

PAT KEY
TULSA COUNTY CLERK

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TULSA COUNTY 2013 MAR 13 AM 10:12

PURCHASING
DEPARTMENT

STATE OF OKLAHOMA
TULSA COUNTY
RECEIVED

MEMO

DATE: MARCH 12, 2013
FROM: LINDA R. DORRELL
PURCHASING DIRECTOR
TO: BOARD OF COUNTY COMMISSIONERS
SUBJECT: SERVICE AGREEMENT-HOMEWAV, LLC.



SUBMITTED FOR YOUR APPROVAL AND EXECUTION IS THE ATTACHED REVENUE SHARING AND SERVICE AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS ON BEHALF OF THE TULSA COUNTY SHERIFF'S OFFICE AND HOMEWAV, LLC. FOR THE INSTALLATION OF A FEE-BASED, REVENUE SHARING, INMATE VIDEO VISITATION SYSTEM THAT CONSISTS OF CERTAIN EQUIPMENT THAT WILL OPERATE USING HOMEWAVE'S PROPRIETARY AND PATENT PENDING SOFTWARE PROGRAM.

RESPECTFULLY SUBMITTED FOR YOUR APPROVAL AND EXECUTION.

LRD/sks

ORIGINAL: PAT KEY, COUNTY CLERK, FOR THE MARCH 18, 2013 AGENDA.

COPIES: COMMISSIONER JOHN M. SMALIGO
COMMISSIONER KAREN KEITH
COMMISSIONER FRED R. PERRY
STANLEY GLANZ, SHERIFF
MARK LIOTTA, CHIEF DEPUTY

227211

2cc: L.D. 3/18/13 KA

PAT KEY
TULSA COUNTY CLERK

REVENUE SHARING AND SERVICE AGREEMENT

2013 MAR 13 AM 10:12

BETWEEN HOMEWAV, LLC

AND

STATE OF OKLAHOMA
TULSA COUNTY
RECEIVED

THE BOARD OF COUNTY COMMISSIONERS OF TULSA COUNTY, OKLAHOMA
ON BEHALF OF THE TULSA COUNTY SHERIFF

This Agreement (“Agreement”), made and entered into as of this 6th day of March, 2013 between Tulsa County, OK through its authorized representative (the “County”) and HomeWAV, LLC , a Virginia limited liability company (“HomeWAV”).

RECITALS

Whereas, the County requested, and HomeWAV has submitted, a proposal for the installation of a fee-based, revenue sharing, inmate video visitation system that consists of certain equipment (“Equipment”) that will operate using HomeWAV’s proprietary and patent pending software program (the “System”);

Whereas, the System will be installed and operated in the County’s detention facility (the “Facility”) and will provide inmate video visitation over the Internet; and

Whereas, HomeWAV will deliver and install the Equipment and provide the System, and the County will accept HomeWAV’s Equipment and will make use of the System, pursuant to the terms set forth.

Now, therefore in consideration of the mutual covenants and promises contained herein, the parties, desiring to be contractually bound, agree as follows:

1. **Term of Agreement.** This Agreement shall continue for a one (1) year term (“Term”) term as dictated by Oklahoma law, commencing on the date when installation of the Equipment, and the System, in the Facility is complete. This Agreement may renew annually upon mutual agreement of both parties. At no expense to HomeWAV or the County, HomeWAV may remove the Equipment from the Facility at the expiration of term of this Agreement, as extended.

2. **No Charge for Equipment or System.** HomeWAV will; (i) arrange for the delivery of the Equipment to the Facility, (ii) load its software into the Equipment, (iii) coordinate the installation of the Equipment in designated wall mount locations within the Facility, (iv) arrange and pay for high speed Internet service to be extended to the Facility, and (v) arrange initial training of jail personnel, all at **no charge** to the County.

227211

3. **No Charge for Maintenance.** HomeWAV will service and maintain the Equipment in the Facility at **no charge** to the County for the term of the Agreement.

4. **Title and Shipment of the Equipment.** The County shall take title to the Equipment (ownership for duration of contract) FAS HomeWAV's place of business in Virginia. HomeWAV, at its sole expense, shall arrange, and pay for, the shipment and delivery of the Equipment to the Facility, through qualified third party subcontractors.

5. **License for Use of System.** HomeWAV hereby grants to the County a non-assignable license to use its System, at **no charge**, for the limited purpose of allowing the Equipment to provide Internet video visitation to inmates in the Facility pursuant to the terms of this Agreement.

6. **County's Representations and Responsibility.** The County represents that approximately 1720 inmates are currently housed in the Facility. The County will allow HomeWAV's contractors between the hours of 7 am and 4 p.m. to install the Equipment and to test the System in the Facility. Subject to lock-downs, suspension of inmate privileges, and other temporary interruptions, the County will allow inmate visitation on the System during the same hours when inmates are allowed to use the Facility's inmate phone system. The County will, at its expense, install electrical service and CAT-5 data cable inside the Facility at such locations as required to operate the Equipment and the System. The County will provide a comma separated file from its JMS listing the Inmate's First Name, Last Name, Date of Birth, Inmate Number and Location (pod assignment). The file is automatically updated by your JMS. This file is to be updated every 15 minutes

7. **System Usage Fee.** The Facility's inmates' visitors shall be charged fifty cents (\$0.50) per minute usage fee ("Usage Fee") to take part in video visitations using the System. The Usage Fee shall be deposited by the inmate's visitor directly into a dedicated account established and maintained by HomeWAV through PayPal, or another equivalent third party ecommerce vendor.

8. **Revenue Sharing/Free Visitation.** Revenues from video visitation usage of the Equipment and the System installed in the Facility will be shared between HomeWAV and the County. HomeWAV will receive 70% of the of revenue from Usage Fees from inmate video visitation using the Equipment and the System in consideration for the payment for the Equipment and the ongoing licensed right to use the System, and the County will receive 30% of the Usage Fee revenues. HomeWAV shall pay to the County, on a monthly basis, its share of the revenues not later than the 10th of the following month. The County's share of Usage Fee revenue will be reduced by an amount equal to third party monthly charges for high speed Internet service to the Facility. Tulsa County will have prior approval of high speed internet provider. In the event the County allows on-site free visitation, the free visitation will be tracked and charged against the County's share of revenue monthly.

9. **Financial Reporting Requirements.** HomeWAV shall maintain an accounting program that accurately reflects the revenues generated by the System in the Tulsa Co. Jail &

Detention Center, and provide that information to the County monthly, and more frequently on demand. HomeWAV shall retain its share of the revenues as payment for the Equipment, and shall remit the County's share of revenues, along with monthly financial reports, to the County. HomeWAV shall issue video visitation call data, revenue, and expense information by the 10th day of each month with respect to video visitation activity that occurred in the Facility during the preceding month. HomeWAV shall maintain all books, documents, accounting records and other evidence pertaining to the services and payments under this Agreement and make such materials available for inspection at all reasonable times during the term of this Agreement, and for three (3) years after the date of the final payment under the Agreement.

10. **Agreement documents.** HomeWAV will provide and install 78 visitation stations and 1 Public Kiosk in the locations described in Exhibit A. The attached Exhibit A, as well as any other addendum that may modify the terms hereof, are made part of this Agreement and are incorporated herein by this reference.

11. **Indemnification.** HomeWAV will indemnify the County, its officers, agents and employees from all suits, claims, actions or damages of any nature brought due to the breach of this Agreement by HomeWAV, its subcontractors, agents or employees or due to any negligent act of HomeWAV, its subcontractors, agents or employees.

12. **Governing Law, Jurisdiction, and Venue.** This Contract shall be governed by, and construed in accordance with, the laws of the State of Oklahoma. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of Oklahoma for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the county of Tulsa.

13. **Independent Contractor.** HomeWAV acknowledges that HomeWAV and its employees serve as independent contractors and that the County shall not be in any manner responsible for any payment, insurance, or incurred liability. Nothing in this Agreement will create an employer-employee relationship, association, joint venture, partnership, or other form of legal entity or business enterprise between the parties, their agents, employees or affiliates.

14. **Limitations of liability.** In no event shall County or Home WAV be liable for any indirect, incidental, consequential, special or exemplary damages or lost profits.

15. **Nondiscrimination and non-conflict statements.** Home WAV agrees that no person on the grounds of handicap, age, race, color, religion, sex or national origin, shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement, or in the employment practices of HomeWAV. HomeWAV shall upon request show proof of such non-discrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.

16. **Compliance with all federal, state, and municipal laws.** HomeWAV is familiar with, and agrees to observe and comply with, all federal, state, and local laws, statutes,

In witness whereof, the parties hereto have caused this Agreement to be executed in one original copy on the day and year first above written.

HomeWAY, LLC

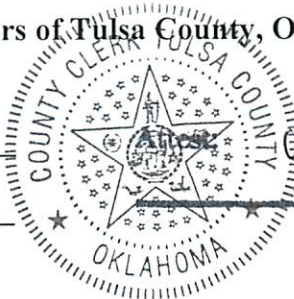
By: [Signature]

Date: 3/6/2013

The Board of County Commissioners of Tulsa County, Oklahoma on behalf of the Tulsa County Sheriff

By: [Signature]

Date: 3.18.13



[Signature]
County Clerk

[Signature]
APPROVED AS TO FORM
ASSISTANT DISTRICT ATTORNEY

ordinances, and regulations in any manner affecting the provision of inmate video communication, and shall ensure that its third party subcontract installers obtain any necessary permits prior to installation of the Equipment in the Facility.

17. **Severability clause.** If any provision of this Agreement is declared illegal, void, or unenforceable the remaining provisions shall not be affected but shall remain in force and in effect.

18. **Installation Date.** The County will use its best efforts to allow installation of the Equipment and the System in the Facility to commence within 30 days after full execution of this Agreement.

19. **Monitoring Capabilities.** HomeWav provides real time monitoring of all inmate visits. Audio and video are recorded and all non professional calls may be monitored, downloaded and played back.

In witness whereof, the parties hereto have caused this Agreement to be executed in one original copy on the day and year first above written.

HomeWAV, LLC

By: [Signature]
Its authorized representative

Date: 3/6/2013

The Board of County Commissioners of Tulsa County, Oklahoma on behalf of the Tulsa County Sheriff

By: [Signature]
Its authorized representative

Date: 3.18.13



Exhibit A

In order to compensate for the additional cost being incurred by HomeWAV to accommodate the County's request for installation of Cat 5, the 30% revenue share otherwise payable to the County shall be deferred and retained by HomeWAV until such time that net revenues from this 30% share amounts to \$22,500.00. Immediately thereafter, the 30% revenue share shall be payable to the County.

| | | | |
|--|---------------------------------------|--------------------------------|----------------------|
| HomeWAV IT P.O.C.- Hunter Manson | Email: h.manson@homewav.com | | |
| Facility IT P.O.C. - | Email: jgreen@tcsso.org | | |
| HomeWAV Literature P.O.C.- Nicole Vanslyke | Email: n.vanslyke@homewav.com | | |
| Facility Literature P.O.C.- | Email: mrobinette@tcsso.org | | |
| HomeWAV JMS Inmate List P.O.C.- Ben Simon | Email: integration@homewav.com | | |
| Facility JMS Inmate List P.O.C.- | Email: bdarby@tcsso.org | | |
| Average Daily Inmate Population | Qty: 1720 | Additional Information: | |
| Target System Turn On Date | Date: April\May 2013 | | |
| Description | Qty | Unit Cost | Subtotal Cost |
| Free boxes including all components | 78 | No Charge | \$0.00 |
| Additional boxes including all components | NA | 0 | \$0.00 |
| Additional Equipment-Kiosk in Lobby | 1 | No Charge | \$0.00 |
| Installation | No Charge | 0 | \$0.00 |
| Additional Installation-Cat 5 | \$22,500.00 | 0 | \$22,500.00 |
| Total Cost | | | \$22,500.00 |

Visitation Station Locations / Number of stations:

J1-4, J3-4, J4-4, J5-4, J6-4, J7-4, J8-4, J9-4, J10-4, J12-4, J14-4, J16-4, F17-4, F18-4, F19-4, F20-4, F22-4, F24-2, Visit-4, SP-1, Book-2, Med-1, Kiosk in Lobby-1

Total 78 Stations & 1 Public Kiosk