

RFP Title: *Armored Car Pickup Services*
RFP Number: *RFP 10-2023-ARCR*

REQUEST FOR PROPOSALS

***SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO***

REGARDING:

*ARMORED CAR PICKUP SERVICES
RFP 10-2023-ARCR*

PROPOSALS DUE:

April 12, 2024 NO LATER THAN *4:00* P.M. PACIFIC TIME

1.0 BACKGROUND INFORMATION

- 1.1 The Superior Court of California, County of Fresno operates four court locations within the County of Fresno, where monies are collected and armored transport is requested: Main Courthouse at 1100 Van Ness Avenue, Fresno; B.F. Sisk Courthouse at 1130 'O' Street, Fresno; Traffic Courthouse at 2317 Tuolumne Street, Fresno and Archives Division at 1936 'E' Street, Fresno.

2.0 DESCRIPTION OF SERVICES AND DELIVERABLES

- 2.1 Description of Services: The Court is requesting proposals from highly qualified vendors with expertise in providing armored car service that will provide periodic secure pick-up at up to four court locations listed in Section 1.1 and drop off of bank deposits to the Court's designated bank, as further described in Exhibit A, Scope of Work.
- 2.2 Contract Term and Scope: The Court intends to award a Standard Agreement ("Standard Agreement"), for an initial 3-year term with one year auto-renewals to a vendor that is able to supply the Court with the requested armored car services.

3.0 TIMELINE FOR THIS RFP

The Court has developed the following list of key events related to this RFP. All dates are subject to change at the discretion of the Court.

| EVENT | DATE |
|---|--|
| RFP issued | <i>March 8, 2024</i> |
| Deadline for questions | <i>March 20, 2024</i> |
| Questions and answers posted | <i>March 22, 2024</i> |
| Latest date and time proposal may be submitted | <i>April 12, 2024 @ 4:00 PM</i> |
| Evaluation of proposals (<i>estimate only</i>) | <i>April 15-26, 2024</i> |
| Notice of Intent to Award (<i>estimate only</i>) | <i>Week of April 29, 2024</i> |
| Negotiations and execution of contract (<i>estimate only</i>) | <i>May 2024</i> |
| Contract start date (<i>estimate only</i>) | <i>July 1, 2024</i> |
| Contract end date (<i>estimate only</i>) | <i>June 30, 2027 with one year auto renewals</i> |

4.0 RFP ATTACHMENTS:

The following attachments are included as part of this RFP:

| ATTACHMENT | DESCRIPTION |
|--|--|
| Exhibit A: Scope of Work | This document details the requested services. |
| Exhibit B: Cost Proposal Template | This document must be completed and included in the submitted proposal. For each location where service can be provided, the Proposer must: a) provide the per month Base Rate for delivery to a central cash vault for each location with a delivery schedule of 5 times a week; b) indicate if there are any additional costs which may be applied and provide a description and frequency of the cost; c) provide a description of how future price increases will be minimized and capped, how both increases and decreases will be passed on to the Court after the initial contract term; and d) provide a description of the proposed process to implement price changes, including how the Court will be notified. |
| Attachment 1: Administrative Rules Governing RFPs (Non-IT Services) | These rules govern this solicitation. |
| Attachment 2: Court Standard Terms and Conditions | <p>If selected, the person or entity submitting a proposal (the "Proposer") must sign the Court Standard Form agreement.</p> <p>The following provisions within the Terms and Conditions are minimum contract terms and conditions ("Minimum Terms"): Items 4, 6.1 and 10.7.</p> |
| Attachment 3: Proposer's Acceptance of Terms and Conditions | On this form, the Proposer must indicate acceptance of the Terms and Conditions or identify exceptions to the Terms and Conditions. |
| Attachment 4: Darfur Contracting Act Certification | The Proposer must complete the Darfur Contracting Act Certification and submit the completed certification with its proposal. |
| Attachment 5: Unruh and FEHA Certification | The Proposer must complete the Unruh Civil Rights Act and California Fair Employment and Housing Act Certification. |

5.0 PAYMENT INFORMATION

- 5.1 The Proposer shall submit invoices to the Court in arrears no more frequently than monthly. The Proposer's invoice must include information and supporting documentation acceptable to the Court. The Proposer shall adhere to reasonable billing guidelines issued by the Court from time to time.
- 5.2 The Court will pay each correct, itemized invoice received from the Proposer after acceptance of the applicable Work, in accordance with the terms of the Agreement. Notwithstanding any provision to the contrary, payments to the Proposer are contingent upon the timely and satisfactory performance of the Proposer's obligations.
- 5.3 Payment terms will be specified in the contract document that will be executed as a result of an award made under this RFP, however, prospective Proposers are hereby advised that the Court payments are made by the State of California, and the State does not make any advance payments for services. Payment by the State is normally made based upon completion of tasks as provided for in the agreement between the Court and the selected Service Provider.

6.0 SUBMISSIONS OF PROPOSALS

- 6.1 Proposals should provide straightforward, concise information that satisfies the requirements of the "Proposal Contents" section below. Emphasis should be placed on conformity to the RFP's instructions and requirements, and completeness and clarity of content.
- 6.2 The Proposer must submit its proposal in two parts, the technical proposal and the cost proposal. The proposal must be submitted in electronic version via email, in two separate files. The files must be in PDF, Microsoft Word or Excel formats. Please note email submissions are limited to 25MB in size.
- 6.3 Proposals must be submitted by the date and time listed on the coversheet of this RFP to:

solicitations@fresno.courts.ca.gov

- 6.4 Late proposals will not be accepted.

The Court will not accept proposals that are hand delivered or delivered by a carrier or mail service provider at this time.

7.0 PROPOSAL CONTENTS

- 7.1 Technical Proposal. The following information must be included in the technical proposal. A proposal lacking any of the following information may be deemed non-responsive.
- a. The Proposer's name, address, telephone and fax numbers, and federal tax identification number. Note that if the Proposer is a sole proprietor using his or her social security number, the social security number will be required before finalizing a contract.
 - b. Name, title, address, telephone number, and email address of the individual who will act as the Proposer's designated representative for purposes of this RFP.
 - c. Names, addresses, and telephone numbers of a minimum of three (3) clients for whom the Proposer has conducted similar services. The Court may check references listed by the Proposer.
 - d. Qualification and Experience.
 - i. Provide a description of the armored car vehicles that will be utilized, where they will be housed and the security surrounding the armored car facility(s). In the event of breakdowns, delays, absenteeism, etc. delineate your back-up resources for both vehicles and armored car personnel.
 - ii. Explain in detail the procedure of the armored car pick-up from its arrival on the customer's premises to its departure and the responsibility of the on-site agency personnel at pick-up time.
 - iii. State the optimum time spent on the customer's premises at a typical pick-up.
 - iv. Submit a brief description of your company's customer service operation, procedure, turnaround/response time and staffing.
 - v. Describe your proposed transition plan if awarded a contract under this RFP.
 - vi. Provide a summary of any problem(s) that you might anticipate in meeting the requirements of this RFP and possible solutions to these problems from your past experience.

- e. Acceptance of the Terms and Conditions.
 - i. On Attachment 3, the Proposer must check the appropriate box and sign the form. If the Proposer marks the second box, it must provide the required additional materials. An “exception” includes any addition, deletion, or other modification.
 - ii. If exceptions are identified, the Proposer must also submit (i) a red-lined version of the Terms and Conditions that implements all proposed changes, and (ii) a written explanation or rationale for each exception and/or proposed change.
 - iii. **Note: A material exception (addition, deletion, or other modification) to a Minimum Term will render a proposal non-responsive. The Court, in its sole discretion, will determine what constitutes a material exception.**
 - f. Certifications, Attachments, and other requirements.
 - i. The Proposer must complete the Darfur Contracting Act Certification (Attachment 4) and submit the completed certification with its proposal.
 - ii. If the Proposer is a California corporation, limited liability company (“LLC”), limited partnership (“LP”), or limited liability partnership (“LLP”), proof that the Proposer is in good standing in California. If the Proposer is a foreign corporation, LLC, LP, or LLP, and the Proposer conducts or will conduct (if awarded the contract) intrastate business in California, proof that the Proposer is qualified to do business and in good standing in California. If the Proposer is a foreign corporation, LLC, LP, or LLP, and the Proposer does not (and will not if awarded the contract) conduct intrastate business in California, proof that the Proposer is in good standing in its home jurisdiction.
 - iii. The Proposer must complete the Unruh Civil Rights Act and California Fair Employment and Housing Act Certification (Attachment 5) and submit the completed certification with its bid.
- 7.2 Cost Proposal. The following information must be included in the cost proposal.
- a. Exhibit B, Cost Proposal Template, must be completed and submitted. If awarded a Standard Agreement, the proposed rates will remain in effect

for the initial contract term for each location where the Proposer is able to provide the requested services.

- b. For each location where service can be provided, the Proposer must: (a) provide the per month Base Rate for delivery to central cash vault for each location with a delivery schedule of 5 days a week; and (b) indicate if there are any additional costs which may be applied and provide a description of the cost and its frequency.
- c. The monthly Base Rates must include all costs, except for itemized fees that have been included in the "Additional Fees" section of the Cost Proposal. Cost for supplies will be included in the monthly rate, unless itemized supplies and costs are included in the "Additional Fees" section of the Cost Proposal.
- d. The Cost Proposal must describe how future price increases will be minimized and capped and how both increases and decreases will be passed on to the Court if, after the initial contract term, the options to extend are elected. The Proposer must explain the proposed process to implement price changes, and how the Court will be notified.
- e. After the initial contract term, the proposed price adjustments factors will be used during the auto renewal periods and the price adjustments will be set forth in a written amendment to the Standard Agreement. Any agreed-upon price adjustments may not exceed during any one-year option period the Consumer Price Index as published by the U.S. Bureau of Labor Statistics.
- f. It is expected that all Proposers responding to this RFP will offer their government or most favorable comparable rates.

8.0 OFFER PERIOD

A Proposer's proposal is an irrevocable offer for ninety (90) days following the proposal due date. In the event a final contract has not been awarded within this period, the Court reserves the right to negotiate extensions to this period.

9.0 EVALUATION OF PROPOSALS

At the time proposals are opened, each proposal will be checked for the presence or absence of the required proposal contents.

The Court will evaluate the proposals on a 100 point scale using the criteria set forth in the table below. Award, if made, will be to the highest-scored proposal.

If a contract will be awarded, the Court will post an intent to award notice at <https://www.fresno.courts.ca.gov/general-information/procurement>.

| CRITERION | MAXIMUM NUMBER OF POINTS |
|---|---------------------------------|
| <i>Cost Proposal</i> | <i>30</i> |
| <i>Qualifications and Experience</i> | <i>25</i> |
| <i>Acceptance of the Terms and Conditions</i> | <i>35</i> |
| <i>Service Area</i> | <i>7</i> |
| <i>DVBE Incentive</i> | <i>3</i> |

10.0 INTERVIEWS

The Court may conduct interviews with the Proposers to clarify aspects set forth in their proposals or to assist in finalizing the ranking of top-ranked proposals. The interviews may be conducted in person or by phone. If conducted in person, interviews will likely be held at the Court's offices. The Court will not reimburse the Proposers for any costs incurred in traveling to or from the interview location. The Court will notify eligible Proposers regarding interview arrangements.

11.0 CONFIDENTIAL OR PROPRIETARY INFORMATION

PROPOSALS ARE SUBJECT TO DISCLOSURE TO THIRD PARTIES AND MEMBERS OF THE PUBLIC PURSUANT TO APPLICABLE LAWS, INCLUDING PUBLIC DISCLOSURE PURSUANT TO RULE 10.500 OF THE CALIFORNIA RULES OF COURT~~Error! Hyperlink reference not valid.~~ Except as required by law, the Court will not disclose (i) social security numbers, or (ii) balance sheets or income statements submitted by a Proposer that is not a publicly-traded corporation. All other information in proposals may be disclosed in response to applicable public records requests, or as otherwise required by law. Such disclosure may be made regardless of whether the proposal (or portions thereof) is marked "confidential," "proprietary," "copyright ©," or otherwise, and regardless of any statement in the proposal (a) purporting to limit the Court's right to disclose information in the proposal, or (b) requiring the Court to inform or obtain the consent of the Proposer prior to the disclosure of the proposal (or portions thereof). Any proposal that is password protected, or contains portions that are password protected, may be rejected. Submission of any proposal pursuant to this RFP constitutes acknowledgment and consent by the Proposer to the potential public disclosure of its proposal content, pursuant to

this Section 12.0. **The Proposers are accordingly cautioned not to include confidential, proprietary, or privileged information in proposals.**

12.0 DISABLED VETERAN BUSINESS ENTERPRISE INCENTIVE

- 12.1 Qualification for the DVBE incentive is not mandatory. Failure to qualify for the DVBE incentive will not render a proposal non-responsive. The Proposers not qualified or bidding as a DVBE need not submit the DVBE forms. DVBE Declaration and DVBE Bidder Declaration forms can be found on the Procurement page of the Court's website:
<http://www.fresno.courts.ca.gov/general-information/procurement>
- 12.2 Eligibility for and application of the DVBE incentive is governed by the Court's DVBE Rules and Procedures. The Proposer will receive a DVBE incentive if, in the Court's sole determination, the Proposer has met all applicable requirements. If the Proposer receives the DVBE incentive, the score assigned to its proposal will be increased by an amount equal to 3% of the total possible points.
- 12.3 To receive the DVBE incentive, at least 3% of the contract goods and/or services must be provided by a DVBE performing a commercially useful function. Or, for solicitations of non-IT goods and IT goods and services, the Proposer may have an approved Business Utilization Plan ("BUP") on file with the California Department of General Services ("DGS").
- 12.4 If the Proposer wishes to seek the DVBE incentive:
1. The Proposer must complete and submit with its proposal the Bidder Declaration (found on the Court's website, Procurement page). The Proposer must submit with the Bidder Declaration all materials required in the Bidder Declaration.
 2. The Proposer must submit with its proposal a DVBE Declaration (found on the Court's website, Procurement page) completed and signed by each DVBE that will provide goods and/or services in connection with the contract. If the Proposer is itself a DVBE, it must complete and sign the DVBE Declaration. If the Proposer will use DVBE subcontractors, each DVBE subcontractor must complete and sign a DVBE Declaration. **NOTE:** The DVBE Declaration is not required if the Proposer will qualify for the DVBE incentive using a BUP on file with DGS.
- 12.5 Failure to complete and submit these forms as required will result in the Proposer not receiving the DVBE incentive. In addition, the Court may request additional written clarifying information. Failure to provide this

information as requested will result in the Proposer not receiving the DVBE incentive.

- 12.6 If the Proposer receives the DVBE incentive: (i) the Proposer will be required to complete a post-contract DVBE certification if DVBE subcontractors are used; (ii) the Proposer must use any DVBE subcontractor(s) identified in its proposal unless the Court approves in writing the substitution of another DVBE; and (iii) failure to meet the DVBE commitment set forth in its proposal will constitute a breach of contract.
- 12.7 If using DVBE subcontractors, the Proposer must complete and return to the Court a copy of the post-contract certification form (<https://www.courts.ca.gov/documents/JBCM-Post-Contract-Certification-Form.docx>), promptly upon completion of the awarded contract, and by no later than the date of submission of the Proposer's final invoice to the Court. If the Proposer fails to do so, the Court will withhold \$10,000 from the final payment, or withhold the full payment if it is less than \$10,000, until the Proposer submits a complete and accurate post-contract certification form.

When a Proposer fails to comply with the post-contract certification requirement in this section and a payment withhold is applied to a contract, the Court shall allow the Proposer to cure the deficiency after written notice. Notwithstanding the foregoing or any other law, if after at least 15 calendar days, but no more than 30 calendar days, from the date of the written notice the Proposer refuses to comply with the certification requirements, the Court shall permanently deduct \$10,000 from the final payment, or the full payment if less than \$10,000.

FRAUDULENT MISREPRESENTATION IN CONNECTION WITH THE DVBE INCENTIVE IS A MISDEMEANOR AND IS PUNISHABLE BY IMPRISONMENT OR FINE, AND VIOLATORS ARE LIABLE FOR CIVIL PENALTIES. SEE MVC 999.9.

13.0 PROTESTS

Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contracting Manual (see www.courts.ca.gov/documents/jbcl-manual.pdf). Failure of a Proposer to comply with the protest procedures set forth in that chapter will render a protest inadequate and non-responsive, and will result in rejection of the protest. The deadline for the Court to receive a solicitation specifications protest is **March 27, 2024**. Protests must be sent to:

solicitations@fresno.courts.ca.gov

EXHIBIT A - SCOPE OF WORK

1. General Description

- a. The Court may order the pick-up and drop-off of bank deposits to designated banks and financial institutions, under an Agreement that may result from this RFP.
- b. Pricing for the requested services shall not exceed the prices set forth in the Agreement.
- c. The Court may require a site visit to clarify requirements prior to finalizing the resulting Agreement.

2. Routing Schedule

- a. The Proposer will be required to provide the requested services Monday through Friday from 8:00 a.m. to 5:00 p.m. The Proposer will be required to accommodate changes within one week or less of notification. Such changes may include adding, deleting or moving departments or locations from the routing schedule and changes to the Court's hours of operation, as the need arises.
- b. The Court will set forth the specific days and hours when the requested service is to be provided in the Agreement. No pick-ups will be required or allowed on court or bank holidays.
- c. If the Proposer fails to pick-up a scheduled deposit, the Proposer shall make a special run as requested by the Court, at no extra cost to the Court.
- d. The Proposer will be required to establish procedures to ensure that all bank deposit bags are tracked, inventoried, and delivered promptly to the correct bank or financial institution as designated on the bag. Should an error occur such as incorrect delivery or loss, the Proposer will be required to provide verbal notice of the error to the Court immediately upon discovery, with written notification provided within one business day.
- e. The Proposer will be required to agree that pick-ups suspended by the Proposer due to an act of Force Majeure, will not be invoiced to the Court and pick-ups suspended by the Court due to an emergency will also not be invoiced.

3. Materials/Deposit Bags

- a. The Proposer will be required to provide all needed supplies ("supply items"), including but not limited to; manifests, receipt books, pick-up sheets, tags and forms for all locations. Materials supplied must comply with all requirements as specified by the Court's financial institution.
- b. The Proposer will be required to notify the Court Project Manager and all Court contacts of any changes to supply items during the term of the Agreement prior to official use of same. Replaced supply items shall be the same quality or better than that originally proposed. Any cost incurred in changing supplies shall be borne by the Proposer.
- c. The Proposer will be required to provide no less than a one month's supply of supplies at each facility named in the Agreement, prior to commencement of Work. Refill orders shall be the responsibility of the Court. Supplies shall be delivered within three business days of the request.

4. Deposit Pick-up Procedure

- a. The Proposer will be required to work with the Court to determine a wait time of no less than 10 minutes for the Court to provide the sealed bank deposit bag to the Proposer's carrier personnel. The Proposer will work with the Court to determine the best parking/waiting place to ensure the least amount of wait time.
- b. The Proposer will be required to pick-up, receive from, and/or deliver to the Court, securely sealed shipments which may contain any or all of the following: currency, coin, checks, securities, or other valuables. It will be the Proposer's responsibility to verify the security of the shipment and notify the Court representative if the shipment container(s) does not appear to be securely sealed prior to acceptance.
- c. The Proposer will be required to work with the Court and its law enforcement entity to determine the best location for the transfer of the sealed deposit bag(s) from the Court to the Proposer's carrier personnel.
- d. The Proposer will be required to provide a signed, sequentially numbered receipt to the Court, for the deposit at the time of pick-up.
- e. When requested by the Court, the Proposer will be required to provide copies of deposit pick-up receipts within five Court business days of the request.

- f. The Proposer will be required to retain the original receipt for no less than four years, as well as the ability to provide deposit tracking for the same four-year period.
- g. The Proposer will be solely liable for the security and contents of the deposit/bags immediately upon receipt into the Proposer's possession. The Proposer's liability ceases upon receipt of signature from an authorized employee at the receiving location.

5. Deposit Drop-off Procedure

- a. The Proposer will be required to strictly adhere to the deposit drop off time designated by the Court's work order. At the time of deposit delivery to the Court's financial institution, the Proposer's personnel will be required to sign and retain a copy of the time stamped bank's delivery receipt(s), as proof of deposit delivery. The Court may request a copy of the deposit bank's delivery receipt at any time within four years of the deposit pick-up date at no additional cost. If such request is made, the Proposer will be required to provide the requested documentation within five Court business days.
- b. The Proposer will be required to ensure that the proper standard and industry specific controls are in place to prevent any tampering of bags and their contents.

6. Additional Services

- a. If requested, the Proposer may provide additional services that are related to the general services provided under this Scope of Work, including but not limited to, the delivery of change to the Court locations.
- b. The Agreement will include the description and cost, if any, of the requested additional service.

7. Staffing

- a. The Proposer will be required to provide a list of the armored car personnel, including photo identification and an original or legible certified signature for each of the Proposer's personnel authorized to pick-up and sign for deposits.
- b. The Court, at its discretion, reserves the right to verify the Proposer's personnel's signature in order to confirm that the person performing the pick-up is on the Proposer's list of authorized personnel, prior to release of a deposit. Deposits shall not be released to an individual without this information on file at the pick-up location.

- c. The Proposer will be required to provide an updated personnel list to the Court any time there is a staffing change (e.g., new person added, existing person removed). The Proposer must provide the updated list to the Court prior to the new staff member's arrival at the deposit pick-up location.
- d. In the event that the Proposer's personnel does not provide proper identification as required to the Court's staff and pick-up is refused, the Proposer will be required to immediately dispatch properly credentialed staff for deposit pick-up at no additional cost.
- e. The Proposer will be required to maintain a toll-free number for inquiries and customer service.
- f. The Proposer will be required to appoint a dedicated senior level individual and a qualified back-up, as the Proposer's representative for the entire period of the Agreement to act as a liaison to the Court. This representative shall be solely responsible for ensuring that the Proposer's obligations under the Agreement are met, implementing the instructions of the Court and resolving issues that may arise on a day-to-day basis during the term of the Agreement. All staffing replacements must match or exceed the qualifications and level of experience of the representatives listed in the proposal.
- g. The Proposer will be required to certify that all employees, subcontractors, independent contractors assigned to work under the Agreement carry the required insurance and have successfully passed a criminal background check and drug test prior to assignment, as described in Attachment 2 (Court Agreement Terms and Conditions).
- h. The Court reserves the right to review the personal background and clearances of the Proposer's assigned personnel.

8. Claims

- a. While the Court agrees to diligently attempt to substantiate and assist in establishing the identity of any property lost, damaged, or destroyed constituting part of any loss, the Proposer will be required to bear sole responsibility in the event of loss from whatever cause of property in the Proposer's possession.
- b. The Proposer's responsibility shall include payment to the Court of:
 - i. Declared value as appears on the deposit documentation.

ii. Costs necessary for check reconstruction, including stop payment fees, postage, labor, plus any other reasonable costs in replacing checks up to \$2 million dollars per occurrence.

iii. The face value of checks that cannot be reconstructed.

It is understood and agreed by the parties to the Agreement that the words "reconstruct", "reconstructed", "reconstruction" shall mean the process used to identify the checks only to the extent of determining the face amount of the checks and the identity of the maker and/or the endorser of same.

c. Cases that have not been resolved within 30 calendar days will be submitted to the Proposer as a claim. All claims will include proof of loss documentation. Payment terms for claims paid by the Proposer shall be Net 10 and shall be issued to the Court for the face value of the claim. In addition, the Proposer will be liable for interest payable at the most recent California State Treasurer's Office Local Agency Investment Fund interest rate on lost or mishandled funds not resolved within five business days. The interest payable shall be computed by the Court from the date of the original occurrence.

d. Monies paid by the Proposer for claims will be eligible for refund should resolution show that the Proposer was not liable for the claim.

End of Exhibit A

**ATTACHMENT 1
ADMINISTRATIVE RULES GOVERNING RFPs**

1. COMMUNICATIONS WITH THE JUDICIAL BRANCH ENTITY (“COURT”) REGARDING THE RFP

Except as specifically addressed elsewhere in the RFP, the Proposers must send any communications regarding the RFP to solicitations@fresno.courts.ca.gov (the “Solicitations Mailbox”). The Proposers must include the RFP Number in subject line of any communication. All correspondence from the Court will be posted on the Court’s website at:

<http://www.fresno.courts.ca.gov/general-information/procurement>

2. QUESTIONS REGARDING THE RFP

The Proposers interested in responding to the RFP may submit questions via email to the Solicitations Mailbox on procedural matters related to the RFP or requests for clarification or modification of the RFP no later than the deadline for questions listed in the timeline of the RFP. Once submitted, questions become part of the procurement file and are subject to disclosure; the Proposers are accordingly cautioned not to include any proprietary or confidential information in questions. If the Proposer is requesting a change, the request must set forth the recommended change and the Proposer’s reasons for proposing the change. Questions or requests submitted after the deadline for questions will not be answered. Without disclosing the source of the question or request, a copy of the questions and the Court’s responses will be made available prior to the proposal due date and time.

3. ERRORS IN THE RFP

- A. If, before the proposal due date and time listed in the timeline of the RFP, a Proposer discovers an ambiguity, conflict, discrepancy, omission, or error in the RFP, the Proposer must immediately notify the Court via email to the Solicitations Mailbox and request modification or clarification of the RFP. Without disclosing the source of the request, the Court may modify the RFP before the proposal due date and time by releasing an addendum to the solicitation.
- B. If a Proposer fails to notify the Court of an error in the RFP known to the Proposer, or an error that reasonably should have been known to the Proposer, before the proposal due date and time listed in the timeline of the RFP, the Proposer shall propose at its own risk. Furthermore, if the Proposer is awarded the agreement, the Proposer shall not be entitled to additional compensation or time by reason of the error or its later correction.

4. ADDENDA

- A. The Court may modify the RFP before the proposal due date and time listed in the timeline of the RFP by issuing an addendum which will be posted on the Court's website (www.fresno.courts.ca.gov/general-information/procurement). It is each Proposer's responsibility to inform itself of any addendum prior to its submission of a proposal.
- B. If any Proposer determines that an addendum unnecessarily restricts its ability to propose, the Proposer shall immediately notify the Court via email to the Solicitations Mailbox no later than one day following issuance of the addendum.

5. WITHDRAWAL AND RESUBMISSION/MODIFICATION OF PROPOSALS

A Proposer may withdraw its proposal at any time before the deadline for submitting proposals by notifying the Court in writing of its withdrawal. The notice must be signed by the Proposer. The Proposer may thereafter submit a new or modified proposal, provided that it is received at the Court no later than the proposal due date and time listed in the timeline of the RFP. Modifications offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed in the timeline of the RFP.

6. ERRORS IN THE PROPOSAL

If errors are found in a proposal, the Court may reject the proposal; however, the Court may, at its sole option, correct arithmetic or transposition errors or both on the basis that the lowest level of detail will prevail in any discrepancy. If these corrections result in significant changes in the amount of money to be paid to the Proposer (if selected for the award of the agreement), the Proposer will be informed of the errors and corrections thereof and will be given the option to abide by the corrected amount or withdraw the proposal.

7. RIGHT TO REJECT PROPOSALS

- A. Before the proposal due date and time listed in the timeline of the RFP, the Court may cancel the RFP for any or no reason. After the proposal due date and time listed in the timeline of the RFP, the Court may reject all proposals and cancel the RFP if the Court determines that: (i) the proposals received do not reflect effective competition; (ii) the cost is not reasonable; (iii) the cost exceeds the amount expected; or (iv) awarding the contract is not in the best interest of the Court.
- B. The Court may or may not waive an immaterial deviation or defect in a proposal. The Court's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a Proposer from full compliance with RFP specifications. Until a contract resulting from this RFP is signed, the Court reserves the right to accept or reject any or all of the items in the proposal,

to award the contract in whole or in part and/or negotiate any or all items with individual Proposers if it is deemed in the Court's best interest. A notice of intent to award does not constitute a contract, and confers no right of contract on any Proposer.

- C. The Court reserves the right to issue similar RFPs in the future. The RFP is in no way an agreement, obligation, or contract and in no way is the Court or the State of California responsible for the cost of preparing the proposal.
- D. Proposers are specifically directed **NOT** to contact any Court personnel or consultants for meetings, conferences, or discussions that are related to the RFP at any time between release of the RFP and any award and execution of a contract. Unauthorized contact with any Court personnel or consultants may be cause for rejection of the Proposer's proposal.

8. EVALUATION PROCESS

- A. An evaluation team will review all proposals that are received by the appropriate deadline to determine the extent to which they comply with RFP requirements.
- B. Proposals that contain false or misleading statements may be rejected if in the Court's opinion the information was intended to mislead the evaluation team regarding a requirement of the RFP.
- C. During the evaluation process, the Court may require a Proposer's representative to answer questions with regard to the Proposer's proposal. Failure of a Proposer to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.
- D. In the event of a tie, the contract will be awarded to the winner of a single coin toss. The coin toss will be witnessed by two Court employees. The Court will provide notice of the date and time of the coin toss to the affected Proposers, who may attend the coin toss at their own expense.

9. DISPOSITION OF MATERIALS

All materials submitted in response to the RFP will become the property of the Court and will be returned only at the Court's option and at the expense of the Proposer submitting the proposal.

10. PAYMENT

- A. Payment terms will be specified in any agreement that may ensue as a result of the RFP.
- B. **THE COURT DOES NOT MAKE ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provided in the agreement between the Court and the selected Proposer.

11. AWARD AND EXECUTION OF AGREEMENT

- A. Award of contract, if made, will be in accordance with the RFP to a responsible Proposer submitting a proposal compliant with all the requirements of the RFP and any addenda thereto (including any administrative or technical requirements), except for such immaterial defects as may be waived by the Court.
- B. A Proposer submitting a proposal must be prepared to use a standard Court contract form rather than its own contract form.
- C. The Court will make a reasonable effort to execute any contract based on the RFP within forty-five (45) days of selecting a proposal that best meets its requirements. However, exceptions taken by a Proposer may delay execution of a contract.
- D. Upon award of the agreement, the Court may electronically send the agreement to the Proposer for signature. The Proposer will sign in blue ink and color scan the agreement to be returned to the Court no later than ten (10) business days of receipt of agreement. The Court will then finally execute the agreement and return a colored scan of the agreement to the Proposer which will be considered an original agreement. Agreements are not effective until executed by both parties. Any work performed before receipt of a fully-executed agreement shall be at the Proposer's own risk.

12. FAILURE TO EXECUTE THE AGREEMENT

The period for execution set forth in Section 11 ("Award and Execution of Agreement") may only be changed by mutual agreement of the parties. Failure to execute the agreement within the time frame identified above constitutes sufficient cause for voiding the award. Failure to comply with other requirements within the set time constitutes failure to execute the agreement. If the successful Proposer refuses or fails to execute the agreement, the Court may award the agreement to the next qualified Proposer.

13. NEWS RELEASES

News releases or other publicity pertaining to the award of a contract may not be issued without prior written approval of the Court Public Services and Media Coordinator.

14. ANTI-TRUST CLAIMS

- A. In submitting a proposal to the Court, the Proposer offers and agrees that if the proposal is accepted, the Proposer will 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 the Proposer for sale to the Court pursuant to the proposal. Such assignment shall be made and become effective at the

time the Court tenders final payment to the Proposer. (See Government Code section 4552.)

- B. If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Proposer 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.
- C. Upon demand in writing by the Proposer, the Court shall, within one year from such demand, reassign the cause of action assigned under this section if the Proposer 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. (See Government Code section 4554.)

15. AMERICANS WITH DISABILITIES ACT

The Court complies with the Americans with Disabilities Act (ADA) and similar California statutes. Requests for accommodation of disabilities by the Proposers should be directed to the solicitations mailbox (solicitations@fresno.courts.ca.gov) with "RFP Accommodation Request" in the subject line of the email.

[END OF ATTACHMENT 1]

ATTACHMENT 2

Court Standard Terms and Conditions

1. Provisions Applicable to Services

- 1.1 **Qualifications.** Contractor shall assign to this project only persons who have sufficient training, education, and experience to successfully perform Contractor's duties. If the Court is dissatisfied with any of Contractor's personnel, for any or no reason, Contractor shall replace them with qualified personnel.
- 1.2 **Turnover.** Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to perform Services.
- 1.3 **Background Checks.** Contractor shall cooperate with the Court if the Court wishes to perform any background checks on Contractor's personnel by obtaining, at no additional cost, all releases, waivers, and permissions the Court may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Court of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Court and performed by Contractor. Contractor shall ensure that the following persons are not assigned to perform services for the Court: (a) any person refusing to undergo such background checks, and (b) any person whose background check results are unacceptable to Contractor or that, after disclosure to the Court, the Court advises are unacceptable to the Court.

2. Contractor Certification Clauses.

Contractor certifies that the following representations and warranties are true. Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly notify the COURT if any representation and warranty becomes untrue. Contractor represents and warrants as follows:

- 2.1 **Authority.** Contractor has authority to enter into and perform its obligations under this Agreement, and Contractor's signatory has authority to bind Contractor to this Agreement.
- 2.2 **Not an Expatriate Corporation.** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC 10286.1, and is eligible to contract with the Court.
- 2.3 **No Gratuities.** Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Court Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement.
- 2.4 **No Conflict of Interest.** Contractor has no interest that would constitute a conflict of interest under PCC 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which

restrict employees and former employees from contracting with Judicial Branch Entities.

- 2.5 No Interference with Other Contracts.** To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest or default under any of Contractor's other contracts.
- 2.6 No Litigation.** No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened that may adversely affect Contractor's ability to perform the Services.
- 2.7 Compliance with Laws Generally.** Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor's business and services.
- 2.8 Drug Free Workplace.** Contractor provides a drug free workplace as required by California Government Code sections 8355 through 8357.
- 2.9 No Harassment.** 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, and Contractor takes all reasonable steps to prevent harassment from occurring.
- 2.10 Noninfringement.** The Goods, Services, Deliverables, and Contractor's performance under this Agreement do not infringe, or constitute an infringement, misappropriation or violation of, any third party's intellectual property right.
- 2.11 Nondiscrimination.** Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor will notify in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of nondiscrimination.
- 2.12 National Labor Relations Board Orders.** 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. Contractor swears under penalty of perjury that this representation is true.

3. Insurance

- 3.1 Basic Coverage.** Contractor shall provide and maintain at the Court's discretion and Contractor's expense the following insurance during the Term:

- A. Commercial General Liability.** The policy must be at least as broad as the Insurance Services Office (ISO) Commercial General Liability “occurrence” form, with coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. The policy must provide limits of at least \$1,000,000 per occurrence and annual aggregate.
 - B. Workers Compensation and Employer's Liability.** The policy is required only if Contractor has employees. The policy must include workers' compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1,000,000 per accident or disease.
 - C. Automobile Liability.** This policy is required only if Contractor uses an automobile or other vehicle in the performance of this Agreement. The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in Contractor's performance of this Agreement whether owned, non-owned, leased, or hired. The policy must provide combined single limits of at least \$1,000,000 per occurrence.
 - D. Professional Liability.** This policy is required only if Contractor performs professional services under this Agreement. The policy must cover liability resulting from any act, error, or omission committed in Contractor's performance of Services under this Agreement, at minimum limits of \$1,000,000 per occurrence and annual aggregate. If the policy is written on a “claims made” form, Contractor shall maintain such coverage continuously throughout the Term and, without lapse, for a period of three (3) years beyond the termination and acceptance of all Services provided under this Agreement. The retroactive date or “prior acts inclusion date” of any such “claims made” policy must be no later than the date that activities commence pursuant to this Agreement.
 - E. Commercial Crime Insurance.** This policy is required only if Contractor handles or has regular access to the Court's funds or property of significant value to the Court. This policy must cover dishonest acts including loss due to theft of money, securities, and property; forgery, and alteration of documents; and fraudulent transfer of money, securities, and property. The minimum liability limit must be \$500,000.
- 3.2 Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.
- 3.3 Aggregate Limits of Liability.** The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case the annual aggregate limits of liability must be at least two (2) times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.
- 3.4 Deductibles and Self-Insured Retentions.** Contractor shall declare to the Court all deductibles and self-insured retentions that exceed \$100,000 per occurrence.

Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to the Court's approval. Deductibles and self-insured retentions do not limit Contractor's liability.

- 3.5 Additional Insured Endorsements.** Contractor's commercial general liability policy, automobile liability policy, and, if applicable, umbrella policy must be endorsed to name the following as additional insureds with respect to liabilities arising out of the performance of this Agreement: the Court, the State of California, the Judicial Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees.
- 3.6 Certificates of Insurance.** Before Contractor begins performing Services, Contractor shall give the Court certificates of insurance attesting to the existence of coverage, and stating that the policies will not be canceled, terminated, or amended to reduce coverage without thirty (30) days' prior written notice to the Court.
- 3.7 Qualifying Insurers.** For insurance to satisfy the requirements of this section, all required insurance must be issued by an insurer with an A.M. Best rating of A - or better that is approved to do business in the State of California.
- 3.8 Required Policy Provisions.** Each policy must provide, as follows: (i) the policy is primary and noncontributory with any insurance or self-insurance maintained by Court, and the basic coverage insurer waives any and all rights of subrogation against Court and Court Personnel; (ii) the insurance applies separately to each insured against whom a claim is made or a lawsuit is brought, to the limits of the insurer's liability; and (iii) each insurer waives any right of recovery or subrogation it may have against the Court, the State of California, the Judicial Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees for loss or damage.
- 3.9 Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.
- 3.10 Consequence of Lapse.** If required insurance lapses during the Term, the Court is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.
- 4. Indemnity.** Contractor will defend (with counsel satisfactory to the Court or its designee), indemnify and hold harmless the Court, Judicial Branch Entities and the Judicial Branch Personnel against all claims, losses, and expenses, including attorneys' fees and costs, that arise out of or in connection with (i) a latent or patent defect in any Goods, (ii) an act or omission of Contractor, its agents, employees, independent contractors, or subcontractors in the performance of this Agreement, (iii) a breach of a representation, warranty, or other provision of this Agreement, and (iv) infringement

of any trade secret, patent, copyright or other third party intellectual property. 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, and acceptance of any Goods, Services, or Deliverables. Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the Court's prior written consent, which consent shall not be unreasonably withheld; and the Court shall have the right, at its option and expense, to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.

5. **Tax Delinquency.** Contractor must provide notice to the Court immediately if Contractor has reason to believe it may be placed on either (i) the California Franchise Tax Board's list of 500 largest state income tax delinquencies, or (ii) the California Board of Equalization's list of 500 largest delinquent sales and use tax accounts. The Court may terminate this Agreement immediately "for cause" pursuant to Section 7.2 below if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.

6. Termination

- 6.1 **Termination for Convenience.** The Court may terminate, in whole or in part, this Agreement for convenience upon thirty (30) days prior Notice. After receipt of such Notice, and except as otherwise directed by the Court, Contractor shall immediately: (a) stop Services as specified in the Notice; and (b) stop the delivery or manufacture of Goods as specified in the Notice.
- 6.2 **Termination for Cause.** The Court may terminate this Agreement, in whole or in part, immediately "for cause" if (i) Contractor fails or is unable to meet or perform any of its duties under this Agreement, and this failure is not cured within ten (10) days following Notice of default (or in the opinion of the Court, is not capable of being cured within this cure period); (ii) Contractor or Contractor's creditors file a petition as to Contractor's bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business; or (iii) Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading.
- 6.3 **Termination upon Death.** This entire Agreement will terminate immediately without further action of the parties upon the death of a natural person who is a party to this Agreement, or a general partner of a partnership that is a party to this Agreement.
- 6.4 **Termination for Changes in Budget or Law.** The Court's payment obligations under this Agreement are subject to annual appropriation and the availability of funds. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the current appropriation year is conditioned upon appropriation of sufficient

funds to support the activities described in this Agreement. The Court may terminate this Agreement or limit Contractor's Services (and reduce proportionately Contractor's fees) upon Notice to Contractor without prejudice to any right or remedy of the Court if: (i) expected or actual funding to compensate Contractor is withdrawn, reduced or limited; or (ii) the Court determines that Contractor's performance under this Agreement has become infeasible due to changes in applicable laws.

6.5 Rights and Remedies of the COURT.

- A. *Nonexclusive Remedies.*** All remedies provided in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Court immediately if Contractor is in default, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement. If Contractor is in default, the Court may do any of the following: (i) withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor; (ii) require Contractor to enter into nonbinding mediation; (iii) exercise, following Notice, the Court's right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.
- B. *Replacement.*** If the Court terminates this Agreement in whole or in part for cause, the Court may acquire from third parties, under the terms and in the manner the Court considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the Court for any excess costs for those goods or services. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Court for such goods and services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Court. Contractor shall continue any Services not terminated hereunder.
- C. *Delivery of Materials.*** In the event of any expiration or termination of this Agreement, Contractor shall promptly provide the Court with all originals and copies of the Deliverables, including any partially-completed Deliverables-related work product or materials, and any Court-provided materials in its possession, custody, or control. In the event of any termination of this Agreement, the Court shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the Court's termination is not for cause, the Court shall pay any fees due under this Agreement for Services performed or Deliverables completed and accepted as of the date of the Court's termination Notice.

- 6.6 *Survival.*** Termination or expiration of this Agreement shall not affect the rights and obligations of the parties which arose prior to any such termination or expiration (unless otherwise provided herein) and such rights and obligations shall survive any such termination or expiration. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration

of this Agreement, including any section of this Agreement that states it shall survive such termination or expiration.

7. **Assignment and Subcontracting.** Contractor may not assign or subcontract its rights or duties under this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the Court. Consent may be withheld for any reason or no reason. Any assignment or subcontract made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the parties and their permitted successors and assigns.
8. **Notices.** Notices must be sent to the following address and recipient:

| If to Contractor: | If to the Court: |
|-------------------------------|--|
| <u>[name, title, address]</u> | <u>Lisa Armstrong</u> |
| | <u>Chief Financial Officer</u> |
| | <u>1100 Van Ness Avenue</u> |
| | <u>Fresno, CA 93724-0002</u> |
| <u>With a copy to:</u> | <u>larmstrong@fresno.courts.ca.gov</u> |

Either party may change its address for Notices by giving the other party Notice of the new address in accordance with this section. Notices will be considered to have been given at the time of actual delivery in person, three (3) days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.

9. **Provisions Applicable to Certain Agreements.** The provisions in this section are **applicable only to the types of orders specified in the first sentence of each subsection**. If this Agreement is not of the type described in the first sentence of a subsection, then that subsection does not apply to the Agreement.
 - 9.1 **Union Activities Restrictions.** *If the Contract Amount is over \$50,000, this section is applicable.* Contractor agrees that no Court funds received under this Agreement will be used to assist, promote or deter union organizing during the Term. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no Court funds were used for those expenditures. Contractor will provide those records to the Attorney General upon request.
 - 9.2 **Domestic Partners, Spouses, and Gender Discrimination.** *If the Contract Amount is \$100,000 or more, this section is applicable.* Contractor is in compliance with, and throughout the Term will remain in compliance with, PCC 10295.3 which places limitations on contracts with contractors who discriminate in the provision of benefits regarding marital or domestic partner status.
 - 9.3 **Child Support Compliance Act.** *If the Contract Amount is \$100,000 or more, this section is applicable.* Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the Term) all applicable state and federal laws relating to child and family support enforcement, including disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq.

Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

- 9.4 Priority Hiring.** *If the Contract Amount is over \$200,000 and this Agreement is for services (other than Consulting Services), this section is applicable.* Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.
- 9.5 Loss Leader Prohibition.** *If this Agreement involves the purchase of goods, this section is applicable.* Contractor shall not sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code.
- 9.6 Federal Funding Requirements.** *If this Agreement is funded in whole or in part by the federal government, this section is applicable.* It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made. This Agreement is valid and enforceable only if sufficient funds are made available to the Court by the United State Government for the fiscal year in which they are due and consistent with any stated programmatic purpose, and this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner. The parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement is intended to be paid, this Agreement shall be deemed amended without any further action of the parties to reflect any reduction in funds. The Court may invalidate this Agreement under the termination for convenience or cancellation clause (providing for no more than thirty (30) days' Notice of termination or cancellation), or amend this Agreement to reflect any reduction in funds.
- 9.7 DVBE Commitment.** *This section is applicable if Contractor received a disabled veteran business enterprise ("DVBE") incentive in connection with this Agreement.* Contractor's failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of the Agreement. If Contractor used DVBE subcontractor(s) in connection with this Agreement: (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the Court approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must complete and return to the Court a post-contract certification form promptly upon completion of the awarded contract, and by no later than the date of submission of Contractor's final invoice to the Court. (The post-contract certification form is located at: <https://www.Courts.ca.gov/documents/JBCM-Post-Contract-Certification-Form.docx>) If the Contractor fails to do so, the Court will withhold \$10,000 from the final payment, or withhold the full payment if it is less than \$10,000, until the Contractor submits a complete and accurate post-contract certification form.

The Court shall allow the Contractor to cure the deficiency after written notice of the Contractor's failure to complete and submit an accurate post-contract certification form. Notwithstanding the foregoing and any other law, if after at least 15 calendar days, but no more than 30 calendar days, from the date of the written notice the Contractor refuses to comply with these certification requirements, the Court shall permanently deduct \$10,000 from the final payment, or the full payment if less than \$10,000. The post-contract certification form shall include: (1) the total amount of money Contractor received under the Agreement, (2) the total amount of money and the percentage of work that Contractor committed to provide to each DVBE subcontractor; (3) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Agreement; (4) the amount of money each DVBE subcontractor actually received from Contractor in connection with the Agreement, and the corresponding percentage this payment comprises of the total amount of money Contractor received under the Agreement; and (5) that all payments under the Agreement have been made to the applicable DVBE subcontractors. Upon request by the Court, Contractor shall provide proof of payment for the work. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. Contractor will comply with all rules, regulations, ordinances and statutes that govern the DVBE program, including, without limitation, Military and Veterans Code section 999.5.

- 9.8 Antitrust Claims.** *If this Agreement resulted from a competitive solicitation, this section is applicable.* 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 (1) 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.
- 9.9 Good Standing.** *If Contractor is a corporation, limited liability company, or limited partnership, and this Agreement is performed in whole or in part in California, this section is applicable.* Contractor is, and will remain for the Term, qualified to do business and in good standing in California.

9.10 Small Business Preference Commitment. *This section is applicable if Contractor received a small business preference in connection with this Agreement.* Contractor's failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement. Contractor must within sixty (60) days of receiving final payment under this Agreement report to the Court the actual percentage of small/micro business participation that was achieved. If Contractor is a nonprofit veteran service agency ("NVSA"), Contractor must employ veterans receiving services from the NVSA for not less than 75 percent of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement.

10. Miscellaneous Provisions.

10.1 Independent Contractor. Contractor is an independent contractor to the Court. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the Court. Contractor has no authority to bind or incur any obligation on behalf of the Court. If any governmental entity concludes that Contractor is not an independent contractor, the Court may terminate this Agreement immediately upon Notice.

10.2 GAAP Compliance. Contractor maintains an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles.

10.3 Audit. Contractor must allow the Court or its designees to review and audit Contractor's (and any subcontractors') documents and records relating to this Agreement, and Contractor (and its subcontractors) shall retain such documents and records for a period of four (4) years following final payment under this Agreement. If an audit determines that Contractor (or any subcontractor) is not in compliance with this Agreement, Contractor shall correct errors and deficiencies by the twentieth (20th) day of the month following the review or audit. If an audit determines that Contractor has overcharged the Court five percent (5%) or more during the time period subject to audit, Contractor must reimburse the Court in an amount equal to the cost of such audit. This Agreement is subject to examinations and audit by the State Auditor for a period three (3) years after final payment.

10.4 Licenses and Permits. Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by applicable law for the performance of the Services or the delivery of the Goods. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any applicable law.

10.5 Confidential Information. During the Term and at all times thereafter, Contractor will: (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement, and (c) refrain from disclosing or permitting others to disclose any Confidential Information to any third party without obtaining the Court's express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to its employees or contractors who need to know that information in order to

perform Services hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this section. The provisions of this section shall survive the expiration or termination of this Agreement. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than the greater of reasonable care and industry-standard care. The Court owns all right, title and interest in the Confidential Information. Contractor will notify the Court promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the Court to protect such Confidential Information. Upon the Court's request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the Court or, if so directed by the Court, destroy all Confidential Information (in every form and medium), and (b) certify to the Court in writing that Contractor has fully complied with the foregoing obligations. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations under this section, that any such breach will likely result in irreparable harm, and that upon any breach or threatened breach of the confidentiality obligations, the Court shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.

- 10.6 Publicity.** Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the Court.
- 10.7 Choice of Law and Jurisdiction.** California law, without regard to its choice-of-law provisions, governs this Agreement. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. Jurisdiction for any legal action arising from this Agreement shall exclusively reside in state or federal courts located in California, and the parties hereby consent to the jurisdiction of such courts.
- 10.8 Negotiated Agreement.** This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654.
- 10.9 Amendment and Waiver.** Except as otherwise specified in this Agreement, no amendment or change to this Agreement will be effective unless expressly agreed in writing by a duly authorized officer of the Court. A waiver of enforcement of any of this Agreement's terms or conditions by the Court is effective only if expressly agreed in writing by a duly authorized officer of the Court. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- 10.10 Force Majeure.** Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by a force majeure. Force majeure, for purposes of this paragraph, is defined as follows: acts of war and acts of god,

such as earthquakes, floods, and other natural disasters, such that performance is impossible.

10.11 Follow-On Contracting. No person, firm, or subsidiary who has been awarded a Consulting Services agreement may submit a bid for, nor be awarded an agreement for, the providing of services, procuring goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of this Agreement.

10.12 Severability. If any part of this Agreement is held unenforceable, all other parts remain enforceable.

10.13 Headings; Interpretation. All headings are for reference purposes only and do not affect the interpretation of this Agreement. The word "including" means "including, without limitation." Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.

10.14 Time of the Essence. Time is of the essence in Contractor's performance under this Agreement.

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

[END OF ATTACHMENT 2]


ATTACHMENT 3
PROPOSER'S ACCEPTANCE OF COURT STANDARD TERMS AND CONDITIONS

Instructions: Mark the appropriate choice below and sign this attachment.

1. The Proposer accepts Attachment 2: Court Standard Terms and Conditions ("Attachment 2") without exception.

OR

2. We propose exceptions or modifications to Attachment 2. We understand that we must also submit (i) a red-lined version of Attachment 2 that clearly tracks proposed modifications, and (ii) a written explanation or rationale for each exception or proposed modification.

| |
|---|
| BY (<i>Authorized Signature</i>)  |
| PRINTED NAME OF PERSON SIGNING |
| TITLE OF PERSON SIGNING |

[END OF ATTACHMENT 3]

**ATTACHMENT 4
 DARFUR CONTRACTING ACT CERTIFICATION**

Pursuant to Public Contract Code (PCC) section 10478, if a proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must either (i) certify that it is not a "scrutinized company" as defined in PCC 10476, or (ii) receive written permission from the Court to submit a proposal.

To submit a proposal to the Court, the proposer/bidder must complete Section 1 **OR** Section 2 below:

SECTION 1

| | |
|--|--------------------------|
| <i>Company Name (Printed)</i> | <i>Federal ID Number</i> |
| <i>Printed Name and Title of Person Checking Box</i> | <i>Date Completed</i> |

- 1. We do not currently have, and we have not had within the previous three years, business activities or other operations outside of the United States.
- 2. We are a "scrutinized company" as defined in PCC 10476, but we have received written permission from the Court to submit a proposal pursuant to PCC 10477(b). A copy of the written permission from the Court is included with our proposal.

OR

SECTION 2

- 3. We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we **certify below** that we are not a "scrutinized company" as defined in PCC 10476.

CERTIFICATION FOR PARAGRAPH 3:

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the proposer to the clause in paragraph 3. This certification is made under the laws of the State of California.

| | |
|---|--|
| <i>Company Name (Printed)</i> | <i>Federal ID Number</i> |
| <i>By (Authorized Signature)</i> | |
| <i>Printed Name and Title of Person Signing</i> | |
| <i>Date Executed</i> | <i>Executed in the County of _____</i> <i>in the State of _____</i> |

[END OF ATTACHMENT 4]

rev 9/14/15 (JCC)

ATTACHMENT 5

**UNRUH CIVIL RIGHTS ACT AND CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT
CERTIFICATION**

Pursuant to Public Contract Code (PCC) section 2010, the following certifications must be provided when (i) submitting a bid or proposal to the Court for a solicitation of goods or services of \$100,000 or more, or (ii) entering into or renewing a contract with the Court for the purchase of goods or services of \$100,000 or more.

CERTIFICATIONS:

1. We are in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);
2. We are in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of the Title 2 of the Government Code); **and**
3. We do not have any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, that is used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

The certifications made in this document are made under penalty of perjury under the laws of the State of California. I, the official named below, certify that I am duly authorized to legally bind the proposer/bidder/vendor to certifications made in this document.

| | | |
|---|--|--------------------------|
| <i>Company Name (Printed)</i> | | <i>Federal ID Number</i> |
| <i>By (Authorized Signature)</i> | | |
| <i>Printed Name and Title of Person Signing</i> | | |
| <i>Date Executed</i> | <i>Executed in the County of _____ in the State of _____</i> | |

[END OF ATTACHMENT 5]