

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN MATEO**

**REQUEST FOR PROPOSAL**

**COURT RECORDS COURIER SERVICES**



**REQUEST FOR PROPOSAL – RFP 2012-02**

**WRITTEN PROPOSALS DUE BY**

**Friday, February 15, 2012 - 4:00 PM, PST**

The Superior Court of California, County of San Mateo is inviting competitive proposals to provide daily courier delivery services of court records between court facilities. The following is a description of the scope of work, contractor selection process and proposed terms of the project. Proposer's submission of a bid for this project will be considered proposer's agreement to comply with the terms and conditions as stated herein. The term proposer refers to the entity who is submitting a proposal/bid in response to this RFP. The term contractor is used here to either refer to an entity who is the successful bidder/proposer or to an entity that provides the services specified in this RFP.

## **I. INTRODUCTION – SUMMARY OF THE PROJECT**

### **1.1. Issuing Body**

The Superior Court of California, County of San Mateo ("Court") is issuing this Request for Proposal ("RFP") to seek qualified proposers to provide daily scheduled secured courier service to deliver court records and materials between the six (6) court facilities. The Court facilities are located in the cities of Redwood City, San Mateo and South San Francisco.

### **1.2. Project Background**

The Superior Court of California, County of San Mateo is a trial court with five court facilities and an off-site records storage facility in San Mateo County. Unprecedented reductions in State funding have resulted in a 24% workforce reduction for San Mateo Superior Court since 2008 and current year budget cuts require our workforce to be reduced further. In light of the budgetary environment, the Court is evaluating its operations including how the court transports records and materials between its various facilities.

The Court is interested in procuring the services of a qualified contractor who can fulfill the records/materials transport needs of the court on a set scheduled run between the 5 facilities and handling rush deliveries when necessary.

### **1.3. Project Goal:**

The goal of this project is to procure the services of a company who can provide confidential and secured transportation of court files, records and materials on a daily and on an as-needed basis. Specifics regarding the volume of materials and size of boxes to be handled by the driver are described in in further detail in section 4.2.11 below.

### **1.4 Project Objectives:**

- 1.4.1** Retain the services of a contractor who can provide reliable services.
- 1.4.2** Retain a contractor who will be timely and responsive to the Court's needs.
- 1.4.3** Select a contractor who can maintain the confidentiality and security of the records and materials that will be transported.

### **1.5 General Requirements and Features**

- 1.5.1.** A courier/delivery service company who has a record of providing quality and timely service to their clients that may include service to other courts or governmental agencies.

- 1.5.2. A company that complies with the requirements of the Judicial Branch Contracting laws as specified in the General Terms and Conditions of the sample contract that is included with this RFP.
- 1.5.3. The contractor must have the staffing available that can meet the daily scheduled services and be responsive to any “rush” deliveries that may arise. The schedule is set forth in section 4.2.7 of this RFP.
- 1.5.4. The contractor shall provide their own vehicles in order to meet their service requirements. Transportation costs and required insurance must be included in the cost of the proposal.
- 1.5.5. The contractor must provide staffing to provide uninterrupted, timely and reliable service to the court.
- 1.5.6. Each court location will have a centralized designated pick up/drop off location where the courier will deliver and pick up the materials.
- 1.5.7. The contractor will be required to go through court security. All courier staff persons providing the service must undergo Department of Justice and FBI fingerprint screening (security clearance). All staff persons must have a valid ID that shall be worn at all times. The cost of the security clearance will be paid for by the courier company.
- 1.5.8. Contractor shall have management and office staff who will be responsive to the Court and who are able to maintain open and timely communication with court staff at all times, including maintaining record keeping at the level required at the industry standards.

## **II. PROCUREMENT AND EVALUATION PROCESS**

### **2.1 COMMUNICATIONS WITH COURT REGARDING THE RFP**

Except as specifically addressed elsewhere in the RFP, Proposers must send any communications regarding the RFP to the Court at [rfp@sanmateocourt.org](mailto:rfp@sanmateocourt.org) (the “Solicitations Mailbox”). Proposers must include the RFP Number in the subject line of any communication.

### **2.2 QUESTIONS REGARDING THE RFP**

- 2.2.1 If a Proposer’s question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the Proposer may submit the question via email to the Solicitations Mailbox, conspicuously marking it as “CONFIDENTIAL.” With the question, the Proposer must submit a statement explaining why the question is sensitive. If the Court concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the Court does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the Proposer will be notified.
- 2.2.2 Proposers interested in responding to the RFP may submit questions via email to the Solicitations Mailbox on procedural matters related to the RFP or requests for clarification or modification of the RFP no later than the deadline for questions listed in the timeline of the RFP (Section 2.3). If the Proposer is requesting a change, the request must set forth the recommended change and the Proposer’s reasons for proposing the change. Questions or requests submitted after the deadline for questions will not be answered. Without disclosing the source of the question or request, a copy of the questions and the Court’s responses will be made available on the court’s website.

### 2.3 Procurement Schedule and General Instructions

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

<b>No.</b>	<b>EVENTS</b>	<b>Key Dates</b>
1.	Request for Proposal is issued	January 24, 2012
2.	Deadline for Proposers' Requests for Clarifications, Modifications or Questions	February 1, 2012 – 5:00 p.m. (PST)
3.	Questions and Answers posted online	February 3, 2012– 5:00 p.m. (PST)
4.	Deadline for submitting a protest under Section 2.19	February 6, 2012 – 5:00 p.m. (PST)
5.	Due Date and Time - Proposal must be received by:	February 15 , 2012 – 4:00 p.m. (PST)
6.	Public Bid opening at 400 County Center, 1 <sup>st</sup> floor, at the public information desk, Redwood City, California.	February 16, 2012 – 9:00 a.m. (PST)
7.	Notice of Award (estimated)	February 24, 2012
8.	Estimated Start Date	March 19, 2012

Any modifications to this RFP and any addenda that may be issued and responses to clarification inquiries will be made available to all potential proposers.

### 2.4 Contact List

Submittal Contact: Timothy Gee (650) 599-1790

Written Proposals shall be sent to:

Superior Court of California, County of San Mateo  
Attn: Timothy Gee, Contracts Analyst  
400 County Center, 2nd Floor  
Redwood City, CA 94063

Project Manager: Jill Selvaggio (650) 599-1519

Contracting Officer: Timothy Gee, Contracts Analyst (650) 599-1790

E-mail: [rfp@sanmateocourt.org](mailto:rfp@sanmateocourt.org)

Court Executive Officer: John C. Fitton

### 2.5 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 contractor submitting the Proposal. One copy of a submitted Proposal will be retained for official files and become a public record. **Any material that a contractor considers as confidential but does not meet the disclosure exemption requirements of the California Public Records Act should not be included in the contractor's Proposal as it may be made available to the public.**

Even though the Public Records Act (PRA) does not apply to the Court, the Court's policy is to look to the PRA for guidance in responding to request for documents. Furthermore, the provisions of California Rules of Court, Rule 10.500 provides for public access to court administrative records.

If a vendor'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 PRA or Rule 10.500, the material may be made available to the public, regardless of the notation or markings. If a vendor 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.

## **2.6 Proposal Preparation Costs.**

Contractors submitting Proposals do so entirely at their expense. There is no express or implied obligation by the Court to reimburse a contractor 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.

## **2.7 Pre-Submittal Process**

### **2.7.1 Request for Clarifications or Modifications.**

Any other requests for clarifications or modifications of the proposed general terms, the project specifications, or Terms and Conditions of the proposed contract must be submitted to the Contract Analyst listed in Section 2.4 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 Submittal Contact will provide a copy of the questions and corresponding responses to potential proposers. All inquiries and responses will be shared with all prospective proposers on the Court's web site.

### **2.7.2 Ambiguity, Discrepancies, Omissions.**

If a vendor submitting a Proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the vendor shall immediately provide the Contract Analyst listed in Section 2.4 written notice of the problem and request that the solicitation document be clarified or modified. 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 potential proposers. If prior to the date fixed for submission of Proposals a vendor 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 vendor shall propose at its own risk, and if the vendor is awarded the contract, the vendor shall not be entitled to additional compensation or time by reason of the error or its later correction.

### **2.7.3 Addenda**

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

#### **2.7.4 Right To Reject Proposals**

- A. Before the proposal due date and time listed in the timeline of the RFP, the Court may cancel the RFP for any or no reason. After the proposal due date and time listed in the timeline of the RFP, the Court may reject all proposals and cancel the RFP if the Court determines that: (i) the proposals received are not really competitive; (ii) the cost is not reasonable; (iii) the cost exceeds the amount expected; or (iv) awarding the contract is not in the best interest of the Court.
- B. The Court may or may not waive an immaterial deviation or defect in a proposal. The Court's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a Proposer from full compliance with RFP specifications. Until a contract resulting from this RFP is signed, the Court reserves the right to accept or reject any or all of the items in the proposal, to award the contract in whole or in part and/or negotiate any or all items with individual Proposers if it is deemed in the Court's best interest. A notice of intent to award does not constitute a contract, and confers no right of contract on any Proposer.
- C. The Court reserves the right to issue similar RFPs in the future. The RFP is in no way an agreement, obligation, or contract and in no way is the Court or the State of California responsible for the cost of preparing the proposal.
- D. Proposers are specifically directed **NOT** to contact any Court personnel or consultants for meetings, conferences, or discussions that are related to the RFP at any time between release of the RFP and any award and execution of a contract. Unauthorized contact with any Court personnel or consultants may be cause for rejection of the Proposer's proposal.

#### **2.8 Minimum Qualifications**

To be considered for full evaluation and possible award, proposers 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 contractor and any proposed subcontractors):

<b>No.</b>	<b>Minimum Qualifications</b>
1.	Contractor must have proven experience with providing daily courier service in the San Francisco Bay Area.
2.	Contractor must have all necessary insurance coverage and/or bonding as stated in the sample Agreement.
3.	Contractor must have either a current and valid crime insurance policy or is bonded.
4.	Contractor’s drivers must have a clean driving record, possess a valid California Driver’s License, and must pass security clearance as required by the Court.
5.	Contractor must have sufficient staffing to meet the Court’s schedule and any non-scheduled deliveries as required by the Court on an as-needed basis.
6.	Contractor must provide secured and confidential transportation of the Court’s records and materials.
7.	Neither contractor nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency and neither contractor nor any of its proposed subcontractors are tax delinquent with the State of California or Federal Government (reference RFP Attachment A, Sample Contract, Exhibit F - Contractor Certification Form).
8.	Contractor has reviewed and complies with the certifications as contained in the General Terms of the Proposed Contract and Exhibits E, F, and G of the Proposed Contract, included herein, and is not prohibited from contracting with the Court under the provisions as stated in Exhibit F of the Proposed Contract.

The contractor must state specifically in its Executive Summary (see Section 3.1) how it will comply with each minimum qualification specified above. 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.

Contractors 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.

**2.9 Submission of Proposals.**

**2.9.1 Proposal Delivery**

The following must be received no later than the Proposal Due Date and time specified in Section 2.3 (the “Proposal Closing Time”) at the address listed in Section 2.4 for the Contract Analyst:

- A. Detailed Statement of Work that will be performed especially addressing the handling of “rush” deliveries and adherence to the delivery schedule;
- B. List of references and experience to include name, title, telephone number, e-mail address of the designated representative for the Proposer and all references;
- C. Objections to or proposed changes to the general terms of the contract and special provisions as stated in the sample contract attached hereto;

- D. If the Proposer is a corporation, proof that the Proposer is in good standing and qualified to conduct business in California;
- E. Proof of financial solvency or stability (recent balance statement or income statement);
- F. Contractor Certificates (See Exhibits E, F and G);
- G. If the Proposer is claiming treatment under the State's Disabled Veterans Benefits Enterprise, the proposer must provide proof of qualification.
- H. Certificate that Proposer does not have an interest that would constitute a conflict of interest under California Public Contract Code sections 10365.5, 10410 or 10411, Government Code sections 1090, et seq. or 87100, et seq., or rule 10.103 or rule 10.104 of the California Rules of Court, which restrict employees and former employees from contracting with judicial branch entities; and
- I. Agreement to obtain Certificate of Insurance with the Superior Court of California, County of San Mateo named in the endorsement if Proposer is the successful bidder.

### **2.9.2 Cost Proposal**

The following information must be included in the cost proposal.

- A. A detailed line item budget showing total cost of the proposed services that includes:
  - 1) Cost proposals for each of the route options; and
  - 2) Cost for the "rush delivery" option with a description on how the service will be provided.
- B. A full explanation of all budget line items in a narrative entitled "Budget Justification."

**NOTE:** It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code.

### **2.9.3 Proposal Submittals**

- A. One original and two (2) copies of each of the services proposal and the cost proposal.
- B. A copy of both documents in an electronic "Word" document format (on compact disc or thumb drive).
- C. The Project Proposal and the cost proposal shall be submitted in separate sealed envelopes and will all be opened at the appointed bid opening date and time.



**2.9.4 Amendment or Withdrawal of Proposals.**

A vendor may amend its Proposal prior to the Proposal Closing Time. All amendments must be in writing, signed by the proposer and received by the Court prior to the Proposal Closing Time.

A vendor may withdraw its Proposal at any time prior to the Proposal Closing Time by notifying the Contract Analyst listed in Section 2.4 in writing of its withdrawal. Amendments or withdrawals offered in any other manner than described above will not be considered. Proposals cannot be amended after the Proposal Closing Time.

**2.9.5 Mistake in Proposal.**

If prior to a contract award, a proposer discovers a mistake in their Proposal that renders the proposer unwilling to perform under any resulting contract, the proposer must immediately notify the Contract Analyst listed in Section 2.4 in writing and request to withdraw the Proposal.

**2.9.6 Error in Submitted Proposals.**

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

**2.9.7 Authorized Signatures, Validity Period of Proposals.**

Proposals must include the contractor 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 contractor and include the name, title, address, e-mail address and telephone number of the individual who is the proposer's designated representative.

Proposals will be valid for ninety (90) days after the Proposal Due Date specified in Section 2.3. In the event a final contract has not been awarded by the date specified in Section 2.3, the Court reserves the right to negotiate extensions to the Proposal Validity Date.

**2.9.8 Knowledge of Requirements**

The vendor 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, drawing, specification, or instruction will be at the proposer's sole risk.

Proposers 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 notice to prospective proposers by posting addenda and clarifications on the Court website; however, it is the proposer's responsibility to ascertain that the Proposal includes all addenda issued prior to the Proposal Due Date.

### **2.9.9 Independence of Proposal and Joint Proposals**

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

A Proposal submitted by two or more vendors participating jointly in one Proposal may be submitted, but one vendor 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.

### **2.9.10 Covenant Against Gratuities**

Proposer warrants by signing its Proposal that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the proposer or any agent, director, or representative of the proposer, 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.

## **2.10 Acceptance of Terms**

The contractor's proposal must include a statement as to whether the contractor accepts the Contract Terms and Conditions in Attachment A of Section V or whether the contractor takes any exception to those terms. The contractor will be deemed to have accepted such terms and conditions, except where expressly called out in the contractor's proposal. If exceptions are taken, contractor must submit a "redlined" version of the term or condition showing all modifications proposed by the contractor (a MSWord version will be posted on the Court's RFP website for redlining). The contractor must provide an explanation as to why the modification is required. The contractor's willingness to accept the General Conditions, with minor clarifications, shall be an affirmative factor in the evaluation of the contractor's proposal.

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

## **2.11 Overview of Evaluation Process**

### **2.11.1 Evaluation Committee**

The Court will conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. All Proposals received from vendors will be reviewed and evaluated by a committee of qualified personnel ("Evaluation Committee"). The name or experience of the individual members will not be made available to any vendor. 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 2.8.

Vendors satisfying the minimum qualifications will then be evaluated in accordance with the evaluation criteria set forth in Section 2.12.

### **2.11.2 Reservation of Rights**

A. The Court, in its complete discretion, may eliminate Proposals that have not met the minimum qualifications of Section 2.8, 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.

B. The Court's waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a vendor from full compliance with solicitation document specifications.

C. 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.

D. 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 proposer 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 proposer so restricts its Proposal, the Court may consider the proposer'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 proposer ineligible for further evaluation.

E. The Court reserves the right to negotiate with the most responsible Proposer who has presented, in the opinion of the Evaluation Committee, the lowest responsive bid in its attempt to reach a contract. If no contract is reached, the Court can negotiate with other proposers 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 vendors to gather additional information.

F. The Court reserves the right to accept in whole or in part any proposal so that the needs of the Court are met as specified in the Project Goals and Objectives as stated in sections 1.3 and 1.4. Therefore the Court may enter in contract with more than one proposer if necessary.

G. 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.

### **2.11.3 Requests for Additional Information**

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

## **2.12 Evaluation Criteria.**

Proposals will be evaluated to determine if the most responsible Proposer has submitted the lowest responsible bid. The Court's consideration of the Proposals shall include, but not limited to: cost/pricing factors, reasonableness of cost projections, Contractor's experience, acceptance of terms and conditions of the proposed contract, implementation plan, ability to meet the proposed scheduling requirements, ability to staff and support the Court's courier needs, and references.

## **2.13 Disabled Veteran Business Enterprise Participation Goals**

The Court will endeavor to include participation of the Disabled Veterans Business Enterprise program in this solicitation.

## **2.14 Interview and Negotiations.**

### **2.14.1 Interviews**

Following the initial screening of Proposals, the Court reserves the right to require, and each proposer 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 proposers will be notified in writing of the date, place, time and format of the interview or presentation. Proposers 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 a proposer's disqualification from further consideration.

### **2.14.2 Negotiations**

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

## **2.15 Payment.**

Payment terms will be in accordance with the invoice provisions of section 4.3. **THE COURT DOES NOT MAKE ANY ADVANCE PAYMENT FOR GOODS OR SERVICES.** Payment is normally made based upon completion of tasks as provided in the agreement between the Court and the selected Proposer. If applicable, the Court may withhold ten percent of each invoice until receipt and acceptance of the final deliverable. The amount of the withhold may depend upon the length of the project and the payment schedule provided in the agreement between the Court and the selected Proposer.

## **2.16 News Releases.**

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.

## **2.17 Award of Contract.**

- 2.17.1** Upon award of the contract, the successful contractor(s) will be required to execute a Contract in accordance with the Statement of Work in Section IV and the Contract Terms and Conditions in Section V, and provide certificates of insurance and/or proof of bonding and other applicable certificates in conformance with the requirements set forth in the General Conditions at time of signing of the Contract.
- 2.17.2** The Court will make a reasonable effort to execute any contract based on the RFP within forty-five (45) days of selecting a proposal. However, exceptions taken by a Proposer may delay execution of a contract. The period for execution of the Contract may be changed by mutual contract of the parties. Contracts are not effective until signed by both parties. The contract shall be signed by the Proposer no later than ten (10) business days of receipt of the contract.
- 2.17.3 Failure to Execute the Agreement**  
The period for execution set forth in Section 11 (“Award and Execution of Agreement”) may only be changed by mutual agreement of the parties. Failure to execute the agreement within the time frame identified above constitutes sufficient cause for voiding the award. Failure to comply with other requirements within the set time constitutes failure to execute the agreement. If the successful Proposer refuses or fails to execute the agreement, the Court may award the agreement to the next qualified Proposer.
- 2.17.4** The successful proposer (Contractor) will be required to participate in a site walk-thru with Court staff prior to the start date. The purpose of the walk-thru will allow the Contractor’s staff to become familiar with the facilities, route, security and procedures relating to the services provided.

## **2.18 Anti-Trust Claims**

- 2.18.1** In submitting a proposal to the Court, the Proposer offers and agrees that if the proposal is accepted, Proposer will assign to the Court all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the Court pursuant to the proposal. Such assignment shall be made and become effective at the time the Court tenders final payment to the Proposer. (See Government Code section 4552.)
- 2.18.2** If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Proposer shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Court any portion of the recovery, including treble damages, attributable to overcharges that were paid.
- 2.18.3** Upon demand in writing by the Proposer, the Court shall, within one year from such demand, reassign the cause of action assigned under this section if the Proposer has been or may have been injured by the violation of law for which the cause of action arose and (a) the Court has not been injured thereby, or (b) the Court declines to file a court action for the cause of action. (See Government Code section 4554.)

## **2.19 Protest Procedures.**

**2.19.1** Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contract Manual (see [www.courts.ca.gov/documents/jbcl-manual.pdf](http://www.courts.ca.gov/documents/jbcl-manual.pdf)). Failure of a Proposer to comply with the protest procedures set forth in that chapter will render a protest inadequate and non-responsive, and will result in rejection of the protest. The deadline for the Court to receive a solicitation specifications protest is February 6, 2012. Protests should be sent to the Contracts Analyst as identified in section 2.4 of this RFP.

**2.19.2** Form of Protest. A contractor who is qualified to protest should submit the protest to the individual listed in the Submission of Proposal section of this RFP who will forward the matter to the appropriate Contracting Officer.

- A. The protest must be in writing and sent by certified or registered mail or delivered personally to the address noted in Section 2.4. If the protest is hand-delivered, a receipt must be requested.
- B. The protest shall include the name, address, e-mail, telephone and facsimile numbers of the party protesting or their representative.
- C. The title of the solicitation document under which the protest is submitted shall be included.
- D. A detailed description of the specific legal and factual grounds of protest and any supporting documentation shall be included.
- E. The specific ruling or relief requested must be stated.

**2.19.3** The Court's Executive Officer, on behalf of the Court may, at its discretion, make a decision regarding the protest without requesting further information or documents from the protestor. The decision of the Court Executive Officer shall constitute the Court's final action and decision.

## **III. PROPOSAL FORMAT AND CONTENT**

Responsive Proposals should provide straight forward, concise information that satisfies the requirements of this solicitation.

### **3.1 Company Information**

The Court requires the contractor to be a reputable company of strong financial standing with a proven track record for picking up and delivering paper records and files on a daily schedule on time in a secured, confidential and professional manner. The contractor's Proposal must provide the information requested below as well as other information requested as stated in Section 2.9 of this RFP. If the contractor is a joint venture, information about the prime Contractor and the Subcontractor must be submitted separately.

The information to be provided is as follows:

- a. Complete name and address.
- b. Federal tax identification number.
- c. If incorporated, include the state in which incorporated.
- d. Total number of years in business.
- e. Number of years providing services similar in scope to those requested in this RFP.
- f. If subcontractors are proposed for this RFP, describe the contractor's contract management process for subcontractors included in the contractor's Proposal and

provide copies of signed formal contracts (e.g., teaming contracts or any other legally binding document), if any exist, between the contractor and each proposed subcontractor.

- g. A timeline for initiation of the service.
- h. A breakdown of costs.
- i. A statement of the proposer's financial good standing.
- j. References especially any government entities serviced by proposers.

## **3.2 Experience and Qualifications**

### **3.2.1 Prior Experience and References**

The Court requires the contractor and its subcontractors to have prior experience in all aspects of the services described in this RFP for customers similar to or with relevance in the size, complexity and scope of this RFP. Contractor shall:

- A. Describe the contractor's experience as it pertains to providing services similar in size, complexity and scope to those required under this RFP and in the manner required pursuant to this RFP.
- B. Provide the names, addresses, and telephone numbers for a minimum of five (5) current and past customers for whom the contractor has provided similar services within the last 18 months, especially any government agencies. The contractor should include a brief description of the scope of services provided to the customer, whether services included the handling of confidential or secure materials, and the duration of the contract. The Court may contact some or all of the references provided in order to determine the contractor's performance record. The Court reserves the right to contact references other than those provided in the Proposal and to use the information gained from them in the evaluation process.

### **3.2.2 Subcontracts**

If the contractor intends to subcontract, describe the contractor's experience with each of the proposed subcontractors. For each proposed subcontractor provide the names, addresses, and telephone numbers for a minimum of three (3) customer references, for products and services similar to those described in this RFP. The contractor should include a brief description of the scope of services provided to the customer and the duration of the contract.

## **3.3 Cost Proposal**

### **3.3.1 Government Rates**

It is expected that all contractors responding to this solicitation will offer the vendor's government or most favorable comparable rates.

### **3.3.2 Pricing and Price Adjustments**

Contractor must provide a detailed description of the pricing of services and state all that the pricing includes. Pricing shall include all anticipated charges, including but not limited to, cost of materials and product, overhead, driving costs (including fuel, vehicle maintenance, and wear and tear), if applicable, profits, and other costs or expenses incidental to the contractor's performance. If there is any travel involved in performance of this contract (outside of the delivery of documents to each court location), contractor agrees

to comply with the Court's guidelines on travel compensation for contractors. The Court is exempt from federal excise taxes and no payment will be made for any taxes levied on the contractor's or any Subcontractor's employee's wages. The Court will pay for any applicable State of California or local sales or use taxes on the services rendered. Taxes shall be included as a separate line item on a contractor's invoice. Any travel, outside of the delivery of documents to each location, must be pre-approved by the Court and is not anticipated as part of this contract.

- 3.3.3** Contractor's Proposal and price does not (1) imply that Court approves or adopts Contractor's plan, methods, or procedures required to perform the Work; nor (2) relieve Contractor from sole responsibility for the accuracy of its estimate and timely completion of the Work.
- 3.3.4** Contractor shall not charge, nor shall Court pay, any overtime pay unless otherwise agreed to in writing between the Contractor and Court.

### **3.4 Scheduling Proposals**

In addition to the two required schedules in 4.2.7, the Court invites the Proposer to offer any other optional schedule to cover the facilities to be serviced within the time parameters set forth in the 4.2.7 (i.e. start time, required arrival and departure time from specific locations, etc.) that might be more cost effective. This optional, third schedule is not a required element of the proposal.

### **3.5 Required Proposal Forms and Documents**

#### **3.5.1 Required Forms**

- A. Detailed Statement of Work that will be performed and all associated costs that are included in the Proposal.
- B. Contractor Certificates (See Exhibits)
- C. 504 Statement of Compliance (See Exhibits)
- D. Certificate of Insurance (Note: The Court must be included on the policy as an endorsed party when the contract documents are executed) and bonding

#### **3.5.2 Acceptance of Terms**

The contractor's Proposal must include a statement as to whether the contractor accepts the General Terms and Conditions in Exhibits C and D of the attached proposed contract in Attachment A or whether the contractor takes any exception to those terms. The contractor will be deemed to have accepted such terms and conditions, except where expressly called out in the contractor's Proposal. If exceptions are taken, contractor must submit a "redlined" version of the term or condition showing all modifications proposed by the contractor (a MSWord version will be posted on the Court's RFP website for redlining). The contractor must provide an explanation as to why the modification is required. The contractor's willingness to accept the General Terms and Conditions, with minor clarifications, shall be an affirmative factor in the evaluation of the Proposer's Proposal. Soft copies of the contract terms and conditions will be provided by the Court at the Proposer's request.

Although the Court will consider alternate language proposed by a contractor, the Court will not be bound by contract language received as part of a prospective contractor's response. If the proposer requires that some or all of the contractor's proposed contract



language bind the Court, the Proposal may be considered non-responsive and may be rejected. Finalizing the terms of the contract will be negotiated after the announcement of the Court’s selection.

**IV. STATEMENT OF WORK**

**4.1 General Description**

Selected Contractor will provide the Court daily scheduled courier services delivering court files, records and materials between the five (5) court facilities within San Mateo County. Contractor will also be required to make immediate pick-up and delivery of records with short notice on an as-needed basis (“rush” deliveries). The selected contractor shall facilitate the final implementation plan with the Court Services Manager and Supervisor of the Records Division.

**4.2 Scope of Work**

The following is provided to demonstrate what the Court anticipates the project will involve.

- 4.2.1** A courier/delivery service company who has a record of providing quality and timely service to their clients with experience in providing service to other courts or governmental agencies.
- 4.2.2** A company that complies with the requirements of the Judicial Branch Contracting laws as specified in the General Terms and Conditions of the sample contract that is included with this RFP.
- 4.2.3** The contractor must have the staffing available that can meet the daily scheduled services and be responsive to any “rush” deliveries that may arise (i.e. deliveries that need to be made with short notice and must be accomplished immediately).
- 4.2.4** The contractor shall provide their own vehicles in order to meet their service requirements. Transportation and all vehicle-related costs must be included in the proposal.
- 4.2.5** The contractor must provide coverage in the event of absences so that the absences will not impact the level of service provided to the court.
- 4.2.6** The contractor shall address how it will provide “rush” service between the court locations on an as-needed basis. The proposal for this service does not imply that the court will require “rush” delivery services from the vendor.
- 4.2.7** The qualified vendor must propose rates for each of the following delivery schedule options and the schedule option developed by the proposer under 3.4 if any. The final delivery schedule will be determined by the Court at the time of selection of the successful proposer. Locations listed without a time may be scheduled at any time that would make the most efficient and cost effective route. All other times are fixed and must be met.

**Route Option #1**

Leave	Arrive
Hall of Justice, Redwood City 8:30 a.m. (start)	San Mateo Courthouse 9:00 a.m.
San Mateo Courthouse 9:10 a.m.	Youth Services Center 9:30 a.m.
Youth Services Center 9:40 a.m.	South San Francisco Courthouse 10:00 a.m.
South San Francisco Courthouse 12:30 p.m.*	Hall of Justice, Redwood City 1:15 p.m.**
Hall of Justice, Redwood City 1:30 p.m.	Edison Warehouse, Menlo Park 2:00 p.m.
Edison Warehouse, Menlo Park 2:10 p.m.	San Mateo Courthouse 2:45 p.m.
San Mateo Courthouse 3:00 p.m.	Hall of Justice, Redwood City 3:30 p.m. (end)

- \*Cannot leave the South San Francisco Courthouse until 12:30 p.m.
- \*\*Must arrive at the Hall of Justice in Redwood City before 1:15 p.m.

**Route Option #2**

Leave	Arrive
Hall of Justice, Redwood City 10:00 a.m. (start)	Youth Services Center 10:30 a.m.
Youth Services Center 10:40 a.m.	San Mateo Courthouse 11:00 a.m.
San Mateo Courthouse 11:10 a.m.	South San Francisco Courthouse 11:30 a.m.
South San Francisco Courthouse 12:30 p.m.*	Hall of Justice, Redwood City 1:15 p.m.**
Hall of Justice, Redwood City 1:25 p.m.	Edison Warehouse, Menlo Park 1:45 p.m.
Edison Warehouse, Menlo Park 1:55 p.m.	Hall of Justice, Redwood City 2:15 p.m. (end)

- \*Cannot leave the South San Francisco Courthouse until 12:30 p.m.
- \*\*Must arrive at the Hall of Justice in Redwood City before 1:15 p.m.

Hall of Justice 400 County Center Redwood City CA 94063 [This includes the Court Annex located At 500 County Center (adjacent to the HOJ)]	Youth Services Center 222 Paul Scannell Dr. San Mateo CA 94402
--	--

San Mateo Courthouse 800 North Humbolt St San Mateo CA 94401	Edison Warehouse 3345 Edison Way Menlo Park CA 94025
--	--

South San Francisco Court House  
1050 Misson Rd  
South San Francisco CA 94080

- 4.2.8** Each court location will have a centralized designated pick up/drop off location where the courier will deliver and pick up the files/records/materials.
- 4.2.9** The contractor will be required to go through court security. All courier staff persons providing the service must undergo security clearance. All staff persons must have a valid ID that shall be worn at all times. The cost of the security check will be paid for by the courier company.
- 4.2.10** Contractor shall have a management and office staff that will be responsive to the Court’s needs and who is able to maintain open and timely communication with court staff at all times, including maintaining recording keeping at the level required at the industry standards.
- 4.2.11** The average volume of materials handled by the driver that is typically handled for each delivery is approximately 4-5 banker style boxes or post office mail bins (no box or bin weighing over 50 pounds).

**4.3 Invoicing**

- 4.3.1** Contractor shall submit invoices on a monthly basis, subject to service performed to the satisfaction of the Court.

- 4.3.2** An invoice shall contain a detail of services rendered, materials provided, the Court's contract number and shall be signed by the contractor. Invoices will be submitted by contractor to:

Jill Selvaggio, Court Services Manager  
Superior Court of California, County of San Mateo  
400 County Center, 2<sup>nd</sup> floor  
Redwood City, CA 94063

**V. ATTACHMENTS**

Attachment A Sample Contract Terms & Conditions

**ATTACHMENT A**

**CONTRACT TERMS AND CONDITIONS**

**Attached are the proposed terms of the standard contract between the Court and its vendors. By submitting a Proposal, you are agreeing to the terms of this contract for the services that you will be providing subject to any comments the Proposer may have according to the RFP process as stated in section 3.4.2.**

Contractor Name and Address:

Telephone:

(Insert name of owner or president of company and title HERE)

It is agreed between the **Superior Court of California, County of San Mateo**, hereinafter called "**Court**" and **XXXXXX**, hereinafter called "**Contractor**", as follows:

**Background**

WHEREAS, ; and

WHEREAS, ; and

WHEREAS, COURT requires XXXX to ;

NOW, THEREFORE, pursuant to the representations and agreements contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby mutually covenant and agree as follows:

**1. Services to be performed by Contractor.**

In consideration of the payments hereinafter set forth, Contractor shall perform services for the Court in accordance with the terms, conditions and specifications set forth herein and in Exhibits "A", "B", "C", "D", "E", "F" and "G" attached hereto and incorporated herein by reference. Contractor shall ensure compliance with all state, federal and local laws or rules applicable to performance of the work required under this contract.

**2. Term and Effective Date of Agreement.**

This Agreement shall be effective from March XX, 2012 through December 31, 2014 unless otherwise terminated. The Court reserves the right to extend this contract for additional one year terms prior to the end of the original term or subsequent extensions. The Court's exercise of this option must be provided in writing to the Contractor and the parties will execute an amendment regarding the extension. This Agreement is of no force or effect until signed by both parties. Contractor shall not perform any of its obligations under this Agreement, until this Agreement is fully executed.

**3. Contract Amount**

**A. Payment 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 exceed **XXXX Thousand Dollars (\$XXXXXX.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 anytime. The Court reserves the right to withhold payment if the Court determines that the quantity or quality of the work performed is unacceptable.

**4. Contract Documents**

Incorporated into this Agreement are the following Exhibits (collectively, “the Contract Documents”):

- a. General Provisions
- b. Exhibit A – Statement of Work and Services
- c. Exhibit B - Schedule of Fees and Method of Payment
- d. Exhibit C – General Terms and Conditions
- e. Exhibit D – Special Provisions
- f. Exhibit E – Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, As Amended
- g. Exhibit F – Contractor Certification Form
- h. Exhibit G - Darfur Contracting Act Certification

In the event of a conflict between the terms of the Contract Documents, the following order of precedence shall govern and shall determine which terms will prevail: The General Provisions, Exhibit A - Statement of Work and Exhibit B – Schedule of Fees and Method of Payment, and Exhibits “C” and “D”-General Terms and Conditions and Special Provisions. Any Amendments to this Agreement, starting with the most recent, shall take precedence over the existing Contract Documents. In the event of a conflict between an Amendment and the terms of any other Contract Document, the terms of the Amendment shall prevail.

**5. Representatives:**

**Notices:** Notices, as may be required in the Agreement, will be provided to the following:

<b>COURT:</b>	<b>CONTRACTOR:</b>
Jill Selvaggio	
Court Services Manager	
400 County Center, 2nd Floor	
Redwood City, California 94063	
Telephone:650- 599-1519	Telephone:

**SIGNATURES**

The undersigned, representing their respective parties to this Agreement, acknowledge and certify that they have the proper authority to do so.

<b>Superior Court of California, County of San Mateo</b>	
<i>Signature:</i> _____	<i>Signature:</i> _____
Name: _____	Name: _____
Title: Presiding Judge _____	Title: _____ _____
Date: _____	Date: _____

**ACKNOWLEDGEMENT:**

I hereby certify that the services requested are necessary, the selection process documentation is accurate, all applicable insurance certificates are on file in this office, that Risk Management has approved any reductions in contractor’s insurance limits below \$1,000,000, and that no work will commence until this document is signed by the Court Executive Officer.

<i>Signature:</i> _____ Deputy Court Executive Officer	<i>Date:</i> _____
--	-----------------------

Received and Processed:

<i>Signature:</i> _____ Court Finance Director	<i>Date:</i> _____
--	-----------------------

Distribution: Original signed copy: Finance Director      Copy to: Contractor, Contracts Administrator,  
Project Manager and Court Accounting      Revised 03/2007



**EXHIBIT "A"**  
**STATEMENT OF WORK OR SERVICES**

In consideration for payment of the compensation by Court as specified in Exhibit "B" contractor will provide services, materials and labor as follows:

[Specifics of the Statement of Work and Services will be inserted in this section once agreed to by the parties]

**EXHIBIT "B"**  
**SCHEDULE OF FEES AND METHOD OF PAYMENT**

1. In consideration for the services provided by Contractor as specified in Exhibit A, Court agrees to pay Contractor upon receipt and approval of invoices submitted by Contractor for services provided and according to the payment schedule in paragraph 3 below. Said invoice from Contractor shall include with specificity the work that was performed; the date the work was performed; the amount of time the work took; 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 and shall be submitted to:

Superior Court of California, County of San Mateo  
400 County Center, 2<sup>nd</sup> floor  
Redwood City, CA 94063  
Attn: Jill Selvaggio, Court Services Manager

2. The maximum amount that the Court is obligated to pay, as specified in Section 3. A. of the Contract for Services attached is inclusive of all related expenses (transportation) 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.
3. **Invoicing and Payment Schedule**
  - 3.1 Contractor shall submit invoices on a monthly basis, subject to service performed to the satisfaction of the Court.
  - 3.2 An invoice shall contain a detail of services rendered, materials provided, the Court's contract number and shall be signed by the contractor.

**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) *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 shall indemnify and defend (with counsel satisfactory to the COURT's Office of the General Counsel) Judicial Branch Entities and Judicial Branch Personnel against all claims, damages, losses, and expenses, including attorney fees and costs, founded upon (i) Contractor's performance of, or failure to perform, the Services or Contractor's other duties under this Agreement, or (ii) any other breach by Contractor of this Agreement. 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.

## 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 Judicial Branch Entities and Judicial Branch Personnel as additional insureds 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.

**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 a Judicial Branch Entity 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 3.8. 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 this section 3.8(D) 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 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.

- 8.8** Negotiated Agreement. This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code §1654.
- 8.9** 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.
- 8.10** 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.
- 8.11** Severability. If any part of this Agreement is held unenforceable, all other parts remain enforceable.
- 8.12** Headings. All headings are for reference purposes only and do not affect the interpretation of this Agreement.
- 8.13** Time of the Essence. Time is of the essence of the Contractor's performance of Services under this Agreement.
- 8.14** 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 a Judicial Branch Entity.

“**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 Appendix 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" SPECIAL PROVISIONS

This Exhibit "D" is effective upon the Effective Date as noted on the signature coversheet. In the event of any conflict between this Exhibit "D" and the other terms of this Agreement, the terms in Exhibit "D" will prevail. Except as otherwise specifically defined in this Exhibit, all capitalized terms will have the meanings ascribed to them in the other portions of this Agreement.

1. **Contractor Certification Clauses**

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

- (A) Authority. Contractor has the authority to enter into and perform its obligations under this Agreement, and Contractor's signatory has the 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 State.
- (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. "Judicial Branch Personnel" means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity. "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."
- (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 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 affect 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 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. As used in this Addendum, "Compensation" means all remuneration owed to Contractor in respect of Contractor's services, including Contractor's professional fees, direct costs (including filing fees), indirect costs (including overhead expenses), profit, and taxes.
- (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) 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.

1.2 Covenant as to Representations and Warranties. Contractor shall cause its representations and warranties to remain true during the term of this Agreement. Contractor shall promptly notify the State if any representation and warranty becomes untrue.

2. **Miscellaneous**

2.1 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.

2.2 Special Provisions Applicable to Competitively Bid Contracts; Antitrust Claims. If Work under this Agreement was 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 State 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 State pursuant to the bid. Such assignment shall be made and become effective at the time the State tenders final payment to the Contractor. (GC 4552)
- (B) If the State 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 State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the State 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 State 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 State has not been injured thereby, or (2) the State declines to file a court action for the cause of action. (GC 4554)

**EXHIBIT "E"**

**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.

\_\_\_\_\_  
Name of 504 person:

\_\_\_\_\_  
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."

EXHIBIT "F"  
CONTRACTOR CERTIFICATION FORM

I certify that neither \_\_\_\_\_ (Proposer) nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency, and that neither Proposer 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 Proposer or any of its subcontractors subsequently are placed under suspension or debarment by a local, state or federal government entity, or if Proposer or any of its subcontractors subsequently become delinquent in California taxes, our Proposal may be disqualified.

Signature

Printed Name

Title

Date

**EXHIBIT "G"**  
**DARFUR CONTRACTING ACT CERTIFICATION**

Public Contract Code sections 10475 - 10481 apply to any bidder or proposer that currently or within the previous three years has had business activities or other operations outside of the United States. For such a bidder or proposer to submit a bid/proposal to the Court, the bidder or proposer must certify that it is either (a) not a scrutinized company (see Public Contract Code § 10476 attached); or (b) a scrutinized company that has been granted permission by the Court to submit a bid/proposal.

*If the bidder or proposer has not had any business activities or other operations outside of the United States within the previous three years, the bidder or proposer does not need to complete this form.*

**OPTION #1 - CERTIFICATION**

Please insert the bidder's or proposer's name and Federal ID Number and complete the certification below.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that (a) the company named below is **not** a scrutinized company per Public Contract Code section 10476; and (b) I am duly authorized to legally bind the company named below. This certification is made under the laws of the State of California.

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

**OPTION #2 – WRITTEN PERMISSION FROM THE COURT**

The Court may permit a scrutinized company, on a case-by-case basis, to propose/bid on a contract with the Court for goods or services, if it is in the best interests of the Court. If the bidder or proposer is a scrutinized company that has obtained written permission from the Court to submit a bid or proposal, complete the information below.

The bidder/proposer identified below is a scrutinized company as defined in Public Contract Code section 10476, and it has received written permission from the Court to submit a bid or proposal. A copy of the written permission from the Court is included with its bid or proposal.

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



California Public Contract Code, § 10476. (Operative term contingent) "Scrutinized company"

As used in this article, the following definition applies:

"Scrutinized company" means a company in Sudan that is involved in power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, but excludes a company that can demonstrate any of the following:

- (a) Its business operations are conducted under contract directly and exclusively with the regional government of southern Sudan.
- (b) Its business operations are conducted under a license from the Office of Foreign Assets Control, or are expressly exempted under federal law from the requirement to be conducted under such a license.
- (c) Its business operations consist of providing goods or services to marginalized populations of Sudan.
- (d) Its business operations exclusively consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization.
- (e) Its business operations consist of providing goods or services that are used only to promote health or education.
- (f) Its business operations with the Government of Sudan will be voluntarily suspended for the entire duration of the contract for goods or services for which they have bid on, or submitted a proposal for, a contract with a state agency.
- (g) It has adopted, publicized, and is implementing a formal plan to cease business operations within one year and to refrain from conducting any new business operations.

EXHIBIT "D" SPECIAL PROVISIONS

This Exhibit "D" is effective upon the Effective Date as noted on the signature coversheet. In the event of any conflict between this Exhibit "D" and the other terms of this Agreement, the terms in Exhibit "D" will prevail. Except as otherwise specifically defined in this Exhibit, all capitalized terms will have the meanings ascribed to them in the other portions of this Agreement.

1. Contractor Certification Clauses

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

- (Q) Authority. Contractor has the authority to enter into and perform its obligations under this Agreement, and Contractor's signatory has the 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.
- (R) 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 State.
- (S) 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.
- (T) 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. "Judicial Branch Personnel" means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity. "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."
- (U) 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.
- (V) No Interference with Other Contracts. To the best of Contractor's knowledge, this Agreement does not create a conflict of interest or default under any of Contractor's other contracts.
- (W) 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 affect on Contractor's business, the validity or enforceability of this Agreement, or Contractor's ability to perform this Agreement.
- (X) Compliance with Laws Generally. Contractor complies with all laws, rules, and regulations applicable to Contractor's business and services, and pays all undisputed debts when they come due.
- (Y) 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.

- (Z) Drug Free Workplace. Contractor provides a drug-free workplace as required by California Government Code sections 8355 through 8357.
- (AA) 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.
- (BB) 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.
- (CC) 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. As used in this Addendum, "Compensation" means all remuneration owed to Contractor in respect of Contractor's services, including Contractor's professional fees, direct costs (including filing fees), indirect costs (including overhead expenses), profit, and taxes.
- (DD) 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.
- (EE) 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:
- (3) 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
  - (4) Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- (FF) 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.

- 1.2 Covenant as to Representations and Warranties. Contractor shall cause its representations and warranties to remain true during the term of this Agreement. Contractor shall promptly notify the State if any representation and warranty becomes untrue.
2. Miscellaneous
- 2.1 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.

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

- (D) Contractor shall assign to the State 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 State pursuant to the bid. Such assignment shall be made and become effective at the time the State tenders final payment to the Contractor. (GC 4552)
- (E) If the State 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 State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (GC 4553)
- (F) Upon demand in writing by the Contractor, the State 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 State has not been injured thereby, or (2) the State declines to file a court action for the cause of action. (GC 4554)

**EXHIBIT "E"**

**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.

\_\_\_\_\_  
Name of 504 person:

\_\_\_\_\_  
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."

EXHIBIT "F"  
CONTRACTOR CERTIFICATION FORM

I certify that neither \_\_\_\_\_ (Proposer) nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency, and that neither Proposer 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 Proposer or any of its subcontractors subsequently are placed under suspension or debarment by a local, state or federal government entity, or if Proposer or any of its subcontractors subsequently become delinquent in California taxes, our Proposal may be disqualified.

Signature

Printed Name

Title

Date

**EXHIBIT "G"**  
**DARFUR CONTRACTING ACT CERTIFICATION**

Public Contract Code sections 10475 - 10481 apply to any bidder or proposer that currently or within the previous three years has had business activities or other operations outside of the United States. For such a bidder or proposer to submit a bid/proposal to the Court, the bidder or proposer must certify that it is either (a) not a scrutinized company (see Public Contract Code § 10476 attached); or (b) a scrutinized company that has been granted permission by the Court to submit a bid/proposal.

*If the bidder or proposer has not had any business activities or other operations outside of the United States within the previous three years, the bidder or proposer does not need to complete this form.*

**OPTION #1 - CERTIFICATION**

Please insert the bidder's or proposer's name and Federal ID Number and complete the certification below.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that (a) the company named below is **not** a scrutinized company per Public Contract Code section 10476; and (b) I am duly authorized to legally bind the company named below. This certification is made under the laws of the State of California.

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

**OPTION #2 – WRITTEN PERMISSION FROM THE COURT**

The Court may permit a scrutinized company, on a case-by-case basis, to propose/bid on a contract with the Court for goods or services, if it is in the best interests of the Court. If the bidder or proposer is a scrutinized company that has obtained written permission from the Court to submit a bid or proposal, complete the information below.

The bidder/proposer identified below is a scrutinized company as defined in Public Contract Code section 10476, and it has received written permission from the Court to submit a bid or proposal. A copy of the written permission from the Court is included with its bid or proposal.

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



California Public Contract Code, § 10476. (Operative term contingent) "Scrutinized company"

As used in this article, the following definition applies:

"Scrutinized company" means a company in Sudan that is involved in power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, but excludes a company that can demonstrate any of the following:

- (a) Its business operations are conducted under contract directly and exclusively with the regional government of southern Sudan.
- (b) Its business operations are conducted under a license from the Office of Foreign Assets Control, or are expressly exempted under federal law from the requirement to be conducted under such a license.
- (c) Its business operations consist of providing goods or services to marginalized populations of Sudan.
- (d) Its business operations exclusively consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization.
- (e) Its business operations consist of providing goods or services that are used only to promote health or education.
- (f) Its business operations with the Government of Sudan will be voluntarily suspended for the entire duration of the contract for goods or services for which they have bid on, or submitted a proposal for, a contract with a state agency.
- (g) It has adopted, publicized, and is implementing a formal plan to cease business operations within one year and to refrain from conducting any new business operations.