

APPENDIX C - SAMPLE AGREEMENT



Spokane County

WASHINGTON

Department Of Purchasing

1211 W. Gardner Ave., Spokane, WA 99260

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**PROFESSIONAL/PURCHASED SERVICES AGREEMENT
CONTRACT NUMBER P11092**

TITLE: Inmate Phone, Video Visitation and Visitation Administration Project

Estimated Contract Value: \$TBD

Estimated Completion Date: Midnight, ?date

Contract Type: Indefinite Quantity Indefinite Delivery Fixed Unit Prices from an annualized budget with a quarterly reconciliation.

COUNTY:

Spokane County Washington
C/O Spokane County Purchasing Department
1101 W. College Ave., Suite 241B
Spokane, WA 99201

County Contract Administrator: John McGrath, Detention Services Director, Phone: (509) 477-2337
Email: jmcgrath@spokanecounty.org

County Project Manager: Ken Mohr, IT Project Manager, Phone: (509) 477-4126
Email: kmohr@spokanecounty.org

County Contract Facilitator: Victor Leamer, Senior Buyer, Phone: (509) 477-3693
Email: vleamer@spokanecounty.org

CONTRACTOR:

[?Firm name]

[address]

Contact: [?name, title, Phone: (509) ?, Fax: (509) ?

E-mail: ?

WHEREAS, pursuant to the provisions of the Revised Code of Washington, the Board of County Commissioners has the care of County property and the management of County funds and business; and

WHEREAS, Department of Utilities desires to enter into an Agreement with a Contractor who will provide operational Inmate Phone, Video Visitation and Visitation Administration Solutions.; and.

WHEREAS, this Agreement is made pursuant to Request For Proposal (RFP) P11092 and [[?Resolution number [?] dated [?date] as of [?date]] by and between Spokane County, a political subdivision of the State of Washington hereinafter known as the “County” having offices for the transaction of business as listed above and the “Contractor” having offices for the transaction of business as listed above, jointly, hereinafter referred to as the “Parties”.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, the Parties mutually agree as follows:

ARTICLE 1. SERVICES

A. The County hereby engages the Contractor to provide professional/ services as set forth in Appendix A titled “Project Specifications and Scope of Work” attached hereto and incorporated herein by reference and recognizing that time is of the essence in the performance of the work.

B. Services of the Contractor shall be under the general direction of the Contract Administrator, who shall act as the County's representative during the performance of this Contract.

ARTICLE 2. TERM/SCHEDULE

The first term of the Contract will run through May 30, 2024. This Agreement may be renewed up to five (5) additional one-year terms. The County retains the sole option to tender an offer to renew this Agreement for an additional term and shall make notice of such intent approximately sixty (60) days prior to the expiration of the current term. Renewals to be exercised at the sole discretion of Spokane County.

ARTICLE 3. COMPENSATION

A. The County agrees to make payment in the amount and manner stipulated in the agreement. There will be no initial payment. Payments shall be made in monthly installments payable after review by the purchasing department and authorization by the head of the department that has budget authority for the work being performed. Said authorization shall be conditioned upon the submittal of an invoice setting forth a breakdown of the services and costs performed in providing the services as set forth.

The method of payment will be at the County's sole discretion using any of the following methods:

- a) By warrant (check);
- b) The County's credit card – otherwise referred to as “payment card” or “P-Card”;
- c) Automated Clearing House (ACH);
- d) Electronic Payment (E-Payment, also referred to as e-Payables).

The pricing submitted by the vendor and accepted by the County is inclusive of applicable payment terms, as well as, any and all fees incurred by the vendor in accepting any of the above referenced payment methods. No additional fees or charges shall apply outside of the annualized operating budget or startup cost estimates prior to operation, unless otherwise preapproved by the County. Additionally, unless otherwise set forth in the bid, quote, submittal, and accepted by the County in the contract,

payments shall be made in arrears and with payment terms of "Net 30 Days" from the date that the County receives a correct and accurate invoice. An accurate invoice must, in part, reference a valid County contract/agreement or purchase order number.

B. Payment shall be in arrears the later of 30 days from the date of receipt of a correct and proper invoice or date of receipt of acceptable goods/services (not from the postmark date or date shown on the invoice). All billing and correspondence shall be mailed to Spokane County Utilities Department, street, city, state, zip. All billing and correspondence will clearly display the county contract number.

C. Only payments for services performed are allowed. The Contractor shall invoice the County after the last day of the month for which services were rendered.

D. Cash discounts: If offered and accepted a cash discount period shall apply after receipt of a proper invoice or final acceptance of the goods/services, whichever is later (not from the postmark date or date shown on the invoice).

E. Date of payment of an invoice shall be the date appearing on the warrant issued in payment of the invoice.

F. Moneys past due may bear a finance charge as stipulated by law. The current rate is 1% per month.

G. Contract pricing (fees, commissions, mark-ups, etc.) will remain Firm for the first term of the contract.

ARTICLE 4. PRICE ESCALATION

A. The Contract prices will remain firm for the first year of the Contract. A request for a price escalation will: 1) only be considered for subsequent years; and 2) must be submitted at least sixty (60) days prior to the end of a current year; and 3) must be approved by the Parties prior to the next year effective date; and 4) will only be allowed on a pass-through basis (does not result in a higher profit margin than that reflected in the prices awarded in the original proposal. The Contractor will be required to provide sufficient documentation to justify the requested price escalation(s) Spokane County will determine the acceptability of sources. Documentation will include a cost proposal in sufficient detail for the County to perform a cost/price analysis upon which the original proposal was made. An evaluation and/or audit will be performed on the cost proposal as well as other submitted documentation in order to determine if the requested price increase(s) is fair and reasonable. Approval of a price escalation request will be at the sole discretion of Spokane County. Retroactive price increase adjustments will not be considered. In summary, adjustments to pricing shall be the result of increases at the manufacturer's level or payroll paid wage rate level, incurred after the Contract commencement date that: 1) will not yield a higher profit margin than that reflected in the prices awarded in the original proposal; and 2) clearly identifies the items impacted by the increase; and 3) is accompanied by documentation, acceptable to Spokane County.

B. If the County does not find the documentation sufficient to support a price escalation request on a pass through basis the County reserves the option to counter offer with an percentage increase up to but not to exceed the percentage based upon the movement of the unadjusted figures of the U.S. Department of Labor Consumer Price Index for all Urban Consumers (CPI-U, U.S. City Average) hereafter called the CPI. The movement period will be of the CPI for the 12-month period ending three months prior to the end of the current term of the contract. The contract price changes, if agreed to by both Parties, shall be

binding on the contractor for the subsequent contract year should it be awarded.

C. This escalation/de-escalation provision and its methodology shall be considered to mean and apply to price decreases as well as increases. Price decreases may be considered and implemented at any time during the term of the contract if agreed to by both Parties. If a contract is operating on pricing resulting from the use of the CPI the County reserves the right to initiate a request for a price decrease, based upon the CPI, at any time.

D. Approved price changes will be put into effect through the use of a change order to the Contract.

E. Failure to reach agreement on a request for an increase or decrease in price(s) can, at the sole option of the County, terminate the Contract under the provisions for termination without cause.

ARTICLE 5. PERSONNEL

A. The Contractor represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the County.

B. All of the services required herein under shall be performed by the Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

C. Any changes or substitutions on the Contractor's key personnel as may be listed herein must be made known to the County's Contract Manager prior to execution with written noted to the County before said change or substitution can become effective.

D. The Contractor warrants that all services shall be performed by skilled and competent personnel who shall meet or exceed the professional standards in the field(s) of the work and that services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work.

ARTICLE 6. CONTRACTOR'S STANDARD OF CARE

A. The standard of care applicable to Contractor's services will be the degree of skill and diligence normally employed by professional Contractors performing the same or similar services at the time said services are performed.

B. The Contractor shall be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all reports, plans, specifications and other services furnished by the Contractor under the terms of this Agreement.

C. The Contractor shall, without additional compensation, correct or otherwise revise any errors, omissions, or other deficiencies in the reports, plans, specifications and other similar documents/data prepared or furnished by the Contractor. The Contractor shall also be liable for all damages to the County or the State of Washington, caused solely by Contractor's negligent performance of any of the services furnished under this Agreement.

D. Approval by the County of any reports, plans, specifications and incidental consulting work or materials furnished shall not relieve the Contractor of the responsibility for the technical adequacy and accuracy of their work.

E. The County's review, approval or acceptance of, nor payment for, any of the Contractor's services shall not be construed as a waiver of any rights under this Agreement or any cause of action arising out of the performance of this Agreement.

ARTICLE 7. SUBCONTRACTING

A. The County reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor in order to make a determination as to the capability of the subcontractor to perform properly under this Contract.

B. If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the Contractor shall promptly do so, subject to acceptance of the new subcontractor by the County.

ARTICLE 8. AUTHORITY TO PRACTICE

The Contractor hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the County upon request.

ARTICLE 9. NON-SOLICITATION AGREEMENT

Each Party understands that the other Party's individual employees are some of the most valuable assets within their organization, responsible for the creative forces behind each Party's advancements in technology and business development. Recognizing the value each Party places on its individual employees and each Party's interest in retaining its employees, it is agreed that during the term of this Agreement, neither Party shall, directly or indirectly, induce or try to induce any employee of the other Party to leave the employment of the other Party or that of any of its subsidiaries or affiliates to work for another person or company that does or may be expected to compete with the non-soliciting Party or any of its subsidiaries or affiliates.

ARTICLE 10. OBLIGATIONS OF THE COUNTY

A. The County shall provide the Contractor with all data in the County's possession, including but not limited to, reports, plans, maps, and other information needed by the Contractor to perform its services under this Agreement. The Contractor is entitled to reasonably rely upon the accuracy and timeliness of the information supplied by the County.

B. The County will examine all studies, reports, plans, specifications, proposals and other documents presented by the Contractor, obtain such advice as the County deems appropriate for such examination, and render decisions pertaining thereto within a reasonable time.

ARTICLE 11. INSTRUMENTS OF SERVICE

A. Drawings, specifications and other documents, including those in electronic form, prepared by the Contractor and the Contractor's consultants are Instruments of Service. The County shall own all rights, title and interest in all of the Instruments of Service and all of the other materials conceived or created by the Contractor, or its employees or subcontractors, either individually or jointly with others and which arise out of the performance of this contract, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically, magnetically or digitally recorded material, and other work in whatever form (hereafter "Materials"). All finished or unfinished Materials prepared by the Contractor under this Agreement shall be the property of the County whether or not the Project is completed or this Agreement is canceled prior

to expiration.

B. The Contractor hereby assigns to the County all rights, title and interest to the Materials. The Contractor shall, upon request of the County, execute all papers and perform all other acts necessary to assist the County to obtain and register copyrights, patents or other forms of protection provided by law for the Materials such work being at additional expense to the County. The Materials created under this Agreement by the Contractor, its employees or subcontractors, individually or jointly with others, shall be considered "works made for hire" as defined by the United States Copyright Act. All of the Materials, whether in paper, electronic, or other form, shall be remitted to the County by the Contractor, its employees and any subcontractors, and the Contractor shall not copy, reproduce, allow or cause to have the Materials copied, reproduced or used for any purpose other than performance of the Contractor's obligations under this Agreement without the prior written consent of the County's Designated Representative except that the Contractor may retain copies necessary for record keeping, documentation and other such business purposes related to the Agreement.

C. The foregoing shall not be construed to mean that the County shall acquire an exclusive possessory right, by copyright or otherwise, to the exclusion of the Contractor, in standard elements found in the Materials (such as standard details) generated and authored by the Contractor for its regular, repeated and ongoing use in designs, plans and drawings for its customers in the regular course of its business. The County further waives any claim it might have against the Contractor for errors or omissions arising specifically from changes made by the County or others to the Materials after the completion of the work provided by this Agreement. This waiver does not extend to errors or omissions in the Materials unrelated to any such changes by the County or others.

D. The Contractor represents and believes that Materials produced or used under this Agreement do not and will not infringe upon any intellectual property rights of another, including but not limited to patents, copyrights, trade secrets, trade names, and service marks and names. The Contractor shall indemnify and defend the County at the Contractor's expense from any action or claim brought against the County to the extent that it is based on a claim that all or part of the Materials infringe upon the intellectual property rights of another. The Contractor shall be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages including, but not limited to, reasonable attorney fees arising out of this Agreement, amendments and supplements thereto, which are attributed to such claims or actions. This paragraph shall not apply to claims that arise from Materials specifically required by the County, or to portions of the Materials which the County directed the Contractor to include within said Materials.

E. If such a claim or action arises, or in the Contractor's or the County's opinion is likely to arise, the Contractor shall, at the County's discretion, either procure for the County the right or license to continue using the Materials at issue or replace or modify the allegedly infringing Materials. This remedy shall be in addition to and shall not be exclusive to other remedies provided by law.

F. At the completion of the Agreement, upon request of the County, the Contractor will furnish to the County, at no additional charge, two electronic copies on CD containing the final specifications in Microsoft Word 2000 (PC based) or newer and all CAD drawing files in .dwg format no older than one version previous to the current software version.

G. The Contractor shall ensure that the substance of foregoing subsections is included in each subcontract for the Work under this Contract.

ARTICLE 12. PROPRIETARY RIGHTS

The Parties agree that if any patentable or copyrightable materials or articles should result from the work described herein, all rights accruing from such material or articles shall be the sole property of the County. The County, in its absolute and sole discretion, may grant to Contractor, an irrevocable, non-exclusive and royalty-free license to use, according to law, any material or article and use any method that may be developed as part of the work under this contract. The foregoing license shall not apply to existing training materials, consulting aids, checklists and other materials and documents of Contractor developed or modified for use prior to the full execution of this contract, and unrelated to prior contracts with the County.

ARTICLE 13. APPROVAL OF DOCUMENTS

The County's approval of any documents resulting from the services provided by the Contractor shall not relieve the Contractor from its responsibility to comply with the standard of care for performance of its services set forth in this Agreement.

ARTICLE 14. DISCLOSURE

A. The Contractor shall deliver to the County for approval and acceptance, and before eligible for final payment of any amounts due, all documents and materials prepared by and for the County under this Contract. All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the County or at its expense will be kept confidential by the Contractor and will not be disclosed to any other party, directly or indirectly, without the County's prior written consent unless required by a lawful order.

ARTICLE 15. NON-DISCRIMINATION

The Contractor shall not discriminate against any employee who is employed in connection with the work, or against any applicant for such employment, because of race, creed, color, sex, sexual orientation, national origin, marital status, or the presence of any sensory, mental or physical handicap.

ARTICLE 16. INSURANCE

Insurance will be provided in accordance with the specifications, terms, and conditions set forth in Appendix D.

ARTICLE 17. MAINTENANCE OF RECORDS

The Contractor will maintain, for at least three (3) years after completion of this contract, all relevant records pertaining to the contract. The Contractor shall make available to the County, the Washington State Auditor, the United States Department of the Interior Bureau of Reclamation or the Comptroller General of the United States or their duly authorized representatives, at any time during their normal operating hours, all records, books or pertinent information which the Contractor shall have kept in conjunction with this Agreement and which the County may be required by law to include or make part of its auditing procedures, an audit trail or which may be required for the purpose of funding the services contracted for herein.

ARTICLE 18. COMPLIANCE WITH LAWS

The Parties hereto specifically agree to observe federal, state and local laws, ordinances and regulations including but not limited to those pertaining to civil rights to the extent that they may have any bearing on either the provision of money under the terms of this Agreement or services provided under the terms of this Agreement.

ARTICLE 19. ASSIGNMENT

The Contractor may not, without the express written consent of the County, assign, sublet or transfer in whole or in part his interest in this Agreement.

ARTICLE 20. MODIFICATION OF THE AGREEMENT

No modification or amendment to this Agreement shall be valid until the same is reduced to writing, in the form of an amendment, and executed with the same formalities as this present.

ARTICLE 21. MODIFICATIONS OF WORK

A. The County reserves the right to make changes in the Work, including alterations, reductions therein or additions thereto. Upon receipt by the Contractor of the County's notification of a contemplated change, the Contractor shall (1) if requested by the County, provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify the County of any estimated change in the completion date, and (3) advise the County in writing if the contemplated change shall effect the Contractor's ability to meet the completion dates or schedules of this Contract.

B. If the County so instructs in writing, the Contractor shall suspend work on that portion of the Work affected by a contemplated change, pending the County's decision to proceed with the change.

C. If the County elects to make the change, the County shall issue a Contract Amendment or Change Order and the Contractor shall not commence work on any such change until such written amendment or change order has been issued and signed by each of the Parties.

ARTICLE 22. EXCUSABLE DELAYS

A. The Contractor shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the Contractor's control and without its fault or negligence. Such causes may include, but are not limited to: acts of God; the County's omissive and commissive failures; natural or public health emergencies; labor disputes; freight embargoes; and severe weather conditions.

B. Upon the Contractor's request, the County shall consider the facts and extent of any failure to perform the work and, if the Contractor's failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the County's rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 23. AVAILABILITY OF FUNDS

The County's performance and obligation to pay under this Contract is contingent upon the availability of an appropriation for this purpose by the United States Department of the Interior Bureau of Reclamation. In the event of non-appropriation of funds for the services provided under the Agreement, the County will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Contractor on receipt of notice (verbal or written) from the contract manager to the extent specified.

ARTICLE 24. TERMINATION

A. The Agreement may be terminated in whole or in part under the following conditions: 1) by mutual written agreement; 2) by the County for breach by the Contractor of any of the obligations or requirements set forth in the contract documents which would, at the option of the County, require the

Contractor to assume liability for any and all damages, including the excess of re-procuring similar products or services; 3) for convenience of the County; or 4) by the County for non-appropriation of funds.

B. Cancellation for convenience. The County may cancel this Agreement upon written notice. The Contractor may cancel this Agreement upon thirty (30) consecutive calendar day written notice.

C. Cancellation with cause. This Agreement may be terminated by the County with cause immediately upon written notice to the Contractor. Unless the Contractor is in breach of this Contract, the Contractor shall be paid for services rendered to the County's satisfaction through the date of termination. Work in progress would be completed at the County's option.

D. Upon termination of the Contract the Contractor will: 1) stop work on the date and to the extent specified; and 2) terminate and settle all orders and subcontracts relating to the performance of the terminated work; and 3) transfer all work in process, completed work, and other material related to the terminated work to the County; and 4) Continue and complete all parts of the work that have not been terminated; and 5) surrender to the County all files, exhibits, and documents maintained or prepared in conjunction with the provision of services under this Agreement; and 6) surrender and return any County owned and furnished equipment used in conjunction with the provision of services under this Agreement.

ARTICLE 25. TERMINATION WITHOUT CAUSE

Notwithstanding any other provisions contained herein, the County, without cause, may terminate the contract between the Parties by providing written notice to the Contractor. Upon termination under this section: 1) All remaining obligations of the Parties are discharged, but any right based upon breach or performance occurring prior to termination survives; 2) If the reasonable costs of performance incurred by the Contractor prior to termination exceed the amount paid by the County to the Contractor on the Contract Sum, the County shall reimburse the Contractor in the amount of such excess; 3) If the amount paid by the County to the Contractor on the Contract Sum exceeds the reasonable costs of performance incurred by the Contractor prior to termination, the Contractor shall reimburse the County in the amount of such excess; 4) Any funds obtained or retained by the Contractor as provided in 2) or 3) of this paragraph, shall constitute full payment and consideration for the services performed by the Contractor prior to termination.

ARTICLE 26. VENUE STIPULATION

This Agreement has and shall be construed as having been made and delivered in the State of Washington, and the laws of the State of Washington shall be applicable to its construction and enforcement. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provisions hereto shall be instituted only in courts of competent jurisdiction within Spokane County, Washington, unless relocation or commencement elsewhere is required by law.

ARTICLE 27. REMEDIES

No remedy herein conferred upon any Party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any Party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 28. WAIVER

No officer, employee, agent or otherwise of the COUNTY has the power, right or authority to waive any of the conditions or provisions to this Agreement. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement or

at law shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law. Failure of the COUNTY to enforce at any time any of the provisions of this Agreement or to require at any time performance by CONTRACTOR of any provision hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this Agreement or any part hereof, or the right of the COUNTY to hereafter enforce each and every such provision.

ARTICLE 29. INDEMNIFICATION

A. The Contractor is an independent contractor and not the agent or employee of the County. No liability shall attach to the County for entering into this contract or because of any act or omission of the Contractor except as expressly provided.

B. The Contractor agrees to defend, indemnify and hold the County harmless from any and all claims, including but not limited to reasonable attorney fees, demands, losses and liabilities to or by third parties arising from, resulting from or connected with services performed or to be performed under this contract by the Contractor, its agents or employees to the fullest extent permitted by law. The Contractor's duty to defend, indemnify and hold the County harmless shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the County, their agents or employees. The Contractor's duty to defend, indemnify and hold the County harmless for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence or (a) the County or Consultant, their agents or employees, and (b) Contractor, its agents or employees shall apply only to the extent of negligence of the Contractor or its agents or employees. Contractor's duty to defend, indemnify and hold the County harmless shall include, as to all claims, demands, losses and liability to which it applies, the County's personnel-related costs, reasonable attorney's fees, court costs and all other claim-related expenses.

C. The Contractor's indemnification shall specifically include all claims for loss liability because of wrongful payments under the Uniform Commercial Code, or other statutory or contractual liens or rights or third parties, including taxes, accrued or accruing as a result of this contract or work performed or materials furnished directly or indirectly because of this contract.

D. Contractor further agrees that this duty to indemnify County applies regardless of any provisions in RCW Title 51 to the contrary, including but not limited to any immunity of Contractor for liability for injuries to Contractor's workers and employees, and Contractor hereby waives any such immunity for the purpose of this duty to indemnify County.

ARTICLE 30. NOTICES

All notices or other communications given hereunder shall be deemed given on: 1) the day such notices or other communications are received when sent by personal delivery; or 2) the third day following the day on which the same have been mailed by first class delivery, postage prepaid

ARTICLE 31. RELATIONSHIP OF THE PARTIES

A. The Parties intend that an independent Contractor relationship will be created by this Agreement. The County is interested only in the results that could be achieved and the conduct and control of all services will be solely with the Contractor. No agent, employee, servant or otherwise of the Contractor shall be deemed to be an employee, agent, servant, or otherwise of the County for any purpose and the employees of the Contractor are not entitled to any of the benefits that the County provides for County employees. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, subcontractors or otherwise, during the performance of this Agreement.

B. The Contractor does not have the power or authority to bind the County in any promise, agreement, or representation other than specifically provided for in this Agreement.

ARTICLE 32. HEADINGS

The article headings in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to, define, limit, or extend the scope or intent of the articles to which they appertain.

ARTICLE 33. STATEMENT OF WORK AND FEE FOR SERVICES

A. Services: No work will begin until the Contractor receives a fully executed copy of the Agreement by the Parties. Compensation will not include fees or change orders caused by the Contractor's errors or omissions.

1. Work will be coordinated with and be performed as directed by the Contract Manager/Administrator. The following is a list of tasks to be performed or accomplished by the Contractor. The County retains the sole right to delete, add or otherwise amend the list at its discretion.]

ARTICLE 34. SPECIAL FEDERAL, STATE AND LOCAL REQUIREMENTS:

2.4.1. Not Applicable.

ARTICLE 35. ANTI-KICKBACK

A. No officer or employee of the County, having the power or duty to perform an official act or action related to this Agreement, shall have or acquire any interest in this Agreement, or have solicited, accepted or granted a present or future gift, favor, service, or other thing of value from or to any person involved in this Agreement.

B. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and than it has not paid or agreed to pay any person, company, corporation, individual, or Firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 36. SUCCESSORS AND ASSIGNS

A. The County and the Contractor each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the County nor the Contractor shall assign, sublet, convey, or transfer its interest in this Contract without the written consent of the other.

B. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the County and the Contractor.

ARTICLE 37. CONFLICT OF INTEREST

A. The Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder.

The Contractor further represents that no person having any interest shall be employed for said performance.

B. The Contractor shall promptly notify the County in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Contractor's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion of the County as to whether the association, interest or circumstance would, in the opinion of the County, constitute a conflict of interest if entered into by the Contractor. The County agrees to notify the Contractor of its opinion by certified mail within thirty (30) days of receipt of notification by the Contractor. If, in the opinion of the County, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Contractor, the County shall so state in the notification and the Contractor shall, at his/her option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the County by the Contractor under the terms of this Contract.

ARTICLE 38. ARREARS

The Contractor shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 39. RECOVERY OF FUNDS

Whenever, under the contract, any sum of money shall be recoverable from or payable by the Contractor to Spokane County the same amount may be deducted from any sum due to the Contractor under the contract or under any other contract between the Contractor and Spokane County including reasonable attorney fees and or any other collection costs. The rights of Spokane County are in addition and without prejudice to any other right Spokane County may have to claim the amount of any loss or damage suffered by Spokane County on account of the acts or omissions of the Contractor.

ARTICLE 40. ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs, and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs, and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 41. CONTACT DOCUMENTS

The Contract Documents consist of this Agreement, all conditions of Spokane County Request For Proposal No P11092 and other documents listed below and all modifications and change orders issued subsequent to the execution of this Agreement. These form a contract and all are as fully a part of the contract as if attached to this Agreement or repeated herein. In the event of a conflict between documents the order of precedence shall be the order listed below. An enumeration of the contract documents is set forth below:

1. Change orders to the Agreement; and
2. This Agreement; and
3. Addenda; and

4. Request For Proposal number P11092; and
5. The proposal of the Contractor herein dated _____.; and

ARTICLE 42. SEVERABILITY

In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

ARTICLE 43. SPECIAL PROVISION

The County's failure to insist upon the strict performance of any provision of this Agreement or to exercise any right based upon breach thereof or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

ARTICLE 44. PAYMENT OF TAXES

This Agreement is for the employment of the Contractor as an independent contractor. The Contractor holds itself out as an independent contractor doing business as listed above and is solely responsible for paying any and all taxes associated with the work of this Agreement including but not necessarily limited to income and social security taxes.

ARTICLE 46. OTHER EMPLOYMENT

This Contract is not an exclusive services Agreement. The Contractor may take on other professional assignments while completing the work set forth herein.

ARTICLE 47. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto. The Contractor has read and understands all of this Agreement, and now states that no representation, promise, or agreement not expressed in this document has been made to induce the Contractor to execute the same.

ARTICLE 48: EXECUTION AND APPROVAL - The PARTIES warrant that the officers/individuals executing below have been duly authorized to act for and on behalf of the Party for purposes of confirming this Agreement.

ARTICLE 49: COUNTERPARTS - This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.

ARTICLE 50: THIRD PARTY BENEFICIARIES - This Agreement is intended for the benefit of the COUNTY and CONTRATOR and not for the benefit of any third parties.

ARTICLE 51: SURVIVAL - Without being exclusive, the Article for Indemnification and the Article for Venue Stipulation of this Agreement shall survive any termination, expiration or determination of invalidity of this Agreement in whole or in part. Any other Articles of this Agreement which, by their sense and context, are intended to survive shall also survive

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the day and year set forth herein above.

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE, COUNTY, WASHINGTON

Mary Kunev, Chair

Al French, Vice-Chair

ATTEST:

By: _____
Ginna Vasquez
Clerk of The Board

Josh Kerns, Commissioner

CONTRACTOR

By: _____

Title: _____

(for Contractor's Signature)

NOTARY

STATE OF _____)

) ss.

COUNTY OF _____)

I certify that I know or have satisfactory evidence that the above
_____ is the person who appeared before me, and said person
acknowledged that he/she signed this instrument and acknowledged as the authorized agent for the Contractor
to be the free and voluntary act of Contractor for the uses and purposes mentioned in this instrument.

DATED this ___ day of _____, 2019.

Notary Signature

Notary Public In And For The State Of _____

residing at _____.

My commission expires _____