

REQUEST FOR SEALED PROPOSALS CORRECTIONS Phone SERVICES

BENTON COUNTY
BENTON COUNTY CORRECTIONS
7122 W. Okanogan Pl #B
Kennewick, WA 99336
(509) 783-1451, Fax (509) 222-3784

RFP No. CB 10-01

October 27, 2010

SEALED PROPOSALS DUE:
NOT LATER THAN **5:00 pm Tuesday December 7, 2010**
LATE PROPOSALS WILL NOT BE ACCEPTED

An OPTIONAL Pre-Proposal Conference meeting will be held on Thursday November 18, 2010 at **3:00 p.m.** The meeting will be held at the Benton County Sheriffs Office located at 7122 W. Okanogan Pl. Kennewick, Washington. This meeting is designed to clarify information related to this procurement and provide an opportunity for prospective Proposers to submit written questions. A tour of the facility will be conducted. Proposers are encouraged to review this RFP document prior to the Pre-Proposal Conference and to submit any questions in regards to proposal content in writing at this time.

Electronic copies of this RFP and attachments can be obtained by contacting Robert Guerrero, Support Lieutenant for the Benton County Bureau of Corrections at Robert.Guerrero@co.benton.wa.us

All Proposal documents shall be submitted in hard copy to the Benton County Sheriff's Office in accordance with the terms and conditions of this RFP. *Electronic proposal submissions via e-mail or facsimile will not be accepted*

APPROVED AS TO FORM:

Jonathan Young
Sr. Deputy Prosecuting Attorney
Benton County

RFP No. CB 10-01

**INMATE PHONE SERVICES FOR
BENTON COUNTY BUREAU OF CORRECTIONS**

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE NO.</u>
SECTION ONE	CALL, OVERVIEW AND SCHEDULE	3
SECTION TWO	SCOPE OF WORK	8
SECTION THREE	PROPOSAL INSTRUCTIONS AND EVALUATION	16
SECTION FOUR	GENERAL REQUIREMENTS	21
ATTACHMENTS		25
A)	Cover Sheet and Certification of Proposal	
B)	General Release of Liability	
C)	Affirmation Action Contract Compliance Statement	
D)	General Information	
E)	Sample Contract – General Terms	

**RFP No. CB 10-01
INMATE PHONE FOR
BENTON COUNTY BUREAU OF CORRECTIONS
SECTION ONE
CALL, OVERVIEW AND SCHEDULE**

I. INTRODUCTION

The Benton County Sheriff's Office Bureau of Corrections ("BCC") is requesting proposals from qualified inmate phone management companies to provide inmate phone service for male and females housed at the Benton County Corrections Center and authorized staff as detailed in this Request for Proposals (RFP). The Contractor will be responsible for all procurement, preparation, training, clearing and cleaning associated with the inmate phone management system in the Benton County Corrections Center.

The purpose of this RFP is to provide qualified firms the opportunity to present their qualifications and approach for inmate phone management service management clearly and succinctly, while providing Benton County ("County") with comparable information from each Proposer. The County will then determine which firm is best able to provide the management of the inmate phone service program.

II. SCOPE OF SERVICE

Proposers should anticipate serving approximately 600 to 800 inmates per day depending on detainee population, as part of this contract. This RFP seeks inmate phone services for the following facility: **Benton County Bureau of Corrections – 7122 W. Okanogan Pl., Kennewick, Washington.**

III. NEGOTIATIONS AND CONTRACT AWARD

Proposals will be evaluated in accordance with Section Three of this document ("Proposal Instructions and Evaluation"). County shall not be bound to award the inmate phone service contract contemplated by this RFP to the lowest bidder. If County decides to enter into negotiations with a Proposer, negotiations shall be directed toward obtaining written agreement between the County and the Proposer that is consistent with the Proposer's proposal and that is fair and reasonable to the County. BCC may, at its option, choose to negotiate general contract terms and conditions, the provision of a performance bond, and equipment maintenance options. The County may also, at its option, choose to negotiate proposed pricing; however, Proposers shall be prepared to go forward with the pricing they have proposed. The County is most interested in and reserves the right to negotiate a final contract that is in the best interest of the County.

Negotiations may be formally terminated by the County if negotiations fail to result in a contract within a reasonable amount of time as determined by the County. At the sole discretion of the County, negotiations may then ensue with a different proposer. If negotiations fail to result in a contract within a reasonable amount of time as determined by the County, the solicitation may be formally terminated. **This document and the materials enclosed herewith constitute only an invitation to submit proposals and do not constitute an offer to provide inmate phone services. By issuing this RFP and evaluating proposals, the County is not obligating itself to enter into any contract.**

IV. PERFORMANCE BOND

The County reserves the right to require a performance bond for any resulting contract.

V. CONTRACT PERIOD

In the event that a contract is awarded in response to this call, the initial contract period shall commence on the 1st day of January 2011, and shall terminate on the 31st day of January 2012. Upon agreement of both parties, an awarded contract may be continued for up to four one-year renewal subject to agreement between both parties regarding cost adjustments. The County reserves the right to compare prices to insure that the County is getting the best possible value for the services provided under an awarded contract. The anticipated contract period may be earlier terminated according to specific termination provisions as set forth more fully in the Sample Contract.

VI. MINIMUM REQUIREMENTS

At the time of proposal submission, the Proposers must meet the following minimum requirements:

- A. Proposal responses must be received by the Benton County Bureau of Corrections and be time-stamped no later than 5:00 p.m., Tuesday, December 7, 2010.
- B. Proposal responses must be formatted as outlined in Section Three, Proposal Instructions and Evaluation, including a cover letter that contains the required information. Failure to do so may result in rejection of the proposal.

At the time of contracting, the successful Proposer must meet the following minimum requirements to be eligible for contract award:

- C. Proposer must be properly licensed to do business in the state where doing business and in the State of Washington. The Proposer must have all applicable federal, state, and/or local licenses required.
- D. Proposer must have adequate personnel and equipment to perform all requirements in the event of the award. Proposer shall provide such documentation as to its ability to perform as the County may require.
- E. Proposer shall be able to comply with County contract requirements, which include insurance limits and requirements contained in this RFP, the Sample Contract, and other federal, state, and local laws and regulations governing services purchased through contract.
- F. Proposer shall be able to provide services upon contract award with County approved start-up time period, as necessary.
- G. Proposers' company (to include any subsidiary or parent corporations/holding companies) shall not be in any form of bankruptcy, shall not be contemplating bankruptcy, and shall not be presently insolvent

- H. Proposer shall be able to meet all conditions required of a "Contractor" for purposes of complying with provisions for (1) Background Check / Criminal History Clearance, (2) Firearms and Dangerous Weapons, (3) Storage of Property (4) Sexual Misconduct, and (5) Staffing as follows:

1. BACKGROUND CHECK / CRIMINAL HISTORY CLEARANCE

Prior to being permitted to assume duties pursuant to this contract on County property, Contractor employees shall pass a thorough background investigation administered by the Benton County Sheriff's Office. In order to accomplish that, prior to assigning any employee to duties pursuant to this contract on County property, Contractor shall supply County with all information on employees who are to assume duties pursuant to this Contract, as required by County to accomplish this purpose.

Security clearances shall be granted or revoked at the sole discretion of the Benton County Sheriff or his designee, and revocation shall be permitted for reasons including any reason related to the trustworthiness, morality or fitness for duty of the subject of the investigation regardless of whether or not the subject has been arrested or convicted of an actual criminal offense. County reserves the right to condition security clearances on any condition it reasonably sees fit at any time prior to or after granting of such clearance. The background investigation process may involve requiring Contractor employees to fill out statements which may or may not be under oath. Contractor shall ensure that such statements are filled out as a pre-condition to passing the background investigation and receiving a security clearance. Contractor shall maintain employees who are recipients of County security clearances above and beyond those actually required to fill current shifts, of such a number as would be sufficient to allow for filling in for absences, emergency staffing or similar needs without resorting to employees who are not the recipient of security clearances.

Contractor shall implement policies pertaining to employees who are the subject of County security clearances requiring them to report to Contractor within 24 hours of: being arrested or convicted of any crime, being told they are a suspect in any crime, becoming aware of any complaint being lodged against them with the Washington State Criminal Justice Commission, being served with a summons and complaint relating to their duties pursuant to this Contract or being served with a summons and complaint, whether relating to or not relating to their duties, where an allegation of the complaint relates to allegedly inappropriate sexual conduct including, but not limited to sexual harassment, sexual assault or lewd conduct. Contractor shall, in turn, notify County in writing within 24 hours of receiving any such notification from one of its employees.

In the event the Benton County Sheriff determines that it is appropriate to revoke any person's security clearance, he shall do so in writing directed to Contractor and may also precede such written notice with verbal notification to the subject of the revocation. Revocation shall become effective immediately upon verbal notification, if made, as long as it is followed by written notification to Contractor. Upon such notification, it shall be Contractor's duty to replace the employee whose security clearance is revoked, with another suitable employee.

Nothing in this section shall be construed as infringing in any way upon Contractor's discretion to hire and retain employees of its own choosing.

2. FIREARMS AND WEAPONS

While performing inmate phone services on County premises, Contractor employees shall not possess any firearms or other deadly weapons, and shall not bring into the Justice Center any weapon or implement prohibited by law or court order.

3. STORAGE OF PROPERTY

Contractor employees shall not store any personal items unrelated to the performance of their work in or upon County premises at any time.

4. Sexual Misconduct

The Contractor shall ensure all employees, subcontractor, and/or volunteers are knowledgeable about the requirements of RCW 13.40.570 and of the new crimes included in RCW 9A.44, Sex Offenses. The Contractor shall indicate affirmatively in its submission that it has reviewed the attached copy of the BCC Prison Rape Elimination Act policies and agrees that its employees will be required to review and abide by the policies.

5. Staffing

The Contractor, at its expense, must staff its operations with the optimum number of employees at all times for the efficient operation of the facility. Contractor shall use no fewer than the number of employees or hours proposed in response to this RFP. Any subsequent reductions in the total number of hours proposed for each location must be approved in writing by County.

VII. PROCUREMENT SCHEDULE

Pre-Proposal Conference	Thursday, November 18, 2010, 1:00 p.m.
Questions/Clarification Requests Due	Tuesday, November 16, 2010, 4:00 p.m.
Proposals Due	Tuesday, December 7, 2010, 5:00 p.m.
Contract Signed by Proposer	By December 20, 2010
Contract Signed by County	December 27, 2010
Contract Start Date	January 1, 2011

Note: The County reserve the right to change this Procurement Schedule.

VIII. GENERAL PROPOSAL INFORMATION

- A. The County reserves the right, in its sole discretion to:
 - 1. amend the RFP,

2. to extend the deadline for submitting proposals,
3. to decide whether a proposal does or does not substantially comply with the requirements of this RFP,
4. to waive any minor irregularity, informality, or nonconformance with this RFP,
5. to obtain or provide references to the public or other public agencies, upon request, regarding the Proposer's contract performance, and
6. at any time prior to contract execution (including after the announcement of the intent to award):
 - a. to reject any proposal that falls to substantially comply with all prescribed RFP requirements and procedures, and
 - b. to reject all proposals received and cancel this RFP upon a finding by the County that such cancellation would be in the best interest of the County.

- B. Costs incurred by any applicant in preparation of a response to this Request for Proposal shall be the responsibility of the applicant and will not be reimbursed by the County.

This Request for Proposals does not obligate the County to contract for the services specified herein. The Board of Benton County Commissioners reserves the right to reject any or all proposals.

County reserves the right to make an award with or without negotiation based on an appraisal of the competitive values, delivery time, and other terms offered. County is not bound to make an award on the basis of the low proposal but may consider the overall value to the County and/or other factors.

This document and the materials enclosed herewith constitute only an invitation to submit proposals and do not represent an offer by Benton County. A proposal submitted in response hereto shall constitute an offer to provide phone management services. Only upon the County's acceptance of such offer and execution of a written contract as provided herein shall any contractual commitment be created.

THE BOARD OF BENTON COUNTY COMMISSIONERS
BENTON COUNTY, WASHINGTON

RFP No. CB 10-01
INMATE PHONE SERVICES FOR
BENTON COUNTY BUREAU OF CORRECTIONS
SECTION TWO
SCOPE OF WORK

I. INTRODUCTION

The Benton County Sheriff's Office Bureau of Corrections ("BCC") houses adult inmates from Benton County law enforcement agencies, and also houses inmates pursuant to numerous contracts with governmental entities within the State of Washington and the Federal government, at 7122 W. Okanogan Place, Kennewick, Washington. The BCC facility currently has the capability to house up to 738 persons but currently serves an average daily population of 650-720 adults. Proposers should identify how they anticipate that the following requirements expected of the successful "Contractor" will be accomplished which are outlined in the following areas. Proposers are required to explain how the following requirements will be accomplished or note why the Proposer feels they cannot reasonably accomplish the requested requirements.

II. INMATE PHONE SERVICE REQUIREMENTS

A. Officer Focused

1. The system shall be a centralized Web-Browser-based application, available securely from anywhere at any time by BCC employees and local Law Enforcement Agencies.
2. System interface to control the phones shall be intuitive.
3. Access should be controlled so officers only have access to functions they need.

B. Inmate Focused

1. The proposed system shall allow outgoing calls only.
2. The proposed system shall limit inmate calls to 15 minutes; however Benton County must be able to change the call duration as needed throughout the entire facility, by inmate Account / PIN, or by specific telephone(s).
3. The inmate and called party shall be notified of limit in advance of the system terminating the call.
4. Contractor shall supply two TTY phones to the Benton County Corrections Center.
5. The proposed system shall include voice prompts in English and Spanish.
6. The proposed system should have the ability to interface with a commissary vendor.
 - If interface with a commissary vendor is possible, Proposer shall note which commissary vendor the proposed system is able to connect with.
 - If the proposed system does not have a commissary interface, Proposer should state whether they are prepared to provide the interface at no cost to the County.
7. The proposed system shall have the ability for a telephone interface with a commissary provider that would eliminate the need to purchase pre-paid telephone cards. In the event that the proposed system does not have the ability to interface with a commissary provider the Contractor shall provide pre-paid telephone cards for inmate use. Such cards shall be capable of use at any inmate telephone at the jail and shall be sold only directly to the County.

C. Friends & Family Focused

1. The system must require active acceptance by the called party.
2. The Contractor will need to have a program that will proactively attempt to set-up an account for called parties who are not able to accept collect calls, enabling families to quickly communicate with incarcerated individuals. Proposers should describe how this works.
3. Contractor must notify called party when they have reached a \$20.00 balance of its site or personal credit limit. Proposer should describe how this works.

D. Personal Identification Number (PIN)

1. The proposed system shall utilize Personal Identification Numbers (PIN) for the inmates. Describe your system's use of PINs, including Open PIN, Restricted PIN, and Closed PIN.
2. The proposed system shall prevent assigning duplicate PINs and not allow a PIN to be used by two inmates at the same time.
3. PIN digits must be at least 6 and not greater than 7 characters in length.

E. Fraud Management

1. The proposed system shall be able detect, notify and prevent three-way or conference calls, except for those calls to attorney's or other approved numbers. BCC understand that there are industry patents in this area. Proposers should provide a description of the process you have deployed on your platform and why you feel the technical approach provides the best 3-way detection solution.
2. The proposed system shall prevent the inmate from obtaining a second dial tone, or "chain-dialing."
3. The proposed system shall prevent the inmate or called party from dialing extra digits after the call is accepted . Proposers should describe process.
4. The proposed system shall be able to remotely monitor Inmate calls and be able to transfer calls in progress to investigators.
5. The proposed system shall identify the name of the facility and the inmate placing the call to the called party.
6. The proposed system shall be able to play prompts randomly throughout the call.
7. The proposed system shall guard against "Hook-switch dialing," and other fraudulent activities. Proposers should describe how this will be accomplished.
8. The inmate shall not be able to communicate with the called party until the call has been accepted.
9. The system shall detect the difference between an accepted call, and an answering machine, busy signal, or other telephone activity. Proposers should describe how this will be accomplished.
10. The proposed system shall allow call blocking of specific numbers for the entire agency and by each site.
11. The proposed system shall also provide ability to approve and disapprove specific phone numbers that each inmate can call.
12. The proposed system shall permit the called party to block all future calls from the facility.
13. The system must have the capability to suspend an inmate privileges from placing a call and set a beginning and end date without the need to manually re-enable privileges.
14. The proposed system shall allow the inmate to record their name one time and store this recorded name for all future calls.
15. The proposed system should offer inmate voice biometric technology and associated reporting, that validates the inmates identity based on the inmate PIN, prior to connecting the call.

F. Other investigative Tools

1. The system will need to be equipped with a remote conferencing feature and e-mail feature for those numbers that are under surveillance by the investigative unit. The feature will need to allow authorized personnel to monitor a call and receive e-mail notification from any designated remote location, while the call is in progress. The call will need to be automatically conferenced to a predetermined investigators telephone number in listen mode only once the call is accepted by the called party and in progress.
2. The proposed system must allow for all calls remotely conferenced to investigators to be accepted by the investigator with a unique PIN
3. Proposer should detail any other additional investigative tools, features or creative solutions that could be made available to the County.
4. The system must have the capability to bridge a call to an authorized remote number for those phones, phone numbers, and / or PINs that are under surveillance by the investigative unit or other authorized personnel. The feature should allow authorized personnel to monitor a call from any designated remote location while the call is in progress. The system must have the options to allow the remote authorized personnel to receive the call to monitor at the same time the call is dialed out so the authorized personnel can hear the called party acceptance options. The administrators must be able to continue to monitor other calls, through the on-site workstation while utilizing the remote live call-forwarding feature. The system must be configurable to alert up to three County investigators and prompt the investigator for a personal identification number when the investigator receives a call that is being monitored before the call is connected. The authorized personnel receiving the remotely connected call must be able to disconnect the call from the phone device in which they received the remote monitored call. The authorized personnel receiving the remotely connected call must be able to break into the inmate conversation if desired and talk to both parties from the phone device in which they received the remote monitored call and the ability to go back on Mute. The system must allow authorized staff to enter in an e-mail address at which to receive a system generated e-mail indicating the automated call monitoring to the remote location which shall include, at minimum the inmate phone being used to place the call, the phone number being called, and the inmate placing the call.
5. System must provide the ability for investigators to attach case-notes to a call and view it from a report such as a call detail report. The system shall allow investigators to share notes about a call or keep them private if they choose and use text entries, such as a case number or a specific gang affiliation in the case-notes as the search criteria to retrieve specific case-notes with the associated call detail record. This feature must provide the ability to do a full text search against the notes attached to the call.
6. System must protect the recording from being purged when the client storage policy expires by allowing the investigators or other authorized staff to extend the expiration date of the associated call or download.
7. The call detail record must have the capability to download a call directly from the call detail report. The system must also allow authorized staff to copy multiple calls to a folder for download at a later time.
8. The system must support unlimited recording folders per user. The recording folders must allow recordings to be downloaded in the recording's native format as well as .WAV and .MP3 formats. The recording folders must allow recordings to be downloaded as a ZIP file.

G. Call Acceptance

1. The proposed system shall provide an option for the called party to request information concerning the rate of the call prior to acceptance.
2. The called party must actively accept the call.
3. The system must prohibit the inmate from communicating with, and hearing the called party until the call has been accepted.
4. The system must be set up so that billing does not begin until the call is accepted.

H. System Security

1. The proposed system must be programmed for auto shut-off at times designated by the County.
2. The County personnel must be able to manually shut down the system in case of emergency.
3. The proposed system shall be password protected to permit only appropriate facility personnel access to the system.
4. The system must have the capability to enable and disable any phone at the facility from any secured internet-enabled computer.
5. For security purposes the system must be a centralized non-premise system that will keep all records secure and not require the need to maintain at the facility. Proposers should describe their system and how their system will meet this requirement.
6. System must allow officers to check-in from any telephone. Each officer should be provided a unique PIN by the Contractor, as well as a personalized mailbox to record any observations during duty rounds.

I. Automated Information

1. The proposed system must offer an Interactive Voice Response (IVR) solution. This IVR must provide inmates and outside callers with the ability to access inmate specific and general facility information such as charges, bail, visitation schedule, inmate account balance all over the phone. Inmates must be able to access the system by dialing a speed dial on any designated inmate phone, while outside callers access the system by dialing the main facility telephone number. The system must have a hosted architecture and use the existing telephones. Please describe your solution including the cost implications.
2. The IVR must be available with an English and Spanish interface and must also have touch tone and speech recognition capabilities.
3. The IVR must be available 24 hours a day.
4. During the call, outside callers must have the option to transfer to a customer service center for further assistance.
5. Information that must be available to inmates must include but not be limited to the following: inmate charges, inmate court dates, visitation eligibility, bond amount
6. Information that must be available to outside callers must include, but not be limited to, the following: facility address and direction, visitation policies, inmate charges, inmate court dates, inmate visitation eligibility, inmate bond amount,
7. Proposers shall state whether the IVR solution is currently deployed in any correctional facilities that are willing to provide written references. If so, Proposers are requested to identify the facility/facilities where deployed and attach any written reference(s).
8. The system must provide the ability to have trust account funding and prepaid phone account creation and funding

J. Reports

1. The Contractor shall supply the capability for the County to view and track call activity, commission information, and service requests from any location at any time via a web accessible site.
2. The Contractor shall supply call detail reports to the County in a manner that is fully integrated into the platform. These reports shall contain call information specified by the County and be customizable to suit the County's needs.
3. Standard reports should include: Frequently Dialed Numbers, 3-Way Call Attempts, and Call Volume by Telephone.
4. Contractor shall supply monthly revenue reports.
5. Contractor shall attach samples of their call detail and other standard reports.
6. Contractor shall provide County and authorized County employees a secure access to all calling activity within the facility via the internet/web. The hosted site will need to provide an interface that will allow a facility to view call detail reports, check and track a facility commission data. This system should also allow facilities to open and/or view the status of service requests.

K. Service & Maintenance

1. Contractor shall provide 24-hour, toll-free service number.
2. Contractor shall respond to all major service outages within two hours. Major outage is defined as 30% or more of the functionality of the system.
3. Proposers should provide service policies and procedures as an attachment to this proposal.
4. Proposers should describe the maintenance and quality assurance programs for telephones to be installed.
5. Proposers should detail equipment installation charges, if any.
6. Proposers should describe the maintenance and quality assurance programs for telephones to be installed.
7. Proposers should detail the method of determining service interruptions and service call priorities. List response time for each priority and the level of expertise devoted to each priority.
8. Proposers should provide a contact person who will be responsible for ongoing account management and support.
9. Contractor's system shall have the capability for remote diagnostic to minimize facility visits by Contractor. Proposers should describe their system diagnostic process and tools.

L. Installation and Cut-Over

1. The Contractor will provide inmate phone sets, the remote administration station and the automated inmate call control system. This installation is to be completed within sixty (60) days after contract award and full execution.
2. Proposer shall submit a complete and detailed schedule of the time-frame required for installation, utility coordination, training, cut over and testing. The system must be installed in a manner and under a time-frame designed to minimize disruption of the normal functioning of the facilities.
3. If the schedule cannot be met within the 60 days stated above, Contractor must propose an installation schedule of events. Failure to state installation time in the bid will obligate the Contractor to complete installation so as required in the bid. Extended installation time may be considered when in the best interest of the County.
4. Any delay in the implementation of the Contractors' schedule that is caused by the County will increase the contractor's time allowance to complete installation but the Contractor must submit a complete and detailed schedule of additional time required.

5. The risk of loss and or damage will be assumed by the Contractor during shipment, unloading and installation.

M. Call Monitoring & Recording

1. The proposed system shall maintain all call recordings centrally on a Storage Area Network (SAN) technology and not use tape drives for storage of call recordings
2. All call recordings for 90 days shall be stored online and available through the online user interface.
3. Facility personnel must be able to search call recordings by dialed number, date, time, inmate account, or site name.
4. Facility personnel must be able to simultaneously live monitor conversations while the system is recording the conversations.
5. Facility personnel must be able to either monitor, disconnect or interrupt and gain speaking access into a live call.
6. System must have the ability to have a selectable scan of all live calls in progress by selecting active calls only - The scanning feature of during live monitoring must have the ability enter a time frequency in which the system will play active calls for 30 seconds (configurable) each and rotate through active calls for the set amount of time, specified by County, for each call.
7. The system must provide call history through live monitoring to allow personnel to see recent activity for phone numbers and phones without navigating away from live monitoring.

N. Training

1. Contractor shall provide initial installation training to the County employees and County designated personnel in system administration, operation, and reporting. Contractor is responsible for any system upgrade and/or refresher training that is needed or required for the length of the contract at no cost to the County.
2. Proposer should describe training program; include description of course and any applicable documents.

O. Payment Options

1. The proposed system shall allow automated operator collect calling.
2. All prepaid calls will be subject to the same restrictions and features as standard inmate collect calls.
3. The called party shall be provided an option to request cost of the call prior to accepting the charges.
4. The Contractor shall have a system in place that will allow inmate families and friends to set-up alternate billing methods directly with the Contractor. Two of the methods the County would like to see offered are:
 - a. The Contractor should have a system in place that will allow inmate families and friends to set-up an account directly with the Contractor.
 - b. The Contractor should have an advance payment system. This system should allow customers to prepay for calls from the facility.
5. The Contractor shall provide the ability for inmate families and friends to accept and pay for a single call with a credit or debit card without the need to establish an account or transfer to customer service.
6. The Contractor must allow calls to cell phones and have an ability to establish accounts for such customers.
7. The proposed Contractor must have the ability to provide promotional calls to cell phones and text messaging information on how to establish an account.

P. Equipment

1. The proposed inmate telephone system shall be a turn-key telephone system and service.
2. The Contractor shall provide non-coin, inmate telephones composed of durable equipment suitable for jail environments.
3. The proposed system must be compatible with the current computers that are available at the County without the need for additional computers.
4. The proposed system shall have the ability, as authorized by the Sheriff's Office, to monitor live or listen to previously recorded calls at the Sheriff's District Offices without the need to interface directly with Sheriff's network.
5. The proposed system user interface shall be based on security level and password protected.
6. All Contractor equipment shall comply with Washington State and federal (including FCC) regulations.
7. The proposed equipment and system shall be scalable to meet the County's growing needs.
8. Contractor equipment shall include backup power in the event of temporary loss of commercial power.
9. Proposers should submit, with percentages clearly shown, what work is or will be subcontracted, and what work is or will be performed by the Contractor's own employees.
10. Proposers should indicate their firm's ability to provide authorized users detailed reporting tools to include but not limited to the following information:
 - Location of the phone originating call
 - Time of call
 - Telephone number called
 - Most frequently called numbers by inmate
 - Length of call
 - Identify numbers called from a specific telephone
 - Identify telephone numbers called by a specific inmate
 - Alarm number status
 - Alarm a telephone number and allow automatic recording of the call
 - Identify multiple calls from different inmate phones to the same number
 - Ability to conduct telephonic court hearings on inmate phone system.
11. Proposers should indicate what level of access authorized users will have to the system from any Windows XP based PC that has access to the internet.

III. FEES, RATES & FACILITY COMMISSIONS

A. Fees, Rates & Commission

1. The system will have the capability to inform the called party of the call cost prior to acceptance.
2. The rates charged to users shall not exceed the tariffs as mandated by the Public Utilities Commission for all services. Proposers should provide a copy of the rates that will be charged.
3. The Contractor shall be responsible for the collection of charges for fraudulent or otherwise uncollectible calls.
4. The Contractor shall be responsible for any and all billing disputes, claims, or liabilities that may arise in regards to its provisions of this contract.
5. Contractor billing to called parties must include the Contractor information and a toll-free telephone number to resolve billing disputes.

6. Billing charges shall begin at the time the calling party is connected to the called party and shall be terminated when either party hangs up. Incomplete calls such as network intercept recordings, busy signals, no answers, refusals of calls, answering machine pick-ups, etc. shall not be billed.
7. Under no circumstances will the commission rate be adjusted lower than the rate agreed to at contract award, nor will the County be obligated to renegotiate any portion of this contract as a result of an increase to the commission rate.
8. The commission rate shall be based on Gross Billed Revenue. Proposers should include a detailed analysis as to how they determine and define gross revenue.

B. Commission Structure

Please provide information on the commission structure. Include the following within your response:

1. What is the percentage of commission you will pay the County? Failure to state proposed commission percentage will result in rejection of proposal.
2. Explain in detail the method used to calculate revenue to the County (e.g., gross revenue, adjusted gross revenue, net revenue).
3. State applicable deductions from Gross Revenue before calculating the County's revenue (i.e., uncollectible calls, total calls, access lines charges, clearing house charges, etc.).
4. What is your method of reporting the calculation of the County's commission payment?
 - a. Provide samples of proposed reports.
 - b. Is there a charge for customized reports?
 - c. If yes, provide amounts.
5. Describe collection procedures.
 - a. What types of reports are available to the County to audit commission payments? Provide samples of reports.
 - b. Please provide detailed reports of placed, accepted, local and long distance calls.
6. Describe the procedure for handling uncollectible revenue. State whether this expense reduces County commission and, if so, specify in what manner the County's revenue is so reduced.
7. Describe the procedure for billing.
 - a. Describe your billing process and who handles billing.
 - b. Will there be any handling fees charged to the County?
 - c. Are there any deductions from revenues?
9. Provide proposed calling rates for local, intraLATA, interLATA, and interstate calls.

RFP No. CB 10-01
INMATE PHONE SERVICES FOR
BENTON COUNTIES BUREAU OF CORRECTIONS
SECTION THREE
PROPOSAL INSTRUCTIONS AND EVALUATION

I. PROPOSAL INSTRUCTIONS

A. Submission

Proposers shall submit one (1) original and three (3) complete copies of their response to: Benton Counties Bureau of Corrections, 7122 W. Okanogan PI #B, Kennewick, Washington 99336, **no later than 5:00 P.M., Tuesday, December 7, 2010. PROPOSALS MUST BE TIME STAMPED AT THE RECEPTION WINDOW BY THE STATED DEADLINE.** All proposals that are not time-stamped by the deadline shall be considered late and may be rejected.

Submit proposals in a sealed package appropriately marked with the proposal title, the RFP number, and the name and address of the provider.

B. Proposal Organization

Proposals shall be organized in the following manner:

1. Signed Cover Letter

The Cover Letter shall briefly highlight the features of the proposal and state the number of years experience the Proposer has providing services to detention and/or similar facilities that are similar in size to the BCC. The Cover Letter must state the name(s) of the person(s) authorized to represent the Proposer in any negotiations, the name(s) of the person(s) authorized to sign any contract that may be awarded, the contact person's name, mailing or place of business addresses, phone and fax numbers, and email addresses. A legal representative of the proposing organization authorized to bind the firm in contractual matters shall sign the cover letter and other required forms attached to this RFP. **Failure to submit a signed cover letter may result in rejection of the proposal.**

2. Proposal

Proposers shall provide all information as requested in this RFP. Responses must follow the format below ("Proposal Format/Requirements") either by restating the request/question or using the same lettering and numbering sequence. **Failure to do so may result in rejection of the proposal.** Proposals must be clear, succinct, printed single-sided on 8-1/2 X 11 paper, and in a type font no smaller than 11 point. All pages must be numbered.

The County may reject as non-responsive at its sole discretion any proposal or any part thereof, which is incomplete, inadequate in its response, or departs in any substantive way from the required format. The number of pages submitted is not limited; however, proposals should be as concise as possible while providing complete responses to

all required subjects. All proposal submission material for this RFP shall become the property of the County and shall not be returned. The ability to follow these instructions demonstrates attention to detail and shall be a relevant consideration to the County.

3. References

Provide a list of all inmate phone service contracts with comparable facilities for the last five years, indicate the contract length, the contract value per year, the name and address of the facilities, the name, title and contract responsibility for a client contact at each facility, and their current telephone number and email address (if available).

The County may select any of the named references from the list or may contact references not listed to interview and collect assessment information on Proposer contract performance. The County intends to contact a minimum of three references but may choose to interview a greater or fewer number in its sole discretion.

The County reserves the right to investigate references including customers other than those listed in Proposer's submission. Investigation may include past performance of any Proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, and its lawful payment employees and workers.

4. Attachments

Include all requested materials at the end of your proposal response, including completed required forms found in the attachments to this RFP.

C. Proposal Format / Requirements

The following information must be included in each proposal. This information will give the BCC personnel reviewing proposals an overview of the Proposer's business operation relative to comparable detention operations.

1. INFORMATION REQUIREMENTS

a. Corporate Business Information

1. List the name, address, phone, fax and web site (if available) for your corporate headquarters.
2. Describe the services available as they relate RFP Section Two, Scope of Work. Please ensure that all questions posed within the Scope of Work are fully and accurately addressed within your response.
3. Identify the ownership of your organization. If private, provide the most recent CPA's audited financial statement. If public, provide the most recent annual report as well as the

company's stock ticker symbol and stock exchange(s) in which it is traded

4. List your credit rating and its source (bank, credit rating service, or other letter of reference).
5. If applicable, will parent entity guarantee subsidiary's debts throughout life of contract? If so, please provide written proof of such an arrangement.
6. State whether there has been any form of bankruptcy or creditor protection within the past ten years or if currently insolvent
7. Describe your accounting procedures and retained accounting firm, if any.
8. Give an example of your audit control.
9. Describe the number, type and amount paid out for each lawsuit filed within the past ten years. The state, court jurisdiction and case number should be supplied for each. Designate the person to be contacted for receipt of all legal claims and explain the process for handling each case or complaint.

b. Corporate Management

1. Identify and list the background, education and experience of corporate management.
2. Identify the degree of participation with local offices from 0% to 100%.
3. Relative to span of control, how many levels of management are there?

c. Organization Structure

1. What is your legal organization classification and recent history relative to form, name and significant ownership changes?
2. List all majority/principal owners with five percent or more ownership.
3. List your business segment and geographic locations.
4. List your total number of detention related units, their population and annual gross sales.
5. Specific to phone service, how many regions are supervised?

d. Operating Procedures

1. Do you have effective written operating procedures that govern, in detail, your institutional phone services? If so, provide relevant portions of such procedures.
2. Is the accounting system computerized? Describe. Is staff available for cost analysis, research?
3. Are accounts receivable/payable handled by headquarters or by each location? Describe.
4. Regarding communication, how often are local operations visited? What is the nature of support and supervision of local operator?

e. Regional Office

1. List the name, address, phone and fax number for your regional office for Washington.
2. Describe the services available.

f. Management

1. Identify and list the education, experience, and length of service of regional management.
2. Identify the degree of participation from 0% to 100%.

g. Organization Structure

1. List your geographic area of activity.
2. What is the total number of operations and annual gross sales?
3. What is the structure of regional supervision? What areas are covered?
4. What is the ratio of regional supervisors to operations?

h. Proposed BCC Operation

1. What management team is proposed for the BCC operation? Provide the background of General and Unit Managers. Describe their experience.
2. Attach resumes for members of this proposed team.

2. STAFFING

a. Wages & Benefits / Living Wage Requirements and Calculations

Each Proposer shall calculate the total project cost and hours dedicated to each portion of this project. Hours and classifications required in this RFP shall be considered the minimum number of hours that will be evaluated for the routine services specified.

Proposers shall include in their Proposals the entire cost of the work set forth in this RFP. The Proposal shall include a breakdown summarizing the employee classifications that the Proposer intends to use; the number of hours for each classification; and the wage structure and benefits package description and cost.

b. Staffing Charts

Provide detailed staffing charts showing scheduled hours for each person by position for each day of a normal workweek must be submitted within the proposal.

c. Initial and Ongoing Management and Staff Training

Specify the type and length of orientation and training for new employees as well as ongoing/continuing education of its existing employees including length of training period, location for training, costs, and performance evaluation procedures. The Proposer is to specifically identify what initial (to include orientation) and ongoing training and amount of time will be dedicated to detainee contact issues and general facility security policies and procedures.

II. EVALUATION

Proposals meeting the minimum requirements as determined by the County will be evaluated by authorized County personnel. The Counties are not bound to make an award on the basis of the low proposal; the County may consider the overall value to the County and/or other factors.

By issuing this RFP and evaluating proposals, the County are not obligating itself to enter into any contract. The County reserves the right to reject any or all proposals.

RFP No. CB 10-01
INMATE PHONE SERVICES FOR
BENTON COUNTY BUREAU OF CORRECTIONS

SECTION FOUR
GENERAL REQUIREMENTS

I. PROPOSAL SUBMISSION

Proposals shall be submitted, as instructed in Section Three, to the location specified by the stated due date and time. Failure to submit a timely response may result in a response be rejected and returned to the Proposer unopened.

II. CLARIFICATION OF REQUEST FOR PROPOSALS

Any Proposer requiring clarification of the information specified in this RFP, or claiming objections to any provision herein, must submit specific questions/objections or comments in writing to:

Robert Guerrero, Administrative Support Lieutenant

Benton County Bureau of Corrections

7122 W. Okanogan Pl. #B

Kennewick, Washington 99336

Phone (509) 783-1451, Extension 3366,

Fax (509) 222-3784

email: Robert.Guerrero@co.benton.wa.us

All questions and clarification requests must be submitted by Tuesday, November 16, 2010, by 4:00 p.m to be answered at the Pre-proposal Meeting and Facilities Tour. If BCC determines that additional information or interpretation is necessary, such information or interpretation will be supplied in Addenda that will be mailed to all persons or firms that have attended the voluntary meeting.

III. PRE-PROPOSAL CONFERENCE

An optional Pre-Proposal Conference will be held on Thursday November 18, 2010 **at 2:00 p.m., Benton County Bureau of Corrections, 7122 W. Okanogan Pl #B, Kennewick, Washington.**

This meeting is designed to clarify the information provided within this RFP and provide Proposers an opportunity to tour the facility. Please read the RFP before this meeting and be prepared to submit in writing any questions you may have prior to the scheduled pre-proposal meeting which are due no later than November 16, 2010 by 4:00pm.

IV. CLARIFICATION OF PROPOSALS/RESPONSES

The County reserves the right to request clarification of any item in a firm's proposal or to request additional information necessary to properly evaluate a particular proposal. All requests for clarification and responses will be in writing. Failure of a Proposer to respond to such a request for additional information or clarification may result in rejection of that Proposer's proposal, response, and/or responses.

V. CANCELLATION

The Counties reserves the right to cancel this RFP and any subsequent award prior to the time of entering into a contract. In no event shall the County have any liability resulting there from. The Proposer assumes the sole risk and responsibility for all expenses or liabilities that have been or may be incurred in connection with this RFP.

VI. REJECTION OF PROPOSALS

The County reserves the right to reject any or all responses to this Request for Proposal.

VII. SAMPLE GENERAL CONTRACT TERMS

A sample Benton County Contract, setting forth sample general contract terms not specific to this RFP, is attached to this RFP. Inclusion of this contract is provided for general information purposes only and shall not be construed as a representation that the County will agree to any particular term contained therein at the time of contract negotiations. Specific project contract terms and conditions may be negotiated.

VIII. DISPUTES

In case of any doubt or differences of opinions as to the items or service to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of the County shall be final and binding upon all parties subject to the proposer's right to judicial review.

IX. COLLUSION

By submitting a response to this RFP, Proposer certifies that no officer, agent, or employee of the County has a financial interest in its proposal; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer and that the Proposer is competing solely on its own behalf without connection with, or obligation to, any undisclosed person or firm.

X. PROPOSALS AND QUESTIONS ARE PUBLIC RECORDS

By submitting a response or a question in conjunction with this RFP, Proposer acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, RCW 42.56 *et seq.* Accordingly, Proposer understands that to the extent a proper request is made, the County may be required by virtue of that Act to disclose any records actually in its possession or deemed by judicial determination to be in its possession, which may include records provided to the County by Proposer that Proposer might regard as confidential or proprietary. To the extent that Proposer provides any records to the County that it regards as confidential or proprietary, it agrees to conspicuously mark the records as such. Proposer also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of County's release of records covered under the Public Records Act. County agrees to take all reasonable steps to notify Proposer in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by Proposer as confidential or proprietary, so that Proposer may seek a judicial order of protection if necessary.

**Following pages are
Attachments
To
RFP**

- A) Cover Sheet and Certification of Proposal
- B) General Release of Liability
- C) Affirmation Action Contract Compliance Statement
- D) General Information
- E) Sample Contract – General Terms

Attachment A

COVER SHEET AND CERTIFICATION OF PROPOSAL

To: THE BOARD OF BENTON COUNTY COMMISSIONERS
BENTON COUNTY, WASHINGTON

The undersigned, an officer/principal partner/proprietor hereby certifies on behalf of _____ that I/we have carefully read the entire Request for Proposal, including the Call, Overview and Schedule; Scope of Work; Proposal Instructions and Evaluation; General Requirements; and attachments relating to the inmate phone services for the Benton County Bureau of Corrections at 7122 W. Okanogan PI #B, Kennewick, WA, and thoroughly understands the same; and hereby submits the following proposal offering to provide such services.

(Please submit your proposal price as an annual amount without sales tax on this form.)

_____ (\$ _____)

FIRM
NAME: _____

Circle one that applies: Proprietorship Partnership LLC Corporation

ADDRESS: _____

STATE OF INITIAL ORGANIZATION IF AN INDEPENDENT ENTITY REGISTERED WITH A SECRETARY OF STATE _____

SIGNATURE(s) of AUTHORIZED OFFICIAL(s):

Signature: _____ Telephone: _____

Print Name: _____ Title: _____

Signature: _____ Telephone: _____

Print Name: _____ Title: _____

CONTACT PERSON: _____ Telephone: _____

Attachment B

**BENTON COUNTY BUREAU OF CORRECTIONS
General Release of Liability**

The undersigned recognizes that there are certain hazards and risks inherent with entering and/or working within the confines of the Benton County Corrections facility. The undersigned acknowledges that despite the recognition of such risks, he/she wishes to enter and conduct business within the Benton County Corrections facility as part of his/her employment with _____ and does execute this waiver in that context.

FOR AND IN CONSIDERATION FOR being allowed entry into the Benton County Bureau of Corrections, Detention Unit, I, _____, the undersigned, jointly and severally, hereby, for myself and the marital community if any, heirs, executors, administrators, successor and assigns, forever fully release and discharge BENTON COUNTY, WASHINGTON and its agents, servants and officers, of and from any and all actions, causes of action, claims, suits, demands, rights, damages, costs, losses, expenses or compensation whatsoever, in law or in equity, which I or our heirs, executors, administrators, successors or assigns, now have or may hereafter have in any way resulting from or growing out of any claim that might result from my admission into the Benton County Bureau of Corrections, Detention Unit, located at 7122 W. Okanogan PI #B, Kennewick, Washington.

I THE UNDERSIGNED, HAVE READ THE FOREGOING GENERAL RELEASE AND UNDERSTAND ITS PROVISIONS.

I declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this _____ day of _____, 2010.

Name

(City and State where Signed)

Firm Name

Attachment C

AFFIRMATIVE ACTION CONTRACT COMPLIANCE STATEMENT

Contractors who desire to provide the Benton County Bureau of Corrections with supplies and/or professional services must comply with the following affirmative action contract requirements. During performance of this contract, the Contractor agrees as follows:

- 1) The Contractor agrees to comply with all local, state, and federal laws prohibiting discrimination with regard to race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- 2) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, or mental or physical handicap. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- 3) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration or employment without regard to race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- 4) The Contractor will send to each labor union or representative or workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractors affirmative action commitments, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5) Any Contractor who is in violation of these requirements, or an applicable Affirmative Action Program shall be barred forthwith from receiving awards of any purchase order from BCJ, or shall be subject to other legal action or action or contract cancellation unless a satisfactory showing is made that discriminatory practices, or noncompliance with applicable affirmative action programs, have terminated, and that reoccurrence of such acts is unlikely. This includes compliance with Section 503 and 504 of the Vocational Rehabilitation Act of 1973 and Section 2012 and 2014 of the Vietnam Era Veterans Readjustment Act of 1974.

ACKNOWLEDGEMENT: The Undersigned acknowledges that he/she has read and understands the foregoing.

SIGNATURE

DATE

FIRM NAME

Attachment D

FSMC Prototype (12/99)

GENERAL INFORMATION

Business Style of Proposer

The party who submits this proposal and to whom the contract may be awarded is, and notice of selection of negotiations with County should be mailed or delivered to:

NAME (legal name of person, firm or corporation submitting proposal) [REDACTED]	
<input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> LLC	STATE OF WASHINGTON, UBI NUMBER [REDACTED]
ADDRESS [REDACTED]	PHONE NUMBER [REDACTED]
	FAX NUMBER [REDACTED]

Signature: _____
Authorized Signature

_____ [REDACTED] _____ [REDACTED]
Name Printed or Typed Date

Attachment E

|

SAMPLE

**PERSONAL SERVICES CONTRACT
TERMS AND CONDITIONS**

THIS CONTRACT is made and entered into by and between BENTON COUNTY, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **[name of contractor and contractor's legal form, i.e. Alnc≅ or ALLC≅ if applicable]**, with its principal offices at **[contractor's address]**, (hereinafter "CONTRACTOR").

In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. CONTRACT DOCUMENTS

This Contract consists of the following documents:

- a. **[Terms and Conditions;]**
- b. **[Exhibit A, Scope of Work; and]**
- c. **[Exhibit B, Compensation.]**

2. DURATION OF CONTRACT

The term of this Contract shall begin **[insert date]**, and shall expire on **[date]**. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

- a. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit "A, Scope of Work", which is attached hereto and incorporated herein by reference.
- b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.
- c. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.
- d. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- e. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status

reports and other information that may be pertinent and necessary, or as may be requested by the COUNTY.

4. CONTRACT REPRESENTATIVES

Each party to this Contract shall have a contract representative. Each party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

- a. For CONTRACTOR: **[Insert name and address]**
- b. For COUNTY: **[Insert name and address]**

5. COMPENSATION

For the services performed hereunder, the CONTRACTOR shall be paid as follows:

- a. A detailed description of the compensation to be paid by the COUNTY is set forth in Exhibit B, "Compensation", which is attached hereto and incorporated herein by reference.
- b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed \$_____.
- c. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.
- d. The CONTRACTOR may, in accordance with **[Exhibit B]**, submit invoices to the COUNTY not more than once per month during the progress of the work for partial payment of the work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt.
- e. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.
- f. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.
- g. Unless otherwise provided in this Contract or any exhibits or attachments hereto, the CONTRACTOR will not be paid for any billings or invoices presented for services rendered prior to the execution of this Contract or after its termination.

6. **AMENDMENTS AND CHANGES IN WORK**

- a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.
- b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

7. **HOLD HARMLESS AND INDEMNIFICATION**

- a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the CONTRACTOR'S acts, errors or omissions in the performance of this Contract. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents.
- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section 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 subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTOR'S obligations under this Section [7] shall survive termination and expiration of this Contract.**
- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

8. INSURANCE

- a. **Professional Legal Liability:** Prior to the start of work under this Contract, the CONTRACTOR, if he, she or it is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) per occurrence, loss or person. If the policy contains a general aggregate or policy limit it shall be at least two times the incident, loss or person limit.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract. The policy shall state that coverage is claims made, and state the retroactive date. CONTRACTOR is also required to buy claims made professional liability insurance for a period of 36 months after completion of this Contract, which can be satisfied by the continuous purchase of the above referenced insurance or an extended reporting period policy. CONTRACTOR shall annually provide COUNTY with proof of all such insurance.

- b. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance.

If CONTRACTOR, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and COUNTY incurs fines or is required by law to provide benefits to or obtain coverage for such employees, CONTRACTOR shall indemnify the COUNTY. Indemnity shall include all fines, payment of benefits to CONTRACTOR or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to COUNTY by CONTRACTOR pursuant to the indemnity agreement may be deducted from any payments owed by COUNTY to CONTRACTOR for performance of this Contract.

Certain work or services under this Contract may require insurance coverage for long shore or harbor workers other than seaman as provided in the Long Shore and Harbor Workers Compensation Act [33 U.S.C.A. Section 901 et seq.]. Failure to obtain coverage in the amount required by law may result in civil and criminal liabilities. CONTRACTOR is fully responsible for ascertaining if such

insurance is required and shall maintain insurance in compliance with that Act. CONTRACTOR is responsible for all civil and criminal liability that may arise from the failure to maintain such coverage.

Certain work or services under this Contract may require insurance coverage for seamen injured during employment resulting from the negligence of the owner, master or fellow crew members as provided in 46 U.S.C.A. Section 688. Failure to obtain coverage in the amount required by law may result in civil and criminal liabilities. CONTRACTOR is fully responsible for ascertaining if such insurance is required and shall maintain insurance in compliance with that Act. CONTRACTOR is responsible for all civil and criminal liability that may arise from the failure to maintain coverage.

- c. **Commercial General Liability and Employers Liability Insurance:** Prior to the start of work under this Contract, CONTRACTOR shall maintain commercial general liability coverage (policy form CG0001 or equivalent) for wrongful death, bodily injury, personal injury and property damage, subject to limits of not less than one million dollars (\$1,000,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than two million dollars (\$2,000,000).

The general commercial liability policy will contain an endorsement naming the COUNTY as an additional insured (CG2010) and an endorsement that specifically states that CONTRACTOR's general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTY.

The CONTRACTOR will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section [7]. Specialized forms specific to the industry of the CONTRACTOR will be deemed equivalent; provided, coverage will be no more restrictive than would be provided under a standard commercial general liability policy and will include contractual liability coverage.

If CONTRACTOR has any employees, CONTRACTOR also shall maintain employers liability insurance with limits of not less than one million dollars (\$1,000,000) each incident for bodily injury by accident or one million dollars (\$1,000,000) each employee for bodily injury by disease.

- d. **Automobile Liability:** [This section required if services involve the use of vehicles by CONTRACTOR or the transportation of COUNTY employees or third parties]. The CONTRACTOR shall maintain business automobile liability insurance with a limit of not less than one million dollars (\$1,000,000) per accident, using a combined single limit for bodily injury and property damages. Such coverage shall cover liability arising out of AAny Auto.≡ CONTRACTOR waives all rights against the COUNTY for the recovery of damages to the extent they are covered by business auto liability.
- e. **Other Insurance Provisions:**

- (1) The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.
- (2) The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
- (3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
- (4) The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (5) The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- (6) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
- (7) The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract, except for professional liability under Section **[8(a)]**, shall be written on an Occurrence Policy form. Professional liability insurance on a Claims Made form shall have a retroactive date prior to or coincident with the effective date of this Contract.

f. **Verification of Coverage and Acceptability of Insurers:** All insurance required under this Contract shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best=s Reports. Any exception to this requirement must be reviewed and approved in writing by the Benton County Risk Manager. If an insurer is not admitted to do business within Washington State, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

- (1) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered Accord form certificates of insurance and, if requested, a signed policy endorsement(s) which shall clearly evidence all required insurance prior to commencing work under this Contract. The certificates will, at a minimum, list limits of liability and coverage. For any professional liability insurance, the CONTRACTOR agrees that the insurance contract will not be canceled or allowed to expire except on

twenty-eight (28) days prior written notice to the COUNTY by the CONTRACTOR. For other insurance policies, CONTRACTOR shall not cancel or allow the insurance contract to expire except on forty-five (45) days prior written notice to the COUNTY. CONTRACTOR shall also instruct the insurer to give the COUNTY forty-five (45) days advanced written notice of any cancellation by the insurer. The certificate or endorsement shall not limit or negate the insurer's obligation as required by law to notify the COUNTY as an additional insured of cancellation.

- (2) The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.
- (3) Certificates of insurance shall show the certificate holder as "Benton County" and include "c/o" the COUNTY'S Contract Representative. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- (4) If the CONTRACTOR or any subcontractor or sub-subcontractor has any employees, CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.
- (5) All written notices under this Section **[8]** and notice of cancellation or change of required insurance coverage's shall be mailed to the COUNTY at the following address:

Benton County Risk Manager/Personnel Dept.
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336
- (6) The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager.
- (7) If CONTRACTOR is self-insured for worker's compensation coverage, evidence of its status as a self-insured entity shall be provided to COUNTY. If requested by COUNTY, CONTRACTOR must describe its financial condition and the self-insured funding mechanism.

9. TERMINATION

- a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for all cost incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this

Contract.

- b. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.
- c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may immediately terminate this Contract by so notifying the CONTRACTOR, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

10. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

- a. The CONTRACTOR shall perform the terms of this Contract using only its bona fide employees or agents, and the obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the COUNTY.
- b. The CONTRACTOR warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time. All waivers of any provision(s) of this Contract shall be in writing and in the absence of such, no action or inaction shall be construed to be such a waiver.

12. INDEPENDENT CONTRACTOR

- a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an independent contractor and not as an agent, employee or servant of the COUNTY. The CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.
- b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section [5] of this Contract, and neither the CONTRACTOR nor its employees are entitled to any COUNTY benefits, including, but not limited to:

vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to COUNTY employees.

- c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be or deem to be or act or purport to act as an employee, agent, or representative of the COUNTY.
- d. CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state or local law which are now or may be enacted during the term of this Contract.
- e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S contract representative or designee.

13. COMPLIANCE WITH LAWS

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.

14. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes.

15. NONDISCRIMINATION

The CONTRACTOR, its assignees, delegates, or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of age, sex, marital status, sexual orientation, race, creed, religion, color, national origin, honorably discharged veteran or military status, disability, or any other protected status.

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

- a. All reports, drawings, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work under this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the COUNTY. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The COUNTY agrees that if it uses any materials prepared by the CONTRACTOR for purposes other than those intended by this Contract, it does so at its sole risk and it agrees to hold the CONTRACTOR harmless there from to the extent such use is not agreed to in writing by the CONTRACTOR.

- b. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request or at the end of the job using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the COUNTY, where such action is based on the claim that information supplied by the CONTRACTOR or subcontractor infringes any patent or copyright. The CONTRACTOR shall be notified promptly in writing by the COUNTY of any notice of such claim.

18. DISPUTES

Disputes between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

19. CONFIDENTIALITY

The CONTRACTOR, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the COUNTY or acquired by the COUNTY in performance of this Contract, except upon the prior written consent of the COUNTY or an order entered by a court of competent jurisdiction. The CONTRACTOR shall promptly give the COUNTY written notice of any judicial proceeding seeking disclosure of such information.

20. CHOICE OF LAW, JURISDICTION AND VENUE

- a. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.
- b. Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

21. SUCCESSORS AND ASSIGNS

The COUNTY, to the extent permitted by law, and the CONTRACTOR each bind themselves, their partners, successors, executors, administrators, and assigns to the other party to this Contract and to the partners, successors, administrators, and assigns of such other party in respect to all covenants to this Contract.

22. SEVERABILITY

- a. If a court of competent jurisdiction holds any part, term or provision of this

Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

- b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

23. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

24. NOTICES

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in the Contract Representatives Section of this Contract. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be given three days following the date of mailing or immediately, if personally served. For service by facsimile, service shall be effective at the beginning of the next working day.

25. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, indemnification provisions (Sections [7] and [17]); extended reporting period requirements for professional liability insurance (Section [8(a)]); inspection and keeping of records and books (Section [14]); litigation hold notice (Section [26]); Public Records Act (Section [27]) and confidentiality (Section [19]).

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section [14] of this agreement may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to Ahold such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule as set out above in Section [14].

27. PUBLIC RECORDS ACT

CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, RCW 42.56 *et seq.* Accordingly,

CONTRACTOR understands that to the extent a proper request is made, the COUNTY may be required by virtue of that Act to disclose any records actually in its possession or deemed by judicial determination to be in its possession, which may include records provided to the COUNTY by CONTRACTOR that CONTRACTOR might regard as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, it agrees to conspicuously mark the records as such. CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTY'S release of records covered under the Public Records Act. COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

The parties to this Contract have executed this Contract to take effect as of the date written below.

DATED: _____

DATED: _____

BENTON COUNTY BOARD OF COMMISSIONERS

CONTRACTOR
[Name of Contractor]

Chairman

[Print Name]
Title _____

Member

Member

Constituting the Board of
County Commissioners of Benton County, Washington.

Attest: _____
Clerk of the Board

Approved as to Form:

Deputy Prosecuting Attorney