

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS

ACTION AGENDA SUMMARY

DEPT: Sheriff's Department

BOARD AGENDA # *B-21

Urgent

Routine

AGENDA DATE June 28, 2011

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Award an Agreement to TouchPay Payment Services, Inc. California for the Provision of Inmate Trust Account Services

STAFF RECOMMENDATIONS:

1. Approve an agreement with TouchPay Payment Services, Inc. for Inmate Trust Account Services.
2. Authorize the General Services Agency (GSA) Director/Purchasing Agent to execute the agreement and any subsequent amendments to the agreement on behalf of the County during the term of the agreement.

FISCAL IMPACT:

TouchPay Payment Services, Inc. is an automated account service, which provides management of inmate funds. TouchPay provides kiosks (and all maintenance associated with the kiosks), software, website, release debit card, bail options, and the handling of funds from kiosks. TouchPay receives revenue from individual transaction fees and there is no cost to the County for the account management. Transaction fees for Inmate Trust Account deposits can range from \$2.95-\$6.95 per transaction depending on the deposit amount and location plus 3.5% of the face amount for credit/debit card
(Continued on page 2)

BOARD ACTION AS FOLLOWS:

No. 2011-401

On motion of Supervisor O'Brien, Seconded by Supervisor Chiesa

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Award an Agreement to TouchPay Payment Services, Inc. California for the Provision of Inmate Trust Account Services

FISCAL IMPACT (continued from page 1):

transactions. Self-Bail deposits are \$5.00 for every \$100 deposited plus 7.5% of the face amount of the transaction for credit/debit card transactions. Local bail agents currently charge an average of 10% of the bail amount. Funds deposited in the kiosks including cash bail are transferred to the Stanislaus County Treasurer.

DISCUSSION:

On November 9, 2010, the Board of Supervisors authorized the General Services Agency (GSA) Purchasing Agent to issue a Request for Proposal (RFP) to solicit bids for Trust Account Services/Kiosks to be used by the Sheriff's Department Adult Detention facilities.

On December 10, 2010, Purchasing issued Request for Proposal (RFP) No. 10-57-TRS for Inmate Trust Account Services. Included in the RFP was a detailed scope of work for County Adult Detention facilities. The RFP was received by a total of eight vendors, with three responding.

Currently, inmates held in the Adult Detention facilities are provided food, hygiene items, reading materials, stationary, medical care, etc. While in custody, inmates may receive funds through the mail via money orders from family or friends to purchase phone cards, commissary items, and to assist with medical co-pays.

Some of the inherent problems with money orders include getting lost in the mail, counterfeit money orders, expired money orders, staff time processing, collecting signatures, accounting for and depositing the money orders. Numerous Counties in the State of California have gotten out of the cash and money order business by using kiosks in their detention facilities that allow funds to be placed directly into an inmates account.

A seven-member review panel consisting of staff from the Sheriff's Department Management, Finance and Information Technology units, and from the Chief Executive Office was selected to perform the evaluations of each responsive proposal. Each committee member was provided with written Rules of Conduct governing the evaluation process and the evaluation criteria. Each member then rated the vendors individually.

TouchPay Payment Services received the highest overall rating by the panel and is believed to provide the best value to the County, convenience to the public, and minimal transaction fees to those who deposit funds into an inmate's account or wish to use TouchPay's bail option. TouchPay is a Payment Card Industry (PCI) compliant industry leader using the latest technological advances in automated-payment solutions, which allow deposits to inmates' accounts via kiosk, website, telephone, and countertop pin-pad terminal. Payment types include

Approval to Award an Agreement to TouchPay Payment Services, Inc. California for the Provision of Inmate Trust Account Services

cash, credit/debit card and MoneyPak, which is a prepaid card that can be purchased at local retailers and used as a credit/debit card.

TouchPay has 20 years of experience and currently provides services to the California Department of Corrections and Rehabilitation, as well as Solano, Sacramento, San Francisco, Sonoma, Tuolumne, Ventura, Nevada, and San Benito Counties.

Based on the review of the submitted proposals, the Sheriff's Department is recommending that the Board of Supervisors award the contract agreement for Inmate Trust Account Services to TouchPay Payment Services, Inc.

POLICY ISSUE:

Approval of award of this agreement supports the Board's priority of Efficient Delivery of Public Services.

STAFFING IMPACT:

The contract is beneficial to staff by simplifying work and reducing staff time dealing with inmate funds.

CONTACT PERSON:

Gregg Clifton, Lieutenant 525-5675

2011 JUL -7 P 4: 17

**AGREEMENT
FOR
INDEPENDENT CONTRACTOR SERVICES**

This Agreement for Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and TouchPay Holdings, LP, a Texas limited partnership authorized to conduct business in the state of California ("Contractor") as of June 28, 2011.

Recitals

WHEREAS, the County has a need for inmate trust account services for its Sheriff's Department; and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. **Scope of Work**

1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A**, attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the County reserves a royalty free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

1.3 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions, and in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

2. **Consideration**

2.1 County shall pay Contractor as set forth in Exhibit A.

2.2 Except as expressly provided in Exhibit A of this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be

entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

2.4 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractor's intention and desire that payments made by the Contractor to subcontractors, suppliers and materialmen shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

3. Term

3.1 The term of this Agreement shall be from the date of approval of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit A.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of Contractor's business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, Contractor ceases to be licensed or otherwise authorized to do business in the State of California, and the Contractor fails to remedy such defect or defects within thirty (30) days of receipt of notice of such defect or defects.

3.4 The County may terminate this agreement upon 30 days prior written notice to the Contractor. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Contractor at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in Exhibit A, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to

provide the services identified in Exhibit A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

6. Insurance

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by

the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.

6.6 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-:VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

6.9 Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors.

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees,

arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractor's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use; provided, however, such indemnification shall not extend to or cover loss, damage or expense arising from the sole negligence or willful misconduct of the County or its agents, officers and employees.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex, or sexual orientation. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County:

Stanislaus County Purchasing Agent
1010 10th Street, Suite 5400
Modesto, CA 95354

To Contractor:

TouchPay Holdings, LP
7801 Mequite Bend Drive
Irving, TX 75063

15. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

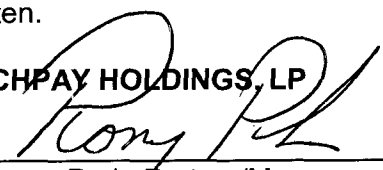
IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the day and year first hereinabove written.

COUNTY OF STANISLAUS

By: 
Keith D. Boggs, Deputy Executive Officer,
Interim GSA Director/Purchasing Agent

"County"

TOUCHPAY HOLDINGS, LP

By: 
Ronny Park, Partner/Manager

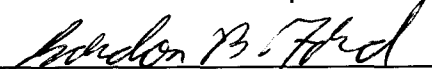
"Contractor"

Approved: June 28, 2011
BOS Resolution: 2011-401

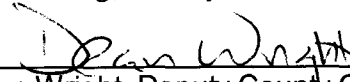
APPROVED AS TO CONTENT:
Sheriff's Department

By: 
Adam Christianson, Sheriff

APPROVED AS TO CONTENT:
Treasurer-Tax Collector Department

By: 
Gordon B. Ford, Treasurer-Tax Collector

APPROVED AS TO FORM:
John P. Doering, County Counsel

By: 
Dean Wright, Deputy County Counsel

V:\PUBLIC\Counsel\CONTRACT\IND-CON Agmt.wpd

EXHIBIT A

A. SCOPE OF WORK

1. Pursuant to the requirements of State of California and all applicable local regulations, Contractor shall provide Inmate Trust Account services for the County's Sheriff's Department at:
 - a. Public Safety Center, at 200 East Hackett Road, Modesto, CA 95358;
 - b. Downtown Jail, at 1115 H Street, Modesto, CA 95354; and
 - c. Jail Alternatives Program, at 801 11th Street, Modesto, CA 95354.
 - d. Adult Detention Division, at 250 East Hackett Road, Modesto, CA 95358;
2. Equipment. Contractor shall provide kiosks to County at no charge. Each kiosk shall utilize a touch screen and be available in a minimum of the English and Spanish languages. Initially, Contractor shall install kiosks as follows:
 - a. Two (2) at the Public Safety Center:
 - One in the Visiting Lobby area, with a limited, minimal transaction fee on all transactions; and
 - One with coin options in the booking area, with no transaction fee.
 - b. Two (2) at Downtown Jail:
 - One (1) in the Visiting Lobby area, with a limited, minimal transaction fee on all transactions; and
 - One (1) with coin options in the booking area, with no transaction fee.
 - c. One (1) at the Jail Alternatives public lobby, with a limited, minimal transaction fee on all transactions.
 - d. Contractor shall provide additional kiosks at no charge should the County's Adult Detention Division of the Sheriff's Department elect to install kiosks at its facility.
3. Subcontractors. In accordance with Section 12 of this Agreement, County acknowledges that Contractor has contracted for the services of the couriers listed in Attachment 1 to facilitate the cash pick-up from the kiosks installed throughout the County, and County consents to Contractor's use of these subcontractors.

Contractor agrees to provide County with prior written notice of any addition, revision or substitution to the above list. Contractor shall assure that each subcontractor utilized will be appropriately insured and bonded.

4. Support and Maintenance.
 - a. Contractor shall provide the necessary technical support and maintenance of all kiosk machines. Technical support shall be accessed via email or telephone. Contractor shall endeavor to:
 - i. return all calls and resolve all issues within thirty (30) minutes or less;
 - ii. close all tickets within twenty-four (24) hours; and
 - iii. complete all on-site repairs requiring parts within twenty-four (24) hours.
 - iv. repair or replace kiosk machines within twenty-four (24) hours of notice of required service.
 - b. In the event of a system failure, Contractor shall respond within two (2) hours' notice from County. In the event the communication network is disrupted, Contractor shall ensure that each kiosk is able to operate in a secure mode off-line.

- c. Contractor shall assume responsibility for any losses and/or repairs due to acts of vandalism or other causes and will not hold County responsible for any uncollected monies.
- d. Contractor shall implement and maintain the Disaster Recovery Plan with respect to all equipment utilized in connection with this Agreement as set forth within the RFQ Response (hereinafter defined).

5. Transactions.

- a. Contractor shall be responsible for taking cash from kiosk on a regular basis, but shall credit the Inmate Trust Account daily for all deposits made. Contractor shall fund inmate accounts daily based upon deposit and transaction timelines as set forth in the RFP Response, or negotiate other arrangements with County. Each deposit must be confirmed by the appropriate County Personnel as set forth in paragraph 6 below and must be received within two (2) business days of the confirmed transactions.
- b. Contractor shall collect and process trust account payments and deposits for County jail inmates received by either cash or credit cards (including bail payment) at any of Contractor's kiosks or countertop pay-pad terminal; online at Contractor's website (<https://tponlinepay.com>); via toll-free interactive voice response); or through select retail providers at no charge to County. All transactions shall be made in real time and in accordance with the timelines as set forth in the RFP Response (hereinafter defined). Payments shall be accepted twenty-four (24) hours per day, seven (7) days per week.
- c. County shall upload a file to Contractor every fifteen (15) minutes but at least once per hour with updated in-custody inmate information. Contractor shall collaborate with appropriate County staff to ensure files are received.
- d. Contractor shall guarantee payment to the Inmate Trust Account for all transactions confirmed by the County's Jail Procurement Personnel. Funds, generally, will be received within 24 hours of ACH transactions made Monday through Friday. Note that deposits will not be received on weekends or bank holidays.

6. Website/Jail Management System.

- a. Contractor shall submit, via Contractor's website or management system, a real-time listing of all deposits made to the Inmate Trust Account. Contractor shall permit the appropriate County personnel to confirm each individual inmate deposit transaction and shall only deposit confirmed transactions to Inmate Trust Bank Accounts, in accordance with the payment process set forth in the RFP Response (hereinafter defined).
- b. Contractor shall, at no additional cost to County, interface with the Stanislaus County Inmate Management System (ICJIS) during the term of this Agreement. The interface shall include development, testing and live integration, and shall be completed within forty-five (45) days from the date of this Agreement.
- c. All deposit information shall be available to the County's Adult Detention Division via the Contractor's website.

- d. Contractor is responsible for maintenance and repair of website. Any repairs to website must be made within seventy-two (72) hours of notification at no charge to County.

7. Other.

- a. Contractor shall provide transaction reports upon County's request. Reports shall provide information on senders and demonstrate if there is a transaction connection between multiple inmates. Contractor shall also provide investigative reports to County as requested which shall include but not be limited to:
- Multiple account summary history;
 - Depositor history (web/telephone; kiosk);
 - Inmate transactions detail (inmates funded; kiosk transaction with picture of depositor; kiosk cash transactions; kiosk credit card transactions; web/IVR credit card transactions; address of record); and
 - Capability to export results to Excel.
- b. Contractor shall provide debit cards to inmates released from County's Adult Detention Division at no cost to the County.
- c. Contractor agrees to provide services to other County Departments, if requested, under the same quoted fee structure and conditions.
- d. Contractor shall provide all necessary training with respect to the use and operation of equipment and account managing at no additional cost to County.
- e. Contractor shall not release any confidential information regarding any inmate to a third party without the County's prior written consent.
- f. Contractor shall perform background checks on all of its employees assigned to provide service hereunder.
- g. Contractor shall, to the extent practicable, endeavor to collaborate with County's contracted e-payment vendor, Metavante Corporation, for the provision of services hereunder.

8. All services provided by Contractor and the manner in which services are to be provided are more particularly set forth in the County's Request for Proposal #10-57-TRS; the Contractor's responding proposal (the "RFP Response"); Notice to Proposers; Information for Proposers; General Conditions, as well as any plans, specifications, addenda, and any documents particularly required or provided (as may be applicable), all of which are incorporated herein by reference and made a part hereof (collectively, the "RFP"). All of the foregoing documents, as may be applicable, together with this Agreement, comprise the contract and all services provided hereunder shall be performed in accordance therewith. In the event there is a conflict between the terms and conditions set forth in this Agreement, those set forth in the RFP, and those set forth in Exhibit A, then in such case, the terms and conditions shall control in this order: 1st, Exhibit A, 2nd, this Agreement, and 3rd the RFP.

B. COMPENSATION

1. Contractor shall be compensated in accordance with the following fee schedule:

- a. Trust/Commissary: for cash, credit/debit card and ACH transactions for Inmate Trust Account deposits, Contractor will charge the Client/Depositer a base fee as follows:

Deposit Amount	Lobby Kiosk	Telephone (IVR)	Online Web	MoneyPak (Remote Cash) IVR/Web	Retail Walk-in Cash Locations
\$0-\$20.00	\$2.95	\$2.95	\$2.95	\$2.95	\$4.95
\$20.01-\$100.00	\$3.95	\$3.95	\$3.95	\$3.95	\$5.95
\$100.01-\$200.00	\$4.95	\$4.95	\$4.95	\$4.95	\$6.95
Canned Message (optional)	\$2.00	N/A	\$2.00	N/A	N/A

For each credit/debit card transaction, Contractor will charge the user the base fee as listed above plus 3.5% of the face amount of each transaction.

- b. Self Bail: for cash, credit/debit card** and ACH transactions for Inmate Trust Account deposits, Contractor will charge the Client/Depositer a base fee as follows:

Deposit Amount	Lobby Kiosk	Telephone (IVR)	Online Web	MoneyPak (Remote Cash) IVR/Web	Retail Walk-in Cash Locations
\$0-\$100.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00
\$100.01-\$200.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
\$200.01-up	Add'l \$5.00 per \$100 deposit	\$10.00	\$10.00	Add'l \$5.00 per \$100 deposit	Add'l \$5.00 per \$100 deposit

For each credit/debit card transaction, Contractor will charge the user the base fee as listed above plus 7.5% of the face amount of each transaction.

- c. Intake/Booking: for the automation of cash and coin acceptance, Contractor will charge a base fee as follows:

Automated Booked Inmate's Cash (coin & paper)	\$2.00
Inmate enters with less than \$2.00	No fee

The parties hereto acknowledge the maximum amount to be paid by the County for services provided shall not exceed \$ including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Contractor to perform or to assist in the performance of its work under this Agreement.

C. TERM

1. Paragraph 3.1 of the body of this Agreement is amended to read as follows:

3.1 The term of this Agreement shall be from June 28, 2011 through June 27, 2012, unless otherwise terminated as provided below. This Agreement will not automatically renew

but may be renewed for four (4) additional one-year terms (each a "Renewal Term") by mutual, written agreement of the parties. Such renewal shall be in the form of an amendment to the Agreement.

2. Paragraph 3.4 of the body of this Agreement is amended to read as follows:

Either party may terminate this agreement upon at least ninety (90) days prior written notice to the Contractor. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

D. REPRESENTATIVES

The parties' respective Project Managers shall be:

For County:

Lieutenant Gregg Clifton
Stanislaus County Sheriff's Dept.
200 E. Hackett Road
Modesto, CA 95358
(209) 525-5675
gclifton@stanislaussheriff.com

For Contractor:

Lisa Ferner, Sr. Project Manager
TouchPay Holdings, LP

972-215-0133 Ext. 2021
lferner@touchpaydirect.com

Attachment 1

TouchPay has contracted for the services of the couriers listed below to facilitate the cash pick-up from the kiosks installed throughout the County.

1. Nycole Murane-Miller

TouchPay agrees to provide County with prior written notice of any addition, revision or substitution to the above list. TouchPay shall assure that each subcontractor utilized will be appropriately insured and bonded