

RESOLUTION

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BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING THE PERSONAL SERVICES CONTRACT TO TELMATE, LLC FOR INMATE PHONE SERVICES LOCATED IN THE BENTON COUNTY JAIL IN KENNEWICK, WA;

WHEREAS, the Benton County Sheriff's office solicited proposals for the inmate phone services to the Benton County Jail pursuant to the provisions of RCW 36.32.250; and

WHEREAS, Benton County Sheriff's Office received seven proposals on December 9, 2010 as provided in the Request for Proposal document; and

WHEREAS, the seven proposals were from the following organizations:

Consolidated Telecom, Inc., Irving, TX;
IC Solutions, San Antonio, TX;
American Phone Systems, Lafayette, TX;
*Global Tel*Link*, Mobile AL;
Securus Technologies, Hillsboro, OR;
Telmate, LLC, Graham, WA;
Lattice Incorporated, Redmond, OR; and

WHEREAS, the Support Lieutenant, Operation Lieutenant and Civil Lieutenant reviewed the bid proposals to determine which company provided the system that best suits the needs of the Benton County Jail at the best possible commission; and

WHEREAS, the Support Lieutenant, Operation Lieutenant and Civil Lieutenant recommend awarding the personal service contract to Telmate, LLC; **NOW, THEREFORE,**

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, the board concurs with the Benton County Sheriff's office and awards the personal services contract to Telmate LLC for inmate phone services, and

BE IT FURTHER RESOLVED the term of the attached contract commences April 1, 2011 and expires on December 31, 2012.

Dated this 7 day of March, 2011

TOM THOMPSON - ARSENT

Chairman of the Board

Member

Member

Attest:

Clerk of the Board

File: Original - Sheriff (History Documents)
cc: Auditors; R. Ozuna; Telmate

J. Thompson

**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 Telmate LLC., with its principal offices at 1108 SE 6th Street, Ontario, Oregon 97914, (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 immediately upon execution by all parties, and shall expire on December 31, 2012. 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.

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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: Kevin O'neil, President
108 SE 6th Street
Ontario, OR 97914
Phone: (253) 223-9871
Fax: (208) 379-7498
- b. For COUNTY: Al Thompson, Captain
7122 W. Okanogan Pl. Bldg B.
Kennewick, WA 99336
Phone: (509) 735-6555
Fax: (509) 736-3895

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. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.
- c. 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.
- d. 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.
- e. 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.
- f. 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.

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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.

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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 Any 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

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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". 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 Sheriff's Office
Attn: Julie Thompson
7122 W. Okanogan Place, Bldg. B
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.

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- 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.

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- 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 hold 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.

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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.

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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: 3-7-2011

DATED: 2/14/11

BENTON COUNTY BOARD OF COMMISSIONERS

CONTRACTOR
Telmate LLC.

Chairman

[Signature]

Member

[Signature]

Member

Kevin O'neil

Title President

Constituting the Board of
County Commissioners of Benton County, Washington

Attest: [Signature]
Clerk of the Board

Approved as to Form:

[Signature]
Deputy Prosecuting Attorney

ORIGINAL

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 Telmate 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.)

_____ (\$ 50.00)

FIRM NAME: Telmate

Circle one that applies: Proprietorship Partnership LLC Corporation

ADDRESS: 1108 SE 6th Street Ontario, Oregon 97914

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

SIGNATURE(s) of AUTHORIZED OFFICIAL(s):

Signature: _____

Telephone: 415 300 4013

Print Name: Christopher Ditto

Title: Vice President

Signature: _____


Telephone: _____

Print Name: _____

Title: _____

CONTACT PERSON: Christopher Ditto

Telephone: 415 300 4013

 ORIGINAL

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 Telmate 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.)

_____ (\$ 80.00)

FIRM
NAME: Telmate

Circle one that applies: Proprietorship Partnership LLC Corporation

ADDRESS: 1108 SE 6th Street Ontario, Oregon 97914

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

SIGNATURE(s) of AUTHORIZED OFFICIAL(s):

Signature: _____

Telephone: 415 300 4013

Print Name: Christopher Ditto

Title: Vice President

Signature: _____

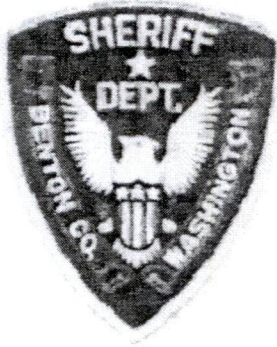
Telephone: _____

Print Name: _____

Title: _____

CONTACT PERSON: Christopher Ditto

Telephone: 415 300 4013



Inmate Phone System Proposal

SECURE INMATE TELEPHONE AND CALL MONITORING SYSTEM AND SERVICES

Request for Proposal: RFP No. CB 10-01
Prepared for: **Benton County, Washington**

Prepared by: Christopher Ditto, Telmate
December 6, 2010



Printed on recycled paper





Monday, December 6, 2010

Benton County Corrections
7122 W. Okanogan PI #B
Kennewick, WA 99336

Dear Mr. Guerrero,

Thank you for the opportunity to propose the Telmate Inmate Telephone System solution for the Benton County Correctional Facility.

We feel our solution offers Benton County the **best value and quality of service with:**

1. **Lower Rate/High Commission** – We are offering four price proposals for Benton County: one offers current rates with 70% of your average gross revenue for the past 24 months, the second offers 63% of gross call revenue with your existing rates, the third lowers instate rates with flat rate pricing and a 59% commission, and the fourth includes a cutting edge InnoVisit digital video visitation solution at no cost, with a 53% commission for 60 months.
2. **Voicemail** – Voicemail is a service whereby families and other approved outside parties (like attorneys) may leave confidential voice messages for inmates. This service saves hundreds of hours that officers currently spend relaying messages to the inmates in their facility.
3. **Increase Revenue & Volume** – Our increased calling options, generous customer service for friends & family, and inmate voicemail have been proven to increase call volume, which is good for everyone. For every facility that shares revenue from their ITS, Telmate has been able to increase that revenue.
4. **Free Calls** – Telmate will provide each inmate one free 3-minute call upon booking so they can notify their family of their whereabouts and condition. On the day of the changeover to our system, all inmates get free calls for 24 hours so that they can notify their families of the new phone system and how to place and pay for calls.
5. **Kiosks** – Telmate is offering one (1) lobby kiosk, two (2) booking kiosks, and twenty (20) secure inmate kiosks to Benton County. The labor saving benefits for the county from these three types of kiosks is tremendous.
6. **Streamline your SCAAP Award paperwork** – Benton County was reimbursed \$71,384.00 from the federal SCAAP Award program last year. Telmate can significantly reduce the administrative work necessary to participate in this program.
7. **Top Notch Service** – Telmate is focused on service. We monitor all circuits 24 hours a day and have developed our own trouble ticket and text messaging dispatch service to respond



quickly to any outage. Our field technicians will respond within two hours, and our US-based customer service representatives are available 24/7.

8. **Nationally Recognized** – We are nationally recognized company. Our customer references include the Department of Homeland Security, ICE division. Through this client, our inmate telephone solution services over 35,000 detainees located in over 200 facilities, nationwide.

In conclusion, we appreciate this opportunity to serve Benton County. We believe our proposal is fair because it either lowers or matches the existing calling rate for inmates and their families while increasing the return back to the County. As you will learn in the following detailed proposal, our system meets all of the required needs in the solicitation and we are offering enhanced services such as kiosks, free calls, and voice mail that are above and beyond the requested requirements.

We are confident that when you evaluate all the aspects of our proposal, you will find that **Telmate offers the best value option for Benton County.**

Sincerely,

Kevin O'Neil, President, Telmate

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To help you better understand the full capabilities of our impressive, cutting-edge solution, we've broken down our proposal into the following sections:

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About Us

Our History

In 1998 we founded Pinnacle Public Services—service and installation providers for inmate telecommunication systems. It was through this experience that we discovered a need in the industry for a streamlined, high-tech telecommunications solution. So in 2005, we decided to enter the market directly as Telmate, offering a new system designed from the ground up specifically for the correctional industry. Today's Telmate's solution offers the most advanced inmate telecom management solution available.

Throughout our years of service, we've developed a reputation for excellent customer service and leading edge technology. All of our customer service personnel, repair technicians and data systems are in-house and fully supported by the finest equipment in the industry. With our vast telecom experience, professional staff and on-location service personnel in 22 States, Telmate can offer your correctional facility unsurpassed inmate telecom management.

At Telmate, we are committed to providing your facility, inmates and the inmate's friends & family with the best telecommunications solution available. Further, we are committed to offering this solution at a fair price. We are constantly working with our clients to improve service and add new features and resources that not only benefit the facility, but the inmates as well.

We are led by proven executives with broad and diverse operational experience. They are the industry's best, and are honored to lead the talented men and women who are the heart of our company. Telmate's leadership will continue to direct us with great integrity, vision and wisdom.

From city and county jails to federal facilities, Telmate serves populations of all sizes— many exceeding 1,000 beds. With over 18,000 detainees, our largest account is the ICE (U.S. Immigration and Customs Enforcement) primary facilities. Currently, we provide service to over 80 correctional facilities across 22 US States and two Canadian Provinces.

We believe that our ability to provide the industry's best customer service (daily onsite service and real-time customer issue resolution), inmate calls at a fair price, and the most advanced inmate solution available uniquely positions us as the top choice for inmate services in the country. As we continue to break new ground and deliver new solutions, we're focused on delivering the high-quality customer service that is our trademark.

Recent News

Telmate Solution Selected for Montana Department of Corrections

November 2010 - Telmate has been selected as the exclusive calling and customer service solution used in all department of corrections facilities in the state of Montana.

Telmate Solution Provides Inmate Telephone Platform for all ICE & Department of Homeland Security

February 2010 - Telmate is the calling and customer service solution of choice for all Department of Homeland Security and all U.S. Immigration and Customs Enforcement (ICE) primary facilities. The contract includes 18 ICE facilities in 11 States, comprising more than 18,000 Detainees and over 1,100 phones. The software customization, software integration, hardware installation, and training was completed in less than 12 weeks. Additionally, we are in process of installing services to an additional 6,000 detainees throughout the US. Telmate completes more than 1 million calls per month at ICE facilities.

Telmate Solution used Exclusively for Two of Canadian Major Provinces

December 2009 - Telmate is now the exclusive calling and customer service solution used in all correctional facilities in Alberta and Saskatchewan provinces. The extensive software customization, software integration, hardware installation was completed in under two weeks and we are proud to have grown into a truly international company.

Where Telmate Is Installed

To date, our Telmate solution has been installed in facilities spanning 22 US states and two Canadian provinces.

Below is a list of all Federal, County and Local facilities where Telmate's services have been used over the past three years. Over the past three years, Telmate hasn't lost a customer, so our current facility list is also a list of all correctional facilities where our services have been used over the past three years.

The list expands frequently, so visit the following URL to see the very latest installations:

✦ <http://www.telmate.com/usa/clients>

US Installed Systems

Below is a map showing US states with detention Facilities that are currently using the Telmate ITS solution. A list of all facilities that use the Telmate ITS solution is included on the next page.



Alabama

- Albertville PD, AL
- Boaz City, AL
- Calhoun County, AL
- Cherokee County, AL
- Coosa County, AL
- Dallas County, AL
- Decatur City, AL
- Etowah County, AL
- Hale County, AL
- Lee County, AL
- Marshall County, AL
- Montgomery County, AL
- Morgan County, AL
- Shelby County, AL

Arizona

- Florence SPC, AZ

California

- San Diego Correctional, CA
- El Centro SPC, CA

Colorado

- Aurora Detention, CO

Florida

- Broward Detention, FL
- Krome Detention, FL

Georgia

- North Georgia, GA

Idaho

- Blaine County, ID
- Canyon County, ID
- SW Juvenile Detention Center, ID

- Elmore County, ID
- Fort Hall, ID
- Jerome County, ID
- Owyhee County, ID
- Payette County, ID
- Twin Falls County, ID
- Washington County, ID

Indiana

- Hamilton County, IN
- Hamilton County CC, IN
- Miami County, IN

Kentucky

- Marion County, KY

Montana

- Cascade County, MT
- Gallatin County, MT

Nebraska

- Buffalo County, NE

Nevada

- Nye County, NV

New Jersey

- Elizabeth Detention, NJ

New Mexico

- Otero County SPC, NM

New York

- Buffalo Federal, NY

Oklahoma

- Oklahoma County, OK

Oregon

- Baker County, OR

- Malheur County, OR
- Marion County, OR
- Tillamook County, OR
- Washington County, OR

Texas

- Aransas County, TX
- Bandera County, TX
- El Paso SPC, TX
- Fayette County, TX
- Medina County, TX
- Port Isabel Detention, TX
- San Antonio, TX
- South Texas Detention
- Victoria County, TX
- Willacy Detention, TX
- Houston Processing, TX

Utah

- Sanpete County, UT
- Uintah County, UT

Washington

- Clark County, WA
- Kitsap County, WA
- Northwest Detention (Tacoma), WA
- Skagit County, WA

Wisconsin

- Rock County, WI

Wyoming

- Albany County, WY
- Campbell County, WY