

Attachment B – Sample Services—Short Form Agreement

SERVICES—SHORT FORM AGREEMENT rev Jan. 2022

AGREEMENT NUMBER

10-2021-ENV-O

1. In this agreement (the "Agreement"), the term "Contractor" refers to **[Contractor name]**, and the term "Court" refers to the **Superior Court of California, County of Fresno**.

2. This Agreement becomes effective as of **July 1, 2022**, (the "Effective Date") and expires on **June 30, 2024**. This Agreement includes three one-year options to extend through **June 30, 2027**.

3. The maximum amount that the Court may pay Contractor under this Agreement is **[Dollar amount]** (the "Maximum Amount") for the initial Term pursuant to contractor's response to RFQ 10-2021-ENV. Pricing per 1000 may be negotiated for Option Terms.

4. This Agreement incorporates and the parties agree to the attached provisions labeled "Exhibit A – SERVICES-SHORT FORM AGREEMENT TERMS", "Exhibit B – PRINTED ENVELOPES AGREEMENT" and "Exhibit C – RESPONSE TO RFQ 10-2021-ENV". This Agreement represents the parties' entire understanding regarding its subject matter and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties.

5. Contractor will perform the following services (the "Services"), and deliver the following envelopes (the "Envelopes"):

Services:

Description of Services	Provide printed envelopes, details pursuant to Exhibit A, Exhibit B and Exhibit C and delivered upon demand, as ordered by designated Court staff. Provide a monthly envelope inventory to the Court.
Completion Date	Same as contract period.
Acceptance Criteria	Proofs of each envelope type must be approved by a designated Court representative, via email, prior to any printing.

6. The Court's project manager is: **Queenie Hill, Chief Financial Officer**

7. The Court will pay Contractor as follows: **See Section D of the "Services–Short Form Agreement Terms."**

COURT'S SIGNATURE	CONTRACTOR'S SIGNATURE
Superior Court of California, County of Fresno	CONTRACTOR'S NAME <small>(if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.)</small> [Contractor name]
BY <small>(Authorized Signature)</small> 	BY <small>(Authorized Signature)</small>
PRINTED NAME AND TITLE OF PERSON SIGNING Michael L. Elliott, Court Executive Officer OR Dawn Annino, Assistant Court Executive Officer	PRINTED NAME AND TITLE OF PERSON SIGNING [Name and title]
DATE EXECUTED [Date]	DATE EXECUTED [Date]
ADDRESS Accounts Payable 1100 Van Ness Avenue, 8 th Floor Fresno CA 93724-0002	ADDRESS [Address]

Exhibit A

SERVICES—SHORT FORM AGREEMENT TERMS

A. PERFORMANCE AND DELIVERY. Contractor will perform the Services and deliver all Work Product as specified on the coversheet of this Agreement. Time is of the essence in Contractor's performance of the Services and delivery of Work Product. The Maximum Amount listed on the coversheet of this Agreement includes all amounts allowed for expenses, including those related to shipping, handling, traveling, bonding, licensing, maintaining insurance, and obtaining permits.

B. ACCEPTANCE. All Services and Work Product are subject to written acceptance by the Court. The Court may reject any Service or Work Product that (i) fails to meet applicable acceptance criteria, (ii) is not as warranted, or (iii) is performed or delivered late. Payment by the Court does not signify acceptance of the Services or Work Product.

C. INVOICES, PAYMENT AND SETOFF. After the Court has accepted Services and Work Product, Contractor will send one original, correct, itemized invoice for the accepted Services and Work Product to "Accounts Payable" at "accounts_payable@fresno.courts.ca.gov." Contractor's invoice will be on Contractor's standard printed bill form, and each invoice will include at least (i) the Agreement number, (ii) a unique invoice number, (iii) Contractor's name and address, (iv) the nature of the invoiced charge, (v) the total invoiced amount, and (vi) all other details the Court considers reasonably necessary to permit the Court to evaluate the Services performed and the Work Product delivered, including the number of hours worked and the applicable hourly rate. If requested, Contractor will promptly correct any inaccuracy and resubmit the invoice. If the Court rejects any Services or Work Product after payment to Contractor, the Court may exercise all contractual and other legal remedies, including (a) setting off the overpayment against future invoices payable by the Court, (b) setting off the overpayment against any other amount payable for the benefit of Contractor pursuant to this Agreement or otherwise, and (c) requiring Contractor to refund the overpayment within thirty (30) days of the Court's request. Unless Contractor is a governmental entity, the Court will take no action on invoices submitted before Contractor has completed the Court's standard payee data record form, which Contractor may obtain from the Court. Contractor must include with any request for reimbursement from the Court a certification that Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the Court was sought for these costs, and Contractor will provide those records to the Attorney General upon request.

D. WARRANTIES. Contractor will perform all Services using skilled personnel only, in a good and workmanlike manner, in accordance with industry standards, and in compliance with all applicable laws, rules, and regulations. Contractor warrants that, upon delivery, all Work Product will (i) be free from defects in workmanship, material, and manufacture (including, defects that could create a hazard to life or property), (ii) not infringe any third party's rights, including intellectual property rights, (iii) be of merchantable quality and fit for the purposes intended by the Court, (iv) comply with the requirements of this Agreement, and (v) be in compliance with all applicable laws, rules, and regulations.

E. CHANGES. Contractor may not alter, add to, or otherwise modify this Agreement. Contractor's additional or different terms and conditions are expressly excluded from this Agreement. This Agreement may be amended, supplemented, or otherwise modified only in writing and signed by the Court's authorized representative.

F. AUDIT RIGHTS. Contractor agrees to maintain records relating to performance and billing by Contractor under this Agreement for a period of four years after final payment. During the time that Contractor is required to retain these records, Contractor will make them available to the Court, the State Auditor, or their representatives during normal business hours for inspection and copying.

G. INDEMNITY. CONTRACTOR WILL INDEMNIFY AND HOLD HARMLESS THE COURT, OTHER CALIFORNIA JUDICIAL BRANCH ENTITIES, AND THEIR OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, LOSSES, AND EXPENSES, INCLUDING ATTORNEYS' FEES AND COSTS, THAT ARISE OUT OF (I) A DEFECT, WHETHER LATENT OR PATENT, IN THE WORK PRODUCT, (II) AN ACT OR OMISSION OF CONTRACTOR, ITS AGENTS, EMPLOYEES, INDEPENDENT CONTRACTORS, OR SUBCONTRACTORS IN THE PERFORMANCE OF THIS AGREEMENT, AND (III) A BREACH OF A REPRESENTATION, WARRANTY, OR OTHER PROVISION OF THIS AGREEMENT. THIS INDEMNITY APPLIES REGARDLESS OF THE THEORY OF LIABILITY ON WHICH A CLAIM IS MADE OR A LOSS OCCURS. THIS INDEMNITY WILL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT, ACCEPTANCE OF SERVICES, AND DELIVERY AND ACCEPTANCE OF WORK PRODUCT. THIS INDEMNITY DOES NOT COVER CLAIMS, LOSSES OR EXPENSES TO THE EXTENT THEY ARISE OUT OF THE GROSS NEGLIGENCE OF THE COURT.

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H. TERMINATION. The Court may terminate all or part of this Agreement for convenience at any time by giving notice to Contractor. If the Court terminates this Agreement for convenience, the Court's liability will be the reasonable price for the Services rendered prior to termination, not to exceed the Maximum Amount. If an hourly or other time-based rate for Services is specified on the coversheet of this Agreement, that rate will be used in determining the reasonable price. Upon receipt of a termination notice, Contractor will, unless otherwise directed, cease work. Contractor will follow the Court's directions as to work in progress and the delivery of completed or partially-completed Work Product.

I. INSURANCE. Contractor will maintain insurance that is sufficient in scope and amount to permit Contractor to pay in the ordinary course of business insurable claims, losses and expenses, including insurable claims, losses and expenses that arise out of Contractor's performance of this Agreement. Contractor will maintain employer's liability and workers' compensation coverage at statutory levels covering all employees performing work under this Agreement.

J. REPRESENTATIONS. Contractor represents and warrants the following: (i) Contractor complies with all federal, state, city, and local laws, rules, and regulations, including the federal Americans with Disabilities Act of 1990, California's Fair Employment and Housing Act, and Government Code 16645-49; (ii) Contractor does not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, disability (mental or physical, including HIV or AIDS), medical condition (including cancer or genetic characteristics), request for family and medical care leave, marital or domestic partner status, age (over 40), sex (including gender identity) or sexual orientation; (iii) Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement; (iv) Contractor will take all reasonable steps to prevent unlawful harassment from occurring; (v) no more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board (this representation is made under penalty of perjury); (vi) Contractor has authority to enter into and perform its obligations under this Agreement; (vii) if Contractor is a corporation, limited liability company, or limited partnership and this Agreement will be performed in California, Contractor is qualified to do business and in good standing in California; and (viii) Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code ("PCC") section 10286.1, and is eligible to contract with the Court. Contractor will take all action necessary to ensure that the representations in this section remain true during the performance of this Agreement through final payment by the Court. Contractor must give written notice of its nondiscrimination obligations under this section to labor organizations with which it has a collective bargaining or other agreement.

K. ANTITRUST. Contractor shall assign to the Court all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the Court. Such assignment shall be made and become effective at the time the Court tenders final payment to Contractor. If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Court any portion of the recovery, including treble damages, attributable to overcharges that were paid by Contractor but were not paid by the Court as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by Contractor, the Court shall, within one year from such demand, reassign the cause of action assigned under this part if Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the Court has not been injured thereby, or (b) the Court declines to file a court action for the cause of action.

L. MISCELLANEOUS. Contractor will maintain a system of accounting and internal controls that is sufficient to adhere to Generally Accepted Accounting Principles. Contractor is an independent contractor and Contractor will take all action available to Contractor to prevent Contractor, and its agents and employees, from being treated under the law as agents or employees of the Court. Contractor will not assign, subcontract or delegate its obligations under this Agreement without the prior written consent of the Court, and any attempted assignment, subcontract, or delegation is void. The terms and conditions of this Agreement apply to any assignee, subcontractor, trustee, successor, delegate or heir. California law, without regard to its choice-of-law provisions, governs this Agreement. In this Agreement, "including" means "including but not limited to." The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this

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Agreement. Contractor irrevocably consents to personal jurisdiction in the courts of the State of California, and any legal action filed by Contractor in connection with a dispute under this Agreement must be filed in Fresno County, California, which will be the sole venue for any such action. If any part of this Agreement is held unenforceable, all other parts remain enforceable. All headings are for reference purposes only and do not affect the interpretation of this Agreement. A party's waiver of enforcement of any of this Agreement's terms or conditions will be effective only if it is in writing. A party's specific waiver will not constitute a waiver by that party of any earlier, concurrent, or later breach or default. Contractor may not make a public announcement, or issue any press release or other writing, related to this Agreement, the Services, or Work Product without first obtaining the Court's prior written approval, which may be denied for any or no reason.

M. BACKGROUND CHECKS AND BADGES. Contractor shall provide all releases, waivers, and permissions the Court may require for background checks. Contractor understands all background checks and badges will be conducted and processed by the Court or the Court's chosen agency at Contractor's expense. Contractor shall not assign personnel who refuse to undergo a background check or whose background check results are unacceptable to the Court. Contractor, Contractor's employees and subcontractors shall adhere to the Vendor/Contractor Access Policy located under Procurement at "fresno.courts.ca.gov."

N. COUNTERPARTS. This Agreement may be executed via electronic transaction (documents scanned and sent via email) and will have the same effect and validity as signed original counterparts.

Exhibit B
PRINTED ENVELOPES AGREEMENT

The parties agree as follows:

1. Envelopes with any Court identification renders the product proprietary to Court and not suitable for sale to any other customer of Contractor.
2. The Envelopes will be purchased and/or printed exclusively for Court pursuant to the terms and conditions herein.
3. Contractor will contact Court for an estimate of first deliveries and approximately 90 days' worth of orders. Contractor will supply Court with an amount of each product as it is requested and will keep any balance in stock, deliverable on demand within 2 business days. There will be no additional charge for warehousing of excess stock. Contractor need not print all the order immediately, but inventory must be available for next day delivery with no work stoppage resulting.
4. Contractor will work with Court to maintain at least a 90-day supply of Envelopes based on Court's actual order history. Contractor is responsible for tracking inventory in stock and alerting Court when inventory falls below agreed upon levels. If inventory falls below ordered levels and work stoppage occurs, Contractor will be liable for damages in the amount of 50% of the item replacement cost.
5. The prices for Envelopes shall match the quote (all costs included in writing) and Contractor shall print and Court will accept +0/-0% of each Envelope.
6. In connection with the printing or other customization of Envelopes:
 - a. Court represents and warrants that it owns or has the right to use, reproduce, and incorporate any trade names, trademarks, copyrights, service marks, registered marks, logos, artwork, trade dress, indicia of ownership, forms, representations, descriptions, classifications, characterizations, statements, or language contained in or on any content or materials provided to Contractor by Court in connection with Contractor's obligations hereunder (collectively "Court's Content").
 - b. Court hereby grants to Contractor a non-exclusive, worldwide, royalty-free and fully paid right and license to use, reproduce and incorporate Court's Content solely in connection with Contractor's obligations hereunder. Court retains all right, title and interest in Court's Content worldwide, subject to the limited license granted to Contractor herein. Except as set forth in this section 6, nothing in this Agreement shall grant or shall be deemed to grant Contractor any right, title or interest in Court's Content.
 - c. Court represents and warrants that Court's Content shall not infringe or misappropriate any patent, trademark, trade secret, mask printed, copyright, design or any other proprietary right of any third party, and complies with all applicable federal, state and local laws, statutes, regulations, executive orders, ordinances, codes and industry standards.
 - d. Court hereby agrees that it will supply camera ready artwork and pay any costs incurred due to a change in design or imprinting made at Court's request. Court's written acceptance is required on all proofs before any Envelopes are produced. Court's written acceptance may be accomplished via email approval from Court staff of the proof provided by Contractor.
7. Court will give Contractor a minimum of sixty (60) calendar days' written notice of its intent to discontinue any Envelopes. Upon receipt of such written notice, Contractor will cease to print and/or purchase the Envelopes from manufacturer. Contractor will provide Court with a list of the quantities of Envelopes currently in stock by item. Court will be obligated to take delivery of any remaining inventory of Envelopes held by Contractor within sixty (60) calendar days of Court's issuance of notice to Contractor.
8. If either party terminates the Agreement, Court shall give Contractor instructions for the disposition of all Envelopes ordered or warehoused on behalf of Court, and Court shall pay Contractor the aggregate price for such Envelopes not already paid for.

Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible, and (ii) upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209.

Exhibit C
RESPONSE TO RFQ 10-2021-ENV

The awarded vendor's response will be
inserted here.