

**Florida Supreme Court
FLORIDA STATE COURTS SYSTEM
Marshal's Office**

Fire Suppression System Upgrades

**INVITATION TO BID (ITB)
ITB # 10-001-AM**

Submission deadline: July 23, 2010 @ 4:00 pm (EDT)

1. PURPOSE

The purpose of this Invitation to Bid (ITB) is to solicit proposals in accordance with established purchasing procedures in a competitive process for the renovation of the Fire Protection System. Total construction budget is \$ 310,000.

2. INQUIRIES

Any questions or requests for additional information regarding this ITB shall be in writing, directed to the person designated below. Email questions are acceptable. Questions will only be answered at the mandatory Bidder's conference.

Name: Alfredo Menendez Telephone: 850-922-6626
Title: Deputy Director of Facility FAX: 850-922-6195
E-mail: menendea@flcourts.org

3. ADDENDUM

Any clarification or additional information that may substantially affect the outcome of this ITB will be provided in the form of a written addendum. If necessary, clarifications or additional information shall be issued by the Office of the State Courts Administrator (OSCA). Unless issued in writing by the OSCA, nothing shall be binding upon this ITB. All Addendums will be posted on the State Court website @ http://www.flcourts.org/gen_public/purchasing/index.shtml

4. SCHEDULE OF EVENTS

Listed below are the dates and times by which stated actions must be taken or completed. If the OSCA determines, in its sole discretion, that it is necessary to change any of these dates and times, it will issue an Addendum to this Proposal.

Advertisement of ITB	<u>June 18, 2010</u>
Mandatory Bidder's conference / walk-thru	<u>June 29, 2010 @ 2:00 pm (EDT)</u>
Deadline for Receipt of ITB	<u>July 23, 2010 @ 4:00 pm (EDT)</u>
Posting of Intent to Award	<u>July 9, 2010</u>

5. Mandatory Bidder's Conference

All questions will be answered at the bidder's conference only.

The bidder's conference will be held at the Supreme Court Building, 500 South Duval ST.

Tallahassee, FL on **June 29, 2010 @ 2:00 pm (EDT)**

6. SCOPE OF WORK

FIRE PROTECTION SCOPE OF WORK TO INCLUDE THE FOLLOWING:

- 1) Replacement of the existing fire pump, jockey pump, and associated piping with a new 1500 GPM @ 80 PSI, 480 volt, 3 phase Fire pump, a new jockey pump, and new associated piping in the fire pump room.
- 2) Replacement of the existing fire pump controller with a new controller which is to include a new transfer switch, soft start-up, run period timer, and connection to new electrical supply.
- 3) Replacement of the existing Jockey pump controller to include connection to new electrical supply.
- 4) Replacement of the (5) existing 6" standpipes (all vertical and horizontal piping). All new pipe to be schedule 40.
- 5) Replacement of the existing 8" feed main piping from the flange spigot inside the building to the fire pump. All new pipe to be schedule 40.
- 6) Replacement of the existing 8" DDC backflow assembly including OS&Y valves.
- 7) Replacement of the existing 8" Test Header piping with new Test Header and new 2 1/2" hose valves. All new pipe to be schedule 40.
- 8) Replacement of all existing sprinkler system control valves, tamper switches and flow switches throughout the building.
- 9) Replace (1) existing 2 1/2" dry pipe valve and trim including a new 2 1/2" butterfly valve.
- 10) Replacement of the existing floor mounted air compressor with new riser mounted air compressor.
- 11) All 6" and 8" pipes and fittings shall be POWDER COATED RED.
- 12) Install new 6" butterfly valve in each standpipe as a control valve.
- 13) Work to be done during normal business hours. Monday – Friday (7:00 AM – 3:30 PM).
- 14) All required permitting and approvals.

THE ELECTRICAL SCOPE OF WORK TO INCLUDE:

- 1) Supply normal and emergency power for 100 horse power 480 volt 3 phase fire sprinkler pump.
- 2) Install two (2) step-up 150 kva transformers to supply 480 volt power, one for each power source.
- 3) Install 2-2" conduits with 3-3 awg and 1- #4 from power source to transformer. From each transformer to fire pump controller run 1-2" conduit with 3-3awg and 1-#4.

- 4) Supply normal power only to 120 volt air compressor and 208 volt 3 phase power to feed 2 horse power jockey pump.
- 5) Disconnect and reconnect electrical to new system control valve tampers and flow switches throughout the entire building.
- 6) Provide Electrical engineering.
- 7) All required permitting and approvals.

THE SHEETROCK AND CEILING SCOPE OF WORK TO INCLUDE:

- 1) The repair and/or replace any and all drywall needed to complete above scope of work.
- 2) The repair and/or replace any and all ceiling tile and grid needed to complete above scope of work.
- 3) All required permitting and approvals.

SCHEDULE OF WORK:

- 1) All fire protection piping/systems prior to the new standpipe control valves are to be restored to service daily.
- 2) Each standpipe will be able to be isolated at the new control valve for the period of time required to replace that specific standpipe, associated system control valves and reconnect all systems to the standpipe. During this time the owner will be responsible for all required FIRE WATCHES.
- 3) Time is of the Essence. All Work associated with this scope of work is to be completed within 180 days from the date of the notice to proceed.

PERMITS

CONTRACTOR will secure and pay for Fire Marshall Inspection and Permit.

- a. The contractor(s) is/are responsible for ensuring safe delivery of all equipment to the desired destination and must supply adequate training on the operation of all equipment to designated court staff.
- b. The resultant contract or any portion thereof may not be assigned, subcontracted, or transferred except as allowed in the ITB specifications, response thereto, and the awarded contract without the prior expressed written consent of the Marshal.

7. MINIMUM QUALIFICATIONS

- a. Proposers must meet the following minimum qualifications:
 1. Qualifications of Staff
 2. Provide a narrative describing the firm. Include a brief history, structure,

management, number of years in business and other applicable information. The importance of maintaining this equipment in a safe and satisfactory operating condition demands that the proposer, if other than the original manufacturer, provide documentation that the firm has actively and normally been engaged for at least the past five (5) years in the maintenance, service, repair and replacement of materials and equipment for Fire Protection Systems capacity and control systems as the one covered by this ITB.

3. Proposer is required to list and include copies of all licenses, certifications, memberships and affiliations appropriate to the maintenance and renovation of elevators. These **must** include a Leon County Occupational License, a State of Florida Contractors License, and Certificate of Competency. These licenses must stay current during the course of this contract.

8. RESTRICTIONS ON COMMUNICATIONS WITH COURT PERSONNEL

Vendors shall not communicate with any State Court System employee concerning this ITB, except for the contact persons identified in Section 2. Violation of this requirement may result in the rejection of the submitted proposal.

9. COST OF PROPOSAL PREPARATION

All costs associated with the development and submission of a proposal, vendor question(s), and transmittal letter are fully the responsibility of the Vendor.

10. SUB-CONTRACTING

A vendor who elects to sub-contract any part of this project will be fully accountable for sub-contractor's responsibilities and deliverables. Vendor will define the sub-contractor's scope of work as strictly defined in Section 6.

11. INDEPENDENT PRICE DETERMINATION

A Vendor shall not collude, consult, communicate, or agree with any other Vendor regarding this ITB as to any matter relating to the Vendor's cost proposal.

12. SUBMITTAL REQUIREMENTS

- a. Proposals shall be typed on white letter-size paper and each element of the ITB shall be addressed in a clear, concise manner. Each element shall be labeled and indexed. Proposals shall be individually bound.
- b. One (1) original, marked "ORIGINAL", and five (5) copies, each marked "COPY", are required of each proposal. Proposals shall be submitted as designated herein by the advertised deadline in a sealed package clearly marked on the outside of the package:

**Fire Suppression System Upgrades INVITATION TO BID (ITB)
ITB # 10-001-AM**

- c. Any proposal received after the advertised deadline will not be considered for award.
- d. Proposals may be emailed to longt@flcourts.org or mailed no later than 4:00 pm(EST), **July 23, 2010 @4:00 pm (EDT)** to:

Mr. Tom Long
General Services Manager
Office of the State Court Administrator
General Services Unit
Supreme Court Bldg
500 South Duval Street
Tallahassee, Florida 32399-1900

13. PROPOSAL CONTENT

Proposals shall not exceed 25 pages in length, exclusive of required forms or attachments, and contain, at a minimum, the following information:

- a. Proposer Information:
 - 1. Proposer's official business name, address (both physical and mailing), telephone and fax numbers; type of business such as sole proprietorship, partnership, or corporation, including the State of incorporation;
 - 2. Length of time in business;
 - 3. Location(s) of business operations;
 - 4. Firm's qualifications;
 - 5. Qualifications and experience of corporate officer(s) and/or key personnel;
 - 6. Evidence of meeting qualification requirements set forth herein;
 - 7. Current financial statement.
- b. Statements - Include a statement indicating an understanding of the project and the requirements thereof.
- c. Quality Assurance - Include the firm's statement of commitment to quality assurance.
- d. Conflict Disclosure – Include the name(s) of any employee or officer of the Florida State Courts System who owns, directly or indirectly, an interest of 5% or more in the firm. Also, include the name(s) of any employee, officer, or agent of the firm that has any conflict of interest associated with this project.
- e. References - Include the name, address, and telephone number of at least three (3) clients for whom similar services are performed.
- f. Price Structure - (The Court reserves the right to negotiate any or all proposed prices prior to any agreement/award.). Prices for presentation units, optional equipment, and annual maintenance agreements should be specific

- g. Financial Information – Vendor must provide a URL referencing most recent audited financial statements which can be submitted electronically, or vendor can provide copies of the statements. In addition, vendor is requested to provide the most recent Dun and Bradstreet reports (or equivalent) on your firm, its partners, and its proposed major sub-contractors (i.e., expected to perform more than five percent of the Contract).

14. REVIEW COMMITTEE

- a. A Review Committee, will be appointed by The Florida Supreme Court Marshal to evaluate all proposals. The Review Committee reserves the right to request interviews of any or all respondents as may be necessary toward a fair and equitable proposal evaluation. The Review Committee will make a recommendation for award to the Supreme Court Marshal.

EVALUATION CRITERIA

Evaluation criteria will include the following:

- Proposed costs (50 points)
- Availability of quality product(s) (15 points)
- Technological capabilities and support (20 points)
- Financial viability (5 points)
- References (10 points)

15. TERMS AND CONDITIONS

This solicitation includes all terms and conditions contained in Appendix A, General Instructions to Respondents, and Appendix B, General Contract Conditions for Services.

16. POSTING

Vendors selected for award will be listed on the State Courts website @ http://www.flcourts.org/gen_public/purchasing/index.shtml for a period of at least 72 hours.

Instructions to Respondents
Appendix A

Contents

1. Definitions.
2. General Instructions.
3. Terms and Conditions.
4. Questions.
5. Conflict of Interest.
6. Convicted Vendors.
7. Discriminatory Vendors.
8. Respondent’s Representation and Authorization.
9. Performance Qualifications.
10. Public Opening.
11. Electronic Posting of Notice of Intended Award.
12. Firm Response.
13. Clarifications/Revisions.
14. Minor Irregularities/Right to Reject.
15. Contract Formation.
16. Contract Overlap.
17. Public Records.
18. Protests.

1. Definitions. The State Court System Purchasing Directives govern Procurement within the Judicial Branch. However, we adopt the definitions found in s. 60A-1.001, F.A.C. shall apply to **this** agreement. The following additional terms are also defined:

- (a) “Court” means the State Court System (SCS) entity that has released to solicitation.
- (b) “Procurement Officer” means the Court’s contracting personnel, as identified in the Introductory Materials.
- (c) “Respondent” means the entity that submits materials to the Court in accordance with these Instructions.
- (d) “Response” means the material submitted by the respondent in answering the solicitation.
- (e) “Timeline” means the list of critical dates and actions included in the Introductory Materials.

2. General Instructions. Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

3. Terms and Conditions. All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Technical Specifications,
- Special Conditions,
- Instructions to Respondents,
- General Conditions, and
- Introductory Materials.

The Court objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

4. Questions. Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Court or the State for information with the respect to this solicitation. The Court shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Court's contracting personnel.

5. Conflict of Interest. This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

6. Convicted Vendors. A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- Submitting a bid or contract to provide any goods or services to a public entity;
- Submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- Submitting bids on leases of real property to a public entity;
- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transacting business with any public entity in excess of the Category **Two threshold amount** (25,000) provided in section 287.017 of the Florida Statutes.

7. Discriminatory Vendors. Any entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

8. Respondent's Representation and Authorization. In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- To the best of the knowledge of the person signing the response, the respondent has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Court in writing of all convictions of the firm, its affiliates (as defined in section 287.133 (1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
 - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting, to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
 - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement,

collusion, act or other conduct inconsistent with any of the statements and representations made in the response.

- The respondent shall indemnify, defend, and hold harmless the Court and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Court in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Court of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

9. Performance Qualifications. The Court reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by respondent meet the Contract requirements. Respondent shall at all times during the Contract term remain responsive and responsible. Respondent must be prepared, if requested by the Court, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Court determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory or that performance is untimely, the Court may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Court to make an investigation either before or after award of the Contract, but should Court elect to do so, respondent is not relieved from fulfilling all Contract requirements.

10. Public Opening. Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend other than in response to a specific Public Records Request. The Court may choose not to announce prices or release other materials pursuant to s. 119.07(3)(m), Florida Statutes. Any person requiring a special accommodation because of disability should contact the Procurement Officer at least (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Court by using the Florida Relay Service at (800) 955-8771 (TDD).

11. Electronic Posting of Notice of Intended Award. Based on the evaluation, on the date indicated on the Timeline the Court shall electronically post a notice of intended award at http://www.flcourts.org/gen_public/purchasing/index.shtml. If the notice of award is delayed, in lieu of posting the notice of intended award the Court shall post a notice of the delay and revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Court a notice of protest within 72 hours after the electronic posting. The Court shall not provide tabulations or notices of award by telephone.

12. Firm Response. The Court may make an award within sixty (60) days after the date of the opening during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Court awards the Contract or the Court receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Court's sole discretion, be accepted or rejected.

13. Clarifications/Revisions. Before award, the Court reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents

deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

14. Minor Irregularities/Right to Reject. The Court reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technically, or omission if the Court determines that doing so will serve the State's best interests. The Court may reject any response not submitted in the manner specified by the solicitation documents.

15. Contract Formation. The Court shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Court until the Court signs the Contract. The Court shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

16. Contract Overlap. Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Court to eliminate duplication between agreements in the manner the Court deems to be in its best interest.

17. Public Records. Florida law generously defines what constitutes a public record; see, for example, section 119.07 of the Florida Statutes. If a respondent believes that its response contains information that should not be a public record, the respondent shall clearly segregate and mark the information (for example, placing the material in a separate electronic file, and including the word "Confidential" in the filename) and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption.

18. Protest. Any protest concerning this solicitation shall be made in accordance with section

Florida State Court System
General Contract Conditions for Services

Contents

- 1. Definitions.**
- 2. Invoicing and Payment.**
- 3. Lobbying and Integrity.**
- 4. Indemnification.**
- 5. Limitation of Liability**
- 6. Suspension of Work.**
- 7. Termination for Convenience.**
- 8. Termination for Cause.**
- 9. Public Records Requirement**
- 10. Americans with Disabilities Act**
- 11. Section 508 Requirements**
- 12. Force Majeure, Notice of Delay, and No Damages for Delay.**
- 13. Scope Changes.**
- 14. Renewal.**
- 15. Advertising.**
- 16. Assignment.**
- 17. Antitrust Assignment**
- 18. Dispute Resolution.**
- 19. Employees, Subcontractors, and Agents.**
- 20. Security and Confidentiality.**
- 21. Contractor Employees, Subcontractor, and other Agents.**
- 22. Insurance Requirements.**
- 23. Warranty of Authority.**
- 24. Warranty of Ability to Perform.**
- 25. Notices.**
- 26. Modification of Terms.**
- 27. Cooperative Purchasing.**
- 28. Waiver.**
- 29. Annual Appropriations.**
- 30. Execution in Counterparts.**
- 31. Severability.**
- 32. Travel.**
- 33. Right to Audit.**
- 34. Rule of Interpretation.**
- 35. Real Time Transcription Services for Persons who are Deaf or Hard of Hearing.**
- 36. Real-Time Court Reporting for the Hearing Impaired.**
- 37. Compliance with Federal and State Anti-Discrimination Legislation.**

1. Definitions. **The State Court System Purchasing Directives govern Procurement within the Judicial Branch. The following additional terms are also defined:**

(a) **“Contract” means the enforceable agreement that results from a successful solicitation or**

other procurement. The parties to the Contract will be the Court and Contractor.

(b) “Court” means a State Court System entity that will procure services directly from the Contractor under the Contract.

2. Invoicing and Payment. Invoices must contain the Contract number and the appropriate vendor identification number. The Court may require any other information from the Contractor that the Court deems necessary to verify any deliverable under the Contract. Payment will be made in accordance with section 215.422, Florida Statutes, which governs time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors may result in a delay in payment. Contractors may call (850) 488-3730 Monday through Friday to inquire about the status of payments by the Court. The Court is responsible for all payments under the Contract. The Court’s failure to pay, or any delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Court.

3. Lobbying and Integrity. The Contractor shall not, in the performance of duties required under this Contract use funds provided by this Contract to lobby the legislature or any state agency. The Contractor shall not, in connection with this or any other agreement with the Court, directly or indirectly, (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any Court officer or employee’s decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any Court officer or employee. For purposes of clause (2), “gratuity” means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits, of money, services, employment, or contracts of any kind. Upon request of the Court’s Inspector General, or other authorized Court official, the Contractor shall provide any type of information deemed relevant to the Contractor’s integrity or responsibility. Such information may include, but shall not be limited to, the Contractor’s business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for three years after the expiration of the Contract. The Contractor agrees to reimburse the Court for the reasonable cost of investigation incurred by the Inspector General or other authorized Court official for investigations of the Contractor’s compliance with the terms of this or any other agreement between the Contractor and the Court which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any cost of investigations that do not result in the Contractor’s suspension or debarment.

4. Indemnification. The Contractor shall be fully liable for all actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the Court and its officers, agents, and employees, from suits, actions, damages, and cost of every name and description, including attorneys’ fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors; provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Court. Further, the Contractor shall fully indemnify, defend, and hold harmless the Court from any suits, actions, damages, and costs of every name and description, including attorney’s fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided that the Court shall give the

Contractor (1) written notice of any such action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the Court in an infringement action without the Contractor's prior written consent, which shall not be unreasonably withheld. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense become non-fringing. If the Contractor is not reasonably able to modify or otherwise secure the Court the right to continue using the product, the Contractor shall remove the product and refund the Court the amounts paid in excess of a reasonable rental for past use. The Court shall not be liable for any royalties. Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, or consequential damages, including lost data or records (unless the purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The Court may, in addition to other remedies available to it at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The Court may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any Contract with the State. The first ten dollars paid on the awarded contract shall constitute the specific consideration for the Contractor's indemnification of the Court.

5. Limitation of Liability. For all claims against the Contractor regardless of the basis on which the claim is made, the Contractor's liability for direct damages shall be limited to the greater of \$100,000, the dollar amount of the Contract, or two times the charges rendered by the Contractor. This limitation shall not apply to claims arising under the Indemnification paragraph contained in this agreement.

Unless otherwise specifically enumerated in the Contract, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the purchase requires the Contractor to backup data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or institutional operating savings. The Court may, in addition to other remedies available to it at law or equity and upon notice to the Contractor, retain such monies from the amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, cost and the like asserted by or against it. The Court may set off any liability or other obligation of the Contractor or its affiliates to the Court against any payments due the Contractor under any contract with the State.

6. Suspension of Work. The Court may in its sole discretion suspend any or all activities under the Contract, at any time, when in the best interests of the SCS to do. The Court shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Court shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract. Suspension of work shall not entitle the Contractor to any additional compensation except for work performed.

7. Termination for Convenience. **The Court, by written notice to the Contractor, may terminate the Contract in whole or in part when the Court determines in its sole discretion that it is in the Court's interest to do so. The Contractor shall not furnish any continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.**

8. Termination for Cause. **The Court may terminate the Contract if the Contractor fails to (1) provide deliverables within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, or regulatory, or licensing requirement. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted deliverables were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Court. The rights and remedies of the Court in this clause are in addition to any other rights and remedies provided by the law or under the Contract.**

9. Public Records Requirement. **The Court may terminate a Contract if the Contractor refuses to allow public access to all documents, papers, letters or other material made or received by the contractor in conjunction with the Contract, unless the records are exempt from 2.420 Rule of Judicial Administration.**

10. Americans with Disabilities Act. **Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.**

11. Section 508 Requirements. **The Contractor must provide electronic and information technology resources in compliance with Section 508 of the Rehabilitation Act of 1973, and part three of Chapter 282, Florida Statutes. Those statutes establish a minimum level of accessibility to those who have disabilities.**

12. Force Majeure, Notice of Delay, and No Damages for Delay. **The Contractor shall not be responsible for the delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Court in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could not reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY. Providing notice in strict accordance with**

this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Court. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Court for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Court determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Courts, in which case the Court may (1) accept allocated performance or deliverables from the Contractor, provided that the Contractor grants preferential treatment to Courts with respect to deliverables subject to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the deliverables that are subject of the delay, which may be deducted from the Contract total, or (3) terminate the Contract in whole or in part.

13. Scope Changes. The Court may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Court may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld.

14. Renewal. Upon mutual agreement, the Court and the Contractor may renew the contract, in whole or part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

15. Advertising. The Supreme Court, the District Courts of Appeal, the Trial Courts and the Office of the State Courts Administrator (OSCA), do not under any circumstances permit the use of the Court or OSCA name, the names of Justices or Court or OSCA staff, the Court seal or any other similar identifying information in the Contractor's promotional or marketing materials, including press releases. The Contractor agrees that it will refrain from reference to the Supreme Court or OSCA name, the names of Justices or Court or OSCA staff, the Court seal or any other identifying information in such materials.

16. Assignment. The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Court; provided, the Contractor assigns to the Court any and all claims it has with respect to the Contract under the antitrust laws of the United States and the Court. In the event of any assignment, the Contractor remains secondarily liable for performance of the Contract, unless the Court expressly waives such secondary liability. The Court may assign the Contract with prior written notice to Contractor of its intent to do so.

17. Antitrust Assignment. The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

18. **Dispute Resolution.** Any dispute concerning performance of the Contract shall be decided by Court Administration, or other designated Court employee, who shall reduce the decision to writing and serve a copy on the Contractor. The exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in the county of contract execution; in any such action, Florida law shall apply and the parties waive any right to jury trial.

19. **Employees, Subcontractors, and Agents.** All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Court. The Court may conduct, and the Contractor shall cooperate in, a security background check on any employee, subcontractor, or agent furnished by the Contractor. The Court may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualification, quality of work, change in security status, or non-compliance with a Court's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The Court may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

20. **Security and Confidentiality.** The Contractor shall comply fully with all security requirements and procedures of the Court in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers, or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the Court. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the Court's confidential information, or material that is otherwise obtainable under State law as a public record. The Contractor shall take appropriate steps with its personnel, agents, and subcontractors to insure confidentiality. The warranties of this paragraph shall survive the Contract.

21. **Contractor Employees, Subcontractors, and other Agents.** The Contractor, its employees, subcontractors and agents are not employees or agents of the Court.

22. **Insurance Requirements.** During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide a certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

23. **Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

24. **Warranty of Ability to Perform.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133, Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Court in writing if its ability to perform is compromised in any manner during the term of the Contract.
25. **Notices.** All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the Court. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated recipient may notify the other, in writing, if someone else is designated to receive notice.
26. **Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties. The Contract may only be modified or amended upon mutual written agreement of the Court and the Contractor. No alteration or modification of the Contract terms, including substitution of deliverables, shall be valid or binding against the Court.
27. **Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Court purchases are independent of the agreement between Court and Contractor, and the Court shall not be a party to any transaction between the Contractor and any other purchaser.
28. **Waiver.** The delay or failure by the Court to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Court's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right prelude any other or further exercise thereof or the exercise of any other right.
29. **Annual Appropriations.** The Court's performance and obligation to pay under this contract are contingent upon the availability of funds appropriated by the Legislature.
30. **Execution in Counterparts.** The contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
31. **Severability.** If the Court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.
32. **Travel.** Travel expenses will be paid in accordance with s.112.061, Florida Statutes. The Court may establish rates lower than the maximum provided in s. 112.061.
33. **Right to Audit.** Records of expenses pertaining to all services shall be kept in accordance with generally accepted accounting principles and procedures. The Vendor shall keep all records relating to this contract in such a way as to permit their inspection pursuant to Florida Rules of Judicial Administration 2.420. The Court and the State of Florida reserve the right to audit such records.
34. **Rule of Interpretation.** All specific conditions will prevail over a general condition on the same

subject.

35. Real-Time Transcription Services for Persons who are Deaf or Hard of Hearing.

Vendors that provide real-time transcription services in court proceedings to ensure effective communication by a participant who is deaf or hard of hearing and entitled to auxiliary aids or services pursuant to Title II of the Americans with Disabilities Act of 1990, should be informed that they must comply with the Supreme Court Policy on Court Real-Time Transcription Services for Persons Who are Deaf or Hard of Hearing.

36. Real-Time Court Reporting for the Hearing Impaired. **If the contractor provides real-time court reporting pursuant to this contract as an accommodation for the hearing impaired, the contractor hereby acknowledges that the State Courts System has specific standards for providing such services. Those specific standards are available from the Office of the State Courts Administrator.**

37. Compliance with Federal and State Anti-Discrimination Legislation. **In providing, or contracting to provide, services, programs or activities, maintaining facilities, and/or otherwise performing obligations under this Contract, the Contractor will comply with the Americans with Disabilities Act, Section 508 of the Rehabilitation Act of 1973, the Civil Rights Act of 1964, as amended, the Florida Civil Rights Act of 1992 and any other federal or state law that prohibits discrimination on the basis of race, color, national origin, religion, sex, age, marital status, or disability.**

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