



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

July 15, 2016

Submitted Online Only

The Honorable Tom Wheeler, Chairman
Federal Communications Commission
445 12th St. S.W.
Washington, DC 20554

**Re: *Ex Parte Submission*
Global Tel*Link ICS Contract and Amendment with the Metropolitan
Government of Nashville and Davidson County (Metro).
WC Docket 12-375**

Dear Chairman Wheeler:

The Human Rights Defense Center (HRDC) respectfully submits this *ex parte* presentation on WC Docket 12-375 regarding the contrary positions between what prison telecom industry leader Global Tel*Link (GTL) says and what it actually does.

This Docket is replete with filings by Inmate Calling Service (ICS) providers, as well as the National Sheriffs' Association (NSA) and its member sheriffs, alleging high costs for the provision of prison and jail telephone services; the high (but unsubstantiated) costs incurred by correctional facilities to provide phone services; and threats to discontinue phone services unless sheriffs' departments continue to receive ICS commission kickbacks.

GTL appealed the Federal Communications Commission's (FCC or the Commission) *Order*¹ capping prepaid/debit ICS rates at \$0.11/min. for federal and state prisons, and capping debit/prepaid rates for jails at \$0.14/min. to \$0.22/min. based on population level.² In an initial motion filed in the appeal, GTL represented that "The nature of these inmate calling services ('ICS') makes them more costly to provide than ordinary toll service."³ GTL goes on to say

¹ Second Report and Order and Third Further Notice of Proposed Rulemaking, released November 5, 2015.

² U.S. District Court of Appeals DC Circuit, Case No. 15-1461, filed January 27, 2016.

³ <https://ecfsapi.fcc.gov/file/10713407224982/ICS%20Litigation%20Record%207%2013%202016.pdf> at 7.

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that the FCC has ignored the realities of the ICS market and “threatened ICS providers with significant losses.”⁴ Of course it is the ICS providers that have created the very “market” they now complain about, by giving kickbacks to their government collaborators in exchange for monopoly contracts.

However, a contract amendment negotiated between the Metropolitan Government of Nashville and Davidson County (Metro) and GTL, which became effective June 20, 2016, indicates that this is simply not the case. **(Attachment 1)**

This amendment sets ICS rates for all intrastate collect, debit and prepaid/AdvancePay calls at \$0.05/min., with ancillary fees capped at the amounts set forth in the FCC’s *Order. Id.* HRDC has long-advocated for a rate of \$0.05/min., and this is evidence of the ability of both ICS providers and detention facilities – including jails – to provide phone services at that rate. The amendment also eliminates kickbacks,⁵ including for video visitation services, which lowered the cost for video visitation from \$14.95 for a 20-minute visit (effectively \$0.75/min.) in the original contract **(Attachment 2)** to \$10.00 for a 25-minute visit (\$0.40/min.).

As noted by Davidson County Sheriff Daron Hall in a press release:

The vast majority of inmates in our jails – and jails across the country – are in pretrial status. They have not been found guilty of any crime; therefore, they should have access to the privilege of calling loved ones regardless of their economic status.

(Attachment 3)

This position was confirmed by HRDC associate director Alex Friedmann, who added that abandoning the commission-based model “will go a long way towards ensuring fair and affordable phone rates so those in jail can more easily communicate with their family members and children.” **(Attachment 4)**

Metro did the right thing for its prisoners and community by voluntarily reducing rates far below the FCC’s rate caps and eliminating kickbacks from its contract with GTL; it is well documented in this record that kickbacks and lack of competition are the primary reasons for the artificially high phone rates that plague the ICS industry. It is crystal clear that ICS providers can charge much lower rates and remain profitable absent kickbacks, and it should be noted that GTL contracted with Metro at a rate of \$0.05/min., especially in light of the Fact Sheet released by the FCC yesterday concerning a proposal to *increase* the rate caps for both prisons and jails.⁶

Metro’s jail system consists of the Criminal Justice Center with 788 beds; the Hill Detention Center with 535 beds and CDC-male with 768 beds. The FCC capped phone rates for a facility of this combined size at \$0.14/min. in its *Order*, almost three times Metro’s new rate.

⁴ *Id.*

⁵ Under the original contract (Attachment 2), Metro received a 95% *commission kickback* on ICS revenue with intrastate calls rated at \$0.13/min. for collect and debit calls and \$0.14/min. for prepaid calls.

⁶ FACT SHEET: Providing Affordable, Sustainable Inmate Calling Services; issued by the Federal Communications Commission on July 14, 2016.

Revised rate caps under consideration that will be voted on by the Commission on August 4, 2016 would increase the maximum phone rate for a facility of this size to \$0.19/min. – just under *four times* the rate currently in effect at Metro jails. Of course, GTL would not have entered into a contract to provide phone service at \$.05/min. with no kickbacks if it could not make a profit.⁷

HRDC acknowledges the Commission’s efforts to ensure that all parties to ICS services are treated in a fair and reasonable manner. However, given the fact that the NSA and its member sheriffs have produced almost no evidence of actual “costs” incurred to provide ICS, we call on the FCC to require the submission of true cost data by corrections agencies so any “add-on” rates to cover costs do just that: cover *actual* costs. The government agencies that run this country’s detention facilities should not be allowed to continue to profit off prisoners and their families, who are among this nation’s poorest consumers. As HRDC has noted in previous filings on this Docket, there is no correlation between the kickbacks these agencies receive and the cost of providing telephone services to prisoners. Instead, ICS kickbacks are used to buy everything from food for prisoners and squad cars for deputies to computer upgrades ... and sometimes commission kickbacks simply go to the state or county’s general fund.

HRDC again calls on the Commission to require all ICS providers to post their contracts (with rate and fee information), kickback data and all other payments made for these exclusive contracts on their company websites within 30 days of contract execution, and that such records be kept up to date with easy access to effective dates. We also ask that ICS providers be required to retain these documents online for at least ten years. The reality remains that no one has the resources to monitor the ICS contracts for all of the nation’s prisons and jails nor the kickbacks paid to secure those contracts. This is a case where both the NSA and ICS providers are telling the courts and the FCC one thing while knowing they are doing another. Having all the contract, rate, fee and kickback data publicly posted on their websites will ensure both transparency and the ability of the public – as well as courts and regulatory agencies – to determine the actual reality behind ICS contracts. The secrecy and lack of transparency that permeates every aspect of the ICS industry is a critical component that has allowed the current situation of consumer exploitation to both exist and persist for so long.

Thank you for your time and attention in this regard.

Sincerely,



Paul Wright
Executive Director, HRDC

Attachments

⁷ Intrastate rates at Metro jails are set at \$.05/min.; interstate rates are set at the \$.25/min. (collect) and \$.21/min. (debit/prepaid) caps established by the FCC’s 2013 *Order*.

Attachment 1

**AMENDMENT NUMBER 1 TO CONTRACT NUMBER 355084
BETWEEN
THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
AND GLOBAL TEL*LINK CORPORATION**

This Amendment is entered into on the day this document is filed with the Metropolitan Clerk's Office, by and between **THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY (METRO)** and **GLOBAL TEL*LINK CORPORATION (CONTRACTOR)**, with an office in Mobile, AL.

WITNESSETH

WHEREAS, the Parties desire to modify the terms and conditions and to add or delete certain other terms and conditions to their original agreement, Metro Contract numbered 355084, hereinafter the "CONTRACT" effective June 20, 2016, the parties hereby agree as set forth below:

The calling rates, fees, and commission in Section 3.2.1 of the Agreement are hereby replaced with the following :

The CONTRACT is a revenue neutral contract.

CONTRACTOR shall charge the following rates:

- Interstate ITS calls made using a collect format – \$0.25 per minute of use
- Interstate ITS calls, whether made using a debit, prepaid/AdvancePay™ format – \$0.21 per minute of use
- Intrastate ITS calls, whether made using a collect, debit, prepaid/AdvancePay™ format – \$0.05 per minute of use
- International ITS calls, whether made using a debit, prepaid/AdvancePay™ format – Rates published on the CONTRACTOR website

No per call, per connection, or flat-rate calling charges shall apply to international, interstate, and intrastate ITS per minute of use calls.

The rates charged are exclusive of taxes, and other amounts collected by CONTRACTOR on behalf of, or paid to, third parties, including but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, such as the Federal Universal Service Fee, and any costs incurred by CONTRACTOR in connection with such programs.

CONTRACTOR may charge certain Transaction Fees in accordance with the following:

- Fee for automated payment for credit card, debit card, and bill processing fees – \$3.00 per use
- Fee for payment using live operator – \$5.95 per use
- Fee for paper bill/statement – \$2.00 per use
- Fee for use of third-party money transmitter (e.g., MoneyGram, Western Union, credit card processing, transfers from third-party commissary accounts) – the exact fee from the third-party provider passed through directly to customer with no markup

CONTRACTOR may permit consumers to purchase ITS on a collect call basis through third-party billing arrangements that allow consumers to pay for a single ITS call to their mobile phone account, or another arrangement. When a consumer chooses to pay for a single ITS call using such a method, the charge shall be any applicable transaction fee and other charges allowed by law.

CONTRACTOR shall not owe or pay any commission under the CONTRACT for the period beginning on the date the ITS call rates and charges, and Transaction Fees are revised by this Amendment, whether the commission is payable to METRO, or to any fund or third party designated by METRO, and all references to such obligation to pay commission shall be deemed removed and deleted from the CONTRACT without further action of the Parties and shall have no force or effect for the ensuing period, through the expiration of the CONTRACT.

CONTRACTOR shall not pay a commission to METRO for Video Visitation. The Video Visitation rates are as follows:

Video Visitation Rate / Fee Schedule		
Length of visit (minutes)	Fee Per Visit	Total Cost Per Visit
10	\$4.00	\$4.00
25	\$10.00	\$10.00

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Attachment 2

Terms and Conditions

1. GOODS AND SERVICES CONTRACT

1.1. Heading

This contract is initiated by and between **The Metropolitan Government of Nashville and Davidson County** ("METRO") and **Global Tel*Link Corporation** ("CONTRACTOR") located at **107 St Francis Street, 32nd Floor, Mobile, AL 36602**. This contract consists of the following documents:

- *Any properly executed contract amendment (most recent with first priority),*
- *This document and affidavit(s),*
- *Exhibit A - Cost Sheet*
- *The solicitation documentation (made a part of this contract by reference) (RFQ 642930),*
- *Purchase orders (and PO Changes),*
- *CONTRACTOR's response to solicitation,*
- *Procurement Nondiscrimination Program forms (incorporated by reference).*

In the event of conflicting provisions, all documents shall be construed in the order listed above.

2. THE PARTIES HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

2.1. Duties and Responsibilities

CONTRACTOR agrees to provide the goods and services defined in the solicitation per the terms and conditions identified in the solicitation.

The provision of a fully operational, secure and reliable inmate communication system designed to improve the management and control of inmate telephone/communication usage in facilities operated by the Davidson County Sheriff's Office (hereafter "DCSO").

2.2. Delivery and/or Installation.

All deliveries (if provided by the performance of this contract) are F.O.B. Destination, Prepaid by Supplier, Inside Delivery, as defined by Metro.

METRO assumes no liability for any goods delivered without a purchase order. All deliveries shall be made as defined in the solicitation or purchase order and by the date specified on the purchase order.

Installation, if required by the solicitation and/or purchase order shall be completed by the date specified on the purchase order.

3. CONTRACT TERM

3.1. Contract Term

Contract Purchase Agreement 355084,
0

The term of this contract will begin on the date this contract is approved by all required parties and filed in the office of the Metropolitan Clerk. The initial contract term will end sixty (60) months from the beginning date.

3.2. COMPENSATION

3.2.1. Contract Value

This contract is a revenue generating contract with an approximate value of \$11,443,535.00.

CONTRACTOR shall pay to METRO upon contract execution a total of \$2,500,000 as a one time payment.

CONTRACTOR shall pay to METRO monthly a 95% commission rate of telephone calls placed by inmates housed with the Davidson County Sheriff's Office according to the following rates:

GTL Inmate Calling Rates	surcharge + 1st min	Add min
Local		
Collect	1.50	0.00
Pre-Paid Account	1.50	0.00
Pre-Paid Debit Card	1.50	0.00
IntraState IntraLata		
Collect	0.75	0.10
Pre-Paid Account	0.60	0.10
Pre-Paid Debit Card	0.75	0.10
IntraState InterLata		
Collect	0.75	0.10
Pre-Paid Account	0.60	0.10
Pre-Paid Debit Card	0.75	0.10
InterState InterLata/IntraLata		
Collect	0.25	0.25
Pre-Paid Account	0.21	0.21
Pre-Paid Debit Card	0.21	0.21

Contract Purchase Agreement 355084,
0

CONTRACTOR shall pay to METRO a 20% commission rate for Video Visitation calls as follows:

Video Visitation Rate / Fee Schedule

Length of visit (minutes)	Fee Per Visit (non-commissionable)	Rate per Minute	Total Cost Per Visit
20	\$5.95	\$0.45	\$14.95
30	\$7.95	\$0.40	\$19.95

VV Commission Offer - 20% after 2 billable visits per ADP per month

Commission paid on visit 6,201 and beyond

Kiosk and Internet Transaction Rates are outlined in Exhibit A.

3.2.2. Other Fees

There will be no other charges or fees for the performance of this contract. METRO will make reasonable efforts to make payments within 30 days of receipt of invoice but in any event shall make payment within 60 days. METRO will make reasonable efforts to make payments to Small Businesses within 15 days of receipt of invoice but in any event shall make payment within 60 days.

3.2.4. Electronic Payment

All payments shall be effectuated by ACH (Automated Clearing House).

4. TERMINATION

4.1. Breach

Should CONTRACTOR fail to fulfill in a timely and proper manner its obligations under this contract or if it should violate any of the terms of this contract, METRO shall have the right to immediately terminate the contract. Such termination shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of any breach by CONTRACTOR.

4.2. Lack of Funding

Should funding for this contract be discontinued, METRO shall have the right to terminate the contract immediately upon written notice to CONTRACTOR.

4.3. Notice

METRO may terminate this contract at any time upon thirty (30) days written notice to CONTRACTOR. Should METRO terminate this Contract, the CONTRACTOR shall immediately cease work and deliver to METRO, within thirty (30) days, all completed or partially completed satisfactory work, and METRO shall determine and pay to CONTRACTOR the amount due for satisfactory work.

5. NONDISCRIMINATION

5.1. Metro's Nondiscrimination Policy

It is the policy of the METRO not to discriminate on the basis of age, race, sex, color, national origin, sexual orientation, gender identity, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities.

5.2. Nondiscrimination Requirement

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in METRO's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with METRO or in the employment practices of METRO's CONTRACTORS. **CONTRACTOR certifies and warrants that it will comply with this nondiscrimination requirement.** Accordingly, all Proposers entering into contracts with METRO shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

5.3. Procurement Nondiscrimination Program Requirement

The consideration and contact of minority-owned and/or woman-owned business enterprises ("MWBE") is required for a responsive offer to any solicitation. The provision of the following items shall be part of each individual solicitation response:

5.4. Covenant of Nondiscrimination

Your firm has committed to the Covenant of Nondiscrimination when registering with METRO to do business. To review this document, go to Nashville.gov and visit the Procurement or Business Assistance web pages (it is NOT necessary to resubmit this with each bid/proposal/contract).

5.5. Statement of Interested, Notified, Bid Amount, and Successful MWBEs Selected

CONTRACTOR must provide the provided form indicating that CONTRACTOR has delivered written notice to at least three (3) available MWBEs if use of MWBEs is reasonable and if the Business Assistance Office can provide at least three (3) MWBEs for the applicable category. The interested, notified, successful and unsuccessful bid prices are one of several responses required on the form.

5.6. Letter of Intent to Perform as a Subcontractor/Joint Venture

In the event that CONTRACTOR proposes to use subcontractors, sub-consultants, suppliers and/or joint ventures, a letter of intent signed by the contractor, subcontractor, sub-consultant, supplier, and/or joint venturer must be submitted to METRO by the end of the second business day following issuance of the intent to award letter. Only subcontractors listed in the submittal for each individual solicitation offer may be employed for that work. Substitute subcontractors may only be used with prior notice and written approval from METRO and the Business Assistance Office ("BAO")."

5.7. Registration and Certification

To be considered for the purpose of being responsive, the subcontractor, subconsultant, supplier and/or joint venturer must be registered online with METRO by the individual solicitation due date.

5.8. Americans with Disabilities Act (ADA)

CONTRACTOR assures METRO that all services provided through this Contract shall be completed in full compliance with the Americans with Disabilities Act ("ADA") 2010 ADA Standards for Accessible Design, enacted by law March 15, 2012, as has been adopted by METRO. CONTRACTOR will ensure that participants with disabilities will have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats, and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.

6. INSURANCE

6.1. Proof of Insurance

During the term of this Contract, for any and all awards, CONTRACTOR shall, at its sole expense, obtain and maintain in full force and effect for the duration of this Contract, including any extension, the types and amounts of insurance identified below by a checked box. Proof of insurance shall be required naming METRO as additional insured and identifying the Purchase Order on the Acord document.

6.3. General Liability Insurance

In the amount of one million (\$1,000,000.00) dollars

6.4. Automobile Liability Insurance

In the amount of one million (\$1,000,000.00) dollars (if vendor will be making on-site deliveries)

6.5. Worker's Compensation Insurance

with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand (\$100,000.00) dollars, as required by the laws of Tennessee (Not required for companies with fewer than five (5) employees).

6.6. Such insurance shall:

Contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

For any claims related to this agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects METRO, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering METRO, its officials, officers, employees, and volunteers shall be excess of CONTRACTOR's insurance and shall not contribute with it.

Automotive Liability Insurance including vehicles owned, hired, and non-owned. Said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of CONTRACTOR.

Worker's Compensation (If applicable), CONTRACTOR shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance. CONTRACTOR shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by CONTRACTOR's workers' compensation insurance coverage.

6.7. Other Insurance Requirements

Prior to commencement of services, CONTRACTOR shall furnish METRO with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to:

**DEPARTMENT OF LAW
INSURANCE AND RISK MANAGEMENT
METROPOLITAN COURTHOUSE, SUITE 108
PO BOX 196300
NASHVILLE, TN 37219-6300**

Provide certified copies of endorsements and policies if requested by METRO in lieu of or in addition to certificates of insurance.

Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.

Maintain such insurance from the time services commence until services are completed and attach the certificates of insurance in the METRO system. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by METRO as a material breach of contract.

Place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the METRO Director of Risk Management Services.

Require all subcontractors to maintain during the term of the agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/ Employers Liability insurance (unless subcontractor's employees are covered by CONTRACTOR's insurance) in the same manner as specified for CONTRACTOR. CONTRACTOR shall file subcontractor's certificates of insurance in METRO's system.

Any deductibles and/or self-insured retentions greater than \$10,000.00 must be disclosed to and approved by METRO **prior to the commencement of services.**

If the CONTRACTOR has or obtains primary and excess policy(ies), there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

7. GENERAL TERMS AND CONDITIONS

7.1. Taxes

METRO shall not be responsible for any taxes that are imposed on CONTRACTOR. Furthermore, CONTRACTOR understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to METRO.

7.2. Warranty

CONTRACTOR warrants that for a period of one year from date of delivery and/or installation, whichever is later, the goods provided, including software, shall be free of any defects that interfere with or prohibit the use of the goods for the purposes for which they were obtained.

During the warranty period, METRO may, at its option, request that CONTRACTOR repair or replace any defective goods, by written notice to CONTRACTOR. In that event, CONTRACTOR shall repair or replace the defective goods, as required by METRO, at CONTRACTOR's expense, within thirty (30) days of written notice. Alternatively, METRO may return the defective goods, at CONTRACTOR's expense, for a full refund. Exercise of either option shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of CONTRACTOR's breach of warranty.

7.3. License

CONTRACTOR warrants and represents that it is the owner of or otherwise has the right to and does hereby grant METRO a license to use any software provided for the purposes for which the software was obtained or proprietary material set forth in METRO's solicitation and/or the CONTRACTORs response to the solicitation.

7.4. Copyright, Trademark, Service Mark, or Patent Infringement

CONTRACTOR shall, at its own expense, be entitled to and shall have the duty to defend any suit that may be brought against METRO to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. CONTRACTOR shall further indemnify and hold harmless METRO against any award of damages and costs made against METRO by a final judgment of a court of last resort in any such suit. METRO shall provide CONTRACTOR immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable CONTRACTOR to do so. No costs or expenses shall be incurred for the account of CONTRACTOR without its written consent. METRO reserves the right to participate in the defense of any such action. CONTRACTOR shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon METRO unless approved by the METRO Department of Law Settlement Committee and, where required, the METRO Council.

If the products or services furnished under this contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing CONTRACTOR's obligation to satisfy the final award, CONTRACTOR may at its option and expense:

Procure

Procure for METRO the right to continue using the products or services.

Replace

Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to METRO, so that they become non-infringing.

Remove

Remove the products or discontinue the services and cancel any future charges pertaining thereto.

Provide

Provided, however, that CONTRACTOR will not exercise the Remove option above until CONTRACTOR and METRO have determined that the Procure and/or Replace options are impractical. CONTRACTOR shall have no liability to METRO, however, if any such infringement or claim thereof is based upon or arises out of:

The use of the products or services in combination with apparatus or devices not supplied or else approved by CONTRACTOR;

The use of the products or services in a manner for which the products or services were neither designated nor contemplated; or

The claimed infringement in which METRO has any direct or indirect interest by license or otherwise, separate from that granted herein.

7.5. Record Maintenance

CONTRACTOR shall maintain documentation for all charges against METRO. The books, records, and documents of CONTRACTOR, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by METRO or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles. In the event of litigation, working papers and other documents shall be produced in accordance with applicable laws and/or rules of discovery. Breach of the provisions of this paragraph is a material breach of this Contract.

7.6. Monitoring

The CONTRACTOR's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by METRO, the Department of Finance, the Division of Internal Audit, or their duly appointed representatives.

7.7. METRO Property

Any METRO property, including but not limited to books, records and equipment that is in CONTRACTOR's possession shall be maintained by CONTRACTOR in good condition and repair, and shall be returned to METRO by CONTRACTOR upon termination of the contract. All goods, documents, records, and other work product and property produced during the performance of this contract are deemed to be METRO property. All documents which make up this Contract; all other documents furnished by METRO; all conceptual drawings, design documents, closeout documents, and other submittals by CONTRACTOR; and, all other original works of authorship, whether created by METRO or CONTRACTOR embodied in any tangible medium of expression, including, without limitation, pictorial, graphic, sculptural works, two (2) dimensional works, and three (3) dimensional works.

The CONTRACTOR may keep one (1) copy of the aforementioned documents upon completion of the contract; provided, however, that in no event shall the CONTRACTOR use, or permit to be used, any portion of the documents on other projects without METRO's prior written authorization.

7.8. Modification of Contract

This contract may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

7.9. Partnership/Joint Venture

This Contract shall not in any way be construed or intended to create a partnership or joint venture between the Parties or to create the relationship of principal and agent between or among any of the Parties. None of the Parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this Contract.

7.10. Waiver

No waiver of any provision of this contract shall affect the right of any party to enforce such provision or to exercise any right or remedy available to it.

7.11. Employment

CONTRACTOR shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

CONTRACTOR shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of this contract.

Violation of either of these contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of METRO.

7.12. Compliance with Laws

CONTRACTOR agrees to comply with all applicable federal, state and local laws and regulations.

7.13. Taxes and Licensure

CONTRACTOR shall have all applicable licenses and be current on its payment of all applicable gross receipt taxes and personal property taxes.

7.14. Ethical Standards

CONTRACTOR hereby represents that CONTRACTOR has not been retained or retained any persons to solicit or secure a METRO contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards, which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts.

7.15. Indemnification and Hold Harmless

CONTRACTOR shall indemnify and hold harmless METRO, its officers, agents and employees from:

- A. Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of CONTRACTOR, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the contract, and,
- B. Any claims, damages, penalties, costs and attorney fees arising from any failure of CONTRACTOR, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- C. In any and all claims against METRO, its officers, agents, or employees, by any employee of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or any subcontractor under workers' compensation acts, disability acts or other employee benefit acts.
- D. METRO will not indemnify, defend or hold harmless in any fashion the CONTRACTOR from any claims arising from any failure, regardless of any language in any attachment or other document that the CONTRACTOR may provide.
- E. CONTRACTOR shall pay METRO any expenses incurred as a result of CONTRACTOR's failure to fulfill any obligation in a professional and timely manner under this Contract.

7.16. Attorney Fees.

CONTRACTOR agrees that in the event either party takes legal action to enforce any provision of the contract or to obtain a remedy for any breach of this contract, and in the event METRO prevails in such action, CONTRACTOR shall pay all expenses of such action incurred at any and all stages of the litigation, including costs, and reasonable attorney fees for METRO.

7.17. Assignment--Consent Required

The provisions of this contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to CONTRACTOR under this contract, neither this contract nor any of the rights and obligations of CONTRACTOR hereunder shall be assigned or transferred in whole or in part without the prior written consent of METRO. Any such assignment or transfer shall not release CONTRACTOR from its obligations hereunder.

NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF:

METRO'S CHIEF ACCOUNTANT

DIVISION OF ACCOUNTS

DEPARTMENT OF FINANCE

PO BOX 196300

NASHVILLE, TN 37219-6300

Funds Assignment Requests should contain complete contact information (contact person, organization name, address, telephone number, and email) for Metro to use to request any follow up information needed to complete or investigate the requested funds assignment. To the extent permitted by law, Metro has the discretion to approve or deny a Funds Assignment Request.

7.18. Entire Contract

This contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

7.19. Force Majeure

No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

7.20. Governing Law

The validity, construction and effect of this contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the CONTRACTOR may provide.

Contract Purchase Agreement 355084,
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7.21. Venue

Any action between the parties arising from this agreement shall be maintained in the courts of Davidson County, Tennessee.

7.22. Severability

Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.

[BALANCE OF PAGE IS INTENTIONALLY LEFT BLANK]

Contract Number 355084

Notices and Designation of Agent for Service of Process

All notices to METRO shall be mailed or hand delivered to:

**PURCHASING AGENT
PROCUREMENT DIVISION
DEPARTMENT OF FINANCE
PO BOX 196300
NASHVILLE, TN 37219-6300**

Notices to CONTRACTOR shall be mailed or hand delivered to:

CONTRACTOR: Global Tel Link

Attention: **Todd Stutts**

Address: **5635 Cottage Farm Rd, Alpharetta, GA 30022**

Telephone: **678-957-9970**

Fax: **972-535-3324**

E-mail: **todd.stutts@gtl.net**

CONTRACTOR designates the following as the CONTRACTOR's agent for service of process and will waive any objection to service of process if process is served upon this agent:

Designated Agent: **Todd Stutts**

Attention: **Todd Stutts**

Address: **5635 Cottage Farm Rd, Alpharetta, GA 30022**

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Contract Number 355084

Effective Date

This contract shall not be binding upon the parties until it has been fully electronically approved by the supplier, the authorized representatives of the Metropolitan Government, and filed in the office of the Metropolitan Clerk.

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

APPROVED AS TO PROJECT SCOPE:

DocuSigned by:
Daron Hall DS
PL
Dept. of General Admin. Head or Board Chair. Dept. Fin.

APPROVED AS TO COMPLIANCE WITH PROCUREMENT CODE:

DocuSigned by:
Jeff L. Gossage DS
SS
Purchasing Agent Purchasing

APPROVED AS TO AVAILABILITY OF FUNDS:

DocuSigned by:
Richard M. Kiebeling DS
TK DS
AS
Director of Finance OMB BA

APPROVED AS TO FORM AND LEGALITY:

DocuSigned by:
Cynthia Gross DS
BC
Metropolitan Attorney Insurance

FILED BY THE METROPOLITAN CLERK:

DocuSigned by:
Shannon Hall 2/4/2015
Metropolitan Clerk Date

CONTRACTOR

Global Tel Link Corporation

Company Name

DocuSigned by:
Jeff Haidinger
Signature of Company's Contracting Officer

Jeff Haidinger

Officer's Name

President and COO

Officer's Title

Attachment 3

Sheriff Daron Hall Announces Major Change In Jail Phone Contract

7/11/2016

Lower rates will help inmates stay in contact with family while incarcerated

Nashville, TENN. – Davidson County Sheriff Daron Hall announced today a dramatic change in the Davidson County Sheriffs' Office (DCSO) phone contract that will make inmate calling rates one of the lowest in the country – and the lowest in Tennessee. Davidson County will reduce all per minute call rates, local and intrastate, to five cents per minute. It's a policy move with a positive impact.

"Inmate families have enough to deal with when a loved one is in jail and I felt strongly we should do what we can to relieve some of their burden," Hall said. "It is critically important inmates receive family support and many families made great sacrifices to afford previous call costs. We hope this change will relieve stress on inmate families and reduce recidivism by ensuring family connections stay intact."

Hall adds, "The phone service provider, Global Tel*Link (GTL), has proven to be a fantastic partner by ensuring we receive the service needed and, at the same time, get a contract in place that accomplishes the goal of assisting inmate families."

The issue of inmate call rates has made headlines across the country and been on the Federal Communications Commission (FCC) radar for nearly a decade. Last year, the FCC issued an order related to inmate telephone pricing. It dictated call rates for jails should be no greater than 14 cents per minute and reduced or eliminated other fees and surcharges. The order directly related to the call rates was soon followed by a stay; however, Hall believes the FCC order was valid.

"Although the courts issued a stay for the FCC order – meaning it was not necessary to change call rates – I believe it is the correct public policy to lower these rates and make a phone call home within reach to all inmates," Hall said. "The vast majority of inmates in our jails - and jails across the country - are in a pretrial status. They have not been found guilty of any crime; therefore, they should have access to the privilege of calling loved ones regardless of their economic status."

According to Malinda Davenport-Crisp, Executive Director of Family Reconciliation Center, "Family support is vitally important to incarcerated people, in fact, it is the number one predictor of successful re-entry. Regular telephone contact is at the heart of that family support." She adds, "We're grateful Sheriff Hall recognizes the importance of low-cost telephone use for people behind bar."

[Back](#)

Attachment 4

Davidson County sheriff to cut inmate phone call charges



[Dave Boucher](mailto:dboucher@tennessean.com), dboucher@tennessean.com 10:31 a.m. CDT July 11, 2016



(Photo: Samuel M. Simpkins / File / The Tennessean)

In a move aimed at reducing the financial burden of jail on inmates and their families, the Davidson County Sheriff's Office plans to cut charges for all inmate phone calls from 13 cents to 5 cents per minute.

Sheriff Daron Hall is set to announce the change Monday, a decision that comes amid an ongoing national dialogue about the costs of inmate phone calls and who ultimately gets the money.

"The need for an inmate to communicate with family members while incarcerated is critical. Research proves a strong support system improves the likelihood of success upon release. It is important to me we do all we can to ensure those relationships continue and relieve some of the stress and burden placed on family members," Hall said in an email sent Friday and obtained by The Tennessean.

Hall said the change puts Davidson County's rates for local and intrastate calls at one of the lowest in the nation.

Before the change, it cost roughly 13 cents per minute for a call, said spokeswoman Karla West. There will still be some fees for the calls, but they have been reduced substantially. For a 10-minute local call, to somewhere such as Dickson or another local area, the fee drops from \$1.65 to 50 cents. For a 10-minute regional call, to places such as Memphis or Knoxville, the fee drops from \$8.41 to 50 cents, West said.

Traditionally, private companies operate the phone systems at local jails and prisons. Through that system, inmates — or, in most cases, their families — end up paying rates that include commissions that go to both the private company and the incarcerating institution.

In his email, Hall notes the new phone contract does away with all previous commissions.

Alex Friedmann, a former inmate who's managing editor for a prison newsletter and an advocate for inmates, and Jeannie Alexander, a former prison chaplain who runs a inmate advocacy organization, both applauded Hall's decision to cut the phone rates.

"Sheriff Daron Hall is to be commended for lowering the phone rates for people held in Nashville jails — rates that are typically paid by prisoners' family members and not by the prisoners themselves, most of whom are awaiting trial and thus presumed to be innocent until proven guilty," Friedmann said in a statement.

"Doing away with the commission-based model will go a long way towards ensuring fair and affordable phone rates so those in jail can more easily communicate with their family members and children."

[The Federal Communications Commission](#) issued a ruling in October that capped the costs of phone calls, noting that some calls at facilities across the country ended up "ballooning to \$14 per minute once inside prison walls." The new ruling limits charges for jails the size of Nashville's to 14 cents per minute.

The cap for calls from prisons is 11 cents per minute. The Tennessee Department of Correction recently changed its rate to 7 cents per minute. However, Friedmann said the new rate actually makes longer calls more expensive than they used to be.