Memorandum

MIAMI-DADE COUNTY

Date: July 19, 2022

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

Daniella Levine Cava

Agenda Item No. 8(B)(1)

Subject: Recommendation for the Execution of a Settlement Agreement between Miami-Dade County and Global Tel*Link Corporation (GTL) d/b/a Viapath Technologies and approval of a Designated Purchase under Contract No. RFP847 Pay Phones, Pay Phone Services, and Jail Management System

Resolution No. R-675-22

Summary
This item is for the approval of a settlement agreement with Global Tel*Link Corporation (GTL) *d/b/a* Viapath Technologies for a partial closure of the contract, with relief for payment from the vendor to the County in the amount of $4,000,000 for services not rendered in relation to the Jail Management System for Miami-Dade Corrections and Rehabilitation and for approval of a designated purchase to extend the current contract for payphone services for a one-year period with an option to renew for an additional year at the County's sole discretion to allow for the award and implementation of RFP-02194, Detainee Communications and Media Solution. To ensure continuity of services until the new system is in place, the current Contract needs to be extended as a designated purchase and competition is not practicable for this extension period as significant investment will be needed. GTL has provided and continues to provide good technical and customer support service with respect to the payphone portion of the Contract. The approval of a designated purchase will modify the Contract to incorporate the extension period, remove the Jail Management System from the Contract, and reduce the rates for payphone services charged to the inmates.

Recommendation
It is recommended that the Board of County Commissioners (Board) authorize the County Mayor or the County Mayor's Designee to execute a Settlement Agreement (Settlement Agreement) between the County and GTL and approve this request for a designated purchase under *Contract No. RFP847 Pay Phones, Pay Phone Services, and Jail Management System* for Corrections and Rehabilitation. Approval of a designated purchase is being requested pursuant to Section 2-8.1(b)(3) of the Miami-Dade County Code, by a two-thirds vote of the Board members present. The Board approved *Contract No. RFP847 Pay Phones, Pay Phone Services, and Jail Management System* for the acquisition of pay phones, pay phone services, pay phone subscription services, inmate telephone services, and an integrated Jail Management System (JMS), on July 1, 2014 under Resolution No. R-598-14, for a five-year term, with three, one-year options to renew.

Background
In July 2014, the County entered into a contract with GTL for the acquisition of pay phones, pay phone services, pay phone subscription services, inmate telephone services, and the development and implementation of a JMS. The delivery of the JMS was originally scheduled for April 29, 2016, however GTL failed to deliver by the agreed upon date. The County has met with GTL multiple times with regards to the project scope and implementation schedule for the JMS, and on April 12 and May 18, 2018, in accordance with Article 25 "Notice of Default – Opportunity to Cure" of the Contract, GTL was issued notices of default.

In June 2018, the County initiated negotiations with GTL to find alternate ways for implementation and delivery of the JMS. After a lengthy review and evaluation of other available JMS providers, the County selected Tribridge Holdings, LLC / DXC Technology (DXC) to provide its Offender 360 JMS. On May 21, 2019, as a result of the negotiations, the Board of County Commissioners approved a Supplemental Agreement to the Contract amending the provisions relative to the delivery of the JMS. The Supplemental Agreement was authorized under Resolution Number R-559-19.

Pursuant to the terms of the Supplemental Agreement, at the County's direction, GTL subcontracted with DXC at its sole expense, and the parties agreed to a Go-Live date for Phase 1 of the JMS by November 19, 2020. The County and GTL worked diligently toward the successful completion of the project including providing subject matter experts to engage in system development and discovery sessions, conducting system testing, and chronicling application issues and concerns. During this process, the Go-Live date has been delayed several times to August 25, 2021.

Therefore, the County issued another notice of default on November 5, 2021, demanding GTL cure the default to the County's satisfaction in accordance with Article 25. On November 12, 2021, GTL responded confirming they could not finalize the implementation of JMS for all phases by a Go-Live prior to the expiration of the current Contract date of July 31, 2022. As a result, the County issued a letter dated December 13, 2021, exercising its right under Article 26 "Remedies in the Event of Default" and requesting liquidated damages of $7,829,623 USD as stipulated in the Supplemental Agreement. GTL responded that the County reconsider its position and continue to work with GTL to complete the development of the JMS. GTL, working in conjunction with the County and DXC, provided various project plans showing how the JMS project could not be completed by the contract end date of July 31, 2022, which resulted in the negotiated Settlement Agreement.

Due to the significant delays already experienced with this project and the importance of a modern, fully functioning JMS, the best course of action was to enter into a negotiated settlement with GTL to include damages, as well as an extension of the current Contract for the continuation of inmate phone services only until the award of a replacement contract and implementation of a new system. The Request for Proposals for replacement of the current inmate payphone system, RFP-02194, Detainee Communications and Media Solution, was advertised and proposals are under evaluation. To ensure continuity of services until the new system is in place, the current Contract needs to be extended as a designated purchase and competition is not practicable for this extension period as significant investment will be needed. GTL has provided and continues to provide good technical and customer support service with respect to the payphone portion of the Contract. Accordingly, it is in the County's best interest to authorize additional time pursuant to Section 2-8.1(b)(3) of the County Code to ensure continuity of services.

Scope
The impact of this item is countywide in nature.

Fiscal Impact/Funding Source
The Settlement Agreement provides for a partial closure of *Contract No. RFP847*, with relief for payment from GTL in the amount of $4,000,000 in liquidated damages for services not rendered. If this item is approved, the payphone service contract will be extended for one year, with an option to renew for an additional year until the award of a replacement contract.

Track Record/Monitor
Christopher Moreno from Miami-Dade Corrections Department will manage this settlement.

Delegated Authority
If this item is approved, the County Mayor or County Mayor's designee will have the authority execute Settlement Agreement and Supplemental Agreement and exercise all provisions contained therein in accordance with the County Code and Implementing Order 3-38.

J.D. Patterson
Chief Public Safety Officer

MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 19, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(B)(1)

Please note any items checked.

_______	**"3-Day Rule" for committees applicable if raised**
_______	**6 weeks required between first reading and public hearing**
_______	**4 weeks notification to municipal officials required prior to public hearing**
_______	**Decreases revenues or increases expenditures without balancing budget**
_______	**Budget required**
_______	**Statement of fiscal impact required**
_______	**Statement of social equity required**
_______	**Ordinance creating a new board requires detailed County Mayor's report for public hearing**
_______	**No committee review**
✓	**Applicable legislation requires more than a majority vote (i.e., 2/3's present ✓, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve**
✓	**Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved ________________________ Mayor

Veto __________

Override __________

Agenda Item No. 8(B)(1)
7-19-22

RESOLUTION NO. R-675-22

RESOLUTION APPROVING SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND GLOBAL TEL*LINK CORPORATION (GTL) D/B/A VIAPATH TECHNOLOGIES RELATED TO CONTRACT NO. RFP847 PAY PHONES, PAY PHONE SERVICES, AND JAIL MANAGEMENT SYSTEM; APPROVING A DESIGNATED PURCHASE BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT TO EXTEND A PORTION OF THE CONTRACT FOR ONE YEAR WITH A ONE YEAR OPTION TO RENEW; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE SETTLEMENT AGREEMENT AND SUPPLEMENTAL AGREEMENT AND EXERCISE ALL RIGHTS CONTAINED THEREIN

WHEREAS, this Board wishes to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board approves the settlement agreement, between Miami-Dade County and Global Tel*Link Corporation (GTL) d/b/a Viapath Technologies, in substantially the form attached hereto and made a part hereof, for the purpose of a partial closure of contract No. RFP847 Pay Phones, Pay Phone Services, and Jail Management System, with relief for payment from the vendor to the County in the amount of $4,000,000.00 for services not rendered in relation to the Jail Management System for Miami-Dade Corrections and Rehabilitation Department and approves a designated purchase, pursuant to section 2-8.1 (b)(3) of the Code of Miami-Dade County, by a two-thirds vote of the Board members present to extend the current contract for payphone services for a one-year period with an option to renew for an additional one year at the County's sole discretion to allow for the award and implementation of the replacement contract RFP-02194, Detainee Communications and Media Solution, at no additional cost to the County.

The approval of this designated purchase will modify the Contract to incorporate the extension period, remove the Jail Management System from the Contract, and reduce the rates for payphone services charged to the inmates from .05 cents per minute to .045 cents per minute.

Section 2. This Board authorizes the County Mayor or County Mayor's designee to execute the settlement agreement and supplemental agreement, in substantially the form attached hereto, and exercise all rights contained therein.

The foregoing resolution was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman **aye**
Oliver G. Gilbert, III, Vice-Chairman **aye**

Sen. René García	**aye**	Keon Hardemon	**aye**
Sally A. Heyman	**aye**	Danielle Cohen Higgins	**aye**
Eileen Higgins	**aye**	Joe A. Martinez	**aye**
Kionne L. McGhee	**aye**	Jean Monestime	**aye**
Raquel A. Regalado	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**		

The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of July, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Basia Pruna**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Oren Rosenthal

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (the "Agreement") is entered into effective as set forth herein, by and between Global Tel*Link Corporation, d/b/a ViaPath Technologies, Inc. ("ViaPath"), an Idaho corporation, and Miami-Dade County, a political subdivision of the State of Florida (the "County"), acting by and through the Miami-Dade County Board of County Commissioners ("Board"). ViaPath and the County may be referred to collectively herein as the "Parties."

RECITALS

WHEREAS, the Parties have enjoyed a longstanding and mutually beneficial business relationship;

WHEREAS, on or about July 14, 2014, the County entered Contract RFP847 with ViaPath entitled "Pay Phones, Pay Phone Services, Pay Phone Subscription Services, Inmate Telephone Services, and Jail Management System" (the "County Contract") pursuant to which ViaPath agreed to develop and install a jail management system ("JMS") and develop, install, and operate the phone systems and services within the jail system throughout Miami-Dade County.

WHEREAS, following execution of the County Contract, ViaPath worked in good faith to install ViaPath's Offender Management System Evolution ("OMSe").

WHEREAS, despite ViaPath's good faith efforts to complete installation in a timely manner, the installation encountered delays resulting in the County issuing a Cure Letter on April 12, 2018.

WHEREAS, in or about June 2018, in order to resolve the Cure Letter and extend the County Contract to July 2022, the County agreed to select a new JMS vendor, selecting Tribridge Holdings, LLC/DXC ("DXC"), to complete installation of the JMS portion of the Contract and ViaPath agreed to pay for the installation of the new JMS system.

WHEREAS, on or about May 30, 2019, the County and ViaPath executed Addendum 1 to the County Contract which memorialized the County's decision to change its system from ViaPath's OMSe to DXC's JMS and included among other things, a provision that provided the County with the ability to collect liquidated damages in the amount of $7,829,623 if ViaPath is unable to provide a "County acceptable solution."

WHEREAS, on or about June 25, 2019, ViaPath entered into a Services Agreement with DXC ("Services Agreement").

WHEREAS, the County Contract was amended to reflect these new terms and conditions of performance.

WHEREAS, despite ViaPath's further good faith efforts, installation of the DXC JMS experienced further delays.

WHEREAS, on or about December 6, 2021, Phase 1 of 3 of JMS installation was substantially completed, but the installation continued to be delayed and behind schedule.

WHEREAS, on December 13, 2021, the County issued a Termination for Default notice because the DXC project schedule showed all three phases of JMS installation would not be completed by the July 2022 deadline, and directed that ViaPath and DXC "stop work."

WHEREAS, despite ViaPath working in good faith with the County and DXC to reach agreement on a mutually agreeable timetable for installation of the JMS system and resolution of the December 13, 2021 notice, no such agreement was reached.

WHEREAS, ViaPath learned in May 2022 that DXC had executed, or intended to execute, an Asset Purchase Agreement to sell the JMS technology and assets , but that DXC had retained and not assigned the obligations to fulfill DXC's obligations under the Services Agreement.

WHEREAS, at all times, ViaPath remained ready, willing and able to complete timely performance and installation of the JMS, but DXC's failures under the Services Agreement frustrated ViaPath's ability to fulfill its obligations under the County Contract.

WHEREAS, on May 17, 2022, the County sent a Notice of Termination to ViaPath terminating the County Contract and demanding liquidated damages in the amount of $7,829,623.00 from ViaPath.

WHEREAS, on May 25, 2022, ViaPath sent DXC a Notice of Termination and Notice of Demand for Indemnification notifying DXC that the termination of the County Contract with the County was the direct result of DXC's failure to perform under the Services Agreement.

WHEREAS, ViaPath disputes the County's grounds for Termination for Default and its claim for liquidated damages in any amount and denies any liability whatsoever.

WHEREAS, notwithstanding the foregoing, ViaPath and the County mutually desire to enter into this Agreement in order to fully and finally compromise and resolve all claims or threat of claims, demands, and/or disputes, known or unknown, between and/or among them relating to the County Contract, the Notice of Termination, demand for liquidated damages, or any other claim, demand or dispute related to ViaPath having not completed installation of the JMS system by the applicable deadline.

WHEREAS, notwithstanding the Parties' mutual desire to enter into this Agreement as set forth above and herein, the Parties do hereby mutually desire to extend the County Contract for up to two (2) years as to all other aspects other than installation of the JMS system ("<u>County Contract Extension</u>") and such extension and future performance is expressly incorporated herein as a condition of and consideration for the parties entering into this Agreement.

WHEREAS, it is specifically understood by all Parties that any and all acts which are to be performed pursuant to this Agreement, and the fact of this Agreement itself, are not to be and shall not be construed as a concession and/or an admission by ViaPath, or of any person or entity affected by this Agreement, of the truth or accuracy of any allegations, claims or assertions which have been made against ViaPath, or of any fault, liability or wrongdoing by ViaPath.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, IT IS HEREBY AGREED, by and between the undersigned and subject to the conditions set forth herein, that all claims, demands, or disputes shall be settled and compromised with prejudice in the manner and upon the terms and conditions set forth below:

SETTLEMENT TERMS AND CONDITIONS

1. Recitals. Each of the foregoing recitals is agreed to and is incorporated by reference as essential terms of this Agreement.

2. Effective Date. This Agreement shall become effective the later of: (a) the execution of this Agreement by all Parties; (b) the final approval of this Agreement by the Board; and (c) the final approval of Supplemental Agreement No. 3 (attached hereto as Exhibit 1) by the Board ("Effective Date"). No Party's obligation shall become ripe and enforceable according to the terms of this Agreement prior to the Effective Date of the Agreement.

3. Monetary and Other Consideration. In exchange for a full and final release as set forth in Paragraph 6 below and other consideration set forth herein, the Parties agree to resolve all claims, demands and disputes related to the JMS on the following terms:

a. Upon the Effective Date of this Agreement, ViaPath shall have an obligation to pay to the County the sum of FOUR MILLION AND 00/100 DOLLARS ($4,000,000.00), which amount represents all amounts the County is entitled to receive directly from ViaPath for any claim, demand, or dispute the County believes it may have against ViaPath ("Settlement Payment") related to the JMS obligations in the County Contract, and which shall be payable in four equal installment payments, as follows:

i. Payment 1: shall be paid not later than thirty (30) days after the Effective Date;

ii. Payment 2: shall be paid not later than 90 days after payment of Payment 1;

iii. Payment 3: shall be paid not later than 180 days after payment of Payment 1; and

iv. Payment 4: shall be paid not later than 270 days after payment of Payment 1.[1]

b. upon the later of August 1, 2022 or two (2) business days after the Effective Date of this Agreement, ViaPath will reduce the per minute calling rate for all calls made over its Inmate Telephone System by $.005 per minute, which rate reduction will remain in effect for the

[1] As to Payments 2, 3 and 4, nothing herein shall preclude ViaPath from remitting payment prior to the deadline for payment and early payment shall not impact, detract from, or diminish the County's obligation to continue performance pursuant to the terms and conditions of this Agreement.

duration of the County Contract Extension unless earlier terminated by the County in accordance with this Agreement[2];

c. upon the Effective Date of this Agreement, the County's provisional rescission of the Termination for Default shall become final and the County will fully and finally resolve all notices of default and cure letters from the County to ViaPath under the County Contract;

d. the County shall not unreasonably or without cause terminate the County Contract or reduce the County Contract Extension period, provided, however, that it is expressly understood between the Parties that the award of a successor contract for the services set forth in the County Contract shall constitute a reasonable basis for the termination of the Contract for convenience, with no prejudice to ViaPath's past performance or good standing, during the County Contract Extension period;

e. the County confirms and hereby agrees for all purposes that ViaPath remains a contractor in good standing with the County, and that this Agreement resolves any and all issues, claims, disputes or demands raised, threatened, intimated, raised or that could have been raised in prior cure notices or notices for termination;

f. the County confirms and hereby agrees for all purposes that ViaPath will not be prejudiced for entering in this Agreement or suffer any harm, detriment, or prejudice to its competitive position for future procurements resulting from entering this Agreement; and

4. County Contract Amendment. The parties shall effectuate the County Contract Extension, Inmate Telephone System calling rate changes, as well as the removal of the Jail Management System portions of the County Contract through Supplemental Agreement No. 3 (attached hereto as Exhibit 1) to the County Contract; all other terms, covenants and conditions of the original County Contract, Supplemental Agreement No. 1, and Supplemental Agreement No. 2 shall remain in full force and effect.

5. Representations. The Parties acknowledge and agree that the Settlement Payment and other terms contained herein constitute good, valuable and sufficient consideration for the promises and covenants contained herein, including without limitation the release of claims set forth below.

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[2] The Inmate Telephone System ("ITS") calling rates, as set forth in Exhibit 1 hereto, shall be as follows: Interstate ITS calls, whether made using a collect, debit, or prepaid/AdvancePay™ format: **$0.045** per minute of use; Intrastate ITS calls, whether made using a collect, debit, or prepaid/AdvancePay™ format: **$0.045** per minute of use; International ITS calls, whether made using a debit or prepaid/AdvancePay™ format **$0.045** per minute plus the applicable call termination rate for the destination county as published on the Contractor's website, which may be updated every three (3) months. No per call, per connection, or flat-rate calling charges shall apply to ITS per minute of use calls. The ITS rates set forth above are exclusive of taxes and other amounts collected by ViaPath, the 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 ViaPath, the Contractor, in connection with such programs.

6. **Mutual Releases.** In consideration of the benefits to be received by ViaPath and the County under this Agreement, as a material inducement for ViaPath to enter into this Agreement and to give the County the Settlement Payment and other consideration described above, and in exchange for this Agreement and the promises made herein, the Parties, for themselves, and on behalf of present and future parents, divisions, companies, subsidiaries, affiliates, administrators, employees, attorneys, agents, heirs, executors, officers, directors, members, shareholders, trustees, receivers, insurers, reinsurers, predecessors, successors, and assigns, personal or legal representatives of any of them, and all persons acting by, through, under or in concert with them or any of them, hereby irrevocably and unconditionally release, remise and discharge each other, and their respective past and present parents, divisions, companies, subsidiaries, affiliates, administrators, employees, attorneys, agents, heirs, executors, officers, directors, members, trustees, shareholders, receivers, insurers, reinsurers, partners in partnership, limited partners, managers, principals, direct and indirect investors, predecessors and successors, personal or legal representatives of any of them, and all persons acting by, through, under or in concern with any of them, of and from any and all manner of actions, causes of action, suits, costs, expenses, attorneys' fees, debts, dues, sums of money, accounts, rights, contracts, claims, third-party claims, cross-claims, counterclaims, demands, disputes, agreements, controversies, judgments, damages, liabilities, promises, variances, reckonings, bonds, bills, specialties, covenants, liens, losses, encumbrances, trespasses, leases, subordinations, security interests, duties and obligations related to the JMS provisions of the County Contract which have occurred or arisen prior to the Effective Date, whether known or unknown, whether contingent or absolute, whether apparent or unapparent, whether accrued or unaccrued, whether suspected or unsuspected, whether liquidated or unliquidated, whether matured or unmatured, whether direct, indirect or derivative, whether individual, class or representative, disclosed or undisclosed, material or immaterial, whether or not the foregoing are based upon violation of any law or regulation. **Under no circumstances shall entering into this Agreement amount to a waiver or release of any claim, demand, or dispute, known or unknown, threatened or non-threatened, that ViaPath may have against DXC for indemnification, contribution, reimbursement or damages resulting from contract breach, tortious interference, common law fraud, or other applicable claim.**

7. **Equitable Remedies.** ViaPath and the County agree that each shall have the right to enforce a breach of any provision of this Agreement through preliminary, temporary and permanent injunctive relief (including, without limitation, specific performance). Such equitable relief shall be in addition to all other remedies available at law. The Parties further agree that in any lawsuit or proceeding commenced by any Party to enforce this Agreement, the prevailing Party shall be entitled to recover the reasonable costs and expenses, including attorneys' fees, from the non-prevailing Party as set forth in Paragraph 9, below.

8. **Compromise of Disputed Claim/Demand; No Admissions**. This Agreement constitutes a compromise and settlement of all claims, disputes and demands between and among the Parties. Nothing in this Agreement, nor any act (including, but not limited to, the execution of this Agreement and/or the performance of obligations under this Agreement) of any Party, nor any transaction occurring between the Parties prior to the date hereof, is or may be treated, construed, or deemed as an admission by either Party of any liability, fault, responsibility, or guilt of any kind to the other Party or to any person, as to any claim, demand or dispute, for any purpose whatsoever; and all such liability, fault, responsibility, and guilt of any kind being expressly denied.

9. **Attorneys' Fees and Costs.** Each Party shall bear its own attorneys' fees and costs incurred in connection with the events leading up to this Agreement including, but not limited to, the drafting and negotiation of this Agreement. Notwithstanding the foregoing, should it become necessary for any party to institute any legal action or other proceeding to enforce any provision of this Agreement in the event of default or breach, the prevailing Party shall be entitled to recover all reasonable attorneys' fees and costs incurred, including through all hearings, trials and appellate proceedings, as well as attorneys' fees and costs incurred in litigating entitlement to attorneys' fees and costs and in determining or quantifying the amount of recoverable attorneys' fees and costs.

10. **Inadmissibility of Agreement.** Except as otherwise may be required for purposes of obtaining approval or enforcement of the terms of this Agreement by an applicable Court, resolving an alleged breach, or for resolution of other tax or legal issues arising from a payment under this Agreement, neither this Agreement, nor its terms and conditions, nor any document, statement, proceeding or conduct related to this Agreement, nor any reports or accounts thereof, shall be construed as, offered or admitted in evidence as, received as, or deemed or considered as evidence for any purpose adverse to either ViaPath or the County, including, without limitation, evidence of a presumption, concession, indication or admission by any Party of any liability, fault, wrongdoing, omission, concession or damage in any proceeding whatsoever. Notwithstanding the foregoing, nothing herein shall preclude ViaPath from pursuing any claim, demand, or dispute, known or unknown, threatened or non-threatened, that ViaPath may have against DXC for indemnification, contribution, reimbursement or damages resulting from contract breach, tortious interference, common law fraud, or other applicable claim arising out of or related to its failure and/or refusal to perform.

11. **Mutual Non-Disparagement.** Each Party agrees that neither shall issue a press release to the media, announcement or social media posting regarding this Agreement or any matters described herein without written approval of the other Party. For these purposes, a "press release" shall not include any statement made by an elected official in the conduct of his or her official duties. The Parties agree further that neither party will disparage, denigrate, slander and/or defame the other Party or their principals in any way to any non-parties to this Agreement, or otherwise speak to non-parties in terms that attack or impugn the character or conduct (whether in written form or otherwise) of the other Party. The Parties further agree that the terms of this Paragraph shall not apply to: (i) communications made to attorneys for the purpose of soliciting or securing legal advice; (ii) testimony or other communications made in the context of formal discovery or formal proceedings in a judicial or quasi-judicial proceeding; (iii) communications otherwise required by law; and (iv) communications made for the purpose of enforcing this Agreement.

12. **Amendment, Modification or Breach.** This Agreement may be amended, modified, altered, or otherwise changed in any respect or particular only by a written instrument duly executed by each Party, successor in interest, or attorney for each Party.

13. **Final Integrated Agreement; Binding Effect.** Upon full and complete execution by each Party, this Agreement shall be and will constitute the entire, final and binding understanding among the Parties regarding the matters set forth herein, and no oral or written representations, warranties or inducements have been made to any Party concerning this Agreement other than the representations, warranties, and covenants contained and memorialized in such documents. All prior or contemporaneous negotiations, memoranda, agreements, understandings, and representations, whether written or oral, are expressly superseded hereby and are of no further force and effect. Each Party acknowledges that it has not relied on any promise, representation or warranty, express or implied, not contained in this Agreement.

14. Counterparts. This Agreement may be executed in one or more counterparts, including by facsimile, scan, DocuSign, email, or pdf copies, and including by hand or electronically. All executed counterparts and each of them shall be deemed to be one and the same instrument. All executed copies of this Agreement, and photocopies thereof (including scanned, DocuSigned, facsimile and/or emailed copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original

15. Authority to Enter into this Voluntary Agreement. ViaPath and its counsel, on the one hand, and the County and its counsel, on the other hand, each warrants and represents that they are expressly authorized to enter into this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. As set forth in Paragraph 2 above, however, this Agreement is not enforceable and is expressly contingent on the final approval by the Board. Only once approved by the County in the exact form presented herein shall each Party's obligations herein become enforceable. At that time, each Party and its counsel shall cooperate with each other and use their best efforts to affect the implementation of this Agreement. Each Party further represents that it had the opportunity to consult with counsel with respect to the terms and conditions of this Agreement. Each Party enters into this Agreement knowingly and voluntarily, in the absence of any fraud, mistake, duress, coercion, or undue influence and after careful thought and reflection upon this Agreement; and accordingly, by signing this Agreement, each Party signifies full understanding, agreement, and acceptance and has assented freely and voluntarily to its terms with and upon the advice of counsel. The Parties agree that the settlement expressed in this Agreement is made in good faith and is a just, fair, and equitable resolution of all claims, demands, causes of action, or other liability asserted by, between, and among the Parties.

16. Cooperation; Drafting; Interpretation. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement, and any ambiguities or uncertainties herein or therein, shall be equally and fairly interpreted and construed without reference to the identity of the Party or Parties preparing and drafting this Agreement on the express understanding and agreement that the Parties participated equally in the negotiation and preparation of this Agreement, or have had equal opportunity to do so. The Parties agree that the terms and conditions of this Agreement were negotiated at arm's length and in good faith and reflect a resolution that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel. The Parties and their respective heirs, successors, personal representatives, and assigns shall do all things and shall execute and deliver all documents, instruments, and other papers as may be necessary or convenient to fully consummate the terms of this Agreement in accordance with the terms and conditions set forth herein.

17. **Materiality.** All terms and conditions set forth in this Agreement are deemed to be material terms.

18. **Default.** The failure of any Party to fulfill any term or condition or other obligation under this Agreement within the timeframes specified, time being of the essence, shall constitute a default under this Agreement. In the event of a default, the non-defaulting Party may commence an action or proceeding to enforce this Agreement and may seek emergency injunctive relief to compel the performance of any action required hereunder.

19. **Severability; Waiver.** In the event that any provision of this Agreement should be held to be void, voidable or unenforceable, the remaining portions hereof shall remain in full force and effect. No breach of this Agreement or of any terms and conditions herein may be waived except by an express written waiver executed by the Parties. Waiver of any terms and conditions shall not be deemed a waiver of such terms and conditions for the future or any other terms and conditions of this Agreement.

20. **Governing Law, Jurisdiction and Venue.** All terms and conditions of this Agreement shall be governed by and interpreted according to the laws of the State of Florida, without regard to Florida's conflicts of law provisions. The Parties irrevocably submit to jurisdiction in the State of Florida regarding any claim or dispute between them arising out of or related to enforcement of this Agreement. Venue shall lie in the any federal court in the Southern District of Florida, Miami Division, or the Circuit Courts in and for the Miami-Dade County, Florida.

21. **Waiver of Jury Trial.** ViaPath and the County knowingly and voluntarily waive the right to trial by jury in the event of any dispute arising under this Agreement and agree that such dispute shall be heard as a bench trial.

22. **No Third-Party Beneficiaries.** This Agreement is for the exclusive benefit and convenience of the Parties. Nothing in this Agreement shall be construed as granting, vesting, creating, or conferring any right of action or any other right or benefit upon any third party.

23. **Notices.** Any Notice under this Agreement shall be provided as follows:

VIAPATH

Claudia Regen
General Counsel
Global Tel*Link Corporation, d/b/a ViaPath Technologies, Inc.
3120 Fairview Park Drive, Suite 300
Falls Church, Virginia 22042

With copy to:

Christopher Oprison
DLA Piper LLP (US)

200 South Biscayne Blvd, Suite 2500
Miami, Florida 33131

MIAMI-DADE COUNTY

Miami-Dade County
Attention: Cassandra Jones, Interim Director
Department of Corrections and Rehabilitation
Phone: 786-263-6019
E-mail: cassandra.jones@miamidade.gov
and
Miami-Dade County
Internal Services Department, Strategic Procurement Division
Attention: Chief Procurement Officer
111 NW 1st Street, Suite 1300
Miami, FL 33128-1974
Phone: (305) 375-4900
E-mail: Namita.Uppal@miamidade.gov

With copy to:

Oren Rosenthal
Assistant County Attorney
Miami-Dade County
111 NW 1st Street, Suite 1300
Miami, FL 33128-1974
Phone: (305) 375-2828
E-mail: Oren.Rosenthal@miamidade.gov

[***Remainder of page left intentionally blank***]

IN WITNESS WHEREOF, the Parties have executed this Agreement as follows:

GLOBAL TEL*LINK CORPORATION,
D/B/A VIAPATH TECHNOLOGIES, INC.

By: ______________________

Name: John C. Pitsenberger

Title: EVP and CFO

Date: June 28, 2022

MIAMI-DADE COUNTY

By: ______________________

Name: ______________________

Title: ______________________

Date: ______________________

SUPPLEMENTAL AGREEMENT NO. 3

DRAFT For Settlement Purposes Only
Confidential Settlement Discussions Subject to FRE 408

Contract Number: **RFP847**

Contract Title: **Pay Phones, Pay Phone Services, Pay Phone Subscription Services, Inmate Telephone Services, and Jail Management System**

Contractor: **Global Tel*Link Corporation (GTL)**
3120 Fairview Park, Suite 300
Falls Church, Virginia 22042

Miami-Dade County ("County") and Global Tel* Link Corporation ("Contractor") hereby agree that the referenced agreement RFP847 (the "Contract") shall be amended as follows:

1. The term of the Contract shall be extended for a one-year period (August 1, 2022, through July 31, 2023) with an option to renew for an additional year at the County's sole discretion.

2. The following portions of the Contract are hereby removed from the Contract:

   - Appendix A ("Scope of Work") Part C ("Jail Management System");
   - Appendix B ("Miami-Dade County, Florida Offender Management System Statement of Work");
   - Supplemental Agreement No. 1, numbered paragraphs 1, 2, & 4;
   - Supplemental Agreement No. 1, pages 2-62 ("DXC Technology Proposal"); and
   - All other references in the Contract to "Jail Management System", "JMS", "Offender Management System", "OMS", and/or "Offender360", including any Contractor obligations associated therewith.

3. Upon the later of August 1, 2022 or two (2) business days after the County's approval and execution of this Supplemental Agreement No. 3, the Contractor shall provide Inmate Telephone System (ITS) calls as follows:

   - Interstate ITS calls, whether made using a collect, debit, or prepaid/AdvancePay™ format: **$0.045** per minute of use.

- Intrastate ITS calls, whether made using a collect, debit, or prepaid/AdvancePay™ format: **$0.045** per minute of use.

- International ITS calls, whether made using a debit or prepaid/AdvancePay™ format **$0.045** per minute plus the applicable call termination rate for the destination county as published on the Contractor's website, which may be updated every three (3) months.

No per call, per connection, or flat-rate calling charges shall apply to ITS per minute of use calls. The ITS rates set forth above are exclusive of taxes and other amounts collected by the 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 the Contractor in connection with such programs.

All other terms, covenants and conditions of the original Contract, Supplemental Agreement No. 1, and Supplemental Agreement No. 2 shall remain in full force and effect.

****** SIGNATURES APPEAR ON THE FOLLOWING PAGE ******

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IN WITNESS WHEREOF, the parties have executed this Supplemental Agreement No. 3 to County Contract No. RFP847 for Pay Phones, Pay Phone Services, Pay Phone Subscription Services, Inmate Telephone Services, and Jail Management System.

By: ____________	By: ____________
Global Tel*Link Corporation	Miami-Dade County
Name: John C. Pitsenberger	Name: Daniella Levine Cava
Title: EVP & CFO	Title: Mayor
Date: June 29, 2022 Commonwealth of Virginia, County of Fairfax	Date: ____________
Attest: Andrea Payne Melera ~~Corporate Secretary~~/Notary My commission expires: 3/31/2026	Attest: ____________ Clerk of the Board
~~Corporate Seal~~/Notary Andrea Payne Melera Commonwealth of Virginia Notary Public Commission No. 7362157 My Commission Expires 3/31/2026	Approved as to form and legal sufficiency