

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY**

REQUEST FOR PROPOSAL

**JUROR SUMMONS AND NOTICES AND TRAFFIC NOTICES
PRINTING AND MAILING SERVICES**



REQUEST FOR PROPOSAL NUMBER MCSC 13-26-OPS

WRITTEN PROPOSALS DUE BY

Wednesday, July 23, 2014 at 3:30 PM

Superior Court of California, County of Monterey

240 Church Street

Salinas, CA 93901

Attention: Carey Pearce, Finance Analyst

Finance Division

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INTRODUCTION

The Superior Court of California, County of Monterey, hereinafter “Court,” is interested in contracting with a company who can provide print and mail service to the Court for mailing juror summons and notices and traffic citation related notices on behalf of the Court. This will also involve the receipt of the Court’s data in an electronic file format and merging that information on to a set pre-printed notice format for printing.

The following is a description of the scope of services to be provided, and the prospective service provider (hereinafter “Prospective bidder”) selection process. Prospective bidder’s submission of a Proposal for this service will be considered prospective bidder’s agreement to comply with the specifications in this RFP and the terms and conditions as stated herein in the proposed contract that is included in this Request for Proposal.

1.0 GENERAL INFORMATION

1.1 Issuing Body

The Superior Court of California, County of Monterey (“Court”) is issuing this Request for Proposal (“RFP”) to solicit competitive proposals from entities to provide printing, processing and mailing of court notices as described herein.

1.2 Program Background

The Court is required to mail differing notices to designated persons as covered in this RFP. These notices include:

- A. Jury Services
 - 1. Initial juror summons
 - 2. Subsequent notices to prospective jurors as needed.

- B. Traffic Court
 - 1. Initial Traffic Courtesy notices
 - 2. Other follow up notices that are sent out to offenders as needed

1.3 Program Goals and Objectives

- A. The Court’s goal is to select a service provider who will be able to provide the most cost effective and highest quality of service.

- B. The service provider must be able to receive the Court’s electronic data files, process the information, print the notices and mail them out in a timely manner according to statutory and rules of court requirements.

- C. The Court reserves the right to reject any or all Proposals, in whole or in part, submitted in response to this RFP. The Court further reserves the right to make no award and to modify or cancel, in whole or in part, this RFP.

2.0 STATEMENT OF SERVICES

Service Provider will provide services to assist the Superior Court of California, County of Monterey, hereinafter referred to as “Court”, in printing and mailing Court notices as describe in this Section.

2.1. JURY SERVICES PRINTING

- A. Work with the Court's staff to configure the Court's current forms (see Attachment A) into a graphical layout of all jury related forms to be printed under this contract.
- B. Vendor will print the jury forms, letters and/or postcards according to specifications provided by the Court so that they will be compatible with the electronic data files created by Jury Systems, Inc.'s system or any other jury management system utilized by the Court.
- C. Vendor will process jury data information provided by Court in the following manner for preparing the jury forms for printing and processing.
 - 1. Court creates a fixed-width electronic data file and sends it via a vendor-hosted FTP site or website for vendor to process and insert into appropriate forms for printing.
 - 2. The Summons records in the file created from the data provided by the Court shall be verified on the day the records are produced and are to be in the mail within 48 hours of receipt of file transfer from the Court.
 - 3. Summons shall be printed and mailed with the potential juror receiving it in about 72 hours after the Court sends the file to vendor.
- D. Summons requirements specify that only one side will contain variable information that is printed on the form. If both sides need variable data printed, any such changes shall not occur until a cost estimate for the change is provided to the contracting manager or designee and is approved in writing by the manager.
- E. The Court estimates that approximately 110,000 jury summons forms, 15,000 grand jury letters, 25,000 FTA notices and general correspondence are printed and mailed each year. All documents will have a juror badge numbers bar code. . (See attached sample as Attachment A).
 - Jury summons is a 8 ½ x 14, 2 color processed paper with two-color printing with a mailing two-window envelope and returned one-window envelope.
 - Grand Jury letters and other correspondence 8 ½ x 11 form, with mailing envelop and returned envelope required.
 - Printing, mail prep – price per piece
 - Postage – please describe how you handle the postage account
 - USPS may charge an additional rate for mailing if no +4 on the zip code. Vendor shall pass all addresses received from the Court through the National Change of Address process to obtain the +4 zip code for each address, where possible.
- F. Vendor understands the time sensitive requirements of providing their services and the statutory and Court Rules requirements that govern the jury summoning process of which they are a part.
- G. Vendor will make all reasonable effort to assist the Court in meeting its mandated jury processes in the event that there are any problems with the normal processing of the jury forms.
- H. Vendor will comply with any requests by the Court for information on their processes and method of operation when needed in response to inquiries on the integrity of the Court's jury summoning process and procedures.
- I. Vendor will be required to provide an ongoing accounting of the postage used and the account balance for a complete postage audit trail.
- J. NCOA link will be sent back electronically to be changed in the juror data base. Vendor will provide an estimate on the cost per file sent.
- K. Post cards may be produced and sent for other notices.

- L. At the request of the Court, letters may be produced and sent for certain type of correspondence. Vendor shall include the cost for producing letters specifying pricing for 1 or 2 page correspondences.

2.2. **TRAFFIC NOTICES PRINTING**

- A. Work with the Court's staff to configure the Court's current forms (see Attachment B) of all traffic-related forms to be printed under this contract.
- B. Vendor will print traffic forms, letters and/or postcards according to specifications provided by the Court.
- C. Vendor will process traffic data provided by Court in the following manner for preparing the traffic forms needed to be printed and processed.
1. Court creates a fixed-width data file and sends it via a vendor-hosted FTP site or website for vendor to process and insert into appropriate forms for printing.
 2. The records in the file created from the data provided by the Court shall be verified on the day the records are produced and be in the mail within 48 hours of receipt of file transfer from the Court.
 3. Notices shall be printed and mailed with the traffic defendant receiving it in about 72 hours after the Court sends the file to vendor. If for any reason that Vendor cannot meet the time schedule as specified, vendor shall contact the Court's Information Technology Director and/or the Traffic Division Court Services Manager immediately advising them of the delay.
- D. By entering into this Contract, Vendor understands the time sensitive requirements of providing their services and the statutory and Court Rules requirements that govern the traffic noticing process of which they are a part.
- E. Vendor will make all reasonable effort to assist the Court in meeting its mandated traffic noticing processes in the event that there is any problems with the normal processing of the traffic forms.
- F. Vendor will comply with any requests by the Court for information on their processes and method of operation when needed in response to inquiries on the integrity of the Court's traffic notice process and procedures.
- G. Vendor agrees that any work performed or other services provided cannot proceed until a written approval from the Court is given authorizing such work or service.
- H. The schedule of costs for forms and services provided under this contract shall be based on the items listed immediately below (cost to be based on **70,000** forms per year). These costs are subject to adjustments caused by changes in the United States Postal Services rate or for any other reason as provided for in sections 3 and 4 below.
- 8 ½ x 11 form, two colors with envelope required.
 - Printing, mail prep – price per piece
 - Postage – please describe how you handle the postage account
 - USPS may charge an additional rate for mailing if no +4 on the zip code. Vendor shall pass all addresses received from the Court through the National Change of Address process to obtain the +4 zip code for each address, where possible.
- I. Vendor will be required to provide Court by November 30 of each year of this contract with a schedule of fees that sets forth the fees that will apply in the following year.
- J. Any costs for mailings covered under this RFP that includes the cost of postage are subject to adjustment according to changes made by the United States Postal Service (USPS) in the cost of

mailing. Vendor will be required to notify the Court in writing of any such changes by submitting to the Court with an amended schedule of fees within 10 business days of the release of the rate change by the USPS. The revised schedule will be reviewed and approved by Court before the new postal rates are applicable.

- K. Other printing and mail services may be requested. Vendor will be required to provide a quote that will contain the preparation cost, printing costs and postage costs associated with these requested services. Any such additional services costs must be approved in writing before services or work can proceed.

3.0 GENERAL REQUIREMENTS

3.1 Service Provider Proposal.

Please include the following in your proposal:

1. Name, address and telephone number of the service provider.
2. Brief description of the individual and the service provider's qualifications to provide the services.
3. Information concerning procedures and contact person for resolving issues relative to performance of the services in the contract.
4. The names, titles, address and telephone number of three individuals familiar with the company's services as a result of services provided (references).
5. Name, address and signature of the individual authorized to sign the proposal.
6. A statement of the service provider's qualifications.
7. Description of your process with handling the electronic data case information files and how the information gets printed on the forms.
8. Description your requirements and procedures with maintaining and processing of postage that will be used in mailing the printed notices.
9. Itemized projected monthly and annual cost for services described in Section 2.0 of this RFP specifying all of the services to be provided and all associated costs pertaining to the service.
10. Proposed approach and time schedule for service provider coordination and communication relating to implementation of the services to be operational by August 4, 2014.
11. Statement that the service provider will agree to provide general liability, worker's compensation and employers liability, motor vehicle liability, and professional liability insurance, if selected, naming the Superior Court of California, County of Monterey, the Judicial Council of California and the Administrative Office of the Courts as additional insureds.
12. Statement that the service provider agrees that the service agreement may be terminated by either party upon ten (10) days' notice for cause or the agreement may be terminated by either party upon thirty (30) days' notice. Also that the Court may terminate at any time, without notice upon a material breach of the terms of the service agreement and/or in the event the Court determines that the service provider's performance is substandard or unsatisfactory.
13. Service providers are requested to provide a proposed payment plan. Please note that the Court will not make payment in advance of services. Payments are typically made within 30 days of receipt of a detailed invoice of services and must be approved prior to payment being made.

3.2 Proposal Pricing

- A. The Proposal Pricing shall include but not limited to:
 - 1. Cost for development and setting up of the various notices format that will be used for printing of the notices (imaging preparation).
 - 2. Total cost per notice printed with a breakdown of the costs associated with the printing and processing of the notice (not including the cost of postage).
 - 3. List all potential related costs and specify if it is imposed for each item or is on an as-needed basis.
- B. The Court is not liable for nor will pay for any other fees or other associated costs that are not already stated in the fees for services as stated herein or agreed to in writing subsequent to entering into the contract.

If there are any non-foreseeable supplemental administrative costs or fees that the Prospective Bidder may impose during the course of the contract term, the Contractor will be required to present it to the Court Executive Officer for review. The Court will not be liable for payment of such fees unless the Court agrees to them in writing prior to incurring the cost.

3.3 Contract Term

The term of the contract will be for (3) three years subject to the terms and conditions as stated in the proposed contract included herein under Addendum A.

3.4 Invoicing

- A. Contractor shall submit monthly invoices for services performed for the previous month. After receipt of an invoice, Court will review the services performed before approving the invoice for payment, or provide contractor with specific reasons why any payment is being withheld and inform contractor of remedial actions required in order for contractor to receive the amount withheld.
- B. An invoice shall contain a detail of services rendered and any other incidental expenses allowable under the contract, the Court's contract number and signed by the contractor. Invoices will be submitted by contractor to:

Carey Pearce, Finance Analyst
Superior Court of California, County of Monterey
Finance Division
240 Church Street, Room 362
Salinas, CA 93901

3.0 PROCUREMENT AND EVALUATION PROCESS

4.1 Procurement Schedule and General Instructions

The Court has developed the following list of key events from RFP issuance through notice contract award. All deadlines are subject to change at the Court's discretion.

| <u>No.</u> | <u>EVENTS</u> | <u>Key Dates</u> |
|-------------------|---|---------------------------|
| 1. | Request for Proposal is issued | July 2, 2014 |
| 2. | Notice of Intent to Participate in Pre-Proposal Bidders Telephone Conference | July 9, 2014, Noon |
| 3. | Pre-Proposal Bidders Telephone Conference | July 16, 2014, 10:30 a.m. |
| 4. | Deadline for Prospective bidder Requests for Clarifications, questions or RFP modifications | July 18, 2014, Noon |

*RFP MCSC 13-26 OPS- Superior Court, County of Monterey
Juror and Traffic Court Notices Printing and Mailing Services*

| | | |
|----|--|--------------------------------|
| 5. | Proposal Due Date and Time | July 23, 2014, 3:30 p.m. (PST) |
| 6. | Notice of Intent to Award (estimated) Notice of Intent letters will be sent to the prospective bidders by e-mail. | July 28, 2014 |

Any modifications to this RFP and any addenda that may be issued and responses to clarification inquiries will be available on the Court's website at www.monterey.courts.ca.gov referred to individually and collectively as "Court website"

A. Contact List

Submittal Contact: Carey Pearce (831)775-5449, carey.pearce@monterey.courts.ca.gov

Written Proposals shall be sent to:

Superior Court of California, County of Monterey

Attn: Carey Pearce, Finance Analyst

Finance Division

240 Church Street

Salinas, CA 93901

Contract Manager: Rebecca Hayes, Operations Manager (831)775-5454

Contracting Officer: Carey Pearce, Finance Analyst

Court Executive Officer: Teresa A. Risi (same address)

B. Contact with Court.

Prospective bidders are specifically directed NOT to contact any Court personnel or consultants for meetings, conferences, or discussions that are specifically related to this RFP at any time prior to any award of a contract. Unauthorized contact with any Court personnel or consultants may be cause for rejection of the prospective bidder's response.

Any communication with the Court can be sent to: rfp@monterey.courts.ca.gov, **Subject Line: RFP MCSC 13-26 OPS - Court Notices Printing**

C. Disposition of Material and Confidential or Proprietary Information

All materials submitted in response to the solicitation document will become the property of the Court and will be returned only at the Court's option and at the expense of the prospective bidder submitting the proposal. One copy of a submitted proposal will be retained for official files and become a public record. Any material that a prospective bidder considers as confidential but does not meet the disclosure exemption requirements of the California Public Records Act should not be included in the prospective bidder's proposal as it may be made available to the public.

Although the Public Records Act (PRA) does not apply to the Court, the Court is governed by California Rules of Court, Rule 10.500 and the California Judicial Branch Contracting laws (Public Contract Code §§ 19201, et seq.) regarding requests for court administrative documents. If a prospective bidder's proposal contains material noted or marked as confidential and/or proprietary that, in the Court's sole opinion, meets the disclosure exemption requirements of the PRA, then that information will not be disclosed pursuant to a written request for public documents. If the Court does not consider such material to be exempt from disclosure under the Judicial Branch Contracting laws or Rule 10.500, the material may be made available to the public, regardless of the notation or markings. If a prospective bidder is unsure if its confidential and/or proprietary material meets the disclosure exemption requirements of the PRA, then it should not include such information in its proposal because such information may be disclosed to the public.

D. Proposal Preparation Costs.

Prospective bidders submitting proposals do so entirely at their expense. There is no express or implied obligation by the Court to reimburse a prospective bidder for any costs incurred in preparing or submitting proposals, providing additional information when requested by the Court, participating in any selection interviews or product demonstrations, or participating in this procurement.

4.2 Pre-proposal Conference

A pre-proposal telephone conference to answer questions related to this RFP will be held on the date and at the time specified in Section 4.1. The pre-proposal telephone conference is optional but you are strongly encouraged to participate so that you will be able to better understand the proposal requirements. A prospective bidder who intends on participating in the pre-proposal conference is required to send a notice of intent to participate to Carey Pearce at carey.pearce@monterey.courts.ca.gov by July 9, 2014 at Noon at which time you will be provided the telephone number and password to gain access.

4.3 Pre-Submittal Process

A. Request for Clarification, Questions or RFP Modifications. Any requests for clarification, questions or RFP modifications of the proposed general terms, the project specifications, or General Conditions of the proposed contract (Addendum "A") must be submitted by U.S. Mail or by e-mail to the Submittal contact listed in Section 4.2 no later than the date specified in the schedule. Questions or requests submitted after the due date will not be answered.

Without disclosing the source of the question or request, the Court's Finance Analyst will provide a copy of the questions to potential prospective bidders or, if appropriate, post a copy of the questions and the Court's responses on the Court website. All inquiries and responses will be shared with all prospective bidders.

B. Ambiguity, Discrepancies, or Omissions.

If a prospective bidder submitting a proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the prospective bidder shall immediately provide the Submittal Contact listed in Section 4.1. A written notice of the problem and request that the solicitation document be clarified or modified (see requirements in section E below). Any such notice must be submitted by the due date for clarifications as stated in the schedule in Section 4.1 above. Without disclosing the source of the request, the Court may modify the solicitation document prior to the date fixed for submission of proposals by providing an addendum to prospective bidders and/or by posting the addendum on the Court website.

C. Solicitation Protest

If a bidder is alleging that the RFP document contains technical, administrative, or cost specification or requirement defectives then the prospective bidder shall file a protest alleging the defect. The specification or requirement may be defective because it is:

- Onerous, unfair, or illegal; or
- Imposes unnecessary constraints in proposing less costly or alternate solutions.

Failure to comply with the protest processes set forth in this section may result in the Court's rejection of a solicitation specifications protest.

D. Waiver

If prior to the date fixed for submission of proposals a prospective bidder submitting a proposal knows of or should have known of an error in the solicitation document but fails to notify the Court of the error, the prospective bidder shall propose at its own risk, and if the prospective bidder is awarded the contract, the prospective bidder shall not be entitled to additional compensation or time by reason of the error or its later correction.

E. Protest or Request for Clarification Content

The solicitation protest or request for clarification process as set forth in Sections 4.3 A, B and C above shall contain the following information:

- Prospective bidder information (name, address, telephone number, e-mail address & fax number);
- Title of the Solicitation Document including the RFP number;
- The specific alleged deficiency, ambiguity, discrepancy or omission in in the RFP's technical, administrative, or cost specifications or requirements;
- Detailed description of the specific legal and factual grounds of protest and any supporting documentation; and
- The specific ruling or relief requested.

F. Review of Protest/Request

1. Procedure

Questions, clarification or issues on omissions may be addressed by the finance analyst. Protests shall be reviewed by the Protest Hearing Officer as specified in paragraph "4" below who may seek legal advice as needed. The burden of proof to show that the Solicitation document contains a defective technical, administrative, or cost specification or requirement lies with the prospective bidder.

2. Evaluation

When evaluating the solicitation specifications protest, the protest hearing officer shall consider:

- The validity and defensibility of the alleged defective technical, administrative or cost specification or requirement;
- Whether the Prospective Bidder has raised a valid issue; and
- Whether competition would be advanced by revising the allegedly defective technical, administrative, or cost specification or requirement.

3. Determination

Response to the Request or Protest must be completed before the closing date for submitting bids. If additional time was needed to review the Protest or respond to the issues of clarification, then the Court has the option to either cancel the RFP or extend the deadline to allow prospective bidders time to revise their Bid based on the Court's determination of the Protest.

A written response to issues of clarification, omissions, or discrepancies will be posted on the solicitation web site and sent to the prospective bidder who raised the issue. A written response to a protest will be sent directly to the prospective bidder who submitted the protest. A response can be sent either by U.S. Mail or by e-mail at the Court's discretion.

4. Hearing Officers

The Protest Hearing Officer is the Deputy Court Executive Officer-Finance. The Appeals Hearing Officer is the Court's Executive Officer.

5. Appeal

The protest hearing officer's written determination is the final action by the Court unless the Prospective Bidder submits an appeal to the protest appeals officer within two Court Days of the issuance of the protest hearing officer's written determination.

4.4 Minimum Qualifications

To be considered for full evaluation and possible award, prospective bidders must first meet the threshold minimum qualification requirements listed in the following table (minimum requirements can be met by combining experience, expertise, and resources of prospective bidder and any proposed subcontractors):

| No. | Minimum Qualifications |
|------------|---|
| 1. | Prospective bidder must be a company in good standing. |
| 2. | Prospective bidder must have all necessary insurance coverage as stated in the sample proposed contract. |
| 3. | Prospective Bidder must be able to meet with the statutory time frames within which to process, print and mail out the notices. |
| 4. | Prospective Bidder must be able to ensure the security of the electronic case related data that is transmitted to the service provider so that the information is subject to unauthorized use or disclosure. |
| 5. | The Court requires the Prospective bidder to have experience in providing the services required herein. |
| 6. | Neither prospective bidder nor any of its proposed subcontractors are currently under investigation by or have been suspended or have their licenses or certifications revoked by any state or federal government agency and neither prospective bidder nor any of its proposed subcontractors are tax delinquent with the State of California or Federal Government (reference Addendum 1, Contractor Certification Form). |
| 7. | Compliance with the Judicial Branch Contracting Laws (Public Contract Code sections 19201, et. Seq.) as stated in the “General Terms” of the proposed contract. |

The prospective bidder must state specifically in its Executive Summary (see Section 4.2) how it will comply with each minimum qualification specified above and whether they will be able to execute the certification requirements as specified in the contract. Subject to the Court’s right in its complete discretion to waive minor deviations or defects, only those proposals that meet all of the foregoing minimum qualifications shall be considered for a full evaluation and a possible contract award.

Prospective bidders who fail to meet any of the listed minimum qualifications will be notified in writing, and will have three (3) business days from receipt of such notification to file proof that all such qualifications are met.

4.5 Submission of Proposals.

A. Proposal Delivery

The following must be received no later than the Proposal Due Date and time specified in Section 4.1 (the “Proposal Due Date and Time”) at the address listed in Section 4.1 A, for the Submittal Contact:

1. One unbound original of the program and of the cost proposal;
2. Three bound hard copies of both the program and the cost proposals;
3. One electronic copy of the program proposal in Microsoft Word or PDF format, and one electronic formatted copy of the cost proposal in Microsoft Excel format.

4. All proposals must be submitted in double envelopes that are sealed. The inner envelope, not the outside addressed envelope, must be clearly marked with the RFP Number, Project Title, the Proposal Due Date, and the prospective bidder's name.
5. Proposals received prior to the Proposal Due Date and Time that is marked properly will be securely kept unopened until the Proposal Due Date and Time. Late proposals will not be considered. All proposals must be delivered via U.S. Mail, common carrier, or hand delivery. A receipt should be requested for hand delivered material.
6. The prospective bidder is solely responsible for ensuring that the full proposal is received by the Court in accordance with the solicitation requirements, prior to the date and time specified in the solicitation, and at the place specified. The Court shall not be responsible for any delays in mail or by common carriers or by transmission errors or delays or missed delivery.

B. Amendment or Withdrawal of Proposals.

A Prospective bidder may amend its proposal prior to the Proposal Due Date and Time. All amendments must be in writing and received by the Court prior to the Proposal Due Date and Time.

A Prospective bidder may withdraw its proposal at any time prior to the Proposal Due Date and Time by notifying the Submittal Contact listed in Section 4.2 in writing of its withdrawal. Amendments or withdrawals offered in any other manner, than described above will not be considered. Proposals cannot be amended or withdrawn after the Proposal Due Date and Time.

C. Mistake in Proposal.

If prior to a contract award, a prospective bidder discovers a mistake in their proposal that renders the prospective bidder unwilling to perform under any resulting contract, the prospective bidder must immediately notify the Submittal Contact listed in Section 4.2 in writing and request to withdraw the proposal.

D. Error in Submitted Proposals.

If an error is discovered in a prospective bidder's proposal, the Court may at its sole option retain the proposal and allow the prospective bidder to submit certain arithmetic corrections. The Court may, at its sole option, allow the prospective bidder to correct obvious clerical errors. If the prospective bidder's intent is clearly established based on review of the complete proposal submitted, the Court may, at its sole option, allow the prospective bidder to correct an error based on that established intent.

E. Authorized Signatures, Validity Period of Proposals.

Proposals must include the prospective bidder's name, address, telephone and facsimile numbers, e-mail address, and federal tax identification number. The proposal must be signed by a duly authorized officer or employee of the prospective bidder and include the name, title, address, and telephone number of the individual who is the prospective bidder's designated representative.

Proposals will be valid for ninety (90) days after the Proposal Due Date specified in Section 4.1 ("Proposal Validity Date"). In the event a final contract has not been awarded by the date specified in Section 4.1, the Court reserves the right to negotiate extensions to the Proposal Validity Date.

F. Knowledge of Requirements

The prospective bidder shall carefully review all documents referenced and made a part of the solicitation document to ensure that all information required to properly respond has been submitted or made available and all requirements are priced in the proposal. Failure to examine any document, specification, or instruction will be at the prospective bidder's sole risk.

Prospective bidders shall be responsible for knowledge of all items and conditions contained in their proposals and in this RFP, including any Court issued clarifications, modifications, amendments, or

addenda. The Court will provide to prospective bidders on its website notices, post addenda and clarifications. It is the prospective bidder's responsibility to ascertain that the proposal includes all addenda issued prior to the Proposal Due Date.

G. Independence of Proposal and Joint Proposals

Unless a prospective bidder is submitting a joint proposal, the prospective bidder represents and warrants that by submitting its proposal it did not conspire with any other prospective bidder to set prices in violation of anti-trust laws.

A proposal submitted by two or more prospective bidders participating jointly in one proposal may be submitted, but one prospective bidder must be identified as the prime contractor and the other as the subcontractor. The Court assumes no responsibility or obligation for the division of orders or purchases among joint subcontractors.

H. Covenant Against Gratuities

Prospective bidder warrants by signing its proposal that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the prospective bidder or any agent, director, or representative of the prospective bidder, to any officer, official, agent, or employee of any Court with a view toward securing award of or securing favorable treatment with respect to any determinations concerning the performance of any resulting contract. For breach or violation of this warranty, the Court will have the right to terminate any resulting contract in whole or in part. The right and remedies of the Court provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the resulting contract.

4.6 Overview of Evaluation Process

A. Evaluation Committee

The Court will conduct a comprehensive, fair, and impartial evaluation of proposals received in response to this RFP. All proposals received from prospective bidders will be reviewed and evaluated by a committee of qualified personnel ("Evaluation Committee"). The name, units, or experience of the individual members will not be made available to any prospective bidder. The Evaluation Committee will first review and screen all proposals submitted, except for the cost proposals, according to the minimum qualifications set forth in Section 4.4.

Prospective bidders satisfying the minimum qualifications will then be evaluated in accordance with the evaluation criteria set forth in Section 4.7. The Evaluation Committee will first review and complete the evaluation of the technical proposals, without the cost proposal. Thereafter, the cost proposals will be opened, reviewed, and evaluated to determine an overall evaluation score.

B. Reservation of Rights

1. The Court, in its complete discretion, may eliminate proposals that have not met the minimum qualifications of Section 4.4, or have not scored adequately in relation to other proposals to warrant further consideration. The Court reserves the right to reject any or all proposals, in whole or in part, and may or may not waive any immaterial deviation or defect in a proposal.
2. The Court's waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a prospective bidder from full compliance with solicitation document specifications.
3. If a proposal fails to meet a material solicitation document requirement, the proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with the requirements of the solicitation document. Material deviations cannot be waived.

4. Unless otherwise specified in the solicitation, the Court may accept any item or combination of items as specified in the solicitation, of any proposal unless the prospective bidder expressly restricts an item or combination of items in its proposal and conditions its response on receiving all items for which it provided a proposal. In the event that the prospective bidder so restricts its proposal, the Court may consider the prospective bidder's restriction and evaluate whether the award on such basis will result in the best value to the Court or may determine in its sole discretion that such restriction is non-responsive and renders the prospective bidder ineligible for further evaluation.
5. The Court reserves the right to negotiate with prospective bidders who have presented, in the opinion of the Evaluation Committee, the best proposal in an attempt to reach a contract. If no contract is reached, the Court can negotiate with other prospective bidders or make no award under this RFP. At any time the Evaluation Committee can reject all proposals and make no award under this RFP. Moreover, the Court reserves the right to reconsider any proposal submitted at any phase of the procurement. It also reserves the right to meet with prospective bidders to gather additional information.
6. Proposals that contain false or misleading statements may be rejected if in the Court's opinion the information was intended to mislead the Court regarding a requirement of the solicitation document.

C. Requests for Additional Information

The Court reserves the right to seek clarification or additional information from any prospective bidder throughout the solicitation process. The Court may require a prospective bidder's representative to answer questions during the evaluation process with regard to the prospective bidder's proposal. Failure of a prospective bidder to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

4.7 Evaluation Criteria.

- A. Selection of a provider and determination of the award will be made to the qualified provider whose proposal is determined to be of superior quality, responsive to the requirements of this RFP and competitively priced so as to provide superior economic value. Selection will result from the Court's overall judgment that a proposal meets or exceeds its requirements, as measured against the following criteria (not listed in order of importance):
 - 1) Confidence that the prospective bidder has the ability to best deliver high quality and appropriate services and accommodations consistent with the stated specifications.
 - 2) Superior responsiveness to specifications, quality of work plan, and demonstrated understanding of the purposes of this project. Specifications for documentation, performance, service or any other deliverables that are the minimum requirements for this RFP.
 - 3) Provider qualifications and prompt and continuous availability of quality services.
 - 4) Financial feasibility and cost effectiveness of the proposal.
 - 5) Capabilities of the prospective bidder in terms of qualifications and relevant past experience. Prospective bidders shall indicate their past performance in providing similar types of program services.
 - 6) Qualifications and experience of key individuals proposed and guaranteed as available and committed to this project (including resumes). In the case of positions that will be filled by new-

hires, the prospective bidder's stated and guarantee of the minimum qualifications and the guaranteed start date.

- 7) Financial and organizational stability. Prospective bidders shall include in their proposals sufficient financial documentation to establish their financial capability. The Court reserves the right to request additional information to assure itself of a prospective bidder's financial status. If a prospective bidder is substantially or wholly owned by another entity, the proposal shall so state and shall include the most recent financial report of the parent organization...If you have a Master Agreement (Leveraged Purchase Agreement) with any other court or State agency in California, you may state that fact and refer to the Agreement title and number. This will suffice as evidence of your financial stability.
- 8) The proposed schedule for program start up: It is anticipated that a contract can be signed by the end of July 2014 with a start date August 4, 2014 at the latest.
- 9) The reasonableness of the proposed work plan.

B. Each proposal will be scored in the following manner, utilizing the criteria stated immediately above:

- | | |
|---|-----|
| 1) Responsiveness of proposal to RFP specifications and proven ability to provide this service | 25% |
| 2) Forms conversion or design capabilities to comply with our specifications | 20% |
| 3) References (History of providing this service, service provided to other courts, reference comments). | 15% |
| 4) Pricing | 20% |
| 5) Technology (Handling of electronic data files and compatibility with our jury system and traffic case management system) | 10% |
| 6) Security with handling the data (including security clearance of staff and facility security). | 10% |

4.8 Interviews and Negotiations

A. Interviews

Following the initial screening of proposals, the Court reserves the right to require, and each prospective bidder must be prepared to conduct, oral presentations and other discussions (written or verbal) on the content of its proposal. If the Court determines that interviews or presentations are required, selected prospective bidders will be notified in writing of the date, place, time and format of the interview or presentation. Prospective bidders will be responsible for all costs related to the interview, which, at the Court's sole discretion, may be in-person and/or by teleconference. Failure to participate in such interviews or presentations shall result in an prospective bidder's disqualification from further consideration.

B. Negotiations

If the Court desires to enter into negotiations, they will do so with one or more prospective bidders, at the Court's discretion. If the Court enters into negotiations and no contract is reached, the Court can negotiate with the other prospective bidders or make no award under this RFP. The Court reserves the right to award a contract, if any, without negotiations.

- 4.9 **Payment.** Payment terms will be in accordance with the invoice provisions of Exhibit "B", paragraph 2 of the proposed contract. **THE COURT DOES NOT MAKE ANY ADVANCE PAYMENT FOR GOODS OR SERVICES.**

- 4.10 **News Releases or Advertising.** A contractor or subcontractor may not make news releases pertaining to the award of any contract resulting from this solicitation without the prior written approval of the Court Executive Officer or designee.
- 4.11 **Award of Contract.** Upon award of the contract, the successful prospective bidder will be required to execute a Contract based on the Statement of Services in Section 2.0 and the General Conditions (as stated in the sample contract terms in Addendum A), and provide a certificate of insurance in conformance with the requirements set forth in the General Conditions at time of signing of the Contract and other certificates as stated herein. The period for execution of the Contract may be changed by mutual agreement of the parties. Contracts are not effective until signed by both parties.
- 4.12 **Procedures for a Protest to the Award**
- A. Protests to the award of the contract to the bidder selected by the Court must be presented in writing and received by the individual listed in the Submission of Proposal section (4.1 A) of this RFP. In no event shall a protest be considered if the parties have executed the contract. The bidder who files the protest must comply with sections 4.12 A. through 4.12 E.
- B. A bidder submitting a proposal may protest the award based on allegations of improprieties occurring during the proposal evaluation or award period if it meets all of the following conditions:
1. The bidder has submitted a proposal that it believes to be responsive to the solicitation document.
 2. The bidder believes that its proposal meets the administrative and technical requirements of the solicitation, proposes items and/or services of proven quality and performance, and offers a competitive cost; and
 3. The bidder believes that the Court has incorrectly selected another prospective bidder submitting a proposal for an award.
- C. Such protests must be received no later than **five (5) business days** after the intent to award is posted.
- D. Form of Protest. A prospective bidder who is qualified to protest should submit the protest to the individual listed in the Submission of Proposal section (section 4.1 A.) of this RFP who will forward the matter to the appropriate Reviewing Officer.
1. The protest must be in writing and sent by certified or registered mail or delivered personally to the address noted above. If the protest is hand-delivered, a receipt must be requested.
 2. The protest shall include the name, address, telephone and facsimile numbers, e-mail address of the party protesting or their representative.
 3. The title of the solicitation document under which the protest is submitted shall be included.
 4. A detailed description of the specific legal and factual grounds of protest and any supporting documentation must be included.
 5. The specific alleged error or irrational decision made by the Court.
 6. The specific ruling or relief requested must be stated.
- E. Therefore, the initial protest submittal must include all grounds for the protest and all evidence available at the time the protest is submitted. If the protestor later raises new grounds or evidence that

was not included in the initial protest but which could have been raised at that time, the Court will not consider such new grounds or new evidence.

4.13 **Determination of Protest**

A. Determination Schedule

Upon receipt of a timely and proper protest, the Court will investigate the protest and will provide a written response to the prospective bidder within ten (10) Court days after receipt of a complete submission of the award protest. If the Court requires additional time to review the protest and is not able to provide a response within ten (10) business days, the Court will notify the prospective bidder. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below and the Court, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the contract.

B. Evaluation of Protest

When evaluating the protest, the protesting hearing officer should consider:

- Whether the Court committed an error in the award process;
- Whether an allegedly defective decision lacks a rational basis; and
- If the Court committed an error in the award process or made a decision that lacks a rational basis, the materiality of the error or decision.

C. Burden of Proof

The protesting Bidder bears the burden of proof to show that (i) the Court committed an error in the award process sufficiently material to justify invalidation of the proposed award, or (ii) the Court's decisions are lacking a rational basis and are, therefore, arbitrary and capricious.

D. Written Determination

The protest hearing officer must respond to an award protest with a written determination before the contract is awarded. The protest hearing officer should issue the written determination within 10 Court Days of the complete submission of the award protest, or notify the Bidder that additional time will be required. The Court may extend the award date to allow for time to review the award protest. If the protest hearing officer determines that the award protest has merit, the protest hearing officer should take appropriate remedial action. In determining the appropriate remedial action, the protest hearing officer should consider all circumstances surrounding the procurement, including:

- The seriousness of the procurement deficiency;
- The degree of prejudice to other Bidders;
- The impact on the integrity of the competitive procurement system;
- The good faith of the parties;
- The cost to the Court;
- The urgency of the procurement; and
- The impact on the Court.

4.14 **Appeals Process**

The Contracting Officer's decision shall be considered the final action by the Court unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal with the Court Executive Officer noted in 4.1A within five (5) calendar days of the issuance of the decision.

A. The justification for appeal is limited to:

1. Facts and/or information related to the protest, as previously submitted, that were not available at the time the protest was originally submitted; or

2. The Contracting Officer's decision contained errors of fact, and that such errors of fact were significant and material factors in the Contracting Officer's decision; or
 3. The decision of the Contracting Officer was in error of law or regulation.
- B. The request for appeal shall include:
1. The name, address telephone and facsimile numbers and e-mail address of the prospective bidder filing the appeal or their representative;
 2. A copy of the Contracting Officer's decision;
 3. The legal and factual basis for the appeal; and
 4. The ruling or relief requested. Issues that could have been raised earlier will not be considered on appeal.
- C. Upon receipt of a request for appeal, the Court Executive Officer will review the request and the decision of the Contracting Officer and shall issue a final determination. The decision of the Court Executive Officer shall constitute the Court's final action.

4.15 Protest Remedies

If the protest is upheld, the Court will consider all circumstances surrounding the procurement in its decision for a fair and reasonable remedy, including the seriousness of the procurement deficiency, the degree of prejudice to the protesting party or to the integrity of the competitive procurement system, the good faith efforts of the parties, the extent of performance, the cost to the Court, the urgency of the procurement, and the impact of the recommendation(s). The Court may recommend any combination of the following remedies:

- Terminate the contract for convenience;
- Re-compete the contract;
- Issue a new solicitation;
- Refrain from exercising options to extend the term under the contract, if applicable;
- Award a contract consistent with statute or regulation; or other such remedies as may be required to promote compliance.

5.0. PROPOSAL FORMAT AND CONTENT

All applications must contain the information and forms that are listed in this section. Failure to do so will be treated as an incomplete proposal and will not be considered.

5.1 Required Content and Forms

- a) An Executive Summary
- b) Detailed Program and Budget narratives as described below
- c) Contractor Certificates (See Addenda)
- d) Certificates of Insurance – Proofs of insurance is needed for the application process. Actual Certificates will be required at time of signing of a contract. (Note: The Court, State of California and the Judicial Council of California must be included and named on the policy as an endorsed parties when the contract documents are executed)
- e) Darfur Certification (if applicable) (See Addendum to the proposed contract)

5.2 Executive Summary

The Executive Summary should be a high level document summarizing the prospective bidder's proposal and their qualifications for providing this service as well as their ability to meet the time line in starting up this service.

5.3 Program Narrative

Respondents to this RFP shall submit a program narrative that specifically discusses how they will provide the services being sought by the Court, addressing how they will meet the minimum service components stated in section 5.5 below. The narrative should include detailed information about a prospective bidder's ability to provide such services, the ability to meet the Court's capacity requirements, previous experience and resources that will enable the provider to accomplish the tasks set forth in this section. Agencies may include additional components or enhancements in a separate section of the Service Proposal and if applicable, in a separate section of the Budget Proposal. The Narrative should also include a strategic program start-up and transition plan and timetable.

5.4 Budget Narrative

A. The start-up budget should be outlined separately from the annual budget.

B. Start-Up Budget

Any start-up costs prior to a prospective bidder's commencement of the services should be listed in a separate, clearly labeled section. Explain the nature of the proposed costs and why they are appropriate and necessary. Include a description of who would be performing the start-up activities and how long it will take to perform those activities.

Start-up labor costs should not exceed the equivalent of one month's labor costs as outlined in the annual budget.

C. Annual Budget

The annual budget should outline the ongoing costs associated with providing the clerical support services. Each major expense should be listed separately and there should be justifications containing a level of detail sufficient for the proposal to be analyzed for cost effectiveness and for the prospective bidder to deliver a high quality level of service.

The budget shall include estimated travel costs associated with supervision and training of their staff (e.g. scheduled staff visits and inspections). These scheduled supervisory visitations should be calculated into the cost of the services provided. These costs are separate and distinctive from occasional unscheduled meetings that may be requested by the Court.

D. Financial Statement

Document the prospective bidder's financial capacity and stability, including but not limited to, the prospective bidder's state and federal nonprofit status, the most recent reviewed and/or audited financial statement for the prospective bidder and, if appropriate, the parent organization of the prospective bidder; the financial record keeping procedures of the prospective bidder; a description of the proposed cash flow and billing in arrears procedures. Please see comment in 4.7 A. 7) regarding any Master or Leveraged Purchase Agreement as proof of financial stability.

5.5 Minimum Service Requirements

The following are minimum requirements for the services to be provided under this RFP.

A. Comply with all contractual obligations imposed by the Court

B. Obtain adequate and appropriate liability insurance coverage for the type of business and services that are being provided, including but not limited to professional liability insurance.

C. It is mandatory that all employees, volunteers and subcontractors are fingerprinted and undergo security clearance by LiveScan or any other security clearance provider agreeable to the Court. Proof of the security clearance must be provided to the Court to ensure the security of the data that is being processed by the service provider.

- D. Provide the Court with copies of policies and procedures.

5.6 Acceptance of Terms

The prospective bidder's proposal must include a statement as to whether the prospective bidder accepts the General Provisions in Exhibit C and all other terms of the attached proposed contract (Addendum A) or whether the prospective bidder takes any exception to those terms. The prospective bidder will be deemed to have accepted such terms and conditions, except as expressly called out in the prospective bidder's proposal. If exceptions are taken, prospective bidder must submit a "redlined" version of the term or condition showing all modifications proposed by the prospective bidder (an MSWord version will be provided upon request for redlining). The prospective bidder must provide an explanation as to why the modification is required. The prospective bidder must keep in mind that most provisions in the contract are statutorily mandated and as such may not be modifiable. The prospective bidder's willingness to accept the General Conditions, with minor clarifications, shall be an affirmative factor in the evaluation of the prospective bidder's proposal.

Although the Court will consider alternate language proposed by a prospective bidder, the Court will not be bound by contract language received as part of a prospective bidder's response. If the prospective bidder requires that some or all of the prospective bidder's proposed contract language bind the Court, the proposal may be considered non-responsive and may be rejected.

5.7 Invoicing

- A. Contractor agrees to submit monthly invoices for services performed for the previous month. After receipt of an invoice, Court will inspect the work services performed before approving the invoice for payment, or provide contractor with specific reasons why any payment is being withheld and inform contractor of remedial actions required in order for contractor to receive the amount withheld.
- B. An invoice shall contain a detail of services rendered, employee hours and any other incidental expenses allowable under the contract, the Court's contract number and signed by the contractor. Invoices will be submitted by contractor to the person designated in the contract for review and approval prior to payment.

5.8 Audit

- A. State and Federal Agencies, the California Judicial Council and Administrative Office of the Courts, the Superior Court of California, the County of Monterey or any of their duly authorized representatives may, at any time during normal business hours, and without advance notice to Contractors, audit all books, accounts and records involved and maintained in connection with this contract. Said audits shall be in writing and a copy thereof shall be provided to contractor after completion thereof. An accounting and settlement between Superior Court of California, County of Monterey and Contractor may be made at any time after a closeout audit.
- B. If an audit is conducted, Contractor agrees to, as soon as practicable, comply with any recommendations made in writing by Superior Court of California, County of Monterey as a result of any audit authorized by this contract for the improvement of Contractor's auditing, accounting, bookkeeping, internal control and other fiscal operations.
- C. All records, which Contractor is required to maintain by or pursuant to this contract, shall be preserved for a period of three (3) years. If an audit has begun, but not completed at the end of the three-year period, the audit records shall be retained until the resolution of all pending audits.

5.9 Indemnities and Guarantees

A. Hold Harmless

The Contractor shall indemnify and save harmless the State of California, the Judicial Council of the State of California, and the Superior Court of California, County of Monterey their officers, agents, employees, and servants from all claims, suits or actions of every name, kind and description, brought for, or on account of: (a) injuries to or death of any person including Contractor, of (b) damage to property of any kind whatsoever and to whomsoever belonging; or (c) any loss or cost including but not limited to, the concurrent active or passive negligence of the Court, its officers, agents, employees or servants resulting from the performance of any work required by this Agreement of Contractor, its officers, agents, employees and/or servants provided that this shall not apply to injuries or damage for which Court has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of the Contractor to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

- B.** Contractor shall procure, and maintain during the term of any agreement a comprehensive general liability policy, naming the State of California, the Judicial Council of the State of California, and the Superior Court of California, County of Monterey as an additional insured with either a blanket contractual liability endorsement or contractual liability coverage naming this Agreement, with limits not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit.

Said policies of insurance shall be obtained from insurance companies which are qualified to transact business in this state and shall provide that the insurer will not cancel or reduce coverage unless the Superior Court of California, County of Monterey is given thirty (30) days notice of cancellation. The Certificate of Insurance must be on file with the Deputy Executive Officer of the Superior Court of California, County of Monterey or designee.

- C.** Contractor agrees to comply with all federal and state statutes and regulations, and Court State and Local Rules applicable to its operations whether or not referred to in this contract.
- D.** The Contractor agrees to assure Superior Court of California, County of Monterey that in carrying out its responsibilities in connection with any agreement it will comply with all applicable laws and regulations regarding confidentiality of information that it may come across in performing these services. Contractor is prohibited from releasing any confidential information relating to any person, either by name or address, or in any way that is not directly connected with the administration and enforcement of the Court and this program. This recognizes that with prior approval the Court may make made available this information for purposes of audit authorized under this contract.
- E.** Any agreement may not be assigned or subcontracted without the prior written consent of all parties. Any violation of this section is void and shall vest no rights in the subcontractor.

5.10 Non-Discrimination

Contractor shall comply with the non-discrimination requirements described below:

A. Section 504 of the Rehabilitation Act of 1973

1. Pursuant to Section 504 (Public Law 93-112), the Contractor agrees that no otherwise qualified disabled individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this contract.

2. Compliance of Section 504 of the Rehabilitation Act of 1973, as amended, requires that all benefits, aids and services are made available to disabled persons on an equivalent basis with those received by non-disabled persons. Contractor shall agree to be in compliance with Section 504 requirements.
-
- B. **Non-Discrimination – General.** No person shall, on the grounds of age (over 40), ancestry, creed, color, disability, marital status, medical conditions, national origin, political or religious affiliation, race, sex, sexual orientation or any non-job-related criteria be excluded from participation in, be denied benefits, or be subjected to discrimination under this Agreement.
 - C. **Non-Discrimination – Employment.** Contractor shall ensure equal employment opportunity based on objective standards of recruitment, selection, promotion, classification, compensation, performance evaluations, and management relations, for all employees under this Agreement. Contractor’s equal employment opportunity policies shall be made available to County upon request.

ADDENDUM A

CONTRACT TERMS AND CONDITIONS

Attached are the terms of the standard contract between the Court and its contractors. This will be filled out once the contract is awarded. By submitting a proposal, you are agreeing to the terms of this contract for the services that you will be providing.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY
STANDARD AGREEMENT COVERSHEET
XXXXX

| |
|---|
| AGREEMENT NUMBER MCSC 13-26-OPS |
| FEDERAL EMPLOYER ID NUMBER See Payee Data Record form on file |

1. In this Agreement, the term “Contractor” refers to **XXXX** and the term “COURT” refers to the **Superior Court of California, County of Monterey**.

2. **Recitals**

WHEREAS, (recitals to be inserted)

2. This Agreement is effective as of _____ (“Effective Date”) and expires on _____ (“Expiration Date”).

If checked, this Agreement includes one or more options to extend through _____.

3. A. **Payment Schedule and Liability.**

In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibits “A” and “C”, the Court shall make payment to Contractor in the manner specified herein and in Exhibit “B”. The Court reserves the right to withhold payment if the Court determines that the quantity or quality of the work performed is unacceptable. In no event shall the Court’s total fiscal obligation under this Agreement for the three year term exceed **XXXXXX Thousand Dollars (\$ XXX.00)**.

B. **Availability of Funds.**

Payment for services provided pursuant to this Agreement is contingent upon the availability of Court, County, State, and Federal funds to finance this project. In the event that any of the entities listed above do not appropriate the necessary funds as part of their budgets, the Court shall not be liable for any payment whatsoever; including, but not limited to, payments that are based on Court funds. The Court may terminate this agreement for unavailability of Federal, State, County or Court funds at any time.

4. The purpose of this Agreement is for the Contractor to provide processing, data merging, printing and mailing of court notices for the Court’s jury services (juror summons and notices) and traffic (courtesy and subsequent notices) divisions.

[The purpose or title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.]

5. The parties agree that this Agreement, comprised of this Standard Agreement Coversheet (SCC 213), the Exhibits listed below and any exhibits or Addenda, contains the parties’ entire understanding related to the subject matter of this Agreement and is mutually binding on the parties in accordance with its terms.

Exhibit A – Statement of Work

Attachment A- Samples of Current Court Jury Forms

Exhibit B – Payment Provisions

Attachment B- Sample of Current Court Traffic Forms

Exhibit C – General Terms and Conditions

Exhibit D – Contractor Travel Guidelines

Addendum 1 – Contractor Certification

Addendum 2 - Darfur Certification

Addendum 3 – Statement 504 Certification

(Continued on next page for signatures)

| COURT'S SIGNATURE | CONTRACTOR'S SIGNATURE |
|--|---|
| COURT'S NAME Superior Court of California, County of Monterey | CONTRACTOR'S NAME XXXX |
| BY (Authorized Signature)  | BY (Authorized Signature)  SAMPLE ONLY DO NOT SIGN |
| PRINTED NAME AND TITLE OF PERSON SIGNING Hon. Marla O. Anderson, Presiding Judge | PRINTED NAME AND TITLE OF PERSON SIGNING XXXX |
| ADDRESS 240 Church Street Salinas, CA 93901 | ADDRESS XXXX |

APPROVALS

(for COURT Use Only)

OPERATIONS MANAGER APPROVAL

| | |
|---|------|
| Approved by: Rebecca Hayes, Operations Manager | |
| SIGNATURE OF APPROVING AUTHORITY  | DATE |

LEGAL APPROVAL (if applicable)

| | |
|--|------|
| Approved as to legal form by: | |
| SIGNATURE OF REVIEWING ATTORNEY  | DATE |

DEPUTY COURT EXECUTIVE - FINANCE

| | |
|---|------|
| Approved by: Christine Ace, Deputy Court Executive-Finance | |
| SIGNATURE OF APPROVING AUTHORITY  | DATE |

EXHIBIT "A"
STATEMENT OF WORK OR SERVICES

In consideration for payment of the compensation by Court as specified in Exhibit "B" contractor will provide the following services:

1. [Name of Contractor] will _____.

[Details will be inserted from the selected prospective bidder's plan]

EXHIBIT "B"
SCHEDULE OF FEES AND METHOD OF PAYMENT

1. In consideration for the services provided by Contractor as specified in the Contract for Services as stated above and Exhibits A and C, Court agrees to pay Contractor within 30 days of receipt and approval of detailed invoices submitted by Contractor for services provided.
2. Invoices from Contractor shall include with specificity the services performed; the date the services were provided; the amount of time it took to perform the work (if applicable); and the total amount of the invoice. The invoice shall be submitted within 5 business days after the end of the month within which the work was performed or services provided and shall be submitted to:

Superior Court of California, County of Monterey
240 Church Street, Rm
Salinas, CA 93901
Attn: Accounts Payable

Invoices may also be e-mailed to: accountspayable@monterey.courts.ca.gov

3. The maximum amount that the Court is obligated to pay, as specified in Section 3 of the Standard Agreement Coversheet attached, is inclusive of all related expenses (transportation, accommodations, and meals) incurred by Contractor. In no event shall the Court pay for any expenses not covered herein without the prior written consent of the Court Executive Officer or designee.
4. Travel Expenses. If there is any travel involved in the services provided under this Contract, Contractor agrees to comply with the California Administrative Office of the Courts' Travel Expenses Guidelines as set forth in Exhibit "D" attached hereto and incorporated herein.
 - A. Reimbursable Travel Expenses: Contractor must distinguish between travel that is directly related to its normal course of business that is necessary for normal supervision of their staff and travel that is needed for meetings with the Court as required from time to time.
 - B. Contractor must submit a travel plan to Court for review and written approval prior to incurring expenses for travel that may be required in performance of this Agreement. The travel plan will include the date(s) for travel, reason travel is required, and an estimate of the potential expense. Court will compensate Contractor for authorized travel expenses in accordance with the approved travel plan, or any authorized changes to the travel plan that have been approved by the Court in writing (e.g., letter, e-mail, etc.), and the relevant sections of the *AOC Travel Rate Guidelines*.
 - C. Invoicing Requirements for Travel Reimbursement: Contractor will provide copies of receipts and invoices for reimbursement of travel expenses that have been incurred in accordance with the travel plan that has been approved by the Court, or any authorized changes to the travel plan that have been approved by the Court in writing (e.g., letter, e-mail, etc.). The Court will not pay travel expenses that have not been authorized in writing.

EXHIBIT "C"
GENERAL TERMS AND CONDITIONS

1. Contractor Certification Clauses

1.1 Representations and Warranties. Contractor certifies that the following representations and warranties are true:

- (A) *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. This Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms. Contractor is qualified to do business and in good standing in the State of California.
- (B) *Not an Expatriate Corporation.* Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1, and is eligible to contract with the COURT.
- (C) *Sales and Use Tax Collection.* Contractor collects and remits sales and use taxes as and to the extent required under the Revenue and Taxation Code.
- (D) *No Gratuities.* Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement.
- (E) *No Conflict of Interest.* Contractor has no interest that would constitute a conflict of interest under Public Contract Code sections 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.
- (F) *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.
- (G) *No Litigation.* No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or, to Contractor's knowledge, threatened against or affecting Contractor or Contractor's business, financial condition, or ability to perform this Agreement, except any suit, action, arbitration, proceeding, or investigation that individually or in the aggregate with others will not or would not have a material adverse effect on Contractor's business, the validity or enforceability of this

Agreement, or Contractor's ability to perform this Agreement.

- (H) *Compliance with Laws Generally.* Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor's business and services, and pays all undisputed debts when they come due.
- (I) *Work Eligibility.* All personnel assigned to perform this Agreement are able to work legally in the United States and possess valid proof of work eligibility.
- (J) *Drug Free Workplace.* Contractor provides a drug-free workplace as required by California Government Code sections 8355 through 8357.
- (K) *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.
- (L) *Non-discrimination.* 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 has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of non-discrimination.
- (M) *Special Provisions regarding Domestic Partners, Spouses, and Gender Discrimination.* If this Agreement provides for total Compensation of more than \$100,000, Contractor is in compliance with Public Contract Code section 10295.3, which, subject to specified exceptions, generally prohibits discrimination in the provision of benefits between employees with spouses and employees with domestic partners, or discriminates between employees with spouses or

domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminates between same-sex and different-sex domestic partners of employees or between same-sex and different-sex spouses of employees.

(N) *Special Provisions regarding Compliance with National Labor Relations Board Orders.* If this Agreement provides for making any purchase of goods or services from a private entity, except for a purchase of goods by credit card for an amount less than \$2,500 from any one Contractor (but not to exceed in the aggregate \$7,500 per year from the Contractor), 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.

(O) *Special Provisions regarding Compliance with the Child Support Compliance Act.* If Contractor is a private entity, and this Agreement provides for Compensation of \$100,000 or more:

(1) Contractor recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

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

(P) *Electronic Waste Recycling Act.* If this Agreement provides for the purchase or lease of covered electronic devices under the Electronic Waste Recycling Act of 2003, Public Resources Code sections 42460 et seq., Contractor complies with the requirements of that Act, and Contractor maintains documentation and provides reasonable access to its records and documents that evidence compliance.

(Q) Special Provisions regarding Discharge Violations. If Contractor is a private entity, Contractor is not in violation of any order or resolution not subject to review promulgated by

the State Air Resources Board or an air pollution control district; or subject to any cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions. Contractor has not been finally determined to be in violation of provisions of federal law relating to air or water pollution.

(R) *Jury Duty.* For actual jury service, Contractor's regular employees receive the amount of their regular pay and benefits for no fewer than five days annually, except to the extent Contractor's policies on jury service provide for that amount to be reduced (i) by any juror fees and costs actually reimbursed, and (ii) pro rata for employees who work less than on a full-time basis.

1.2 Covenant as to Representations and Warranties.

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.

2. Indemnity

Contractor will defend (with counsel satisfactory to the Court or its designee), indemnify and hold harmless the 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.

- 2.1 GAAP Compliance.** Contractor maintains an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles.
- 2.2 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.
- 2.3 Recycling.** If this Agreement provides for the purchase or use of goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods. Without limiting the foregoing, if this Agreement includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable. Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible. Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of postconsumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.
- 2.4 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.

3. Insurance

- 3.1 Basic Coverage.** Contractor shall provide and maintain at Contractor's expense the following insurance during the Term:
- A. *Workers Compensation and Employer's Liability.* The policy is required only if Contractor have employees. It 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 million per accident or disease;
- B. *Commercial General Liability.* The policy must cover bodily injury and property damage liability, including coverage for the products – completed operations hazard and liability assumed in a contract, personal and advertising injury liability, and contractual liability, at minimum limits of \$1 million per occurrence, combined single limit; and
- C. *Professional Liability.* The policy must cover liability resulting from errors or omissions committed in Contractor's performance of Services under this Agreement, at minimum limits of \$1 million per claim.
- D. *Commercial Automobile Liability.* The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit.
- 3.2 "Claims Made" Coverage.** If any required insurance is written on a "claims made" form, Contractor shall maintain the coverage continuously throughout the Term, and, without lapse, for three years beyond the termination or expiration of this Agreement and the COURT's acceptance of all Services provided under this Agreement. The retroactive date or "prior acts inclusion date" of any "claims made" policy must be no later than the date that Services commence under this Agreement.
- 3.3 Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and commercial umbrella liability insurance.
- 3.4 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 times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.
- 3.5 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.

3.6 Additional Insured Status. Contractor shall require Contractor's commercial general liability insurer, Contractor's commercial automobile liability insurer, and, if applicable, Contractor's commercial umbrella liability insurer to name the State of California, the Judicial Council of California and the Superior Court of California, County of Monterey as additional insured with respect to liability arising out of Contractor's Services under this Agreement.

3.7 Certificates of Insurance. Before Contractor begin 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 30 or more days' prior written notice to the COURT. Any replacement certificates of insurance are subject to the approval of the COURT, and, without prejudice to the COURT, Contractor shall not perform work before the COURT approves the certificates.

3.8 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.

3.9 Required Policy Provisions. Each policy must provide, as follows:

A. *Insurance Primary; Waiver of Subrogation.* The basic coverage provided is primary and non-contributory with any insurance or self-insurance maintained by Judicial Branch Entities and Judicial Branch Personnel, and the basic coverage insurer waives any and all rights of subrogation against Judicial Branch Entities and Judicial Branch Personnel; and

B. *Separation of Insureds.* The commercial general liability policy, or, if maintained in lieu of that policy, the commercial umbrella liability policy, applies separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer's liability.

3.10 Partnerships. If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods:

A. Separate. Separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or

B. Joint. Joint insurance program with the association, partnership, or other joint business venture included as a named insured.

3.11 Consequences of Lapse. If required insurance lapses during the term the COURT is not required to process invoices after such lapse until Contractor provide evidence of reinstatement that is effective as of the lapse date.

4. Default and Remedies

4.1 Default. A default exists under this Agreement if:

A. Contractor fails or is unable to meet or perform any of Contractor's duties under this Agreement, and this failure is not cured within ten (10) days' following notice of default or is not capable of being cured within this cure period;

B. 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;

C. Contractor makes or has made under this Agreement any representation or warranty that is or was incorrect, inaccurate, or misleading;

D. Any act, condition, or thing required to be fulfilled or performed by Contractor to (i) enable Contractor lawfully to enter into or perform its obligations under this Agreement, (ii) ensure that these obligations are legal, valid, and binding, or (iii) make this Agreement admissible when required is not fulfilled or performed.

4.2 Notice. Contractor shall notify the COURT immediately if Contractor defaults, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement. Any notice of default to the Court must be given at least six (6) months prior to any default going into effect.

4.3 Remedies.

A. *Available Remedies.* The COURT may do any of the following:

(1) 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 the Court and Contractor;

(2) Require Contractor to enter into non-binding mediation;

(3) Exercise, following notice, the COURT's right of early termination of this Agreement as provided below; and

(4) Seek any other remedy available at law or in equity.

B. *Remedies Cumulative.* All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy.

5. Termination and Cancellation; Effect of Expiration or Termination

5.1 Early Termination and Cancellation Rights.

A. The COURT may terminate this entire Agreement immediately "for cause" if Contractor is in default;

B. The COURT may also cancel delivery immediately of all or any portion of unshipped Goods or limit Contractor's Services, and, proportionately, Contractor's compensation except to reimburse Contractor for its actual costs incurred before expenses arising out of early termination by the COURT, and any direct and indirect expenses incurred by cancellation of Goods in process that are custom made for the COURT), if:

(1) the COURT determines that having Contractor provide the Services has become infeasible due to changes in applicable laws or regulations; or

(2) expected or actual funding to compensate Contractor is withdrawn, reduced, or limited.

C. The COURT may terminate this entire Agreement, with or without cause, by giving Contractor 30 days' notice.

D. This entire Agreement will terminate immediately without further action of the parties upon the death, or temporary or permanent incapacity, 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.

5.2 Effect of Expiration and Early Termination; Survival.

A. Upon the Termination Date:

(1) The COURT shall be released from compensating Contractor for Services, other than those Contractor satisfactorily performed before the Termination Date, and for any indirect costs.

(2) Without prejudice to the COURT, Contractor shall be released from performing Services.

B. All provisions of this Exhibit "C" will survive the expiration or termination of this Agreement,

except for section 1 and promises regarding the maintenance of insurance in section 3 (other than section 3.2, which will also survive).

6. Assignment and Subcontracting; Successors

6.1 Permitted Assignments and Subcontracts.

A. Neither party may assign or subcontract its rights or duties under this Agreement, except as follows:

(1) The COURT may assign the COURT's rights and duties to any Judicial Branch Entity. The COURT shall notify Contractor in writing within 30 days following the assignment.

(2) Either party may assign its rights and duties or subcontract portions of this Agreement to a third party if the non-assigning party gives advance written consent to the assigning party. Consent may be withheld for any reason or no reason. If a non-assigning party does consent, the consent will take effect only if there is a written agreement between the assigning or subcontracting party and all assignees and subcontractors, stating the assignees and subcontractors:

(a) are jointly and severally liable to the non-assigning party for performing the duties in this Agreement of the assigning/subcontracting party;

(b) affirm the rights granted in this Agreement to the non-assigning party;

(c) make the representations and warranties made by the assigning/subcontracting party in this Agreement; and

(d) appoint the non-assigning party an intended third party beneficiary under the written agreement with the assigning/subcontracting party.

B. No assignment or subcontract will release either party of its duties under this Agreement.

6.2 **Successors.** This Agreement binds the parties as well as their heirs, successors, and assignees.

7. Notices

Notices under this Agreement must be in writing. Notices may be delivered in person, via a reputable express carrier, or by registered or certified mail (postage pre-paid). Notice is effective on receipt; however, any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified will be treated as effective on the first day that the notice was refused, unclaimed, or deemed undeliverable. Notices must be addressed to the individuals as specified in Section 5 of the Contract for Services above.

8. Miscellaneous Provisions; Interpretation

8.1 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.

8.2 Special Provisions regarding DVBE Participation Certification. If Contractor made a commitment to achieve disabled veterans business enterprise participation, Contractor shall within 60 days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the COURT: (1) the total amount the prime Contractor received under the Agreement; (2) the name and address of any disabled veterans business enterprises (DVBE) that participated in the performance of this Agreement; (3) the amount each DVBE received from the Contractor; (4) that all payments under this Agreement have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

8.3 Audit and Records

A. *Audit.* Contractor shall allow the COURT's designees and the COURT to review and audit Contractor's documents and records relating to this Agreement, subject only to a lawyer's duty of confidentiality owed to a represented party. Contractor shall correct errors and deficiencies by the 20th day of the month following the review or audit.

B. *Ownership.* The COURT is the exclusive owner of all materials collected and produced in connection with the Services. Upon the Termination Date (subject to any mutually agreed period of continuation of Services), or upon the COURT's notice at any time, and subject only to the duty of confidentiality owed to a represented party, Contractor shall give original materials to the COURT or to another party at the COURT's direction. Contractor shall maintain all other materials in an accessible location and condition for a period of not less than four years after the later of:

- (1) Contractor's receipt of final payment under this Agreement; and
- (2) The COURT's resolution with Contractor of the findings of any final audit.

C. *Copies.* Contractor may retain copies of any original documents Contractor provides to the COURT.

8.4 Special Provisions regarding Ownership of Results.

A. *Special Provisions regarding Grant Funds.* If this Agreement provides Compensation to Contractor for a project funded through a grant, at the conclusion of the Project, title to all expendable and non-expendable personal property with a value of \$500 or more purchased with COURT funds shall vest, automatically and without further action of the parties, with the COURT. If Contractor provides written certification to the COURT that the property will continue to be used for grant-related purposes and the COURT approves such certification in writing, the COURT may permit title to all such property to remain with Contractor in accordance with the COURT's written instructions. Contractor must await specific written instructions from the Project Manager regarding any transfer of title or disposition.

B. *Special Provisions regarding Ownership of Certain Equipment.* If Compensation under this Agreement is not through grant funding and this Agreement provides for the provision of equipment purchased or built with COURT funds, title to any equipment purchased or built with COURT funds shall vest in the COURT immediately upon payment of the purchase price. Before delivery to the COURT, Contractor is responsible for loss or damage to the equipment to the extent it results from the negligent act or omission of Contractor or its directors, officers, employees, or agents, and Contractor shall make all necessary or appropriate repairs and adjustments.

8.5 Confidential Information; Publicity.

A. *Confidential Information.* Contractor agrees to hold in confidence the following confidential information Contractor receives in connection with this Agreement:

- (1) All written information that is marked confidential;
- (2) All non-public information in electronic form to which Contractor has access; and
- (3) All verbal information the COURT later confirms in writing is confidential.

The COURT owns the confidential information, and the COURT authorizes Contractor to use it only for purposes of performing this Agreement. For example, Contractor may give confidential

information on a “need-to-know” basis to Contractor’s professional services providers, employees and subcontractors who have also executed confidentiality agreements that protect the COURT’s confidential information to the same extent as this section 8.5. Contractor may also disclose the COURT’s confidential information to the extent necessary to comply with law, provided Contractor gives the COURT advance notice.

- B. *Publicity.* Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the COURT’s Business Services Manager.
- C. *Specific Performance.* Contractor understands a default under section 4.1 will result in irreparable damage for which no adequate remedy will be available. Accordingly, injunctive or other equitable relief is a remedy that the COURT will be entitled to seek.

8.6 Special Provisions Applicable to Competitively Bid Contracts; Antitrust Claims. If Services or Goods under this Agreement were obtained by means of a competitive bid, Contractor shall comply with the requirements of Government Code sections set out below.

- A. 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 pursuant to the bid. Such assignment shall be made and become effective at the time the COURT tenders final payment to the Contractor. (GC 4552)
- B. If the COURT receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the 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 the 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. (GC 4553)
- C. Upon demand in writing by the Contractor, the COURT shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may

have been injured by the violation of law for which the cause of action arose and (1) the COURT has not been injured thereby, or (2) the COURT declines to file a court action for the cause of action. (GC 4554)

8.7 Special Provisions for Agreements Providing for Compensation of \$50,000 or more; Union Activities Restrictions. As required under Government Code sections 16645-16649, if this Agreement provides for total Compensation of \$50,000 or more to Contractor, then the requirements of this section apply to Contractor’s activities. Contractor shall include with any request for cost reimbursement from the State’s funds a certification that the Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing.

Contractor shall not:

- A. Assist, promote, or deter union organizing by employees performing work under state or judicial branch contracts;
- B. Use the State of California’s or State’s funds received under this Agreement to assist, promote or deter union organizing; or
- C. For any business conducted under this Agreement, use any property of the State of California or State to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote, or deter union organizing, unless the state or judicial branch property is equally available to the general public for holding meetings.

If Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor shall maintain records sufficient to show that no reimbursement from the State of California’s and State’s funds has been sought for these costs, and provide those records to the Attorney General upon request.

8.8 Choice of Law and Jurisdiction. California law, without regard to its choice-of-law provisions, governs 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.

8.9 Jurisdiction and Venue. Contractor irrevocably consents to the exclusive jurisdiction and venue of the State court located in Redwood City, California and federal court located in San Francisco, California in any legal action concerning or relating to this Agreement.

8.10 Force Majeure.

- A. Force Majeure events include, but are not limited to:
 - 1. Catastrophic acts of nature, or public enemy;
 - 2. Civil disorder;
 - 3. Fire or other casualty for which a party is not responsible; and
 - 4. Quarantine or epidemic.
- B. The party asserting a Force Majeure event will immediately provide written Notice to the other party of the occurrence and nature of the Force Majeure event, and its expected impact on schedule. The party claiming Force Majeure will use commercially reasonable efforts to continue or resume performance, including alternate sources or means. Contractor will have no right to additional payment for costs incurred as a result of a Force Majeure event.
- C. Any assertion of a Force Majeure event by Subcontractors will be attributed to Contractor.

8.11 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 §1654.

8.12 Amendment and Waiver. No amendment to this Agreement will be effective unless in writing. A party's waiver of enforcement of any of this Agreement's terms or conditions is effective only if in writing. A party's specific waiver does not constitute a waiver by that party of any earlier, concurrent, or later breach or default.

8.13 Authority and Binding Effect. Each party warrants it has the authority to enter into this Agreement, it may perform the services provided for in this Agreement, and its representative who signs this Agreement has the authority to do so. Each party warrants this Agreement constitutes a valid and binding obligation of the party, enforceable in accordance with its terms.

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

8.15 Headings. All headings are for reference purposes only and do not affect the interpretation of this Agreement.

8.16 Time of the Essence. Time is of the essence of the Contractor's performance of Services under this Agreement.

8.17 Counterparts. This Agreement may be executed in counterparts, each of which is considered an original.

Defined Terms

As used in this Agreement, the following terms have the indicated meanings:

“**Agreement**” means this Standard Agreement as defined on the Coversheet.

“**Contractor**” means the person or entity defined on the Coversheet.

“**Compensation**” means all remuneration owed to Contractor in respect of Services, including Contractor’s professional fees, direct costs (including filing fees), indirect costs (including overhead expenses), profit, and taxes.

“**Consulting Services**” refers to the services performed under “Consulting Services Agreements,” which are defined in Public Contract Code section 10335.5, substantially, as contracts that:

- (1) Are of an advisory nature;
- (2) Provide a recommended course of action or personal expertise;
- (3) Have an end product that is basically a transmittal of information, either written or oral, that is related to the governmental functions of state agency administration and management and program management or innovation; and
- (4) Are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type.

The end product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

“Consulting Services Agreements” do not include:

- (1) Contracts between a state agency and the federal government; or
- (2) Contracts with local agencies, as defined in Revenue and Taxation Code, section 2211, to subvene federal funds for which no matching state funds are required.

“**Coversheet**” refers to the first sheet of this Agreement.

“**DVBE**” is an acronym for disabled veterans’ business enterprise.

“**Effective Date**” has the meaning defined on the coversheet of this Agreement.

“**Expiration Date**” is the last day of the Term, unless the Initial Term is extended by exercise of an option. In that event, the Expiration Date will instead refer to the date specified as the expiration date in the notice of exercise of the option.

“**Initial Term**” is the period commencing on the Effective Date and expiring on the Expiration Date set forth on the coversheet of this Agreement.

“**COURT**” has the meaning defined on the coversheet of this Agreement.

“**Judicial Branch Entity**” means any California superior or appellate court, the Judicial Council of California, the Administrative Office of Courts, and the Habeas Corpus Resource Center; these entities comprise the “Judicial Branch.”

“**Judicial Branch Personnel**” means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of the Court.

“**Loss**,” as used in the indemnity provisions of this Agreement includes any actions, claims, demands, causes of action, fines, penalties, losses, liabilities, damages, costs, expenses, and attorneys’ fees.

“**Option Period**” means the period, if any, through which this Agreement may be extended by a party.

“**Services**” are Contractor’s duties as defined in Exhibit A.

“**Term**” comprises the Initial Term and any Option Period.

“**Termination Date**” has the same meaning as “Expiration Date” unless this Agreement is validly terminated before the applicable Expiration Date, in which case Termination Date means the effective date this Agreement is validly terminated.

EXHIBIT "D" - CONTRACTOR TRAVEL RATE GUIDELINES

The Court's policy and limits on reimbursable travel-related expenses are listed below. To be eligible for lodging and/or meal reimbursement, expenses must be incurred in excess of 25 miles from headquarters.

Lodging – Receipts are required and each day of lodging claimed must be listed separately on the reimbursement claim form. Maximum rates are listed below. Exceptions may be considered on a case-by-case basis, and for centrally booked conferences or meetings. Receipts for hotel lodging charges must be on a pre-printed bill head with a zero balance shown. The hotel express check-out or receipt from a third-party provider for lodging booked via the internet are not valid receipts. In some instances, a hotel may decline to issue a receipt on their pre-printed bill head for lodging booked via the internet.

1. In-state - Actual costs are reimbursable up to a maximum of \$110 per day, plus tax and energy surcharge. Within the counties of Alameda, San Francisco, Monterey, and Santa Clara, the maximum rate is \$140, plus tax and energy surcharge.
2. Out-of-state – Actual costs are reimbursable with appropriate prior approval.

Meals – Actual costs are reimbursable up to the limits stated below for continuous travel of more than 24 hours.

1. Breakfast – Up to \$6
2. Lunch – Up to \$10
3. Dinner – Up to \$18

Meal reimbursement for one-day trips is taxable and reportable income unless travel included an overnight stay. For continuous travel of less than 24 hours, actual expenses up to the above limits may be reimbursable if:

1. Travel begins one hour before normal work hours – Breakfast may be claimed.
2. Travel ends one hour after normal work hours – Dinner may be claimed.
Lunch may not be claimed on trips of less than 24 hours.

Incidental Expenses – Up to \$6 per day. Incidentals are not reimbursable for one-day trips; they may only be claimed after 24 hours.

Transportation – The actual cost of tickets for air, rail, bus, rental car, or other forms of public transportation is reimbursable. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler's itinerary may be submitted in lieu of a receipt.

1. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of \$3.50 or more.
2. Mileage – Personal vehicle mileage is reimbursable at a rate set by the Internal Revenue Services and adopted by the Administrative Office of the Courts.
3. Employees who earn travel premiums (Frequent Flier Miles/Points) while traveling on official state business may use these travel premiums for their personal use.

Other Business Expenses – Actual cost is reimbursable. Receipts are required for all other business expenses, regardless of the amount claimed.

In the event receipts cannot be obtained or have been lost, a statement to that effect and the reason provided shall be noted in the expense account. In the absence of a satisfactory explanation, the amount involved shall not be allowed. Further, a statement explaining that a receipt has been lost shall not be accepted for lodging, airfare, rental car, or business expenses.

Receipts for telephone or telegraph charges related to court business of \$2.50 or less are not required. However, claims for phone calls must include the place and party called.

**ADDENUM 1
CONTRACTOR CERTIFICATION**

I certify that neither _____ (Prospective bidder) nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency, and that neither Prospective bidder nor any of its proposed subcontractors are tax delinquent with the State of California. I have listed all contracts with courts, government or other governmental agencies during the two years preceding submission of this Proposal.

I acknowledge that if Prospective bidder or any of its subcontractors subsequently are placed under suspension or debarment by a local, state or federal government entity, or if prospective bidder or any of its subcontractors subsequently become delinquent in California taxes, our Proposal may be disqualified.

| | |
|---|-------|
| By (Authorized Signature) | Date: |
| SAMPLE ONLY DO NOT SIGN | |
| Printed Name and Title of Person Signing: | |

Please list all contracts with courts or governments or other governmental agencies during the two years preceding submission of this proposal:

- 1.
- 2.
- 3.

**ADDENUM 2
 DARFUR CONTRACTING ACT CERTIFICATION**

Pursuant to Public Contract Code (PCC) section 10478, if a bidder, proposer or contractor 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 bid or proposal.

To submit a bid or proposal to the Court, you must complete **ONLY ONE** of the following three paragraphs. To complete paragraph 1 or 2, simply check the corresponding box. To complete paragraph 3, check the corresponding box **and** complete the certification for paragraph 3.

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.

OR

2. We are a “scrutinized company” as defined in PCC 10476, but we have received written permission from the [Court/HCRC/AOC] to submit a bid or proposal pursuant to PCC 10477(b). A copy of the written permission from the [Court/HCRC/AOC] is included with our bid or proposal.

OR

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/bidder to the clause in paragraph 3. This certification is made under the laws of the State of California.

| | | |
|--|---|--------------------|
| Company Name : | | Federal ID Number: |
| By (Authorized Signature) SAMPLE ONLY DO NOT SIGN | | |
| Printed Name and Title of Person Signing: | | |
| Date Executed: | Executed in the County of _____ in the State of _____ | |

ADDENUM "3"
ASSURANCE OF COMPLIANCE WITH
SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The undersigned (hereinafter called the "Contractor") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation and all guidelines and interpretations issued pursuant thereto.

The Contractor gives this assurance in consideration for the purpose of obtaining contracts after the date of this assurance. The Contractor recognizes and agrees that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor.

The Contractor:

_____ Employs fewer than 15 persons

_____ Employs 15 or more persons and, pursuant to section 84.7(a) of the regulation (45 C.F.R. 84.7(a)), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

SAMPLE ONLY DO NOT SIGN

Name of 504 person:

XXXX
Name of Contractor:

I certify that the above information is complete and correct to the best of my knowledge.

Dated: _____
Signature and Title of Authorized Official

* Exception: DHHS regulations state that:
"If a recipient with fewer than 15 employees finds that, after consultation with a handicapped person seeking its services, there is no method of complying with (the facility accessibility regulations)... other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."