

# RFP 2018-17

**Submissions due December 5, 2018 at 3:00 p.m.**

## **REQUEST FOR PROPOSAL FOR COMMISSARY SERVICES AT THE UTAH COUNTY SHERIFF'S OFFICE SECURITY CENTER**

### **OVERVIEW**

The Utah County Sheriff's Office (UCSO) is soliciting proposals (RFP) for providing commissary services for a jail population of approximately 900 inmates. The proposal will include a full range of services such as Inmate Accounting Software, Computer Hardware & Support, and Commissary Services for the inmates. Companies who submit a response to this RFP shall be responsible to submit technical and service solutions based on their programs that meet or exceed the goals and objectives herein.

If accepted, the agreement will run beginning on the execution of the agreement or February 5, 2019, whichever is later. The agreement will automatically renew for successive one year terms for an additional five (5) years on the same terms and conditions, unless terminated in writing by County on or before November 1<sup>st</sup> of the current contract period. Either party may terminate the Agreement without cause at any time by giving ninety (90) days prior written notice to the other party, provided that in the event of early termination by either party for any reason, the selected provider, at County's option, will continue to provide the services until an alternative provider is selected and commences service.

The UCSO operates (1) facility and (1) annex at the following location: 3075 North Main Street, Spanish Fork, Utah 84660, hereinafter the Security Center.

### **SECURITY CENTER TOURS**

All prospective firms interested in touring the Utah County Security Center to view the Inmate Commissary Service location/ installation may do so by contacting Lieutenant Nancy Killian to make an appointment. Lieutenant Nancy Killian can be reached at 801-851-4204.

### **BACKGROUND INFORMATION**

Utah County provides secure custodial services for pretrial and sentenced inmates in the Security Center. In 2017 the Security Center had an average daily population of **642** and **14,108** bookings. The current capacity is approximately 1200 beds. It is anticipated that a high percentage of this population will utilize the commissary services on a weekly basis. The estimated average stay is **10** days. Sales of commissary goods for the year 2016 were **\$408,274.42**. Sales for the year 2017 were **\$307,394.61**. Utah County does not guarantee that sales, bookings, or population numbers will remain constant or increase.

The commissary shall operate in an efficient and effective manner in order to insure that the security of the institution is maintained; and to obtain a quality inmate Trust Fund Accounting System adequate to service inmate needs.

All costs related to the Commissary Operation are the responsibility of the Vendor. Cost related to the inmate Trust Fund Accounting System will be covered by the price of the commissary products the Vendor charges the inmates. The Commissary Operation and Inmate Trust Fund Accounting System will not place additional cost responsibilities on Utah County. Utah County will receive a return of profit to the Security Center from commissary sales. The price of commissary items to inmates shall fall within a reasonable, competitive retail price.

## **OBJECTIVES**

In addition to reviewing proposal documents from interested companies, proposers will also submit an operational plan, and may be given a block of time in which they will be able show case all their products and wireless software. Invited companies will bring wireless Kiosks and show the panel their capability using their hardware and wireless software currently available. This block of time will allow companies accepted by the proposal process to interact with a selected panel of evaluators to assess and select a qualified vendor.

Contact person: Lt. Nancy Killian (801)851-4204

### **I. OBJECTIVES OF REQUEST FOR PROPOSAL (RFP)**

**The objectives of this RFP are to result in a contract between the successful proposer and Utah County that will meet the following objectives:**

1. Selection of a company that is experienced and qualified to provide a fully operational, flexible, secure and reliable inmate commissary system.
2. Commissary operation using corrections experienced and professionally trained people.
3. To operate the commissary in a cost-effective manner with full financial reporting to the UCSO.
4. Implementation of a written commissary plan with clear objectives, policies, procedures and annual evaluation of compliance.
5. Maintain standards established by the Utah County Sheriff Office, and Utah Sheriff's Association.
6. Maintain an open, collaborative relationship with the administration and staff of the UCSO.
7. Provide 23 Wireless Kiosks (one of which must be portable) capable of ordering commissary and an interactive inmate request and grievance system.
8. Kiosks should be interactive allowing inmates to:
  - a. Order commissary
  - b. Check balances
  - c. File inmate requests
  - d. File grievances including medical grievances.
9. Provide 2 Wireless Lobby Kiosks (ATM's) capable of accepting cash, credit/debit card transactions.
10. Issue account balances to inmates in cash, check or debit card upon inmate release.

11. Reading and accepting other debit cards.
12. Provide thermal receipt printers (4) and printers (2) each for Property, Booking, GPS, and Pay to Stay (8 total).
13. Vendor may deduct the cost of hygiene products contained in the indigent inmate hygiene kits (shampoo, toothpaste, toothbrush, deodorant, and comb) from County's commission. Vendor shall provide pre-stamped envelopes, paper, and a pencil at no cost to the County.

**II. PROPOSAL PROCESS**

The following is the anticipated schedule of events concerning the bid process:

- |                             |                   |
|-----------------------------|-------------------|
| 1. Distribution of the RFP: | November 1, 2018  |
| 2. Site Visit for Vendors:  | November 14, 2018 |
| 3. Due date:                | December 5, 2018  |
| 4. Vendor Show Case         | December 12, 2018 |
| 5. Notification of Award    | December 18, 2018 |
| 6. Commence Services        | February 5, 2019  |

**GUIDELINES FOR PROPOSAL SUBMITTAL**

Each proposer shall submit a minimum of five (5) bound copies of their proposal document, including one (1) clearly marked as the original, to:

**Robert Baxter, Purchasing Agent  
100 East Center Street, Provo, Utah 84606.**

Proposals must be received no later than **December 5, 2018 at 3:00 P.M.**, and the Signature Sheet and Certificate of Non-Collusion must be signed by a person authorized to bind the proposer to the proposal.

**REQUIRED SUBMITTAL ENCLOSURES**

Each submittal shall contain the following:

- Signed and dated Signature Sheet and Certificate of Non-Collusion. (See Attachment A).
- Reference sheets with the names and telephone numbers of contacts for similar services.
- Responses to all articles in the Qualifications of Firms, Special Instructions and Project/Proposal Information section as appropriate.
- Information brochures that give an overview of commissary and inmate trust fund systems.
- Sample reports for both the commissary and inmate trust fund systems.
- Proof of Workers Compensation Insurance.
- Proof of liability insurance.

PROPOSALS RECEIVED AFTER THE DESIGNATED TIME WILL NOT BE ACCEPTED AS SPECIFIED IN THE UTAH COUNTY PROCUREMENT RULES AND REGULATIONS

The proposal submitted in response to this RFP must be in the format required above. Any deviation from this format may be cause for rejection of the proposal response. All proposals submitted shall become property of the County. At the discretion of the County, some firms submitting proposals will be required to make presentations as part of the evaluation process. The County will not reimburse the respondents to this RFP for any cost associated with the preparation and submission of said proposals or in the preparation for and attendance at a presentation. The County reserves the right to request any firm submitting a proposal to clarify their proposal or to supply additional information necessary to assist in the County's selection. All firms must be able to meet all of the requirements contained in this RFP as of the deadline for receipt of proposals.

All proposals shall include all of the information requested in this RFP and any additional data that the respondent deems pertinent to the understanding and evaluating of the proposal. As only a select few will make onsite presentations, respondents should not withhold any information from the written response in anticipation of presenting the information orally. All proposals shall meet, at a minimum, all criteria outlined in the following sections.

**MINIMUM REQUIREMENTS**

**Installation Requirements**

The Vendor will provide and install the proposed system, at no cost to the County, and provide all documentation for said system within 30 days of contract award and execution. The Vendor shall oversee and provide the initial set-up of the proposed system at Vendor's sole cost. The Vendor will be responsible for all costs of installation or disconnection of Vendor's equipment. The Vendor will be required to furnish and install equipment, dedicated lines, and any other item(s) necessary to make the system functional.

Turnkey Installation-The Vendor shall be responsible for all costs associated with the inmate commissary system, including but not limited to, purchase of equipment, installation, service, maintenance, data network, and day-to-day operations. The County shall have no responsibility for any cost associated with the system or the installation of the system. This includes any additional equipment associated with system upgrades or any future expansion of housing units while the contract is in effect. The Vendor will be responsible for all costs of installation or disconnection of Vendor's equipment. The Vendor will be required to furnish and install equipment, dedicated lines, and any other item(s) necessary to make the system functional. The Vendor will remove all equipment installed by Vendor, including but not limited to, dialers and/or dedicated phone lines from the Utah County Jail facilities without charge upon the termination of services.

The Vendor is responsible for determining all installation, wiring, software requirements and costs associated with the conversion of service from the current inmate commissary system providers to the Vendor. The Vendor shall coordinate all details of switching commissary services with the current service provider with little or no down time during switch over. All information must be transferred from the

current provider in approximately the same format, i.e. haircut fee to haircut fee, showing all line items that were listed by the prior vendor.

The Vendor will provide at no cost to the County training on the proposed system to members of the Security Center, Information Systems Division and Department Finance Office. The proposal must specify the scope and content of the training to be provided.

Vendor shall be responsible for installation of the system hardware at County's location in conformance with the applicable installation specifications at no charge to County.

### **SERVICE AND SUPPORT REQUIREMENTS**

The Vendor shall be responsible for maintenance and support on a twenty-four (24) hour, seven (7) day per week basis. The Vendor shall respond, in person, to a telephone request for maintenance within four (4) hours after the initial notification.

The Vendor will describe, in detail, their company's service and maintenance program including remote access, diagnostics, downloading and trouble-shooting. Vendor should be capable of using a secure virtual private network (VPN) to diagnose and troubleshoot systems. All costs for maintenance, support, repair of all software and equipment will be borne by the Vendor, and will not be deducted from any commissions. During the term of any contract awarded as a result of the RFP, the Vendor agrees to provide maintenance to diagnose problems, determine proper solutions and provide:

- The implementation of any required solutions, changes, modifications, updates or other services which are necessary to allow the software, hardware and any other commissary equipment to perform in accordance with the specifications as set forth in the RFP.
- Upgrade the software and/or hardware to its required performance standards as required in the RFP.
- Support via an 800 number over which we speak with a person.
- The number of support facilities and their location.
- The number of employees and the percentage of total employees who provide technical support.

The Vendor shall provide effective training to the County as may be required by the County. This will include, but is not limited to, training for UCSO personnel in maintaining inmate accounts as necessary on Vendor's software and hardware.

The County shall not be responsible for damage to the Vendor's equipment occurring as a result of an inmate's use or vandalism of the equipment.

The Vendor will provide a narrative description of standard operating procedures for normal system administration tasks specific to the Vendor's software. This description should include/identify any specialized technical skills that will be required by County personnel and recommended guidelines for file backup.

All installed software, and all systems attaching to County communication services shall be free of viruses. The Vendor shall provide, document and comply with anti-virus software licenses and company virus scanning procedures to be followed by the Vendor prior to accessing/installing software within the County environment.

Remote access is to be coordinated through the County's Information Systems Division. The Vendor is responsible for maintaining a dial-in service or appropriate systems to access their server.

When recommending or performing future software upgrades and/or fixes, the Vendor is responsible for informing County of potential impacts on existing hardware and operating system configurations. Specifically, the Vendor must notify the County in advance that software enhancements will require modifications to workstation configurations. Future software upgrades and/or fixes shall not adversely impact existing hardware/operating system configurations or operation. All upgrades in software must be in place and working in other sites before installation in the Security Center, unless the updates are specifically and only for the Security Center.

### **Accounting Software Requirements**

The Vendor shall provide a computerized Inmate Trust Fund Accounting Software System, adhering to generally accepted accounting principles and capable of being audited by the County. The Inmate Trust Fund Accounting Software System must be approved by the County Finance Manager and Information Systems Division Manager or their designees.

The Inmate Trust Fund Accounting System must include the following components in addition to the objectives stated in Section I above:

1. Allow the Security Center to open an Individual Trust Fund (ITF) for an inmate at the time of booking, and to enter into the computer system the amount of money in their possession at the time of booking.
2. Must interface with all existing jail management programs to show an individual inmate's positive or negative account balance on his jail booking record.
3. Must track positive and negative balances through repeated incarcerations of the same inmate.
4. Allow the following transactions, at a minimum, to occur on the ITF:
  - a. Deposit funds to the account.
  - b. Issue cash, debit cards or checks from an ITF to the inmate or a third party.
  - c. Close an account with a detailed statement and pay the inmate's balance by cash, debit card or check.
  - d. Account for commissary and other charges including various jail fees.
  - e. Process adjustments for commissary goods and other transactions.
  - f. Reopen an existing account, utilizing the same inmate ID number after the account has been closed.
  - g. Handle bail transactions in the same system by a separate accounting file from the ITF.

- h. Charge an inmate for fees and fund transactions (such as Medical co-payments, Pay to Stay etc.); apply payments to said fund balances; and release an inmate with a balance due the County that can be maintained indefinitely.
  - i. Maintain an integrated checkbook that will allow checks to be written from an individual inmates ITF account or commissary fund balance.
  - j. Print a check registry by check number range or date range.
  - k. Provide an easy to operate commissary order entry method.
  - l. Allow staff to review an individual inmate's commissary order at a later date or time.
  - m. Generate multi-part receipts. The receipts for bail payments shall identify the individual(s) providing the funds by name and address.
5. The system must allow for the establishment of an ITF or other account to track debits and credits to the Trust Fund not directly related to an individual inmate (e.g., deposit of funds into the checking account to cover bank service charges).
  6. The system must provide a series of reports as specified by the County including, but not limited to: daily transaction summary report, detailed weekly invoices, cash reconciliation capabilities, proof of cash report, consolidated reports of commissary orders for verification of good delivered, and the ability to detail the charges to inmates for services such as haircuts or medical expenses.
  7. The system must have comprehensive CHECKBOOK management features including the ability to write a check from an inmate's ITF to a third party; write a check crediting multiple ITF's for services (e.g., single check to hairstylist for haircuts to several inmates or bail to the Courts); void, correct and add manually written checks; transaction verification; listing of deposits; and allow for adjustable entries. Additionally, the system must have the capability to print a check registry based on multiple criteria which can be queried by the County staff. System should require inmate's authorization prior to funds being released.
  8. The system must provide a complete audit trail on all transactions.
  9. The system must have a cash management, complete with receipts, reports and an audit trail that will allow the County to efficiently account for cash transactions.
  10. The County desires various levels of security be present in the software system (i.e., normal user, inquiry, managerial, auditing, and diagnostic). Specify the capability for different levels of security. These levels should have the ability to be customized by the County, including password control and tracking of transactions by individuals or stations.
  11. Software updates must be provided free of charge to Utah County for the length of the contract.
  12. The software must be Windows based with a relational database preferably Oracle. The system must have the capability to operate on a network of PC's with Windows XP, Windows 7, (32bit and 64 bit).
  13. Allow County IT personnel to view to all tables in database.
  14. A database stored procedure to add a new debit record and ability to update inmate information through a file.

15. All hardware and software necessary for the performance of this contract will be provided by the Vendor for the length of the contract. Maintenance or replacement of said hardware and software shall be the responsibility of the Vendor. No third party involvement will be allowed.
16. Software must utilize inmate account number for all inmate charges, not by name. The system must have the capability to track inmate transactions by a permanent number in order to recover past debts.
17. All data must be backed up and maintained on site. No offsite backups will be allowed to protect the sensitive nature of the information.
18. The Security Center operates a Jail Industries (JI) program. The software must be able to separate out monies associated with the JI program within individual ITFs because of federal guidelines associated with the JI program.
19. The ability to search the database by the full or **partial name** i.e.: 'Johnson, Jay' of the inmate.
20. The search results must remain populated, so multiple selections can be made from the search entry.
21. The County computer department must be able to write code to query Vendor's database for lookup only. Database functions and/or procedures at times must be written **by the vendor** so the County can add/update Vendor's database. Indicate the time frame required for Vendor to write database functions and/or procedures when requested by County. Examples are to add charges to the Inmate Trust Fund for medication, GPS fees, Pay to Stay Fees, etc.
22. All of the existing database functions and procedures will need to be in place and tested before going live with any vendor. Presently there are approximately 10.
23. All database links between the vendor and any other 3<sup>rd</sup> party vendors (i.e.: Securus) that the County uses now or in the future must be created and maintained at the cost of the vendor.

#### COMMISSARY SERVICES

1. The Vendor shall provide commissary services to the inmates at least once per week.
2. The Vendor will supply sufficient personnel to deliver commissary orders to each housing area. Commissary personnel will be required to obtain a signature on each order when delivered and will be escorted by a deputy.
3. All items for the weekly delivery will be brought in on delivery day. No items will be stored on site unless it is part of an inmate behavior management program. The Vendor will provide approved commissary product delivery to the Security Center one day a week. The delivery schedule may be modified as the population increases or as negotiated by the Vendor and the County.
4. Individual inmate commissary orders are to be delivered in heat sealed clear plastic bags, paper bags, or some other method to be determined by Utah County. Each order should have two (2) copies of the order receipt sealed within the packaging. The receipt should contain the following information:
  - a. Inmate Name
  - b. Inmate Location
  - c. Inmate Identification Number

- d. Items and Quantity ordered
  - e. Total of Order
  - f. Balance of Account after Order
5. The Vendor must be able to restrict commissary orders as to items and amount based on location and by inmate based on facility imposed restrictions as deemed necessary for the effective, safe, and secure operation of the Security Center and management of inmates.
  6. The Vendor and County personnel will meet and mutually agree upon items to be carried in the Commissary program. After the initial meeting No Items are to be offered without the WRITTEN PERMISSION of the County. It will be the responsibility of the Vendor to keep the County current of new products that may be offered.
  7. Subject to UCSO restrictions, the Vendor shall make commissary items available for purchase by all inmates including, but not limited to, hygiene products, writing materials, games, snacks, candies, and a limited selection of clothing items. Because of safety, security, order and control issues, no item may be deleted, or have a change in brands, packaging, or sizes without mutual agreement between the County and Vendor.
  8. Items offered in the Commissary must meet the following specifications:
    - a. Food items shall be wrapped/packageged and dated for individual consumption.
    - b. All containers shall be made of unbreakable material and clear where available.
    - c. Combs and hair picks shall be made of unbreakable plastic and no longer than six (6) inches.
    - d. All consumable products shall be nonalcoholic (mouthwash, etc.)
  9. As part of the RFP process, the Vendor will submit a suggested menu of products with suggested retail prices that include the cost of all services and percentage of profit to the County to be realized by the sale of said items based on the suggested retail prices.
  10. Commissary items shall be sold at the suggested retail prices provided with the RFP or as agreed in writing by County.
  11. The Vendor agrees in the event of a request for adjustment in any produce unit price, the Vendor shall notify the County in writing of the requested adjustment, the requested effective date, and provide justification of the requested adjustment prior to the requested effective date of the adjustment. The County must agree in writing to any change in retail selling price, and/or change in any County profit percentage, prior to a price adjustment going into effect.
  12. The Vendor shall maintain sufficient stock levels in order to limit shortages. The Vendor shall not substitute approved commissary items and shall have an order fill rate of greater than 98%. The population of the Security Center is not static and changes very rapidly. The County requires a greater than 98% completed order percentage to reduce the number of credits and accounting problems, and for inmates that have been released during order processing. Back orders will not be allowed.
  13. After an initial start-up (3 month) period, failure to maintain a greater than 98% completed order percentage on an average basis may, at County's option, be cause for cancellation.

14. The County reserves the right to determine the final retail selling prices of commissary items.
15. The Vendor will provide at no cost to County special packages for inmates that are indigent or on Writ to the County. The packages will contain pre-stamped envelopes, paper, pencil and such items as agreed upon by the Vendor and the County. The content of these packages is subject to change at the discretion of the County. The packages will be ordered individually by the inmate each week.
16. The Vendor shall provide credits for commissary products not delivered due to releases, transfer, or errors.
17. The Vendor shall submit an invoice on a weekly basis that will detail and total the amount of the inmate gross sales for the week.
18. The Vendor shall on a monthly basis submit a report of weekly sales for the previous month. A check will be issued monthly by the County from inmate trust funds for goods received less County's commission upon receipt and verification of the statement.
19. Gross (sales) receipts shall be construed to be all monies received from the sales of merchandise, products, or services, less any refunds, allowances, or adjustments for returns, defective or unsatisfactory merchandise, products, or services. These items must be detailed on a report to accompany the weekly sales invoice. This weekly report will include that week's completed order percentage (fill rate).
20. The Vendor must coordinate with our current (Securus) or future phone and visiting provider for the transfer of funds from inmate commissary accounts to inmate telephone accounts.
21. Vendor will provide the services in compliance with Utah County Sheriff Office and Utah Sheriff's Association standards.

#### COMMISSION STRUCTURE

1. The costs related to the Commissary operation and the Inmate Trust Fund Accounting System and any other services provided by Vendor are the responsibility of the Vendor and are to be covered in the selling prices of the commissary products to the inmates. Additionally, the Commissary operation shall provide a return of profit to the County.
2. The County should receive monthly commissions from the Vendor based on monthly net sales less any refunds, allowances, or adjustments for returns and services related to the Inmate Trust Fund Accounting System. Net sales are defined as gross sales less any applicable sales tax and items sold at or within \_\_\_\_\_% of cost (i.e., stamps, stamped envelopes).
3. Commissions must be paid monthly to Utah County or as mutually agreed in writing.
4. The Vendor may submit any other pertinent information that will assist the County in evaluating the potential revenue and benefits for their proposal. This may include additional features or capabilities available by virtue of the commissary and/or Trust Fund Accounting systems installation. All costs should be detailed for each additional feature.

#### HARDWARE, SOFTWARE AND EQUIPMENT

This Request for Proposal only specifies certain details. It leaves some areas open so that your company can propose to us how you can accomplish our needs, etc. However, we would like to clarify our Hardware and Software needs, and other proposal clarifications.

**Hardware:** Preference will be given to proposals that allow Utah County to run Vendor's Inmate Commissary Trust Fund Accounting System Software and County's Jail Management Systems along with other proprietary or third party software programs on our existing staff workstations. Work space is limited and the County prefers to have one computer at each workstation location. The total number of workstations will be approximately forty five (45) with an additional twenty three (23) wireless kiosks (one of which must be portable) in the housing pods capable of operating commissary and an interactive inmate request and grievance system, and two wireless ATM's (one in the public visiting area and 1 in the booking entrance of the jail).

**The Vendor must provide (including the above kiosks):**

1. A file server (required),
2. 4 thermal receipt printers,
3. 8 printers,
4. 1 check printer,
5. 1 debit card encoder,
6. 1 laser printer,
7. 1 credit card reader capable of reading most major credit cards.

**Kiosks shall include security measures such as a PIN or password allowing inmates to access the commissary system and to prevent other inmates from accessing incorrect accounts.**

**Software:** Vendor must supply software licensed on approximately forty five (45) County workstations, with an additional twenty three (23) wireless kiosks and 2 wireless ATM's. However, this need could also increase over time. Indicate whether your software can be minimized in a Windows environment with the ability to allow for toggling between programs without entirely closing down before opening another program.

Vendor must supply software capable of using an interactive keyboard with the wireless kiosk system capable of sending and receiving messages between prisoners and staff.

Software must include a Grievance System in which inmates can use an interactive keyboard to file grievances. The system must have the ability to allow an inmate to file a grievance once a deputy has authorized it from his desk. The software has to have the ability to limit an inmate from filing no more than 3 grievances per week unless authorized by staff.

Vendors will work closely with the County's IT department, giving them the ability to modify or add software (giving our IT people the ability to change certain programs).

Upon learning of any defect in the system software at any time during the term of this Agreement, Vendor shall repair or replace, whichever is appropriate, the system software at no charge to County.

Vendor shall provide County with any updates to the system software that are available and shall install or assist in the installation of the updates. Vendor shall also provide County with reasonable training and other assistance in the operation of the updates provided by Vendor. Vendor's installation, training and other services provided in connection with the updates shall be provided at no charge to County.

Equipment:

1. All commissary equipment provided shall be new and completely operational at cutover.
2. Inmate kiosks will be initially capable of providing the following information to the inmate: Current balance, Account history (including all past transactions), Commissary order entry (kiosk must show pictures of product and be bilingual), Static page for facility to post information, and inmate kite/grievance capabilities.
3. All inmate kiosks shall be indestructible type kiosks suitable for use in a jail, tamperproof, with steel encased housings and shockproof keypads. All kiosk instruments shall be waterproof and fireproof. All inmate kiosks will be mounted firmly to the wall including cabling to support the kiosk. Mounting will be done in a secure manner and approved by the County's designee.
4. The Kiosks should be interactive allowing inmates to:
  - a. Order commissary
  - b. Check balances
  - c. File inmate requests
  - d. File grievances, including medical grievances.
5. The Vendor will be required to work with the facility and or County's IT people to develop other uses for the kiosk in the future (ex: schedule medical appointments, visitation, haircuts, programs and other opportunities available to inmates, etc).
6. The Vendor must design, engineer, write, own, install, and support their software and kiosks. None of these factors can be performed, supported, or owned by a third party.
7. Technical and kiosk support must be provided at no additional charge by the Vendor's dedicated technical staff, 24 hours per day, 365 days per year via an 800 phone line that reaches a live person.
8. Installations, training, and technical support must be provided by the Vendor's dedicated technical staff and may not be provided by a third party.

9. The Vendor owned commissary software must be directly linked to the Vendor's host billing system so that purchases and credits posted in the commissary software will automatically generate the Vendor invoices and credits.
10. In the event the County requires Vendor software to be integrated with a 3<sup>rd</sup> party's software, the Vendor must pay and hold county harmless for said integration with the 3<sup>rd</sup> party's software.
11. Provide previous experience in successfully integrating with jail management systems including details on the process and level of integration. Provide a list of jail management systems your software is capable of integrating with.
12. Describe the evolution and provide a timeline of your software development.
13. The operating system should be based on Microsoft Windows.
14. Describe the type of databases used for the backend systems.
15. Describe the typical server configurations including preferred provider.
16. Primary servers should be housed at the Security Center.
17. System should be capable of working in a clustered environment.
18. Diagram system components as they would work best with one another including a clustered environment.
19. System components should be able to work while segmented across multiple network plans so that inmates and public users are separate from backend system components.
20. Backups will be performed on the system in a timely manner and will require the system to close or image database so that it can be backed up properly.
21. Discuss the client configuration, client or web-based.
22. All transactions must include an audit trail which shall not be alterable by any person.
23. Data fields should be customizable to meet our business needs.
24. Code table data behind drop down fields should be customizable to meet our business needs.
25. Discuss how and when we receive major and minor upgrades.
26. System software, hardware and equipment upgrades should be included within a maintenance contract at no cost to County.
27. System software, hardware and equipment upgrades should be fully tested and QA'd prior to installation on our production servers.
28. Discuss how logins are created for system users other than inmates.
29. Logins should fit into certain user-defined roles that might include administrator, account, public user, inmate, etc.
30. Identify which fields are typically pulled or updated from and to the Jail Management System.
31. Discuss how training is held for UCSO employees.
32. There should be a web-based, view only feature included with the system.
33. All upgrades or system changes will flow through a change control process in which the Vendor provides information on specific changes and provides a back out plan.
34. There should be no cost to integrate with a jail management system.

35. Training should be provided to UCSO IT to provide first line of support for system.
36. Hardware and software upgrades are the responsibility of Vendor at no cost to Utah County.
37. Vendor shall bear the cost of integration with County's Jail Management System.
38. In connection with integration of the system with County's Jail Management System/software or third party software, such integration shall be for the operation of the system only. Vendor may not modify, translate, port to any other computer or human language, disassemble, reverse engineer or decompile County's Jail Management System or third party software or otherwise attempt to discover any portion of the source code, object code or trade secrets related to County or third party software. This Agreement is not intended to and shall not be construed to convey or otherwise transfer title to, ownership of, or any proprietary rights in County or third party software.
39. Vendor shall not disclose, furnish, transfer or otherwise make available County or third party software or any portion thereof or any related documentation to any third party or duplicate any portion of County or third party software. Any County software and documentation provided to Vendor shall be provided only to those employees of Vendor with a need to know. The provisions of this Section shall survive the expiration or termination of this Agreement.

#### DIRECT DEPOSIT SERVICES

1. The Vendor must provide technology, free of charge, which allows family members and friends to deposit money into an inmate's account by these four methods:
  - a. Secure Website (credit/debit card, check)
  - b. 24 hour call center/toll free number (credit/debit card, check)
  - c. Walk in Cash Locations (cash)
  - d. Lobby Kiosk/ATM (cash)
2. All deposit methods must be linked with the Vendor's software so that the deposits are electronically transferred on a real-time basis to the inmate's account.
3. Vendor must provide the County a password and username to securely access the online interface. This access must allow the facility to perform the following functions:
  - a. View and cancel incoming payments
  - b. Download payment files
  - c. Download monthly reports
  - d. Investigate and supervise payments
4. Vendor must guarantee all payments, eliminating County from liability for fraudulent or cancelled payments.
5. Vendor must provide primary, bilingual customer support for these services.
6. System will be available 24 hours, 7 days per week, 365 days per year.

#### QUALIFICATIONS OF FIRM AND COMPLIANCE WITH SPECIFICATIONS

In order for a firm to be considered, they must demonstrate to the satisfaction of the County the capability to fully perform the contract requirements in all aspects. Therefore, the firm must submit evidence and documentation of the ability to fulfill the requirements of this RFP as stated below.

1. FURNISH EVIDENCE of adequate financial resources:
  - a. Financial Statements for the past three (3) years
  - b. Trade References from three (3) sources
2. FURNISH EVIDENCE of the experience and proven capabilities to handle a contract the size and complexity of Utah County, to include but not limited to any or all of the following:
  - a. At least three (3) references from correctional facilities similar in size or larger
  - b. References from all current clients in the State of Utah
  - c. References should also include the number of wireless kiosks, what the facility uses the wireless kiosks for, and length of time the wireless kiosks have been up and operational
  - d. Provide information on the History and Accomplishments of the firm with regard to providing commissary and trust fund accounting systems
  - e. A written staffing plan, identifying the background of the responsible staff, job descriptions, and written work plan that demonstrates the ability of the Vendor to fulfill the requirements of this RFP
3. FURNISH EVIDENCE of the ability of the firm to comply with the computerized trust fund/inmate banking accounting system requirements to include, but not limited to, any or all of the following:
  - a. References from correction facilities where the proposed system has been installed and operating. Preference will be given for furnishing evidence that the system has been installed and operating for at least two years.
  - b. A written statement of the ability of the proposed software to fulfill each component specified in this RFP.
4. SOFTWARE EVALUATION – A firm must demonstrate the following to qualify.
  - a. Software evaluation must be completed prior to the opening of the RFPs. Firm must arrange with Utah County Computer Center, at (801) 851-8454 to successfully demonstrate the capabilities of the software as a component of the qualification process. The firm must demonstrate the ability of the software to interface with Utah County’s existing jail management program.
    - i. Software will be able to accept new inmate data from the Utah County Jail System so that the jail personnel will not have to double enter the inmate’s information. The Vendor’s software may connect to the Utah County Jail database (currently Oracle) via native or ODBC connection and extract the data directly, or the information can be passed from the County database to the Vendor’s software in a transaction file via FTP.

- ii. Software will provide a means to inform the booking officer (via the County Jail system) if the inmate that is being booked has a balance (+ or -) from past bookings.
  - iii. Software will allow the County Jail system to inquire into their database in real-time to find an inmate balance to be displayed on the jail system.
  - iv. It will be the responsibility of the Vendor to convert the data from the existing third party commissary system to Vendor's system.
  - b. Documentation of the ownership of the software and/or the ability of the firm to license use of the software to Utah County at the firm's expense.
  - c. Explanation of how the firm will provide technical support for the software.
  - d. Demonstrate the ability to carry over positive and negative balances from repeated bookings of the same inmate.
  - e. Ability to merge accounts if it is found that there are more than one account for the same inmate.
5. FURNISH EVIDENCE of the ability of the firm to comply with the following commissary operations of this RFP:
- a. Submit an installation time line and operating plan for Utah County Security Center.
  - b. Submit a written plan for sales and service, through the commissary operation, to the inmates.
  - c. Submit evidence of the necessary organizational experience, accounting, operating and technical expertise, to perform this contract.
  - d. The ability to meet the No Substitution and 98% order fill rate requirement of this RFP.
  - e. The ability to begin operation on February 5, 2019 or as otherwise agreed to by Utah County and the Vendor.

#### EVALUATION AND SELECTION PROCESS

1. All proposals will be reviewed by an Evaluation Committee comprised of Utah County personnel and/or their representatives. Each evaluation criteria has been given a percentage based on its relative value to the scope of work as a whole. The criteria and each associated percentage is as follows:
  - a. Commission rates (30%)
  - b. Software evaluation (30%)
  - c. Completeness and quality of the proposal (5%)
  - d. Specifications requirements compliance (5%)
  - e. Corrections specific qualifications (documented) (25%)
  - f. Suitability of approach (work plan/approach) (5%)
2. Based upon review of the above factors, the highest rated proposals may be further evaluated through firm presentations and/or site visits at the discretion of the

Evaluation Committee, with an additional ten percent (10%) weight applied to the evaluation total.

3. Selection Process

- a. The Evaluation Committee may arrange for discussions with proposers, if required, for the purpose of additional clarifications.
- b. The County reserves the right to conduct background checks of any proposer under consideration for this contract.
- c. Each member of the Evaluation Committee will ordinarily rank all proposals from highest to lowest evaluation score, and the Evaluation Committee will compile rankings of all members of the Evaluation Committee. If any proposal receives a majority of first place votes, that proposal will be recommended as the #1 ranked proposal. The same process will be repeated to rank the #2 and #3 ranking proposals. The Board of County Commissioners shall award the contract to one of the top three ranked offerors, or may elect to reject all proposals. After the Board of County Commissioners has selected a proposal, the firm will enter into the sample contract attached hereto and incorporate the terms and conditions of this Request for Proposals document and the response of the firm. The contract will then be submitted to the Utah County Commission for final approval. The contract becomes final and binding only upon the approval and signing of the Utah County Commission.

In addition to the enclosed Project Information/Specifications, the following Special Instructions apply to this proposal:

1. INTERPRETATIONS AND ADDENDA

- a. ALL questions regarding the technical aspects of this Request for Proposals (RFP) shall be submitted in writing to Robert Baxter, Utah County Auditor's Office at (801)851-8233, email RobertB@utahcounty.gov. Interpretation or clarification in response to such questions will be issued by addenda to all parties recorded by the Purchasing Agent as having received the proposal documents. Questions received less than five (5) working days prior to the due date may not be answered. **Only questions answered by formal written addenda will be binding.** Oral and other interpretations or clarifications will be without legal effect.
- b. All other questions should be directed to Robert Baxter, Purchasing Agent, (801) 851-8233.
- c. Addenda may also be issued to modify the proposal documents as deemed advisable by Utah County.

TERM OF AGREEMENT

1. The agreement will commence beginning on the execution of the agreement or February 5, 2019, whichever is later and will terminate December 31, 2019. Thereafter, the agreement shall automatically renew for five (5) additional periods of one (1) year each on the same terms and conditions, unless terminated in writing by County on or before November 1<sup>st</sup> of the current contract period. Either party may terminate this Agreement without cause at any time by giving ninety (90) days prior written notice to the other party, provided that in the event of termination for any reason, the selected provider, at County's option, will continue to provide the services until an alternative provider is selected and commences service.
2. Commission rates paid to Utah County proposed and accepted shall be valid for the initial and all renewal periods of the Agreement. Any subsequent commission rate changes must be requested in writing, with justification, and must be accepted by the County in writing prior to implementation.
3. In the event this Agreement is terminated by either party, for any reason, there shall be no disruption of service between the termination of the existing services and the implementation of an alternate commissary service. Vendor shall continue providing Inmate Trust Fund and commissary services until a new Vendor is selected and commences the commissary/inmate trust fund services. Upon termination Vendor shall transfer all inmate data to the successor vendor in a usable format and provide County with all inmate data in a usable format at no cost to County.
4. This Agreement may not be assigned, in whole or part, without the express written consent of Utah County.

#### PERIOD PROPOSALS SHALL REMAIN VALID

All proposals shall remain firm for a period of six (6) months after the date specified for receipt of proposals.

#### CONTRACT ADMINISTRATION

This contract will be administered by the Utah County Sheriff or his designee.

#### NOTIFICATION OF AWARD AND CONTRACT

Each firm submitting a proposal shall be notified in writing whether their proposal was successful. The successful proposer shall enter into the attached agreement.

#### RESTRICTION ON DISCLOSURE AND USE OF THE DATA

1. Bidders who include in their proposals confidential or proprietary data that they do not want disclosed to the public or used by Utah County except for use in the procurement process shall:
  - a. Mark the title page with the following legend: "This proposal includes confidential or propriety data that shall not be disclosed outside of Utah

County Security Center bid evaluation process and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the Bid Evaluation;" and

- b. Mark each sheet, or selection, of data it wishes to restrict with the following legend: "Use of disclosure of confidential or proprietary data contained on this sheet or section is subject to the restrictions on the title page of this proposal."

Only information qualifying as confidential, proprietary, or protected under the Utah Governmental Records Access and Management Act, 63G-2-101 et.seq. will not be provided pursuant to a third party records request.

#### INDEMINIFICATION

The Vendor shall defend, indemnify, save and hold harmless Utah County, its officers, employees, and agents, from and against any and all claims, demands, causes of action, orders, decrees, judgments, losses, damages, and liabilities (including all costs and attorney's fees incurred in defending any claim, demand, or cause of action) occasioned by, growing out of, or arising or resulting from (a) Vendor's, its subcontractors, agents or employees performance of this contract or their provision of any services required herein to be performed by the Vendor or its subcontractors, agents or employees, and (b) any act or omission of Vendor, or its subcontractors, agents or employees. The Vendor shall assume sole liability for any injuries or damages caused to a third party as a result of fulfillment of this contract.

#### INDEPENDENT CONTRACTOR

1. Vendor states and affirms that he is acting as an independent contractor, holding himself out to the general public as an independent contractor for other work or contracts as he sees fit; that he advertises his services as he sees fit to the general public, maintains his office or place of employment separate from Utah County and that this Agreement is not exclusive of other agreements, contracts or opportunities.
2. The parties intend that an independent contractor relationship will be created by this Agreement. Utah County is interested only in the results to be achieved, and the conduct and control of the work will lie solely with Vendor. Vendor is not to be considered an agent or employee of Utah County for any purpose, and the employees of Vendor are not entitled to any of the benefits that Utah County provides for County's employees. It is understood that Vendor is free to contract for similar services to be performed for others while working under the provisions of this Agreement with Utah County.
3. Both parties agree that Vendor shall be deemed an independent contractor in the performance of this Agreement, and shall comply with all laws regarding unemployment insurance, disability insurance, and workers' compensation. As such, Vendor shall have no authorization, express or implied, to bind Utah County to any agreement, settlement, liability, or understanding whatsoever, and agrees not to

perform any acts as agent for Utah County. The compensation, if any, provided for herein shall be the total compensation payable hereunder by Utah County.

#### INSURANCE

1. The Contractor agrees to carry Commercial General Liability insurance coverage equal to or greater than \$717,100 for one person in any one occurrence, and \$2,455,900 aggregate amount of individual awards that be may awarded in relation to a single occurrence, and \$286,900 in any one occurrence for property damages or as modified by the risk manager pursuant to state statute during the term of this contract. This coverage shall provide liability insurance to cover the activities of Vendor including Vendor's agents, employees and subcontractors, and for all equipment and vehicles, public or private, used in the performance of this contract. The Vendor shall furnish, with the bid submission, a Certificate of Insurance to Utah County evidencing that the Vendor has this insurance in place.
2. The Vendor shall furnish, with the bid submission, a Certificate of Insurance to Utah County evidencing that the Vendor has Workers' Compensation Insurance for the Vendor, all subcontractors, and all employees of the Vendor and/or subcontractors.

#### ADDITIONAL TERMS

The Vendor shall enter into the attached agreement and comply with any additional terms and conditions contained therein.

**ATTACHMENT A**

**SIGNATURE SHEET**

I hereby certify that the information submitted by me/my company in response to this RFP true and accurate.

I understand that Utah County has the right to reject any or all proposals or to waive minor irregularities when to do so would be in the best interests of Utah County.

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

CERTIFICATE OF NON-COLLUSION

STATE OF UTAH            )

COUNTY OF UTAH        )

AFFIDAVIT

The undersigned of lawful age, being first duly sworn, disposes and says:

That as a condition precedent to the award of the Utah County Commissary Service,

I \_\_\_\_\_

(owner, partner, officer or delegate)

of \_\_\_\_\_ do

(firm)

solemnly swear that neither I, nor to the best of my knowledge any member or members of my firm or company have either directly or indirectly restrained free and competitive bidding on this project by entering into any agreement, participating in any collusion, or otherwise taking any action unauthorized by Utah County, with regard to this Agreement or bidding process.



\_\_\_\_\_

Signature

By:

Title:

\*\*\*\*\*

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2018 A.D.

My Commission Expires \_\_\_\_\_

Residing at \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Seal \_\_\_\_\_

By: \_\_\_\_\_

Notary Public

**AGREEMENT**

Agreement made, and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between Utah County, a political subdivision of the State of Utah, with its office located at 100 East Center Street, Provo, Utah, 84606, hereinafter referred to as "County"; and \_\_\_\_\_, hereinafter referred to as "Vendor".

WHEREAS, County desires to obtain high quality commissary goods and services to the inmates in the Security Center through a fully operational, flexible, secure and reliable inmate commissary system, including a full range of services such as Inmate Accounting Software, Computer Hardware and Support; and

WHEREAS, Vendor has been selected to provide said services for County through County's RFP process and desires to provide the requested services;

NOW THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between County and Vendor as follows:

**I. DESCRIPTION OF WORK**

1. Vendor, at its sole expense, agrees to provide commissary, inmate trust fund account and other services for COUNTY at the Utah County Security Center on the terms, requirements and conditions contained herein and in the RFP for Commissary Services, which is incorporated herein by this reference.
2. Vendor, at its sole expense, agrees to provide, install and maintain all equipment and software necessary in order to fulfill the purposes of this Agreement as set forth herein.

**II. COMPENSATION**

1. In exchange for the right to provide commissary and other services to inmates of the Utah County Security Center, Vendor shall be responsible for all costs associated therewith.
2. The costs related to the commissary operation and the Inmate Trust Fund Accounting System and any other services provided by Vendor are the responsibility of the Vendor and are to be covered in the selling prices of the commissary products to the inmates. The Commissary operation shall provide a return of profit to the County.
3. The County shall receive monthly commissions from the Vendor based on monthly net sales less any refunds, allowances, or adjustments for returns and services related to the Inmate Trust Fund Accounting System. Net sales are defined as gross sales less any applicable sales tax and items sold at or within \_\_\_\_\_% of cost (i.e., stamps, stamped envelopes).??
4. Commissions shall be paid monthly to Utah County or as mutually agreed in writing.
5. Vendor shall pay County monthly commissions as follows: TBD

6. Commission rates shall be valid for the initial and all renewal periods of the Agreement. Any subsequent commission rate changes shall be requested in writing, with justification, and must be accepted by the County in writing prior to implementation.
7. Vendor may deduct the cost of hygiene products contained in the indigent inmate hygiene kits (shampoo, toothpaste, toothbrush, deodorant, and comb) from County's commission. Vendor shall provide pre-stamped envelopes, paper, and a pencil at no cost to the County.

### **III. DURATION**

1. The agreement will commence beginning on the execution of the agreement or February 5, 2019, whichever is later and will terminate December 31, 2019. Thereafter, the agreement will automatically renew for successive one year terms for an additional five (5) years on the same terms and conditions, unless terminated in writing by County on or before November 1<sup>st</sup> of the current contract period. Either party may terminate the Agreement without cause at any time by giving ninety (90) days prior written notice to the other party, provided that in the event of termination for any reason, the Vendor, at County's option, will continue to provide the services until an alternative provider is selected and commences service.
2. Upon termination for any reason, all financial obligations paid in advance by either party shall be adjusted on a per diem basis as of such termination date. Any notice and other communications given pursuant to the provisions of this paragraph shall be in writing and shall be given by mailing the same by certified mail or registered mail, return receipt requested, postage prepaid, to the other party to this AGREEMENT.

### **IV. INSTALLATION REQUIREMENTS**

1. The Vendor will provide and install the system, at no cost to the County, and provide all documentation for said system within 30 days of contract award and execution. The Vendor shall oversee and provide the initial set-up of the system at Vendor's sole cost. The Vendor will be responsible for all costs of installation or disconnection of Vendor's equipment. The Vendor will be required to furnish and install equipment, dedicated lines, and any other item(s) necessary to make the system functional.
2. Turnkey Installation – The Vendor shall be responsible for all costs associated with the inmate commissary system, including but not limited to, purchase/replacement of equipment, installation, service, maintenance, data network, and day-to-day operations. The County shall have no responsibility for any costs associated with the system or the installation of the system. This includes any additional equipment associated with system upgrades or any future expansion of housing units while the contract is in effect. The Vendor will be responsible for all costs of installation or disconnection of Vendor's equipment. The Vendor will be required to furnish and install equipment, dedicated lines, and any other item(s) necessary to make the system functional. The Vendor will remove all equipment installed by Vendor, including but not limited to, dialers and/or dedicated phone lines from the Utah County Jail facilities without charge upon the termination of services.

3. The Vendor is responsible for determining all installation, wiring, software requirements and costs associated with the conversion of service from the current inmate commissary system providers to the Vendor. The Vendor shall coordinate all details of switching commissary services with the current service provider with little or no down time during switch over. All information must be transferred from the current provider in approximately the same format, i.e. haircut fee to haircut fee, showing all line items that were listed by the prior vendor.
4. The Vendor will provide at no cost to the County training on the system to members of the Security Center, Information Systems Division and Department Finance Office as specified in Vendor's proposal.
5. Vendor shall be responsible for installation of the system hardware at County's location in conformance with the applicable installation specifications at no charge to County.

**V. SERVICE AND SUPPORT REQUIREMENTS**

1. The Vendor shall be responsible for maintenance and support on a twenty-four (24) hour, seven (7) day per week basis. The Vendor shall respond, in person, to a telephone request for maintenance within four (4) hours after the initial notification.
2. The Vendor's service and maintenance program shall include remote access, diagnostics, downloading and trouble-shooting. Vendor shall have the ability to use a secure virtual private network (VPN) to diagnose and troubleshoot systems. All costs for maintenance, support, repair of all software and equipment will be borne by the Vendor, and will not be deducted from any commissions.
3. Vendor agrees to diagnose problems, determine proper solutions and provide:
  - a. The implementation of any required solutions, changes, modifications, updates or other services which are necessary to allow the software, hardware and any other commissary equipment to perform in accordance with the specifications set forth in this Agreement and the Request for Proposal for Inmate Commissary Services and System at the Utah County Security Center, which is incorporated herein by this reference, hereinafter the RFP.
  - b. Upgrade the software and/or hardware to its required performance standards as required in the RFP.
  - c. In person support provided via an 800 number.
  - d. Support facilities and their location.
4. The Vendor shall provide effective training to the County as may be required by the County. This includes, but is not limited to, training for UCSO personnel in maintaining inmate accounts as necessary on Vendor's software and hardware.
5. Vendor will hold County free and harmless for damage to the Vendor's equipment occurring as a result of an inmate's use or vandalism of the equipment.
6. All installed software, and all systems attaching to County communication services shall be free of viruses. The Vendor shall provide, document and comply with anti-virus software

licenses and virus scanning procedures to be followed by the Vendor prior to accessing/installing software within the County environment.

7. Remote access shall be coordinated through the County's Information Systems Division. The Vendor is responsible for maintaining a dial-in service or appropriate systems to access their server.
8. When recommending or performing future software upgrades and/or fixes, the Vendor shall inform County of potential impacts on existing hardware and operating system configurations. The Vendor shall notify the County in advance that software enhancements will require modifications to workstation configurations. Future software installation, upgrades and/or fixes shall not adversely impact existing hardware/operating system configurations or operation. All upgrades in software must be in place and working in other sites before installation in the Security Center, unless the updates are specifically and only for the Security Center.

## **VI. ACCOUNTING SOFTWARE REQUIREMENTS**

1. The Vendor shall provide a computerized Inmate Trust Fund Accounting Software System, adhering to generally accepted accounting principles and capable of being audited by the County. The Inmate Trust Fund Accounting Software System shall be approved by the County Finance Manager and Information Systems Division Manager or their designees.
2. The Inmate Trust Fund Accounting System shall include the following components:
  - a. Allow the Security Center to open an Individual Trust Fund (ITF) for an inmate at the time of booking, and enter into the computer system the amount of money in their possession at the time of booking.
  - b. Interface with the existing jail management program to show an individual inmate's account balance on his jail booking record.
  - c. Track positive and negative balances through repeated incarcerations of the same inmate.
  - d. Allow the following transactions, at a minimum, to occur on the ITF:
    - i. Deposit funds to the account.
    - ii. Issue cash, debit cards or checks from an ITF to the inmate or a third party.
    - iii. Close an account with a detailed statement and pay the inmate's balance by cash, debit card or check.
    - iv. Account for commissary and other charges including various jail fees.
    - v. Process adjustments for commissary goods and other transactions.
    - vi. Reopen an existing account, utilizing the same inmate ID number after the account has been closed.
    - vii. Handle bail transactions in the same system by a separate accounting file from the ITF.
    - viii. Charge an inmate for fees and fund transactions (such as Medical co-payments, Pay to Stay etc.); apply payments to said fund balances; and

release an inmate with a balance due the County that can be maintained indefinitely.

- ix. Maintain an integrated checkbook that will allow checks to be written from an individual inmate's ITF account or commissary fund balance.
  - x. Print a check registry by check number range or date range.
  - xi. Provide an easy to operate commissary order entry method.
  - xii. Allow staff to review an individual inmate's commissary order at a later date or time.
  - xiii. Generate multi-part receipts. Bail payment receipts shall identify the individual(s) providing the funds by name and address.
3. The system shall allow for the establishment of an ITF or other account to track debits and credits to the Trust Fund not directly related to an individual inmate (e.g., deposit of funds into the checking account to cover bank service charges).
  4. The system shall provide a series of reports as specified by the County including, but not limited to: daily transaction summary report, detailed weekly invoices, cash reconciliation capabilities, proof of cash report, consolidated reports of commissary orders for verification of goods delivered, and the ability to detail the charges to inmates for services such as haircuts or medical expenses.
  5. The system shall have comprehensive CHECKBOOK management features including the ability to write a check from an inmate's ITF to a third party; write a check crediting multiple ITF's for services (e.g., single check to hairstylist for haircuts to several inmates or bail to the Courts); void, correct, and add manually written checks; transaction verification; listing of deposits; and allow for adjustable entries. Additionally, the system shall have the capability to print a check registry based on multiple criteria which can be queried by County staff. The system shall require inmate authorization prior to funds being released.
  6. The system shall provide a complete audit trail on all transactions.
  7. The system shall have a cash management, complete with receipts, reports and an audit trail that will allow the County to efficiently account for cash transactions.
  8. Various levels of security shall be present in the software system (i.e., normal user, inquiry, managerial, auditing, and diagnostic). Security levels shall have the ability to be customized by the County, including password control and tracking of transactions by individuals or stations.
  9. Software updates shall be provided free of charge to Utah County for the length of the contract.
  10. The software shall be Windows based with a relational database, preferably Oracle. The system shall have the capability to operate on a network of PC's with Windows XP, Windows 7, (32bit and 64 bit).
  11. Allow County IT personnel to view to all tables in database.
  12. A database stored procedure to add a new debit record and ability to update inmate information through a file.
  13. All hardware and software necessary for the performance of this contract will be provided by the Vendor for the length of the contract. Maintenance or replacement of said hardware

and software shall be the responsibility of the Vendor. No third party involvement will be allowed.

14. Software shall utilize inmate account numbers for all inmate charges, not by name. The system shall have the capability to track inmate transactions by a permanent number in order to recover past debts.
15. All data shall be backed up and maintained on site. No offsite back up will be allowed to protect the sensitive nature of the information.
16. The Security Center operates a Jail Industries (JI) program. The software shall be able to separate out monies associated with the JI program within individual ITF accounts as required by federal guidelines associated with this program.
17. The ability to search the database by the full or **partial name** i.e.: 'Johnson, Jay' of the inmate.
18. The search results must remain populated, so multiple selections can be made from the search entry.
19. The County computer department must be able to write code to query Vendor's database for lookup only. Database functions and/or procedures at times must be written **by the vendor** so the County can add/update Vendor's database. Indicate the time frame required for Vendor to write database functions and/or procedures when requested by County. Examples are to add charges to the Inmate Trust Fund for medication, GPS fees, Pay to Stay Fees, etc.
20. All of the existing database functions and procedures will need to be in place and tested before going live with any vendor. Presently there are approximately 10.
21. All database links between the vendor and any other 3<sup>rd</sup> party vendors (i.e.: Telmate) that the County uses now or in the future must be created and maintained at the cost of the vendor.

## **VII. COMMISSARY SERVICES**

1. The Vendor shall provide commissary services to the inmates at least once per week.
2. The Vendor will supply sufficient personnel to deliver commissary orders to each housing area. Commissary personnel will be required to obtain a signature on each order when delivered and will be escorted by a deputy.
3. All items for the weekly delivery will be brought in on delivery day. No items will be stored on site unless it is part of an inmate behavior management program. The Vendor will provide approved commissary product delivery to the Security Center one day a week. The delivery schedule may be modified as the population increases or as negotiated by the Vendor and the County.
4. Individual inmate commissary orders are to be delivered in heat sealed clear plastic bags, paper bags, or some other method to be determined by Utah County. Each order shall have two (2) copies of the order receipt sealed within the packaging. The receipt shall contain the following information:
  - a. Inmate Name

- b. Inmate Location
  - c. Inmate Identification Number
  - d. Items and Quantity Ordered
  - e. Total of Order
  - f. Balance of Account after Order
5. The Vendor shall be able to restrict commissary order items and amounts by location and/or inmate, based on facility imposed restrictions as deemed necessary for the effective, safe, and secure operation of the Security Center and management of inmates.
  6. The Vendor and County personnel will meet and mutually agree upon the items to be carried in the Commissary program. After the initial meeting NO ITEMS are to be offered without the WRITTEN PERMISSION of the County. It will be the responsibility of the Vendor to keep the County current of new products that may be offered.
  7. Subject to UCSO restrictions, the Vendor shall make commissary items available for purchase by all inmates including, but not limited to, hygiene products, writing materials, games, snacks, candies, and a limited selection of clothing items. Because of safety, security, order and control issues, no item may be deleted, or have a change in brands, packaging, or sizes without mutual agreement between the County and Vendor.
  8. Items offered in the Commissary shall meet the following specifications:
    - a. Food items shall be wrapped/packaged and dated for individual consumption.
    - b. All containers shall be made of unbreakable material and clear where available.
    - c. Combs and hair picks shall be made of unbreakable plastic and no longer than six (6) inches.
    - d. All consumable products shall be nonalcoholic (mouthwash, etc.).
  9. The Vendor will submit a suggested menu of products with suggested retail prices that include the cost of all services and percentage of profit to the County to be realized by the sale of said items based on the suggested retail prices.
  10. Commissary items shall be sold at the suggested retail prices provided with the RFP or as agreed in writing by County.
  11. In the event of a request for adjustment in any product unit price, the Vendor shall notify the County in writing of the requested adjustment, the requested effective date, and provide justification of the requested adjustment prior to the requested effective date of the adjustment. The County shall agree in writing to any change in retail selling price, and/or change in any County profit percentage, prior to a price adjustment going into effect.
  12. The Vendor shall maintain sufficient stock levels in order to limit shortages. The Vendor shall not substitute approved commissary items and shall have an order fill rate of greater than 98%. The population of the Security Center is not static and changes very rapidly. The County requires a greater than 98% completed order percentage to reduce the number of credits and accounting problems, and for inmates that have been released during order processing. Back orders will not be allowed.
  13. After an initial start-up (3 month) period, failure to maintain a greater than 98% completed order percentage on an average basis may, at County's option, be cause for cancellation.

14. The County reserves the right to determine the final retail selling prices of commissary items.
15. The Vendor will provide at no cost to County special packages for inmates that are indigent or on Writ to the County. The packages will contain pre-stamped envelopes, paper, pencil and such items as agreed upon by the Vendor and the County. The content of these packages is subject to change at the discretion of the County. The packages will be ordered individually by the inmate each week.
16. The Vendor shall provide credits for commissary products not delivered due to releases, transfer, or errors.
17. The Vendor shall submit an invoice on a weekly basis that will detail and total the amount of the inmate gross sales for the week.
18. The Vendor shall on a monthly basis submit a report of weekly sales for the previous month. A check will be issued monthly by the County from Inmate Trust Funds for goods received less County's commission upon receipt and verification of the statement.
19. Gross (sales) receipts shall be construed to be all monies received from the sales of merchandise, products, or services, less any refunds, allowances, or adjustments for returns, defective or unsatisfactory merchandise, products, or services. These items shall be detailed on a report to accompany the weekly sales invoice. This weekly report will include that week's completed order percentage (fill rate).
20. The Vendor must coordinate with our current (Securus) or future phone and visiting provider for the transfer of funds from inmate commissary accounts to inmate telephone accounts.
21. Vendor will provide the services in compliance with Utah County Sheriff Office and Utah Sheriff's Association standards.

#### **VIII. HARDWARE, SOFTWARE AND EQUIPMENT**

Hardware: Vendor's system shall allow Utah County to run Vendor's Inmate Commissary Trust Fund Accounting System Software and County's Jail Management System along with other proprietary or third party software programs on County's existing staff workstations. The total number of workstations will be approximately forty-five (45) with an additional twenty-three (23) wireless kiosks (one of which must be portable) in the housing pods capable of ordering commissary and an interactive inmate request and grievance system, and two (2) wireless ATM's with one in the public visiting area and one in the booking entrance of the jail.

#### **The Vendor must provide (including the above kiosks):**

1. A file server (required),
2. 4 thermal receipt printers,
3. 8 printers,
4. 1 check printer,
5. 1 debit card encoder,
6. 1 laser printer,

7. 1 credit card reader capable of reading most major credit cards.

Kiosks shall include security measures such as a PIN or password allowing inmates to access the commissary system and to prevent other inmates from accessing incorrect accounts.

Software: Vendor must supply software licensed on approximately forty five (45) County workstations, an additional twenty three (23) wireless kiosks and 2 wireless ATM's. However, this need could also increase over time. Software will be capable of minimization in a Windows environment with the ability to allow for toggling between programs without entirely closing down before opening another program.

Vendor must supply software capable of using an interactive keyboard with the wireless kiosk system capable of sending and receiving messages between prisoners and staff.

Software shall include a Grievance System in which inmates can use an interactive keyboard to file grievances. The system shall allow an inmate to file a grievance once a deputy has authorized it from his desk. The software will limit an inmate from filing no more than 3 grievances per week unless authorized by staff.

Vendor will work closely with the County's IT department, giving them the ability to modify or add software (giving County IT staff the ability to change certain programs)

Upon learning of any defect in the system software at any time during the term of this Agreement, Vendor shall repair or replace, whichever is appropriate, the system software at no charge to County.

Vendor shall provide County with any updates to the system software that are available and shall install or assist in the installation of the updates. Vendor shall also provide County with reasonable training and other assistance in the operation of the updates provided by Vendor. Vendor's installation, training and other services provided in connection with the updates shall be provided at no charge to County.

Equipment:

1. All commissary equipment provided shall be new and completely operational at cutover.
2. Inmate kiosks will provide the following information to the inmate: Current balance, Account history (including all past transactions), Commissary order entry (kiosk shall show pictures of product and be bilingual), Static page for facility to post information, and inmate kite/grievance capabilities.
3. All inmate kiosks shall be indestructible type kiosks suitable for use in a jail, tamperproof, with steel encased housing and shockproof keypads. All kiosk instruments shall be waterproof and fireproof. All inmate kiosks will be mounted firmly to the wall including cabling to support the kiosk. Mounting will be done in a secure manner and approved by the County's designee.
4. Hardware and software upgrades are the responsibility of Vendor at no cost to Utah County.

5. Vendor shall bear the cost of integration with County's Jail Management System.
6. In connection with integration of the system with County's Jail Management System/software or third party software, such integration shall be for the operation of the system only. Vendor may not modify, translate, port to any other computer or human language, disassemble, reverse engineer or decompile County's Jail Management System or third party software or otherwise attempt to discover any portion of the source code, object code or trade secrets related to County or third party software. This Agreement is not intended to and shall not be construed to convey or otherwise transfer title to, ownership of, or any proprietary rights in County or third party software.
7. Vendor shall not disclose, furnish, transfer or otherwise make available County or third party software or any portion thereof or any related documentation to any third party or duplicate any portion of County or third party software. Any County software and documentation provided to Vendor shall be provided only to those employees of Vendor with a need to know. The provisions of this Section shall survive the expiration or termination of this Agreement.
8. The Kiosks should be interactive allowing inmates to:
  - a. Order commissary
  - b. Check balances
  - c. File inmate requests
  - d. File grievances, including medical grievances
9. The Vendor will cooperate with the facility and or County's IT people to develop other uses for the kiosk in the future (ex: schedule medical appointments, visitation, haircuts, programs and other opportunities available to inmates, etc).
10. The Vendor shall design, engineer, write, own, install, and support its software and kiosks. None of the forgoing can be performed, supported, or owned by a third party.
11. Technical and kiosk support shall be provided at no additional charge by the Vendor's dedicated technical staff, 24 hours per day, 365 days per year via an 800 phone line that reaches a live person.
12. Installations, training, and technical support shall be provided by the Vendor's dedicated technical staff and will not be provided by a third party.
13. The Vendor owned commissary software shall be directly linked to the Vendor's host billing system so that purchases and credits posted in the commissary software will automatically generate the Vendor invoices and credits.
14. In the event the County requires Vendor software to be integrated with a 3<sup>rd</sup> party's software, the Vendor must pay and hold County harmless for said integration with the 3<sup>rd</sup> party's software.
15. The operating system shall be based on Microsoft Windows.
16. Primary servers shall be housed at the Security Center.
17. System shall be capable of working in a clustered environment.

18. System components shall be able to work while segmented across multiple network plans so that inmates and public users are separate from backend system components.
19. Backups will be performed on the system in a timely manner and will require the system to close or image database so that it can be backed up properly.
20. All transactions shall include an audit trail which shall not be alterable by any person.
21. Data fields shall be customizable to meet our business needs.
22. Code table data behind drop down fields shall be customizable to meet our business needs.
23. System software, hardware and equipment upgrades shall be provided to County at no cost to County.
24. System software, hardware and equipment upgrades shall be fully tested and QA'd prior to installation on our production servers.
25. Logins shall fit into certain user-defined roles including administrator, accountant, public user, inmate, etc.
26. There shall be a web-based, view only feature included with the system.
27. All upgrades or system changes will flow through a change control process in which the Vendor provides information on specific changes and provides a back out plan.
28. There shall be no cost to County to integrate with the jail management system.
29. Training shall be provided to UCSO IT to provide first line of support for system.
30. The Vendor shall provide technology, free of charge, which allows family members and friends to deposit money into an inmate's account by these four methods:
  - a. Secure Website (credit/debit card, check)
  - b. 24 hour call center/toll free number (credit/debit card, check)
  - c. Walk in Cash Locations (cash)
  - d. Lobby Kiosk/ATM (cash)
31. All deposit methods shall be linked with the Vendor's software so that the deposits are electronically transferred on a real-time basis to the inmate's account.
32. Vendor shall provide the County a password and username to securely access the online interface. This access shall allow the following functions:
  - a. View and cancel incoming payments
  - b. Download payment files
  - c. Download monthly reports
  - d. Investigate and supervise payments
33. Vendor shall guarantee all payments, holding County harmless from liability for fraudulent or cancelled payments.
34. Vendor shall provide primary, bilingual customer support for these services.
35. System will be available 24 hours, 7 days per week, 365 days per year.
36. Software will accept new inmate data from the Utah County Jail System so that jail personnel will not have to double enter the inmate's information. The Vendor's software will connect to the Utah County Jail database (currently Oracle) via native or ODBC connection and extract the data directly, or pass information from the County database to the Vendor's software in a transaction file via FTP.

37. Software will inform the booking officer (via the County Jail system) if the inmate being booked has a balance (+ or -) from past bookings.
38. Software will allow the County Jail system to inquire into their database in real-time to find an inmate balance displayed on the jail system.
39. Vendor will convert data from the existing third party commissary system to Vendor's system.
40. Vendor will own the software and/or license use of the software to Utah County at the Vendor's expense.
41. Software shall carry over positive and negative balances from repeated bookings of the same inmate.
42. Software shall merge accounts if it is found that there is more than one account for the same inmate.
43. Vendor shall comply with the installation time line, operating plan, and the sales and service plan for Utah County Security Center submitted with Vendor's RFP response.
44. Vendor shall begin operation on February 5, 2019 or as otherwise agreed by the parties.
45. In the event this Agreement is terminated by either party, for any reason, there shall be no disruption of service between the termination of the existing services and the implementation of an alternate commissary service. Vendor shall continue providing Inmate Trust Fund and commissary services until a new vendor is selected and commences the commissary/inmate trust fund services. Upon termination Vendor shall transfer all inmate data to the successor vendor in a usable format and provide County with all inmate data in a usable format at no cost to County.
46. Vendor shall provide 2 Wireless Lobby Kiosks capable of accepting cash, credit/debit card transactions.
47. The system shall issue account balances to inmates in cash, check or debit card upon inmate release.
48. The system shall read and accept other debit cards.
49. Vendor will provide a Booking intake kiosk capable of accepting inmate money and depositing it on the inmate's books except for loose coin.
50. Vendor will provide thermal receipt printers (4) and printers (2) each for Property, Booking, GPS, and Pay to Stay (8 total).

**IX. NOTICES**

Unless otherwise provided, any notice, demand, request or any other instrument which may be or is required to be given under this Agreement shall be delivered in person or sent by certified mail, postage prepaid, addressed to the appropriate party as noted here:

To County:	Utah County Sheriff 3075 North Main Spanish Fork, Utah 84660
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With Copies to: Utah County Attorney  
Civil Division  
100 East Center Street #2400  
Provo, Utah 84606

To Vendor:

With Copies to:

**X. ASSIGNMENT**

This Agreement may not be assigned, in whole or part, without the express written consent of Utah County.

**XI. INDEMNIFICATION**

The Vendor shall defend, indemnify, save and hold harmless Utah County, its officers, employees, and agents, from and against any and all claims, demands, causes of action, orders, decrees, judgments, losses, damages, and liabilities (including all costs and attorney's fees incurred in defending any claim, demand, or cause of action) occasioned by, growing out of, or arising or resulting from (a) Vendor's, its subcontractors, agents or employees performance of this contract or their provision of any services required herein to be performed by the Vendor or its subcontractors, agents or employees, and (b) any act or omission of Vendor, or its subcontractors, agents or employees. The Vendor shall assume sole liability for any injuries or damages caused to a third party as a result of fulfillment of this contract.

**Information Technology Systems.** In connection with the services being provided hereunder, Vendor may need to operate certain information technology systems ("Non-County Systems"), which may need to interface with or connect to County's networks or information technology systems ("County Systems"). Vendor shall be responsible for all Non-County Systems, and County shall be solely responsible for County Systems, including taking the necessary security and privacy protections as are reasonable under the circumstances. If Vendor serves as the merchant-of-record for any credit or debit card transactions in connection with any of the services provided hereunder, then Vendor will be responsible for complying with all applicable laws, regulations and payment card industry data security standards related to the protection of cardholder data. Vendor shall indemnify, defend and hold County harmless from all claims, liabilities, damages and costs (including reasonable attorneys' fees) to the extent caused by Vendor's failure to comply with its obligations herein.

Vendor shall defend all suits brought upon such claim or demand and pay all costs and expenses incidental thereto, but County shall have the right, at its option and expense, to participate in the defense of such suit without relieving Vendor of any obligation hereunder.

**XII. INDEPENDENT CONTRACTOR**

Vendor states and affirms that he is acting as an independent contractor, holding himself out to the general public as an independent contractor for other work or contracts as he sees fit; that he

advertises his services as he sees fit to the general public, maintains his office or place of employment separate from Utah County, and that this AGREEMENT is not exclusive of other agreements, contracts or opportunities.

The parties intend that an independent contractor relationship will be created by this AGREEMENT. Utah County is interested only in the results to be achieved, and the conduct and control of the work will lie solely with Vendor. Vendor is not to be considered an agent or employee of Utah County for any purpose, and the employees of Vendor are not entitled to any of the benefits that Utah County provides for County's employees. It is understood that Vendor is free to contract for similar services to be performed for others while working under the provisions of this AGREEMENT with Utah County.

Both parties agree that Vendor shall be deemed an independent contractor in the performance of this AGREEMENT, and shall comply with all laws regarding unemployment insurance, disability insurance, and workers' compensation. As such, Vendor shall have no authorization, express or implied, to bind Utah County to any agreement, settlement, liability, or understanding whatsoever, and agrees not to perform any acts as agent for Utah County. The compensation provided for herein shall be the total compensation payable hereunder by Utah County.

#### **XIII. INSURANCE**

The Vendor agrees to carry Commercial General Liability insurance coverage equal to or greater \$717,000 for one person in any one occurrence, and \$2,455,900 aggregate amount of individual awards that be may awarded in relation to a single occurrence, and \$286,900 in any one occurrence for property damages or as modified by the risk manager pursuant to state statute during the term of this contract. This coverage shall provide liability insurance to cover the activities of Vendor including Vendor's agents, employees and subcontractors, and for all equipment and vehicles, public or private, used in the performance of this contract. The Vendor shall furnish Utah County, prior to commencing any work, a Certificate of Insurance naming Utah County as a certificate holder evidencing that the Vendor has this insurance in place.

Prior to commencing any work, the Vendor shall furnish a Certificate of Insurance naming Utah County as a certificate holder evidencing that the Vendor has Workers Compensation Insurance for the Vendor, all subcontractors, and all employees of the Vendor and/or subcontractors.

#### **XIV. APPLICATION OF LAW**

It is agreed that this agreement shall be governed by, construed and enforced in accordance with the laws of the State of Utah.

#### **XV. ENTIRE AGREEMENT**

This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

**XVI. MODIFICATION**

Any modification of this agreement, or additional obligation assumed by either party in connection with this agreement, shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

**XVII. SUCCESSORS IN INTEREST**

This agreement shall be binding upon the heirs, successors, administrators, and assigns of each of the parties thereto.

**XVIII. CONFLICT**

If any of the provisions of this Agreement conflict with or are inconsistent with the provisions of the RFP or Vendor's response thereto, the provisions of this Agreement shall control and govern. The terms and conditions contained in the RFP shall control when in conflict with Vendor's response to the RFP. Failure to include any terms or conditions from the RFP in this Agreement shall not constitute a waiver of any RFP terms and/or conditions not stated in this Agreement.

**XIX. DELIVERY, RISK OF LOSS**

At no additional charge to County, Vendor shall deliver all hardware to the applicable location established by the parties on or before the scheduled delivery date which shall be mutually agreed to by the parties. Vendor shall bear the risk of loss and all freight, shipping and handling costs associated with delivery of all hardware to the designated location.

**XX. TIME**

All services shall be provided in a timely and professional manner. Time is of the essence.

**XXI. NO THIRD PARTY BENEFICIARIES**

This Agreement is not intended to benefit any party or person not specifically named as a party herein.

**XXII. SEVERABILITY**

If any provisions of this Agreement are held to be invalid or unenforceable by a court of proper jurisdiction, the remaining provisions shall remain in full force and effect, unless the invalid or unenforceable provision is material. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**XXIII. WAIVER**

A waiver by any party of any provision of this Agreement, whether in writing or by course of conduct or otherwise, shall be valid only in the instance for which it is given, and shall not be deemed a continuing waiver of said provision, nor shall it be construed as a waiver of any other provision.

**XXIV. STANDARD OF PERFORMANCE**

Unless otherwise stated herein, VENDOR'S services under this Agreement shall be performed in a reasonable and prudent manner in accordance with generally accepted industry practices.

**XXV. NO PRESUMPTION**

Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against a party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that all parties have participated in the preparation hereof.

**XXVI. ATTORNEY'S FEES**

If either party defaults in the performance of this Agreement, or any of its covenants, terms, conditions, or provisions, the defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Agreement, or from pursuing any remedy provided hereunder or otherwise provided by law except in the instance that the defaulting party cures the default as provided in this Agreement.

**XXVII. GENERAL COVENANTS**

Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa. The use of any gender shall include the other gender and all business entities. The paragraph and section headings contained in this Agreement are for convenience only, and do not constitute a part of the provisions hereof. In the event of a default or dispute arising in any manner under this Agreement, the default or dispute will be resolved in the courts of the state of Utah and jurisdiction and venue for any said default or dispute shall be in Utah County. This Agreement may be executed in two or more counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by telecopier, fax, email or other electronic delivery, shall be sufficient to bind the parties to the terms and conditions of this Agreement. A copy in whole or any part of this Agreement shall have the same effect as an original.

**XXVIII. TERMINATION**

The obligation to provide further service under the terms of this Agreement may be terminated by Utah County immediately upon written notice to Vendor in the event of material breach by the Vendor to perform in accordance with the terms hereof. In the event that the Agreement is terminated for any reason, the Vendor warrants that it will remove all its equipment from the facilities without

charge. Service and equipment will not be removed until another contractor has been acquired and is able to commence providing services. The removal of equipment and disconnection of service process will occur during the implementation of the new system with minimal interruption of service to this facility. The Vendor shall cooperate with the new contractor during the implementation of the new system.

Except for a material breach, 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 30 days after receipt of the notice of default, then the non-defaulting party shall have the right to immediately terminate this Agreement and pursue all other remedies available to the non-defaulting party, both at law and in equity.

Upon termination for any reason, all financial obligations paid in advance by either party shall be adjusted on a per diem basis as of such termination date. Any notice and other communications given pursuant to the provisions of this paragraph shall be in writing and shall be given by mailing the same by certified mail or registered mail, return receipt requested, postage prepaid, to the other party to this Agreement.

**XXIX. DAMAGE AND REPAIR LIABILITY**

1. The Utah County Jail will have no liability to the Vendor for fraud, theft, vandalism/damage or loss of the Vendor's equipment inflicted by the inmates or the public. All costs associated with the repair or replacement will be the responsibility of the Vendor.
2. Vendor warrants that all repairs and replacements will be made at Vendor's expense. Vendor shall make all reasonable efforts to ensure that the system is operational and repaired or replaced as quickly as possible. Vendor will repair and maintain its equipment in good operating condition and shall exclusively maintain its equipment in such condition by furnishing all necessary parts and labor reasonably necessary for the successful operation of the equipment. Vendor has the exclusive access to open, adjust, remove, disconnect, repair, replace, or alter the equipment. County shall permit security cleared employees or contractors of Vendor reasonable access in order to provide such service, repair, and maintenance on equipment. Vendor's equipment shall remain the property solely of Vendor. Upon termination of this Agreement, Vendor shall have the right to enter upon the premises to remove the equipment. County shall notify Vendor of any misuse, destruction, damage, or vandalism of the equipment to the Vendor as soon as practicable.

**XXX. SYSTEM SOFTWARE LICENSE:**

1. Grant. Vendor hereby grants to County a non-exclusive, nontransferable license to use the system software. Use of the system software is restricted to the system described in Vendor's proposal and shall be for the operation of the system only. County may not modify, translate, port to any other computer or human language, disassemble, reverse

engineer, or decompile the system software or otherwise attempt to discover any portion of the source code, object code or trade secrets related to the system software. This Agreement is not intended to and shall not be construed to convey or otherwise transfer title to, ownership of, or any proprietary rights in the system software to County.

2. Nondisclosure and Copies. County shall not disclose, furnish, transfer or otherwise make available the system software or any portion thereof or any related documentation to any third party or duplicate any portion of the system software. County shall, however, have the right to make one archival or backup copy of the system software. County may also reproduce the accompanied documentation for County's own internal use. Any such backup copies of the system software or reproductions of the documentation shall include any copyright or similar proprietary notices contained in the materials being copied or reproduced. The system software and documentation shall be provided only to those employees of County with a need to know. The provisions of this Section shall survive the expiration or termination of this Agreement.
3. Representations. Vendor represents to County that Vendor has the right to grant a license to use the system software specified in this Agreement.
4. Proprietary Rights. Nothing in this Agreement shall be construed as warranty or representation that the system software is or will be free from infringement of patents or other intellectual property rights of third parties. Should County's use of the system software be enjoined or, in County's reasonable judgment, be likely to be enjoined, due to actual or alleged infringement of any patent, trademark, copyright, trade secret or other proprietary right of any third party, provided that Vendor is notified promptly in writing by County of such injunction or threat thereof, is given complete control of the defense of any claim and County cooperates with Vendor in the settlement or defense of such claim, Vendor shall at its expense:
  - Defend and indemnify County from and against any actual or alleged infringement of any patent, trademark, copyright, trade secret or other proprietary right of any third party; and
  - Procure for County, under reasonable terms and conditions, the right to continue using the system software; or
  - Replace or modify the system software so that it becomes non-infringing in a manner which does not adversely affect the specifications for, or the use or operation by County of the system.

If neither of the foregoing alternatives is possible even after Vendor's reasonable efforts, Vendor may in the case of the provision of an Vendor owned system, terminate this Agreement, subject to the rights and remedies of County as provided in this Agreement.

Vendor shall have no obligations under this Section if the system software has been modified by County and the unmodified version would not have been infringing.

## **XXXI. CONFIDENTIALITY**

Vendor recognizes that County may have certain proprietary information such as cost, process information, technical information, inmate personal information, inmate charges, and security information, which are valuable, special and unique assets of County. Vendor agrees that it will not, nor will any of its employees, use any such information for personal benefit, or divulge, disclose, or communicate in any manner any such information to any third party without the prior written consent of County. Vendor will protect the information, treat it as strictly confidential and will not release any information which would violate the Utah Government Records Access Management Act, UCA 63-2-101, et. seq.

Any technical information relating to the Services or any information concerning a program participant or any other information marked as Proprietary or Confidential furnished by one party (the Disclosing Party) to the other (the Receiving Party), under this Agreement, shall be considered Confidential Information. The Receiving Party shall not, without first obtaining the Disclosing Party's written consent, disclose to any third party or use for any purpose other than the performance of its obligation under this Agreement, any information or materials developed by the Receiving Party based on Confidential Information that it has received or to which it has access. In addition, the Receiving Party shall likewise protect the confidentiality of oral statements made to it by the Disclosing Party, provided that the Disclosing Party identifies the statement as confidential or proprietary when made and, no later than seven (7) days thereafter, provides the Receiving Party with a written notice that summarizes the statement and confirms the Disclosing Party's request for confidential treatment.

Confidential information shall not include:

- Information generally available to, or known to, or which becomes known by, the public through no wrongful act of the Receiving Party;
- Information lawfully known by the Receiving Party prior to negotiations leading to this Agreement;
- Information lawfully disclosed by a third party to the Receiving Party;
- Information independently developed by the Receiving Party without the use of information disclosed by the Disclosing Party;
- Information lawfully disclosed to a third party by the Disclosing Party without restriction; and
- Information lawfully required to be disclosed to any governmental agency or which is otherwise required to be disclosed by law, provided that before making such disclosure the Receiving Party shall give the Disclosing Party an adequate opportunity to object to such disclosure or take action to assure confidential handling of such information.
- Information required to be disclosed by the Utah Government Records Access Management Act, UCA 63-2-101 et. seq.

Upon the request of the Disclosing Party which may be made at any time, the Receiving Party shall return to the Disclosing Party or, at the option of the Disclosing Party, shall destroy the Confidential Information provided by the Disclosing Party or material developed by it based on the Disclosing Party's

Confidential Information. Upon the request of the Disclosing Party, the Receiving Party shall certify that the destruction of Confidential Information provided for herein has occurred. This paragraph shall not apply to information in County's possession which is necessary for County to receive the services provided pursuant to this Agreement or information governed by the Government Records Access Management Act, UCA 63G-7-101 *et.seq.*

If the Receiving Party fails to abide by its obligations under this section, the Disclosing Party shall be entitled to seek immediate injunctive relief, in addition to any other rights and remedies available to it at law and in equity.

The provisions of this section shall survive the expiration or termination of this Agreement.

**XXXII. PERFORMANCE AND EXCUSABLE DELAY**

Neither party shall be liable to the other for any delay or failure to perform under this Agreement if the delay or failure to perform is without fault or negligence of the party claiming excusable delay and is due to causes beyond the control of said party, including, but not limited to: acts of God; war; acts of the government; fires; floods; epidemics; quarantine restrictions; strikes, labor disputes or work stoppages; and freight embargoes.

**XXXIII. AUTHORITY**

County and Vendor warrant and represent to each other they have the authority to enter into this binding Agreement and to bind themselves to such Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

BOARD OF UTAH COUNTY COMMISSIONERS  
UTAH COUNTY, UTAH

\_\_\_\_\_  
NATNAN IVIE, Chairman

ATTEST:  
BRYAN THOMPSON  
County Clerk/Auditor

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
JEFFREY BUHMAN  
Utah County Attorney

By: \_\_\_\_\_  
Deputy

VENDOR:

BY: \_\_\_\_\_

ITS: \_\_\_\_\_