Applications at the Facilities. You will not (i) permit any parent, subsidiary, affiliated entity, or third party to use the Software, (ii) assign, sublicense, lease, encumber, or otherwise transfer or attempt to transfer the Software or any portion thereof, (iii) process or permit to be processed any data of any other party with the Software, (iv) alter, maintain, enhance, disassemble, decompile, reverse engineer or otherwise modify the Software or allow any third party to do so, (v) connect the Software to any products that we did not furnish or approve in

writing, or (vi) ship, transfer, or export the Software into any country, or use the Software in any manner prohibited by the export laws of the United States. We are not liable with regard to any Software that you use in a prohibited manner. Provider shall notify Customer within thirty (30) days of the introduction into the market of any new software feature upgrades specific to the inmate calling platform and associated features that are currently installed at Customer facilities or are later installed at Customer facilities pursuant to this Agreement. Provider shall upgrade the System with the new software feature versions and new hardware as required by Customer at no cost to Customer. For upgrades that are limited release, contain features offering new functionality or for third-party applications or platforms that are made available by the Provider, Provider and Customer must mutually agree upon the method for release and any associated cost. At the Customer's request, JLG software shall be installed at no cost to Customer.

7. Ownership and Use. The System, the Applications, and related records, data, and information shall at all times remain our sole and exclusive property unless prohibited by law, in which event, we shall have the unlimited right to use such records, data, and information for investigative and law enforcement purposes. However, during the term of this Agreement and for a reasonable period of time thereafter, we will provide you with reasonable access to the records. We (or our licensors, if any) have and will retain all right, title, interest, and ownership in and to (i) the Software and any copies, custom versions, modifications, or updates of the Software, (ii) all related documentation, and (iii) any trade secrets, know-how, methodologies, and processes related to our Applications, the System, and our other products and services (the "Materials"). The Materials constitute proprietary information and trade secrets of Provider and its licensors, whether or not any portion thereof is or may be the subject of a valid copyright or patent.

8. Legality/Limited License Agreement. For services related to Applications which may allow you to monitor and record inmate or other administrative telephone calls, or transmit or receive inmate electronic messages ("e-mail"); by providing the Application, we make no representation or warranty as to the legality of recording or monitoring inmate or administrative telephone calls or transmitting or receiving inmate e-mail messages. Further, you retain custody and ownership of all recordings, and inmate e-mail messages; however you grant us a perpetual limited license to compile, store, and access recordings or inmate calls and access inmate e-mail messages for purposes of (i) complying with the requests of officials at the Facility, (ii) disclosing information to requesting law enforcement and correctional officials as they may require for investigative, penological or public safety purposes, (iii) performing billing and collection functions, or (iv) maintaining equipment and quality control purposes. This license does not apply to recordings of inmate calls or e-mail messages with their attorneys or to recordings or e-mail messages protected from disclosure by other applicable privileges.

9. Confidentiality and Non-Disclosure. . Because you will be able to access confidential information of third parties that is protected by certain federal and state privacy laws through the Software and Applications, you shall only access the Software with computer systems that have effective firewall and anti-virus protection.

TEXAS PUBLIC INFORMATION ACT

A) The Parties expressly acknowledge that the Agreement is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended (the "Act"). Provider agrees that to the extent, if any, that any provision of the Agreement is in conflict with the Act, the same shall be of no force and effect. Therefore, any provisions in the Agreement which provide that any information, including the terms of the Agreement, is confidential are hereby stricken and excluded from the terms of the Agreement. Provider expressly understands and agrees that the County shall release any and all information necessary to comply with Texas law without the prior written consent of Provider.

B) It is expressly understood and agreed that the County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Act to any software, or any part thereof, or other information or data furnished to the County, whether or not the same are available to the public. It is further understood that the County, its officers and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that the County, its officers and employees shall have no liability or obligations to Provider for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other information or data furnished to the County in reliance on any advice, decision or opinion of the Attorney General of the State of Texas.

C) In the event the County receives a written request for information pursuant to the Act that affects Provider's rights, title to, or interest in any information or data or a part thereof, furnished to the County by Provider under the Agreement, the County will promptly notify Provider of such request. Provider may, at its own option and expense, prepare comments and submit information directly to the Attorney General of Texas stating why the requested information is exempt from disclosure pursuant to the requirements of the Act. Provider is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Act. Provider is solely responsible for seeking any declaratory or injunctive relief regarding the disclosure of information that it deems confidential or privileged.

10. Claims. To the fullest extent allowed by applicable law, each party agrees to be responsible for any loss, cost, claim, liability, damage, and expense (including, without limitation, reasonable attorney's fees and expenses) (collectively "Claims") arising out of (i) a breach of its own representations, warranties and/or covenants contained herein or (ii) the gross negligence or willful misconduct of, or intellectual property infringement or alleged intellectual property infringement by itself and/or its employees, agents, or contractors in the performance of this Agreement.

Furthermore, the parties understand and agree that each one is subject to federal, state, and local laws and regulations, and each party bears the burden of its own compliance. The Provider agrees to install and implement the Inmate Telephone System according to the law governing the Provider, the instruction it receives from the Customer as to the Customer's requirements under the law, and according to the Customer's facility's demographics. The Provider agrees to indemnify the Customer against any and all damages, loss, cost, claim, liability, injury (to persons and property) and expense brought or

claimed by third parties or the Customer's Facility (collectively, "Claims") arising out of or related to the Provider's failure to comply with the instruction it receives from the Customer, and all laws and regulations governing the Provider.

11. Insurance. We maintain comprehensive general liability insurance having limits of not less than \$2,000,000.00 in the aggregate. You agree to provide us with reasonable and timely written notice of any claim, demand, or cause of action made or brought against you arising out of or related to the utilization of the Applications and the System in which the Provider is brought in as a co-defendant in the Claim. We have the right to defend any such claim, demand, or cause of action at our sole cost and expense and within our sole and exclusive discretion. You agree not to compromise or settle any claim or cause of action arising out of or related to the utilization of the Applications or System without our prior written consent, and you are required to assist us with our defense of any such claim, demand, or cause of action.

12. Default and Termination. If either party defaults in the performance of any obligation under this Agreement, then the non-defaulting party shall give the defaulting party written notice of its default setting forth with specificity the nature of the default. If the defaulting party fails to cure its default within thirty (30) days after receipt of the notice of default, then the non-defaulting party shall have the right to terminate this Agreement upon thirty (30) days written notice and pursue all other remedies available to the non-defaulting party, either at law or in equity. Notwithstanding the foregoing, the thirty (30) day cure period shall be extended to ninety (90) days if the default is not reasonably susceptible to cure within such thirty (30) day period, but only if the defaulting party has begun to cure the default during the thirty (30) day period and diligently pursues the cure of such default. Notwithstanding the foregoing, if you breach your obligations in the section entitled "Software License" or the section entitled "Confidentiality", then we shall have the right to terminate this Agreement immediately.

13. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL HAVE ANY LIABILITY FOR INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR INCOME, LOST OR CORRUPTED DATA, OR LOSS OF USE OR OTHER BENEFITS, HOWSOEVER CAUSED AND EVEN IF DUE TO THE PARTY'S NEGLIGENCE, BREACH OF CONTRACT, OR OTHER FAULT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR PERSONAL INJURY OR INTELLECTUAL PROPERTY INFRINGEMENT, OUR AGGREGATE LIABILITY TO YOU RELATING TO OR ARISING OUT OF THIS AGREEMENT, , SHALL NOT EXCEED THE AMOUNT WE PAID YOU DURING THE TWELVE (12) MONTH PERIOD BEFORE THE DATE THE CLAIM AROSE.

PROVIDER SHALL HOLD HARMLESS THE COUNTY FROM AND AGAINST ALL CLAIMS AND LIABILITY DUE TO ACTIVITIES OF PROVIDER, ITS AGENTS, EMPLOYEES, OR SUBCONTRACTOR PERFORMED UNDER THIS CONTRACT AND WHICH RESULT FROM ANY NEGLIGENT ACT, ERROR, OMISSION, OR INTENTIONAL TORT THAT RESULTS IN PERSONAL INJURY OR DEATH; INTELLECTUAL PROPERTY INFRINGEMENT; OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER; COMMITTED BY PROVIDER OR BY ANY PERSON EMPLOYED BY PROVIDER, OR PROVIDER'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH PROVIDER EXERCISES CONTROL. PROVIDER SHALL ALSO HOLD HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY THE COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES WHICH MIGHT BE IMPOSED ON THE COUNTY AS THE RESULT OF SUCH ACTIVITIES BY PROVIDER, ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH PROVIDER EXERCISES CONTROL.

IF A CLAIM IS BROUGHT AGAINST THE COUNTY AS TO INTELLECTUAL PROPERTY INFRINGEMENT, PROVIDER SHALL HAVE THE RIGHT TO CONTEST SAME THROUGH ITS COUNSEL OR, AT PROVIDER'S OPTION, (A) TO SETTLE SAME BY SECURING FOR THE COUNTY THE RIGHT TO CONTINUE TO USE SUCH EQUIPMENT, OR (B) BY MODIFYING IT TO AVOID INFRINGEMENT, OR (C) BY REPLACING IT WITH NON-INFRINGEMENT EQUIPMENT, OR (D) BY RECLAIMING IT AND REIMBURSING THE COUNTY THE SUM PAID THEREFORE, INCLUDING INSURANCE EXPENSES. AS BETWEEN THE PROVIDER AND COUNTY, THE ABOVE PROVISIONS A – D, ARE THE SOLE AND EXCLUSIVE REMEDIES OF THE COUNTY FOR INTELLECTUAL PROPERTY INFRINGEMENT BY PROVIDER OF A THIRD PERSONS' INTELLECTUAL PROPERTY RIGHTS.

14. Uncontrollable Circumstance. We reserve the right to renegotiate or terminate this Agreement upon sixty (60) days advance written notice if circumstances outside our control related to the Facilities (including, without limitation, changes in rates, regulations, or operations mandated by law; material reduction in inmate population or capacity; material changes in jail policy or economic conditions; acts of God; actions you take for security reasons (such as lock-downs)) negatively impact our business; however, we shall not unreasonably exercise such right. Further, Customer acknowledges that Provider's provision of the services is subject to certain federal, state or local regulatory requirements and restrictions which are subject to change from time-to-time and nothing contained herein to the contrary shall restrict Provider from taking any steps necessary to perform in compliance therewith.

15. Injunctive Relief. Both parties agree that a breach of any of the obligations set forth in the sections entitled "Software License," "Ownership and Use," and "Confidentiality" would irreparably damage and create undue hardships for the other party. Therefore, the non-breaching party shall be entitled to immediate court ordered injunctive relief to stop any apparent breach of such sections, such remedy being in addition to any other remedies available to such non-breaching party.

16. Force Majeure. Either party may be excused from performance under this Agreement to the extent that performance is prevented by any act of God, war, civil disturbance, terrorism, strikes, supply or market, fluctuation or non-availability of

electrical power, heat, light, air conditioning or telecommunications equipment, other equipment failure or similar event beyond its reasonable control; provided, however that the affected party shall use reasonable efforts to remove such causes of non-performance.

17. Notices. Any notice or demand made by either party under the terms of this Agreement or under any statute shall be in writing and shall be given by personal delivery; registered or certified U.S. mail, postage prepaid; or commercial courier delivery service, to the address below the party's signature below, or to such other address as a party may designate by written notice in compliance with this section. Notices shall be deemed delivered as follows: personal delivery – upon receipt; U.S. mail – five days after deposit; and courier – when delivered as shown by courier records.

18. No Third Party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of a third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained herein shall operate only between the parties and shall inure solely to their benefit. The provisions of this Agreement are intended to assist only the parties in determining and performing their obligations hereunder, and the parties intend and expressly agree that they alone shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

19. Miscellaneous.

The Agreement is subject to the state and federal laws, orders, rules, and regulations relating to the Agreement and funded by state or federal funds or of applicable conditions of participation in Medicaid or Medicare program(s). Each Party shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations concerning the performance of this Agreement or the use of the inmate telecommunication system. This Agreement is governed by the laws of the State of Texas. The forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.

Notwithstanding any language to the contrary in the Agreement, this paragraph shall exclusively govern any dispute resolution process. The County does not agree to binding arbitration, nor does the County waive its right to a jury trial. In the event of a dispute concerning the Agreement, the parties shall attempt to informally and mutually resolve any issues. The parties agree that no provision of the Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas. Neither the execution of the Agreement nor any other conduct of either Party relating to the Agreement shall be considered a waiver by the County of any right, defense, or immunity under the Texas Constitution or the laws of the State of Texas. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto.

No waiver by either party of any event of default under this Agreement shall operate as a waiver of any subsequent default under the terms of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, the validity or enforceability of the other provisions shall remain unaffected. This Agreement shall be binding upon and inure to the benefit of Provider and Customer and their respective successors and permitted assigns. Except for assignments to our affiliates or to any entity that succeeds to our business in connection with a merger or acquisition, neither party may assign this Agreement without the prior written consent of the other party. Each signatory to this Agreement warrants and represents that he or she has the unrestricted right and requisite authority to enter into and execute this Agreement, to bind his or her respective party, and to authorize the installation and operation of the System. Provider and Customer each shall comply, at its own expense, with all applicable laws and regulations in the performance of their respective obligations under this Agreement and otherwise in their operations.

Upon prior written approval by the County, Provider may subcontract any portion of the work to a subcontractor acceptable to the County and which meets all County guidelines.

The Services performed by Provider under the Agreement are performed by Provider as an independent contractor. Nothing in this Agreement shall be deemed or construed by the parties or any other entity to create an agency, partnership, or joint venture between Customer and Provider. IN THE EVENT THAT ANY STATE OR FEDERAL AGENCY, OR COURT OF COMPETENT JURISDICTION DETERMINES THAT PROVIDER IS NOT AN INDEPENDENT CONTRACTOR, PROVIDER AGREES TO INDEMNIFY AND HOLD HARMLESS THE COUNTY FOR ANY AND ALL DAMAGES, PENALTIES, ASSESSMENTS, TAXES, OR EXPENSES THAT MAY BE INCURRED BY THE COUNTY AS A RESULT OF THIS DETERMINATION.

This Agreement cannot be modified orally and can only be modified by a written instrument signed by all parties. The parties' rights and obligations, which by their nature would extend beyond the termination, cancellation, or expiration of this Agreement, shall survive such termination, cancellation, or expiration (including, without limitation, any payment obligations for services or equipment received before such termination, cancellation, or expiration). This Agreement may be executed in counterparts, each of which shall be fully effective as an original, and all of which together shall constitute one and the same instrument. This Agreement, together with the exhibits and Schedules, constitutes the entire agreement of the parties regarding the subject matter set forth herein and supersedes any prior or contemporaneous oral or written agreements or guarantees regarding the subject matter set forth herein.

Either party may terminate the Agreement by written notice to the other party, and may regard the other party in default of the Agreement, if a party becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency

law whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise, and does not cure within thirty (30) calendar days.

20. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT ("HIPAA")

To the extent that this Article applies, this Article shall govern.

The purpose of this Article is to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended ("HIPAA"); privacy and security regulations promulgated by the United States Department of Health and Human Services ("DHHS"); Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended ("HITECH Act"); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended; and TEX. HEALTH & SAFETY CODE ANN. §§ 81.046, as amended, 181.001 *et seq.*, as amended, 241.151 *et seq.*, as amended, and 611.001 *et seq.*, as amended (collectively referred to herein as the "Privacy and Security Requirements").

A) Definitions.

- i) Business Associate. Contractor is a "Business Associate" of the County as that term is defined under the Privacy and Security Requirements.
- ii) Confidential Information is information that has been deemed or designated confidential by law, including, but not limited to PHI and EPHI as defined below.
- iii) Protected Health Information ("PHI") is defined in 45 C.F.R. § 164.501 and is limited to information created or received by Contractor from or on behalf of the County.
- iv) Electronic Protected Health Information ("EPHI") shall mean individually identifiable health information that is transmitted by or maintained in electronic media.
- v) Security Incident shall mean the unauthorized access, use, disclosure, modification, or destruction of Confidential Information, including, but not limited to, PHI and EPHI, or interference with the systems operations in an information system, including, but not limited to, information systems containing EPHI. This definition includes, but is not limited to, lost or stolen transportable media devices including, but not limited to flash drives, CDs, PDAs, cell phones, or cameras, desktop and laptop computers, photographs, and paper files containing Confidential Information.

B) General.

- i) Contractor agrees to hold all PHI and EPHI confidential except to the extent that disclosure is required by Federal or State law, including the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended.
- ii) Contractor agrees to be bound by and comply with all applicable Federal and State of Texas licensing authorities' laws, rules, and regulations regarding records and governmental records, including the Privacy and Security Requirements. Compliance with this paragraph is at Contractor's own expense.
- iii) Contractor agrees to cooperate with state and federal agencies and to make appropriate personnel available for interviews, consultation, grand jury proceedings, pre-trial conferences, hearings, trials, and any other process, including investigations, required as a result of Contractor's services to the County. Compliance with this paragraph is at Contractor's own expense.
- iv) The terms used in this Article shall have the same meaning as those terms in the Privacy and Security Requirements.

C) Representation. Contractor represents that it is familiar with and is in compliance with the Privacy and Security Requirements, which include Federal and State of Texas requirements governing information relating to HIV/AIDS, mental health, and drugs or alcohol treatment or referral.

D. Specific.

- i) Nondisclosure of PHI. Contractor agrees not to use or disclose PHI received from or on behalf of the County or created, compiled, or used by Contractor pursuant to the Agreement other than as permitted or required by this Article, or as otherwise required by law.
- ii) Limitation on Further Use or Disclosure. Contractor agrees not to further use or disclose PHI or EPHI received from or on behalf of the County or created, compiled, or used by Contractor pursuant to this Agreement in a manner that would be prohibited by the Privacy and Security Requirements if disclosure was made by the County, or if either Contractor or the County is otherwise prohibited from making such disclosure by any present or future State or Federal law, regulation, or rule.

- iii) Safeguarding PHI. Contractor agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Article or as required by State or Federal law, regulation, or rule.
- iv) Reporting Unauthorized Disclosures. Baylor agrees to report to District any use or disclosure of PHI that is not authorized by this Agreement immediately upon becoming aware of such unauthorized use or disclosure.
- v) Safeguarding EPHI. Contractor agrees to implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it creates, receives, maintains, or transmits on behalf of the County. These safeguards shall include the following:
 - a) Encryption of EPHI that Contractor stores and transmits;
 - b) Implementation of strong access controls, including physical locks, firewalls, and strong passwords;
 - c) Use of updated antivirus software;
 - d) Adoption of contingency planning policies and procedures, including data backup and disaster recovery plans; and
 - e) Conduct of periodic security training.
- vi) Reporting Security Incidents. Contractor agrees to report to the County any Security Incident immediately upon becoming aware of such. Contractor further agrees to provide the County with the following information regarding the Security Incident as soon as possible, but no more than five (5) business days after becoming aware of the Security Incident:
 - a) a brief description of what happened, including the dates the Security Incident occurred and was discovered;
 - b) a reproduction of the PHI or EPHI involved in the Security Incident; and
 - c) a description of whether and how the PHI or EPHI involved in the Security Incident was rendered unusable, unreadable, or indecipherable to unauthorized individuals either by encryption or otherwise destroying the PHI or EPHI prior to disposal.
- vii) EPHI and Subcontractors. Contractor shall require any agent to whom it provides PHI or EPHI, including a subcontractor, to agree to implement reasonable and appropriate safeguards to protect such .
- vii) Subcontractors and Agents. Contractor shall require any subcontractor or agent to whom Contractor provides PHI or EPHI received from or on behalf of the County or created, compiled, or used by Contractor pursuant to this Agreement, to agree to the same restrictions and conditions that apply to Contractor with respect to such PHI and EPHI.
- viii) Reciprocal Disclosures. The Parties agree that the Parties may reciprocally disclose and use PHI or EPHI for initial and continuing eligibility and compliance determinations related to the provision of benefits, for auditing and legal compliance purposes, and for compliance with laws, regulations, and rules related to the provision of medical or drug benefits to persons who may be eligible for such benefits under the Medicare Prescription Drug Benefit Program, Part D, or other federal or State of Texas programs.
- ix) Mitigation. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI or EPHI by Contractor, or by a subcontractor or agent of Contractor, resulting from a violation of this Article, including violations of the Privacy and Security Requirements stated herein. Contractor also agrees to inform the County in advance of its actual mitigation and of the details of its mitigation plan, unless doing so would cause additional harm.
- x) Notice – Access by Individual. Contractor agrees to notify the County in writing within three (3) business days of any request by an individual for access to the individual's PHI or EPHI and, upon receipt of such request, direct the individual to contact the County to obtain access to the individual's PHI. Upon request by the County, Contractor agrees to make available PHI and EPHI to the County or, as directed by the County, to an individual in accordance with 45 C.F.R. § 164.524.
- xi) Notice – Request for Amendment. Contractor agrees to notify the County in writing within three (3) business days of any request by an individual for an amendment to the individual's PHI or EPHI and, upon receipt of such request from the individual, direct the individual to the County to request an amendment of the individual's PHI or EPHI. Contractor agrees to make available upon request PHI and EPHI for amendment and to incorporate any amendments to PHI and EPHI agreed to or directed by the County in accordance with 45 C.F.R. § 164.526.
- xii) Notice – Request for Accounting. Upon receipt of any request from an individual for an accounting of disclosures made of the individual's PHI or EPHI, Contractor agrees to notify the County in writing within three (3) business days of any such request, and upon receipt of such request from the individual, direct the individual to the County for an accounting of the disclosures of the individual's PHI or EPHI. Contractor agrees to make available upon request the information required to provide an accounting of disclosures in accordance with 45 C.F.R. §

164.528. Pursuant to 45 C.F.R. § 164.528(a), an individual has a right to receive an accounting of certain disclosures of PHI or EPHI in the six (6) years prior to the date on which the accounting is requested.

xiii) HHS Inspection. Upon written request, Contractor agrees to make available to HHS or its designee, Contractor's internal practices, books, and records relating to the use and disclosure of PHI and EPHI received from, or created or received on behalf of the County,, in a time or manner designated by HHS for purposes of HHS determining the County's compliance with the Privacy and Security Requirements.

xiv) County Inspection. Upon written request, Contractor agrees to make available to the County or its duly authorized representatives during normal business hours Contractor's internal practices, books, records and documents relating to the use and disclosure of Confidential Information, received from, or created or received on behalf of, the County in a time and manner designated by the County for the purposes of the County determining compliance with the Privacy and Security Requirements. Contractor agrees to allow such access until the expiration of six (6) years after the services are furnished under the contract or subcontract or until the completion of any audit or audit period, whichever is later. Contractor agrees to provide for and allow similar access to books, records, and documents related to contracts between Contractor and organizations related to or subcontracted by Contractor to whom Contractor provides Confidential Information received from, or created or received on behalf of, the County.

xv) PHI or EPHI Amendment. Contractor agrees to incorporate any amendments, corrections, or additions to the PHI or EPHI received from or created, compiled, or used by the County pursuant to this Agreement when notified by the County that the PHI or EPHI is inaccurate or incomplete, or that other documents are to be added as required or allowed by the Privacy and Security Requirements.

xvi) Documentation of Disclosures. Contractor agrees to document disclosure of PHI or EPHI and information related to such disclosures as is necessary for the County to respond to a request by an individual for an accounting of disclosures of PHI or EPHI in accordance with 45 C.F.R. § 164.528, as amended.

xvii) Termination Procedures. Upon termination of this Agreement for any reason, Contractor agrees to deliver all PHI or EPHI received from the County or created, compiled, or used by Contractor pursuant to this Agreement within thirty (30) days from the date of termination, or, if specially requested to do so by the County in writing, to destroy all PHI or EPHI within the time frame determined by the County, which will be no less than thirty (30) days from the date of the notice of termination. This provision applies when Contractor maintains PHI or EPHI from the County in any form. If Contractor determines that transferring or destroying the PHI or EPHI is infeasible, Contractor agrees:

- a) to notify the County of the conditions that make transfer or destruction infeasible;
- b) to extend the protections of this Article to such PHI or EPHI; and
- c) to limit any further uses and disclosures of such PHI or EPHI to those purposes that make the return, or transfer to the County, or destruction infeasible.

xviii) Notice-Termination. Upon written notice to Contractor, the County may terminate any portion of the Agreement under which Contractor maintains, compiles, or has access to PHI or EPHI. Additionally, upon written notice to Contractor, the County may terminate the entire Agreement if the County determines, at its sole discretion, that Contractor has repeatedly violated a Privacy or Security Requirement.

E) Survival of Privacy Provisions. Contractor's obligations with regard to PHI and EPHI shall survive termination of this Agreement.

F) Amendment Related to Privacy and Security Requirements. The Parties agree to take such action as is necessary to amend this Agreement if the County, in its reasonable discretion, determines that amendment is necessary for the County to comply with the Privacy and Security Requirements or any other law or regulation affecting the use or disclosure of PHI or EPHI. Any ambiguity in this Article shall be resolved to permit the County to comply with the Privacy and Security Requirements.

G) Indemnification. Contractor agrees to indemnify and hold harmless, to the extent allowed by law, the County and its Commissioners' Court, officers, employees, and agents (individually and collectively "Indemnitees") against any and all losses, liabilities, judgments, penalties, awards, and costs (including costs of investigations, legal fees, and expenses) arising out of or related to:

- i) a breach of this Agreement relating to the Privacy and Security Requirements by Contractor; or
- ii) any negligent or wrongful acts or omissions of Contractor or its employees, directors, officers, subcontractors, or agents, relating to the Privacy and Security Requirements, including failure to perform their obligations under the Privacy and Security Requirements.

H. Contractor shall ensure that any agent to whom it provides PHI or EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect PHI or EPHI. Further, Contractor agrees to give District at least sixty (60) days advance notice of its intent to provide PHI or EPHI to an agent located outside of the United States.

I. This Article survives the termination of the Agreement and expires six (6) years after its termination.

21. NO FEDERAL EXCLUSION

- A) Provider warrants that neither Provider nor any of its owners, officers, directors, employees, or principals (collectively "Principals"), is an "Ineligible Person." An "Ineligible Person" is an individual or entity who:
- i) Is currently excluded, debarred, suspended, or otherwise ineligible to participate in federal and/or state health care programs or in federal and/or state procurement or nonprocurement programs. This includes persons who are on the List of Excluded Individuals or Entities of the Inspector General, List of Parties excluded from Federal Programs by the General Services Administration or the Medicaid Sanction List; or,
 - ii) Has been convicted of a criminal offense related to the provision of health care items or services [within the rules and regulations of 42 USC §1320a-7(a)], but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.
- B) Provider agrees to report immediately to the County's Purchasing Agent if either Provider or any of its Principals becomes an "Ineligible Person" during the term of this Agreement.

22. Required Alcohol and Drug Screening / Immunization

Provider agrees that the required alcohol and drug testing will be conducted at a U.S. laboratory certified by the Department of Health and Human Services under the National Certification Program to perform Department of Transportation drug and alcohol screening ("Certified Laboratory"). Provider agrees that the Certified Laboratory will use an EBT to detect and measure the presence of alcohol. If the result of the initial screening EBT test is an alcohol-concentration of 0.02 or greater, a confirmation EBT will be performed after the expiration of not less than fifteen minutes to confirm that the test has properly measured the alcohol concentration. If the confirmation test is an alcohol-concentration of 0.02 or greater, Provider agrees not to assign for duties at Harris County facilities.

The initial drug screening is an enzyme immunoassay technique (EMIT) test to detect the following prohibited drug group levels:

Substance	EMIT Cut-Off Level
1. Marijuana metabolites	50 ng/mL
2. Cocaine metabolites	300 ng/mL
3. Phencyclidine (PCP)	25 ng/mL
4. Amphetamines 1000	1000 ng/mL
5. Opiate metabolites	2000 ng/mL

All specimens identified as positive on the initial test are confirmed using gas chromatography/mass spectrometry (GC/MS) techniques. The confirmation test conducted is given to detect the following prohibited drug group levels:

Substance	GC/MS Cut-Off Level
1. Marijuana metabolites	15 ng/mL
2. Cocaine metabolites	150 ng/mL
3. Phencyclidine (PCP)	25 ng/mL
4. Amphetamines	
Amphetamine 500 ng/mL	
Amphetamine 500 ng/mL	
Methamphetamine 500 ng/mL	
(specimen must also contain amphetamine at a concentration of > 200 ng/mL.)	
5. Opiate metabolites	
Codeine 2000 ng/mL	
Morphine 2000 ng/mL	
6-acetylmorphine 10 ng/mL	
(6-AM is only tested when morphine concentration exceeds 2,000 ng/mL.)	

If the confirmation test is level greater than the GC/MS Cut-Off Level above, Provider agrees not to assign for duties at Harris County facilities.

Immunization –Provider shall comply with Harris County immunization requirements. All staff assigned to Harris County facilities shall meet, at a minimum, the following requirements:

TUBERCULIN (PPD) SKIN TEST – Provider shall perform PPD skin testing yearly on all staff that has not previously tested positive. For any staff whose test becomes positive, Provider must present documentation of treatment status. For staff with previous known positive skin tests, Provider will present a yearly screening of clinical symptoms for active tuberculosis.

EXECUTED as of the Effective Date.

<p><u>CUSTOMER:</u> Harris County, TX By: <u>Ed Emmett</u> ED EMMETT COUNTY JUDGE <u>Customer's Notice Address:</u> 1001 Preston Avenue, Suite 670 Houston, TX 77002 APPROVED AS TO FORM: VINCE RYAN COUNTY ATTORNEY By: <u>Barbara Smith Armstrong</u> 11/8/10 Barbara Smith Armstrong Assistant County Attorney C.A. File 10GEN2399</p>	<p><u>PROVIDER:</u> Evercom Systems, Inc. By: <u>[Signature]</u> Name: Matt Anderson Title: Vice President of Sales Date: <u>11-8-2010</u> <u>Provider's Notice Address:</u> 14651 Dallas Parkway, Suite 600 Dallas, Texas 75254 Attention: General Counsel Phone: (972) 277-0300 <u>Provider's Payment Address:</u> 14651 Dallas Parkway, Suite 600 Dallas, Texas 75254 Attention: Accounts Receivable</p>
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Please return signed contract to:

**14651 Dallas Parkway
Sixth Floor
Dallas, Texas 75254**

Attention: Contracts Administrator

Phone: (972) 277-0410

Schedule (Harris County, TX)

This Schedule is between Evercom Systems, Inc., a Delaware corporation and a wholly owned subsidiary of Securus Holdings, Inc. ("we" or "Provider"), and Harris County, TX (the "County" or "you" or "Customer") and is part of and governed by the Master Services Agreement (the "Agreement") executed by the parties. The terms and conditions of the Agreement are incorporated herein by reference. This Schedule shall be coterminous with the Agreement ("Schedule Effective Date").

A. Applications. We will provide the following Applications:

CALL MANAGEMENT SYSTEM

DESCRIPTION:

Secure Call Platform: Secure Call Platform ("SCP") provides, through its centralized net centric, VOIP, digital transmitted system, automatic placement of calls by inmates without the need for conventional live operator services. In addition, SCP provides the capability to (a) monitor and record inmate calls, (b) mark certain numbers as private to disable the monitoring and recording function, (c) automatically limit the duration of each call to a certain period designated by us, as designated by Harris County, (d) maintain call detail records in accordance with our standard practices, (e) automatically shut the System on or off, and (f) allow free calls to the extent required by applicable law. We will be responsible for all billing and collections of inmate calling charges but may contract with third parties to perform such functions. This may include 3rd party transaction providers. SCP will be provided at the Facilities specified in the chart below.

COMPENSATION:

Collect Calls. We will pay you commission (the "Commission") in the amount of the applicable Collect Commission Percentage (as specified in the chart below) of the applicable revenue base (as specified in the chart below) that we earn through the completion of collect calls placed from the Facilities. Gross Revenues shall mean all gross billed revenues relating to completed collect calls generated by and through the Inmate Telecommunications System. Regulatory required and other items such as federal, state and local charges, taxes and fees, including transaction funding fees, transaction fees, credits, billing recovery fees, charges billed by non-LEC third parties, and promotional programs are the responsibility of the Provider and shall not be deducted from the Commission paid to Customer nor eligible to be commissionable to the Customer.. Provider shall calculate commission based on the rates set forth in the "Calling Rates" table. We shall remit the Commission for a calendar month to you on or before the 30th day after the end of the calendar month in which the calls were made (the "Payment Date"). All Commission payments shall be final and binding upon you unless we receive written objection within sixty (60) days after the Payment Date. Your payment address is as set forth in the signature block below. You shall notify us in writing at least sixty (60) days before a Payment Date of any change in your payment address.

Within forty-five (45) days of the installation of the System, Provider shall prepay to Customer \$6.8 million and no/100 dollars (\$6,800,000.00) for the twelve (12) month period following the Schedule Effective Date.

For contract years two (2) through eight (8), an annual prepayment of commissions shall be paid within thirty (30) days of the first day of each contract year. The Annual Prepaid Commission shall be equal to eighty-five percent (85%) of the Actual Gross Billable Revenue for the previous twelve (12) month period, at the applicable commission rate based on call type in the charts below.

In the event Customer's Actual Commission Earned at the end of each contract year is less than the Annual Prepaid Commission, Provider shall debit such difference from Customer's subsequent years' Annual Prepaid Commission amount.

In the event Customer's Actual Commission Earned is greater than the Annual Prepaid Commission, Provider shall pay Customer the commission on a monthly basis on the 25th day of the month in which the event first occurs and every 25th day of the month thereafter.

This true-up process will be repeated throughout the Initial Term. All late payments will bear interest at the maximum legal rate of interest.

In the event Customer's Actual Commission Earned during the final year of the Initial Term is less than the last Annual Prepaid Commission, Customer agrees to pay Provider the difference within forty-five (45) days of such final year of the Initial Term.

If the Provider terminates the Agreement at any time other than at the end of the calendar month, the payment for that portion of the calendar month shall be due and payable within sixty (60) days after such termination. All late payments shall bear interest at the maximum legal rate of interest. If the Customer terminates the Agreement prior to the end of the Initial Term through no fault of Provider, Customer shall reimburse to Provider any unearned portion of either the First Prepayment or any Annual Commission as set forth above ("unearned" meaning the Actual Commissions Earned have not exceeded the First Prepayment or Annual Prepaid Commission amount accordingly and is calculated as First Prepayment/Annual Prepaid Commission less the Actual Commissions Earned) for the corresponding period.

Signing Bonus. On the first day of the month following the installation of the System, Provider will pay you a signing bonus of one (1) million and no/100 dollars (\$1,000,000.00) If the Agreement is terminated for any reason before the end of the

Initial Term, except for default or breach by Provider, you will refund to us an amount equal to the signing bonus times a fraction, the numerator of which is the number of months between the date of termination and the end of the initial Term, and the denominator of which is the number of months in the initial Term plus interest on the prorated amount in the amount of the lower of (a) fifteen percent (15%) per annum and (b) the maximum rate allowed by law. You shall pay any such refund within ten (10) days after any such termination, or at our election, we may deduct the refund from any Commission we owe you. All signing bonus payments shall be final and binding upon you unless we receive written objection within sixty (60) days after the signing bonus has been paid to you.

FACILITIES AND RELATED SPECIFICATIONS:

Facility Name and Address	Type of Call Management Service	Collect Commission Percentage	Revenue Base for Calculation of Commission	Payment Address
Harris County 1001 Preston Avenue, Suite 670 Houston, TX 77002	SCP	70%*	GROSS	SAME
Harris County Information Technology Center 406 Caroline Street Houston, TX 77002	PAYPHONE	70%	GROSS	SAME

*Should collect call volumes and commissions reach the following thresholds, commissions rates will be adjusted in the given year accordingly:

Call Volume	Estimated Revenue	Commission Rate	Estimated Commissions
2,518,672	\$9,822,820.80	70%	\$6,875,974.56
2,820,512	\$10,999,996.80	72%	\$7,919,997.70
3,076,923	\$11,999,999.70	74%	\$8,879,999.78

Total Gross Revenues generated by Harris County will be calculated on local, long distance, and pre paid or debit calling to determine commission pay-outs throughout the Term of the Agreement. During the month when the next level of Commission Rate is achieved, Provider shall begin calculating and paying commission using the higher commission rate. Provider shall re-calculate the preceding months of the given year's commission and pay the difference between the previous months' lower commission rate and the adjusted higher commission rate, at the end of the current calendar year.

CENTRALIZED NET CENTRIC, VOIP, DIGITAL TRANSMITTED CALL MANAGEMENT SYSTEM

DESCRIPTION:

Secure Calling Platform User Interface. We will provide you with the Software regarding the Secure Calling Platform Interface ("S-Gate User Interface") which may be used only on computers and other equipment that meets or exceeds the specifications in the chart below, which we may amend from time to time ("Compatible Equipment"), for a total of licensed users as specified in the attached Customer Statement of Work. Customer represents that (i) it will be responsible for distributing and assigning licenses to its end users; (ii) it will use the SCP User Interface for lawful purposes and shall not transmit, retransmit or store material in violation of any federal or state laws or regulation; and (iii) it will monitor and ensure that its licensed end users comply as directed herein.

WORKSTATION REQUIREMENTS	
Processor	Personal computer (PC) with a minimum 1 gigahertz (GHz) or processor clock speed recommended; Intel Pentium/Celeron family, or AMD K6/Athlon/Duron family, or compatible processor recommended higher
Operating System	Windows XP
Browser	Microsoft Internet Explorer 6.0 or better
Memory	At least 128 megabytes (MB) of RAM; 256 MB for optimum speed
Drive	CD-ROM or DVD drive
Display	Super VGA (1,024 x 768) or higher-resolution video adapter and monitor
Peripherals	Keyboard and Microsoft Mouse or compatible pointing device
Internet	Internet access

SERVICE LEVEL AGREEMENT

We agree to repair and maintain the System in good operating condition (ordinary wear and tear excepted), including, without limitation, furnishing all parts and labor. All such maintenance shall be conducted in accordance with the service levels in Items 1 through 10 below. All such maintenance shall be provided at our sole cost and expense unless necessitated by any misuse of, or destruction, damage, or vandalism to any premises equipment by you (not inmates at the Facilities), in which case, we may recoup the cost of such repair and maintenance through either a Commission deduction or direct invoicing, at our option. You agree to promptly notify us in writing after discovering any misuse of, or destruction, damage, or vandalism to, the said equipment. If any portion of the System is interfaced with other devices or software owned or used by you or a third party, then we shall have no obligation to repair or maintain such other devices or software. This SERVICE LEVEL AGREEMENT does not apply to any provided *Openworkstation(s)* (see below). For the services contemplated hereunder, we may provide, based upon the facilities requirements, two types of workstations (personal computer/desktop/laptop/terminal): The "*Openworkstation*" is an open non-secured workstation which permits administrative user rights for facility personnel and allows the facilities an ability to add additional third party software. Ownership of the *Openworkstation* is transferred to the facility along with a three-year product support plan with the hardware provider. We have no obligation to provide any technical and field support services for an *Openworkstation*. CUSTOMER IS SOLELY RESPONSIBLE FOR THE MAINTENANCE OF ANY *OPENWORKSTATION(S)*."

1. Outage Report; Technical Support. If either of the following occurs: (a) you experience a System outage or malfunction or (b) the System requires maintenance (each a "System Event"), then you will promptly report the System Event to our Technical Support Department ("Technical Support"). You may contact Technical Support 24 hours a day, seven days a week (except in the event of planned or emergency outages) by telephone at 866-558-2323, by email at TechnicalSupport@Evercom.net, or by facsimile at 800-368-3168. We will provide you commercially reasonable notice, when practical, before any Technical Support outage. For your calls to Technical Support, the average monthly call answer time is generally 120 seconds or less.

2. Priority Classifications. Upon receipt of your report of a System Event, Technical Support will classify the System Event as one of the following three priority levels:

"Priority 1"	30% or more of the functionality of the System is adversely affected by the System Event.
"Priority 2"	5% - 29% of the functionality of the System is adversely affected by the System Event.
"Priority 3"	5% or less of the functionality of the System is adversely affected by the System Event. Single and multiple phones related issues.

3. Response Times. After receipt notice of the System Event, we will respond to the System Event within the following time periods:

Priority 1	2 hours
Priority 2	24 hours
Priority 3	72 hours

4. Response Process. In the event of a System Event, where the equipment is located on Customer premises, Technical Support will either initiate remote diagnosis and correction of the System Event or dispatch a field technician to the Facility (in which case the applicable regional dispatcher will contact you with the technician's estimated time of arrival), as necessary. In the event of a System Event occurs in the centralized SCP system, technical support will initiate remote diagnosis and correction of the System Event.

5. Performance of Service. All of our repair and maintenance of the System will be done in a good and workmanlike manner at no cost to you except as may be otherwise set forth in the Agreement. Any requested modification or upgrade to the System that is agreed upon by you and us may be subject to a charge as set forth in the Agreement and will be implemented within the time period agreed by the parties.

6. Escalation Contacts. Your account will be monitored by the applicable Territory Manager and Regional Service Manager. In addition, you may use the following escalation list if our response time exceeds 36 hours: first to the Technical Support Manager or Regional Service Manager, as applicable, then to the Director of Field Services, then to the Executive Director, Service.

7. Notice of Resolution. After receiving internal notification that a Priority 1 System Event has been resolved, a member of our management team will contact you to confirm resolution. For a Priority 2 or 3 System Event, a member of our customer satisfaction team will confirm resolution.

8. Monitoring. We will monitor our back office and validation systems 24 hours a day, seven days a week.

9. Required IGR. You are responsible for providing a dedicated isolated grounded receptacle ("IGR") for use in connection with the primary System. Upon request we will provide you with the specifications for the IGR. If you are unable to or do not provide the IGR, then we will provide the IGR on a time and materials basis at the installer's then-current billing rates, provided that we are not responsible for any delay caused by your failure to provide the IGR.

10. End-User Billing Services and Customer Care. Our Correctional Billing Services department will maintain dedicated customer service representatives to handle end-user issues such as call blocking or unblocking and setting up end-user payment accounts. The customer service representatives will be available during reasonable business hours Monday through Saturday by telephone at 800-844-6591, by email at Support@CorrectionalBillingServices.com, and by facsimile at 800-578-2627. In addition, we will maintain an automated inquiry system on a toll-free customer service phone line that will be available to end-users 24 hours a day, 7 days a week to provide basic information and handle most routine activities. We will also accept payments from end-users by credit card, check, and cash deposit (such as by money order or Western Union transfer). It is the County's understanding that the customer services representatives will be employees of Provider and be located within the United States, including any overload calls. If at any time this changes, Provider shall inform the County thirty (30) days prior to any change.

INMATE PRE PAID/DEBIT/CREDIT ACCOUNTS

DESCRIPTION:

An Inmate Debit Account is a secure, pre paid/debit/credit, inmate-owned phone account that allows inmates to use funds from their trust accounts, associated with their Personal Identification Numbers (PINs) to make phone calls. The security of Inmate pre paid Debit/Credit Accounts is enhanced through the use of PINs. At the beginning of every call each inmate is asked to key in his/her PIN number in order to complete a call and pay for it using their Pre Paid Inmate Debit Account ("debit calls"). Facility agrees to have the Pre Paid/Debit module of the SCP Call Management System enabled for their facility in order to offer Pre Paid Inmate Debit Accounts to inmates. Inmates may request to transfer funds from their trust account to their Inmate Debit Account to use to pay for calls. Securus shall be the sole and exclusive marketer and administrator for all inmate calling products used through our systems at the facilities. Securus shall have the right to refuse any other company's calling products. All calling options shall be distributed only in accordance with this agreement and upon approval by the Harris County Commissioners Court.

S-Gate provides an easy-to-use online tool for investigative and reporting tasks, which allows the Customer to track detailed financial reporting, as well as inmate phone usage and calling habits.

Customer understands and agrees that in order to allow Friends and Family to fund these Accounts through multiple points-of-sale, the inmate's Account number will be available for Friends and Family to search for and obtain on our website. Friends and Family shall be able to fund these accounts through phone and internet options. On release, any remaining balance will be useable outside the facility by contacting Securus for instructions.

COMPENSATION:

We will pay you the Commission percentage specified in the chart below that we earn through the completion of debit calls placed from the Facilities.

TAXES:

Provider will collect taxes for all pre paid/debit/credit call purchases from the purchaser of the debit calls. If Provider receives a Sales and Use Tax Resale Certificate from Customer, Provider will not charge applicable sales taxes on Customer invoices for pre paid/debit/credit call purchases.

FACILITIES AND RELATED SPECIFICATIONS:

Facility Name and Address	Percentage	Revenue Base for Calculation of Commission
Harris County 1001 Preston Avenue, Suite 670 Houston, TX 77002	71.2%	GROSS

VOICE BIOMETRICS™

Voice Biometrics™ provides validation of inmate personal identification numbers (PINs) through voice verification technology for purposes of improved security and reduced potential of fraud and consumer harassment by inmates. Securus has offered voice biometrics as an optional feature to be used as part of our inmate telephone system. These services traditionally carry a fee to either the end user or a reduction in commissions. Securus will provide this additional capability, with no adjustment in call rate or commissions, with the activation of debit or pre paid card calling and approval to connect telephone calls to cellular phones. This includes the use of text messaging for cellular account activation.

COIN PAY PHONE SERVICE

DESCRIPTION:

We will, as a courtesy to you, provide you with the use of coin pay phones (the "Coin Pay Phones") at the Facilities specified in the chart provided in RFP 10/0097.

COMPENSATION:

We will pay you the applicable percentage specified in the chart below of the revenue that we realize through collection of coins in the Coin Pay Phones. All coin payphone payments shall be final and binding upon you unless we receive written objection within sixty (60) days after the signing bonus has been paid to you.

FACILITIES AND RELATED SPECIFICATIONS:

Facility Name and Address	Number of Phones	Percentage	Payment Address
Harris County 1001 Preston Avenue, Suite 670 Houston, TX 77002	33	70%	SAME
Harris County Information Technology Center 406 Caroline Street Houston, TX 77002		70%	SAME

Harris County reserves the right to add or delete pay phones at any time without prior notice, and all commission rates shall apply without interruption based on actual number of phones.

All listed calling rates shall not change unless mandated by law or regulation. Provider shall notify the County as soon as Provider becomes aware of such event.

Remainder of page intentionally left blank.

CALLING RATES

LOCAL

SURCHARGE \$ 3.90

	DAY		EVENING		NIGHT/WEEKEND	
RATE	EACH		EACH		EACH	
MILEAGE	CALL		CALL		CALL	
0-99999	0.0000		0.0000		0.0000	

INTRALATA INTRASTATE

SURCHARGE \$ 3.90

	DAY		EVENING		NIGHT/WEEKEND	
	EACH		EACH		EACH	
RATE	INITIAL	ADD'L	INITIAL	ADD'L	INITIAL	ADD'L
MILEAGE	PERIOD	PERIOD	PERIOD	PERIOD	PERIOD	PERIOD
0-17	0.1000	0.0900	0.0800	0.0700	0.0600	0.0500
18-22	0.1500	0.1400	0.1100	0.1100	0.0900	0.0800
23-28	0.2200	0.2000	0.1700	0.1500	0.1300	0.1200
29-34	0.2600	0.2500	0.2000	0.1900	0.1600	0.1500
35-66	0.3300	0.3100	0.2500	0.2300	0.2000	0.1900
67-9999	0.3600	0.3500	0.2700	0.2600	0.2200	0.2100

INTERLATA INTRASTATE

SURCHARGE \$ 3.47

	DAY		EVENING		NIGHT/WEEKEND	
	EACH		EACH		EACH	
RATE	INITIAL	ADD'L	INITIAL	ADD'L	INITIAL	ADD'L
MILEAGE	PERIOD	PERIOD	PERIOD	PERIOD	PERIOD	PERIOD
0-17	0.2975	0.2625	0.2975	0.2625	0.2975	0.2625
18-22	0.3150	0.2975	0.3150	0.2975	0.3150	0.2975
23-66	0.3325	0.3150	0.3325	0.3150	0.3325	0.3150
67-124	0.3675	0.3500	0.3675	0.3500	0.3675	0.3500
125-292	0.4025	0.3850	0.4025	0.3850	0.4025	0.3850
293-9999	0.4200	0.4025	0.4200	0.4025	0.4200	0.4025

INTERLATA INTERSTATE

SURCHARGE \$ 4.42

	DAY		EVENING		NIGHT/WEEKEND	
	EACH		EACH		EACH	
RATE	INITIAL	ADD'L	INITIAL	ADD'L	INITIAL	ADD'L
MILEAGE	PERIOD	PERIOD	PERIOD	PERIOD	PERIOD	PERIOD
0-99999	0.8900	0.8900	0.8900	0.8900	0.8900	0.8900

DIRECT FEES BILLED BY SECURUS TO END USERS*

Fee or Policy	Amount and/or Description	Applies to Prepaid Collect, Collect and/or Debit	Applies to local, intraLATA, InterLATA, and/or Interstate
Securus Applied Fees			
Prepaid Account Set Up Fee	None	None	None
Prepaid Account Funding Fee (via Telephone)	\$6.95 for credit card or check-by-phone funding	Prepaid Collect	N/A
Prepaid Account Funding Fee (via Internet)	\$6.95 for credit card	Prepaid Collect	N/A
Prepaid Refund Fee	None		
Federal Regulatory Recovery Fee	\$2.99	Collect & Prepaid Collect	Interstate
Bill Statement Fee	\$2.49	LEC billed collect only	Monthly statement fee regardless of call type.
Direct Bill Fee	None		
Return Check Charge	\$25		
Account Maintenance Fee	\$1.99 Wireless Administration Fee	Prepaid Collect accounts with wireless numbers	Monthly fee regardless of call type.
3rd Party Vendor Transaction Fees			
Western Union – End User Deposit Fee	Optional Fee of up to \$11.99 charged for the expedited wiring of funds		
Text2Connect – Wireless Text Message Fee	Optional Fee of up to \$9.99 may be charged by end users wireless provider to complete promotional call and facilitate account establishment	N/A	
Instant Pay Credit Card Calling	Provides the option for end users to receive and pay for a call with a credit card or debit card at the time of call without establishing an account. Fee of up to \$14.99 including credit card charges.	N/A	

*Provider shall not increase nor add fees without County's written approval.

Exhibit A: Customer Statement of Work

(Harris County, TX)

This **Customer Statement of Work** is made part hereto and governed by the Master Services Agreement (the "Agreement") executed between Evercom Systems, Inc., a Delaware corporation and a Securus Holdings, Inc. company ("we" or "Provider"), and Harris County, TX ("you" or "Customer"). The terms and conditions of said Agreement are incorporated herein by reference. This Customer Statement of Work shall be coterminous with the Agreement.

A. Applications. The parties agree that the Applications listed in the Service Schedule or below shall be provided and in accordance with the Service Level Agreements as described in the applicable section of the Service Schedule to the Agreement.

B. Equipment. We will provide the equipment/Applications in connection with the SCP services needed to support the required number and type of phones and other components, multiple S-Gate licenses, and storage for one (1) year. Additional equipment or applications will be installed only upon mutual agreement by the parties, and will not incur additional charges.

EXECUTED as of the Schedule Effective Date.

CUSTOMER: Harris County, TX By: <u>Ed Emmett</u> ED EMMETT COUNTY JUDGE	PROVIDER: Evercom Systems, Inc. By: <u>[Signature]</u> Name: Matt Anderson Title: Vice President of Sales
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APPROVED AS TO FORM:

VINCE RYAN

COUNTY ATTORNEY

By: Barbara Smith Armstrong 8/10

Barbara Smith Armstrong

Assistant County Attorney

C.A. File 10GEN2399

Please return signed contract to:

14651 Dallas Parkway
Sixth Floor
Dallas, Texas 75254

Attention: Contracts Administrator

Phone: (972) 277-0410

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, sitting as the governing body of Harris County, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the ____ day of NOV 09 2010, 2010 with the following members present, to-wit:

Ed Emmett	County Judge
El Franco Lee	Commissioner, Precinct No. 1
Sylvia García	Commissioner, Precinct No. 2
Steve Radack	Commissioner, Precinct No. 3
Jerry Eversole	Commissioner, Precinct No. 4

and the following members absent, to-wit: None, constituting a quorum, when among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF A REVENUE AGREEMENT
BETWEEN HARRIS COUNTY AND EVERCOM SYSTEMS, INC., A WHOLLY
OWNED SUBSIDIARY OF SECURUS HOLDINGS, INC.**

Commissioner Conce introduced an order and made a motion that the same be adopted. Commissioner Lee seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Emmett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. García	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Recitals

1. The County advertised a Request for Proposal Job No. 10/0097, for an inmate telecommunication system and telecommunications and maintenance services.
2. Evercom Systems, Inc., a wholly owned subsidiary of Securus Holdings, Inc. was selected as the Contractor.

Presented to Commissioner's Court

NOV 09 2010

APPROVE _____
Recorded Vol _____ Page _____

3. Evercom Systems, Inc. represents and acknowledges it is fully qualified and able to provide an inmate telecommunication system and telecommunications and maintenance services, and Evercom Systems, Inc. is willing to provide the services.

Now, therefore, be it Ordered by the Commissioners Court of Harris County:

1. That the recitals set forth in this Order are true and correct.
2. That County Judge Ed Emmett be, and is hereby, authorized to execute for and on behalf of Harris County, the Agreement between Harris County and Evercom Systems, Inc., a wholly owned subsidiary of Securus Holdings, Inc., pursuant to Request for Proposals Purchasing Job No. 10/0097, to furnish an inmate telecommunication system and telecommunications and maintenance services, for a five (5) year period ("Initial Term") with three (3) additional three-year renewal terms, a signing bonus of One Million and No/Dollars (\$1,000,000.00) to be paid to the County forty-five (45) days after the execution of the Agreement, the yearly estimated Revenue shall be paid to the County in advance each calendar year, the first calendar year estimated Revenue to be Six Million Eight Hundred Thousand and No/Dollars (\$6,800,000.00), the Agreement being incorporated herein as though fully set forth word for word.
3. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.