



REQUEST FOR PROPOSALS (RFP)

FACILITIES SERVICES

REGARDING:

Request for Proposals for the Judicial Council of California's Elevator Modernization at the East County Regional Center (37-I1).

RFP number: **FSO-2018-04-JR**

PROPOSALS DUE:

FEBRUARY 27, 2018

NO LATER THAN 3:00 P.M. PACIFIC TIME

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- 6. Sample Agreement for East County Regional Center Elevator Modernization Project (37-11) and its Exhibits (“Agreement”). “Contract Documents” also refers to the Agreement with all of the applicable exhibits, including without limitation, the plans and specifications for the Project including without limitation the Project Manual and the applicable drawings for the Project (i.e. Scope of Work / Specifications).
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1.0 Introduction

- a. This Request for Proposals (“RFP”) is the means for interested construction firms (“Firm(s)”) to submit their Statements of Qualifications (“SOQ”) and Fee Proposals (collectively, “Proposal(s)”) to the Judicial Council for the services described herein. The RFP and all related documents and addenda are available in electronic form at www.courts.ca.gov.
- b. The Judicial Council, chaired by the Chief Justice of California, is the primary policy making body of the California judicial system. The Facility Service division of the Judicial Council responsible for the planning, design, construction, real estate and asset management of facilities for the Superior and Appellate Courts of California.

2.0 Purpose of RFP

- a. The Judicial Council seeks to retain the services of a qualified construction Firm to complete the elevator modernization construction project described herein and in the Contract Documents (“Project”). The Judicial Council hereby solicits SOQs and Proposals from Firms to provide elevator modernization construction services for the Project, subject to the conditions described in this RFP.
- b. The Judicial Council intends to award the Project and issue a Notice to Proceed in a timely manner following the selection process indicated herein.

3.0 Project Description and Site Information

a. Project Description

The project is the modernization of the existing elevators at East County Regional Center. The project includes the complete renovation of the nine (9) existing elevators. Work will include, but not be limited to, car frames and platforms, buffers and safeties, hoist way entrance frames, doors and pit equipment, new AC gearless machines, micro-processor control systems, regenerative VVVF AC drives, fly ball governors, closed loop heavy duty high speed operators, current code required wiring, interior and lobby controlled panels, counterweights and roller guides. Upgrades to mechanical and electrical systems associated with the elevator work. Cab interiors in existing elevator cabs shall not decrease the size of the elevators. Fire alarm to be a deferred submittal to OSFM. Elevator replacement will be completed in Five Phases:

Phase 1 – Low Rise / High Rise Passenger Elevators No. 1 & No. 5

Phase 2 – Low Rise / High Rise Passenger Elevators No. 2 & No. 6

Phase 3 – Low Rise Passenger / Custody Elevators No 3. & No. 9

Phase 4 – Custody / Judge’s Elevator No. 7 & No. 8

Phase 5 – Service Elevator No. 10

Contractor shall be responsible for coordinating the work with the Court and Judicial Council. Maintenance of the elevators through completion of the project will be included in the base bid. In addition, maintenance of the elevators after completion of the Project are included as alternates. The breakdown of maintenance in the base bid and the alternates is provided below.

- A. Included in Base Bid:
- i. **Interim Maintenance:** As part of the base bid, submit a separate monthly price to provide full maintenance from the first day of the month following full execution of the Agreement until the first day when the first elevator is removed from service for modernization project in accordance with the Project Manual (i.e. East County Regional Center Elevator Modernization Elevator Specifications) (Attachment 1).
 - ii. **Construction Maintenance:** As part of the base bid, submit a separate monthly price to provide full maintenance on the elevators from the first day when the first elevator is removed from service for modernization until the date that the project is complete and all elevators are available for use in accordance with the Project Manual (i.e. East County Regional Center Elevator Modernization Elevator Specifications) (Attachment 1).
- B. Alternates: This RFP includes alternates which may, at the Judicial Council's sole discretion, be selected and added to the successful proposer's Base Bid. The evaluation of the proposals will be based upon the amount of the Base Bid along with the amount of all of the alternates, however, in no event shall the Judicial Council be required to select any alternate.
- i. **Warranty Maintenance:** Submit, as an alternate, a separate monthly price for one-year maintenance service (i.e. during the warranty period) commencing upon the date that the project is complete and all elevators are available for use in accordance with the Project Manual (i.e. East County Regional Center Elevator Modernization Elevator Specifications) (Attachment 1).
 - ii. **On-Going Maintenance:** Submit, as an alternate, a separate monthly price for two-years maintenance service of the elevators commencing upon the date following the termination of the Warranty Maintenance Period in accordance with the Project Manual (i.e. East County Regional Center Elevator Modernization Elevator Specifications) (Attachment 1)
- C. Judicial Council reserves the right to accept or reject any or all maintenance terms noted above at any time prior to their commencement date.
- D. Bid will be rejected as non-responsive if the Contractor fails to provide pricing for the above mentioned maintenance alternates with its Proposal.
- b. **License Requirements:** Interested Firms must hold and maintain a valid **Class B General Contractor license** from the State of California. The Firm's license(s) must remain active and in good standing throughout the term of the Contract. The Firm shall notify the Judicial Council in writing in the event Firm's license expires, is suspended or has a change in signatory.
- c. **Estimated Schedule of Work:** Estimated start month and year for the Project is April 2018. The Project shall be completed within 450 consecutive calendar days from the start date. Project start and completion dates will be specified in the Judicial Council's Notice to Proceed ("Contract Time").

- d. **Work Hours:** Start time on the project may be as early as 6:00 PM and end as late as 6:00 AM. No work will be scheduled outside of these hours, unless authorized by Judicial Council representative.
- e. **Examination of Contract Documents and Project Site(s):**
- A. Review of Contract Documents. Submission of Proposal by a Firm signifies careful examination of Contract Documents and complete understanding of the nature, extent, and location of work to be performed for the Project included in a Proposal. Submission of a Proposal shall constitute a Firm's express representation to the Judicial Council that the Firm has fully completed the following:
- i. Firm has visited the Project site for which they are submitting a Proposal and has examined thoroughly and understood the nature and extent of the Contract Documents, the applicable work for the Project, the Project site, locality, actual conditions, as-built conditions, and all local conditions and federal, state and local laws, and regulations that in any manner may affect cost, progress, performance, or furnishing of work or that relate to any aspect of the means, methods, techniques, sequences, or procedures of construction to be employed by the Firm and safety precautions and programs incident thereto;
 - ii. Firm has conducted or obtained and has understood all examinations, investigations, explorations, tests, reports, and studies that pertain to the subsurface conditions, as-built conditions, underground facilities, and all other physical conditions at or contiguous to the applicable Project site or otherwise that may affect the cost, progress, performance, or furnishing of work for the applicable Project, as Firm considers necessary for the performance or furnishing of work for the Project at the Contract Price, within the Contract Time, and in accordance with the other terms and conditions of Contract Documents; and no additional examinations, investigations, explorations, tests, reports, studies, or similar information or data are or will be required by Firm for such purposes;
 - iii. Firm has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents;
 - iv. Firm has given the Judicial Council prompt written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in or among the Contract Documents and the actual conditions, and the written resolution thereof by the Judicial Council is acceptable to Firm;
 - v. Firm must, prior to submitting its Proposal, perform the work, investigations, research, and analysis that a reasonable proposer would complete with respect to the Project for which Firm is submitting a Proposal. Firm is charged with all information and knowledge that a reasonable proposer would ascertain from having performed this work, investigation, research, and analysis. Proposal prices must include entire cost of all work "incidental" to completion of the Project for which Firm is submitting a Proposal.
- B. Conditions Shown on the Contract Documents: Information as to underground conditions, as-built conditions, or other conditions or obstructions, indicated in the Contract Documents (e.g. the plans and specifications for a Project), has been obtained

with reasonable care, and has been recorded in good faith. However, the Firm may only rely on the accuracy of limited types of information as follows.

- i. As to aboveground conditions or as-built conditions shown or indicated in the Contract Documents, there is no warranty, express or implied, or any representation express or implied, that such information is correctly shown or indicated. This information is verifiable by independent investigation and the Firm is required to make such verification as a condition to bidding. In submitting its Proposal, Firm shall rely on the results of its own independent investigation. In submitting its Proposal, Firm shall not rely on Judicial Council-supplied information regarding aboveground conditions or as-built conditions.
- ii. As to any subsurface condition shown or indicated in the Contract Documents, the Firm may rely only upon the general accuracy of actual reported depths, actual reported character of materials, actual reported soil types, actual reported water conditions, or actual obstructions shown or indicated. Judicial Council is not responsible for the completeness of such information for bidding or construction; nor is Judicial Council responsible in any way for any conclusions or opinions of the Firm drawn from such information; nor is the Judicial Council responsible for subsurface conditions that are not specifically shown (for example, Judicial Council is not responsible for soil conditions in areas contiguous to areas where a subsurface condition is shown).

Firms may examine any available "as-built" drawings of previous work by giving Judicial Council reasonable advance notice. Judicial Council will not be responsible for accuracy of "as-built" drawings.

f. **Payment of Prevailing Wages.**

- A. The selected Firm and all subcontractors under the Firm must pay all workers on the Project not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed, pursuant to sections 1770 et seq. of the California Labor Code. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Project, as determined by Director of the State of California Department of Industrial Relations, are on file at the Judicial Council's principal office. Prevailing wage rates are also available from the Judicial Council or on the internet at (<http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>). If it becomes necessary to employ a craft, classification or type of worker other than those listed on the internet at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>, the Firm shall contact the Division of Labor Statistics and Research to find the appropriate prevailing wage determination. If the Division of Labor Statistics and Research is unable to identify a determination that is applicable, the Contractor shall notify the Judicial Council immediately, and the Judicial Council will request a special determination from the Division of Labor Statistics and Research. The rate thus determined shall be applicable from the commencement of the Project.
- B. The selected Firm shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing, its certified payroll

records to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations. Labor Code section 1771.1(a) states the following:

“A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to section 1725.5 at the time the contract is awarded.”

- C. The selected Firm shall, and shall ensure that all “subcontractors” (as defined by Labor Code section 1722.1), comply with Labor Code section 1725.5, including without limitation the registration requirements with the Department of Industrial Relations that are set forth in Labor Code section 1725.5. The Firm represents to the Judicial Council that all “subcontractors” (as defined by Labor Code section 1722.1) are registered pursuant to Labor Code section 1725.5. Each Firm acknowledges that, for purposes of Labor Code section 1725.5, this work is a public work to which Labor Code section 1771 applies. No contractor or subcontractor, regardless of tier, may be listed as a subcontractor or engage in the performance of any portion of work under the Contract unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 and 1771.1.
- D. The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. The selected Firm shall post job site notices, as prescribed by regulation. The selected Firm shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempt by the Labor Commissioner for the Project.
- g. **Bonds:** The successful Firm will be required to furnish a Performance Bond and a Payment Bond both in the amount equal to 100% of the value of the contract for the applicable Project.
- h. **Insurance:** The successful Firm will be required to provide proof of insurance coverage for Commercial General Liability, Workers Compensation and Employer’s Liability, and Automobile Liability pursuant to the insurance provisions set forth in the Agreement. Policy limits and insurance requirements are specified in the Agreement.
- i. **Backgrounds Checks.** The successful Firm will be required to comply with the Judicial Council Background Check requirements as set forth in the Agreement.
- j. **Designated Subcontractors List.** Although the Judicial Council is not bound by the Public Contract Code for trial court construction, the Judicial Council incorporates the provisions of the Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100, et seq.) (“Subcontractor Listing Law”) into this RFP and the Contract. The Judicial Council intends to fully enforce the provisions of the Subcontractor Listing Law, including, specifically sections 4109 and 4110. Accordingly, each Firm shall adhere to the rules governing subcontracting as set forth in Public Contract Code section 4100 et seq.

Subcontractor substitutions shall be in accordance with provisions of the Subcontractor Listing Law.

Each Firm must list on the Designated Subcontractors List those subcontractors who will perform any portion of Project, including labor, rendering of service, or specially fabricating and installing a portion of the Project or improvement according to detailed drawings contained in the plans and specifications, in excess of one half of one percent (0.5%) of the total Proposal amount. **A Designated Subcontractors List must be submitted with the Firm's Proposal.**

The Designated Subcontractors List must include the name of each subcontractor, location of each subcontractor, and the kind of work that each will perform if the Contract is awarded to the Firm and the applicable Contractors State License Board (CSLB) number and Department of Industrial Relations (DIR) number for each listed subcontractor.

Failure to submit the Designated Subcontractors List shall result in the Proposal being deemed non-responsive, and the Proposal will not be considered.

4.0 Schedule of Events

- a. In order to be considered, Proposals must be submitted to the Judicial Council in written form, no later than the time and date indicated in the Schedule of Events below. Firms must ensure compliance with the dates, times and processes set forth in the Schedule of Events.

SCHEDULE OF EVENTS

EVENT	DATE
RFP issued	1/26/2018
Pre-Proposal Teleconference	1/30/2018 10:00 AM Pacific Time
Pre-Proposal Site Visit (<i>estimate only</i>)	2/1/2018 10:00 AM Pacific Time
Deadline for questions (Please use Attachment 7)	2/8/2018 No later than <u>3:00 PM</u> Pacific Time
<u>Questions and answers posted (<i>estimate only</i>)</u>	2/15/2018
Latest date and time Proposals may be submitted	2/27/2018 No later than <u>3:00 PM</u> Pacific Time
Evaluation of Proposals (<i>estimate only</i>)	3/6/2018
Notice of Intent to Award (<i>estimate only</i>)	3/12/2018

- b. Firms assume all risk for ensuring receipt no later than the date and time specified in the Schedule of Events. The Judicial Council is not responsible for the failure of a Firm's choice of delivery service/method. The Judicial Council will not open, and will return, any Proposal received after the date and time specified in the Schedule of Events.

c. **Changes to Process for Submitting Proposals sand Schedule of Events.** The RFP and Schedule of Events are subject to change. The Judicial Council does not send notifications of changes to this RFP or the Schedule of Events to prospective Firms. The Judicial Council is not responsible for failure of any Firm to receive notification of changes in a timely manner. Firms are advised to visit the Judicial Council website (www.courts.ca.gov) frequently to check for changes and updates to the RFP and the Schedule of Events.

d. **Pre-Submittal Actions and Events.**

A. **Pre-Proposal Teleconference Call:** The Judicial Council **will be** holding a pre-proposal teleconference on the date identified below.

Date and Time: 1/30/2018 10:00 AM

Call-in Number: 1-877-820-7831

Participant Code: 726662

Attendance at the pre-proposal teleconference is **strongly encouraged**.

Firms may email questions to be answered at the Pre-Proposal Teleconference. The questions must be numbered and must be emailed to:

capitalprogramsolicitations@jud.ca.gov.

Include the following in the subject line of the email:

“RFP No.: FSO-2018-04-JR Teleconference Questions from [Firm Name]”

Questions should be concise, limited to the RFP process and general questions regarding the overall nature of the Project. Firms should specifically identify and cite the particular section of the RFP about which the Firm has questions.

Highly specific questions regarding the Project should be withheld until after the Pre-Proposal Teleconference.

The Judicial Council will post answers to highly specific questions submitted by Firms as indicated in the Schedule of Events.

B. **Pre-Proposal Site Visit:** Pre-Proposal Site Visit will be scheduled on **February 1, 2018** at 10:00 AM Pacific Time and is anticipated to take up to one (1) hour.

Attendance to the Pre-Proposal Site Visit is **strongly encouraged**.

***Date and time are subject to change.**

C. **Optional: Send Email of Intent to Respond:**

Firms that intend to respond to this RFP may notify the Judicial Council by sending an email to capitalprogramsolicitations@jud.ca.gov with the RFP number and Firm name in the subject line. Firm’s Intent to Respond should include the name, address, telephone, fax number, and e-mail address and contact person for the Firm.

Firms are strongly encouraged to submit an Intent to Respond in order to assist the Judicial Council in managing the RFP process.

5.0 Submission of Proposals

a. Proposals should provide straightforward, concise information that satisfies the requirements of the “Proposal Package Contents” section below. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the RFP’s instructions, requirements, completeness and clarity of content.

b. Firms must submit their Proposal Packages as follows:

A. **Part One:** Statement of Qualifications Package

- Proposers must submit one (1) original copy of the Statement of Qualifications Package as described in this RFP;
- The original must be signed by an authorized representative; and
- The Statement of Qualifications (and the copy thereof) must be submitted to the Judicial Council in a single envelope labeled as follows:

*Statement of Qualifications
Submitted by [Name of Firm]
East County Regional Center Elevator Modernization
FSO-2018-04-JR*

B. **Part Two:** Cost Proposal Package

- The Firm must submit one (1) original copy of the Cost Proposal;
- The original Cost Proposal must be signed by an authorized representative;
- Firms must submit a Designated Subcontractors List with their Cost Proposal. Failure to submit the Designated Subcontractors List shall result in the Proposal being deemed non-responsive, and the Proposal will not be considered.
- Project proposal and maintenance proposal pricing must be submitted on a single bid document.
- The original Cost Proposal (and the copy thereof) must be submitted to the Judicial Council in a single sealed envelope, separate from the Statement of Qualification Package and labeled as follows:

*Cost Proposal
Submitted by [Name of Firm]
East County Regional Center Elevator Modernization
FSO-2018-04-JR*

c. Firms must submit the entire proposal package, with all attachments, including the Payee Data Record form (Attachment 8), in electronic format as follows:

- **One (1) USB or flash drive** - Please ensure electronic format is compatible with PCs;

A. Please ensure proposal is in **Adobe PDF format**; and

B. Please use the following naming convention for electronic files:

[Name of Firm]_FSO-2018-04-JR_[File Description]

d. **Proposals must be delivered** by the date and time listed in the Schedule of Events of this RFP to:

Judicial Council of California
Attn: Lenore Fraga-Roberts
RFP: FSO-2018-04-JR
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688

- e. Late Proposals will not be accepted. Any submittals received after the deadline will be rejected without review.
- f. **Incomplete submittals may be rejected without review.**
- g. Only written Proposals will be accepted. Proposals must be sent by registered or certified mail, courier service (e.g. FedEx), or delivered by hand. Proposals may not be transmitted by fax or email.
- h. **Questions.** Interested parties may submit a request for clarifications, modifications or questions to the Judicial Council using the format provided in Attachment 7. Requests shall be submitted via e-mail to capitalprogramsolicitations@jud.ca.gov no later than the date specified in the RFP Timeline. Please indicate the RFP number and title in the subject line of the email. Contact with the Judicial Council shall be made only through the email address.
- i. A Firm's proposal is an irrevocable offer for ninety (90) days following the proposal due date. In the event a final contract has not been awarded within this period, the Judicial Council reserves the right to negotiate extensions to this period. In the event that the Firm with the highest scored Proposal refuses to execute a final contract for a Project within sixty (60) days of award, the Judicial Council reserves the right to award that Project to the Firm with the next highest scored proposal and execute a final contract with the Firm with the next highest scored proposal for that Project.
- j. **TELEPHONE CALLS WILL NOT BE ACCEPTED.**

6.0 Proposal Packages.

- a. Statement of Qualifications Package.

The following information must be included in the Statement of Qualifications. Submittals lacking any of the following information may be deemed non-responsive.

A. Cover Letter – Cover letters must include the following:

- Name, address, telephone, fax number, e-mail address, and federal tax identification number of the proposing firm;
- Name, title, address, telephone number, and email address of the individual who will act as the Firm's designated representative for purposes of this RFP; and
- The Cover Letter should be signed by an authorized representative of the Firm.

Cover letter should be no more than one (1) page.

Note: If the Firm is a sole proprietor using his/her social security number, the social security number will be required before finalizing a contract.

- B. Resumes and Key Staff Members

Include resumes describing key staff members' background and experience in conducting the proposed activities. There is no limit on the number of key staff members proposed, but there is a limit of five (5) pages total.

The resume submittals should be no more than five (5) pages total.

C. Minimum Qualifications

Include documentation supporting the following qualifications:

- Firm must have a minimum of 5 years' experience in installing or modernizing elevators of this type and nature. Firm must be certified and approved by the Manufacturer.

D. References and Experience.

Provide references and information for the **five (5) most recent** elevator modernization or replacement project for California public entities over \$3,000,000.00. The references and information must include the following:

- Identify the client, number of sites where work was performed, a description of services and work provided the timeframe for completion, the original project budget and final cost. Clarify any discrepancy between original project budget and final cost.
- Identify the role of key team members that participated in the project.
- Provide a contact / client reference with current contact information, including names, address and current telephone number. The Judicial Council may check references listed by the Firm.

Please ensure contact information for all references is up-to-date.

References and information are to be no more than one (1) page, for five pages.

E. Other Requirements/Attachments

i. Acceptance of Terms and Conditions

1. On Attachment 10, the Proposer must check the appropriate box and sign the form. If the Proposer marks the second box, it must provide the required additional materials. An "exception" includes any addition, deletion, or other modification.
2. If exceptions are identified, the Proposer must also submit the following:
 - A red-lined version of the Sample Agreement (Attachment 5) that implements all proposed changes; and
 - A written explanation or rationale for each exception and/or proposed change.

- ii. Copies of the Proposer's (and any Subcontractors') current business licenses, professional certifications, or other credentials, including, but not limited to Class B General License.

Contractor's will be required to show a license with the California Contractors State License Board.

b. Cost Proposal Package.

A. Cost Proposal Form

Firms must completely fill out and execute the Cost Proposal Form (Attachment 4).

B. Designated Subcontractors List

A Designated Subcontractor List must be submitted with the Firm's Proposal.

Failure to submit this list shall result in the Proposal for being deemed non-responsive, and the Proposal will not be considered.

7.0 Evaluation of Proposals

a. General.

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

b. Minimum Qualifications.

Each Proposal will first be checked for the minimum qualifications for this RFP as set forth in Section 6.0(a)(C) of this RFP. If a Firm does not meet the minimum qualifications, the Proposal will be considered non-responsive.

c. Scoring of Proposals.

The Judicial Council will evaluate the proposals on a 100 point scale using the criteria set forth in the table below. Awards, if made, will be to the highest-scored Firm.

CRITERION	MAXIMUM NUMBER OF POINTS
Resumes and Key Staff Members: Demonstrated experience and training of the principals and key staff members to be assigned to the Project.	15
References and Experience: Experience of the Firm in relation to the work to be performed, including demonstrated ability to meet project budgets and schedules, demonstrated effectiveness of the quality assurance program and procedures being utilized by the Firm, and the nature and quality of recently completed work.	15
Acceptance of Terms and Conditions	5
Cost (including maintenance alternates)	65

The Judicial Council will post an intent to award notice of the selected Firms to this RFP's webpage at <http://www.courts.ca.gov/>. Please refer to key events in the Schedule of Events of this RFP.

8.0 Interviews

The Judicial Council **will not** be conducting interviews in person or by phone with Proposers.

9.0 Administrative Requirements

a. Substitution for Specified Items:

- A. Whenever in the Contract Documents any materials, process, or article is indicated or specified by grade, patent, or proprietary name, or by name of manufacturer, those references shall be deemed to be used for the purpose of facilitating the description of that material, process, or article desired, and shall be deemed to be followed by the words "or equal," except when the product is designated to match others in use on a particular public improvement whether completed or in the course of completion.
- B. The Agreement sets forth the process for requesting substitutions of specified items.

b. Disabled Veteran Participation Goals

- A. The Judicial Council requires contract participation goals of a minimum of three percent (3%) for disabled veteran business enterprises (DVBEs). The Judicial Council will require the selected Firm to demonstrate DVBE compliance.

The selected Firm must complete a DVBE Participation Form at the time of execution of the Agreement.

- B. Information about DVBE resources can be found on the Executive Branch's internal website at <http://www.dgs.ca.gov/pd/Programs/OSDS/legislation.aspx> or by calling the Office of Small Business and DVBE Certification at 916-375-4940.
- C. The DVBE Participation Form is attached as Attachment 11 and Attachment 12 to this RFP.

c. California Rules of Court, Rule 10.500 – Public Access to Judicial Administrative Records

Records created as part of Firm's Proposal and selection process are generally subject to California Rules of Court, Rule 10.500 and may be available to the public absent an exemption. If a Firm's Proposal contains material noted or marked as confidential and/or proprietary that, in the Judicial Council's sole opinion, meets the disclosure exemption requirements of Rule 10.500, then that information will not be disclosed pursuant to a request for records. If the Judicial Council does not consider such material exempt from disclosure under Rule 10.500, the material will be made available to the public, regardless of the notation or markings. If a Firm is unsure if the information contained in its SOQ or Proposal confidential and/or proprietary then it should not include the information in its SOQ and Proposal. A firm that indiscriminately identifies all or most of its SOQ or Proposal as exempt from disclosure however may be deemed non-responsive.

d. Errors in the RFP

- A. If Firm discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, Firm shall immediately provide the Judicial Council with written notice of it and request that the RFP be clarified or modified. Without disclosing the source of the request, the Judicial Council may modify the RFP prior to the date fixed for submission of Proposals by issuing an addendum.
- B. If prior to the date fixed for submission of Proposals Firm knows of or should have known of an error in the RFP, and fails to notify the Judicial Council of the error, Firm shall submit its Proposal at its own risk, and if Firm is awarded the contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.
- e. **Addenda:** The Judicial Council may modify the RFP prior to the date fixed for submission of Proposals by posting a revision on the Judicial Council website. If a Firm determines that a revision unnecessarily restricts its ability to submit its Proposal, it must notify the Judicial Council no later than one (1) day following the posting of the revision.
- f. **Withdrawal and Resubmission/Modification of Proposals:** Firm may withdraw its Proposal at any time prior to the deadline for submitting Proposals by notifying the Judicial Council in writing of its withdrawal. The notice must be signed by the Firm. Firm may thereafter submit a new or modified Proposal, provided that it is received at the Judicial Council no later than the Proposal due date and time listed in this RFP. Modifications offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed in this RFP.
- g. **Rejection of Proposals:** The Judicial Council may reject any or all Proposals and may or may not waive an immaterial deviation or defect in a Proposal. The Judicial Council's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse Firm from full compliance with the RFP specifications. The Judicial Council 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 Firm if it is deemed in the Judicial Council's best interest. Moreover, the Judicial Council reserves the right to make no selection if Proposals are deemed to be outside the fiscal constraint or against the best interest of the State of California.
- h. **Award of Contract**
 - A. Award of a contract, if made, will be in accordance with the RFP to a responsible Firm submitting a Proposal compliant with all the requirements of the RFP and any addenda thereto, except for such immaterial defects as may be waived by the Judicial Council.
 - B. The Judicial Council reserves the right to determine the suitability of Proposals for contracts on the basis of Firm meeting administrative requirements, technical requirements, its assessment of the quality of service and performance of items proposed, and cost.
- i. **Protest Procedure**
 - A. **General.** Failure of Firm to comply with the protest procedures set forth in this Section, will render a protest inadequate and non-responsive, and will result in rejection of the protest.
 - B. **Prior to Submission of Proposal.** An interested party that is an actual or prospective

Firm with a direct economic interest in the RFP may file a protest based on allegedly restrictive or defective specifications or other improprieties in the RFP received prior to the date and time when Proposal are due as set forth in the Schedule of Events. The protestor shall have exhausted all administrative remedies discussed herein prior to submitting the protest. Failure to comply with this Procedure shall be grounds for denying the protest.

C. After Award

- i. A Firm submitting a Proposal may protest the award based on allegations of improprieties occurring during the proposal evaluation or award period if it meets all of the following conditions:
 1. The Firm has submitted a Proposal that it believes to be responsive to the RFP document;
 2. The Firm believes that its Proposal meets the requirements of the RFP, proposes services of proven quality and performance, and offers a competitive cost; and
 3. The Firm believes that the Judicial Council has incorrectly selected another Firm submitting a proposal for an award.
- ii. A Protest must be received no later than five (5) calendar days after the posting date of the Notice of Intent to Award.

D. Form of Protest

- i. The protest must be in writing and sent by certified, or registered mail, or overnight delivery service (with proof of delivery), or delivered personally to the address noted above. If the protest is hand-delivered, a receipt must be requested.
- ii. The protest shall include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative.
- iii. The title of the RFP document under which the protest is submitted shall be included.
- iv. A detailed description of the specific legal and factual grounds of protest and any supporting documentation shall be included.
- v. The specific ruling or relief requested must be stated.
- vi. The Judicial Council, at its discretion, may make a decision regarding the protest without requesting further information or documents from the protestor. Therefore, the initial protest submittal must include all grounds for the protest and all evidence available at the time the protest is submitted. If the protestor later raises new grounds or evidence that was not included in the initial protest but which could have been raised at that time, the Judicial Council will not consider such new grounds or new evidence.

- E. Determination of Protest Submitted Prior to Submission of Proposal.** Upon receipt of a timely and proper protest, the Judicial Council will provide a written determination to the protestor prior to the Proposal Due Date. If required, the Judicial Council may extend the Proposal Due Date to allow for a reasonable time to review the protest. If

the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below and the Judicial Council, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied, or proceed with the award and implementation of the contract.

F. Determination of Protest Submitted After Submission of Proposal. Upon receipt of a timely and proper protest, the Judicial Council will investigate the protest and will provide a written response to the Firm within a reasonable time. If the Judicial Council requires additional time to review the protest and is not able to provide a response within ten (10) business days, the Judicial Council will notify the Firm. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below. The Judicial Council, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied, or proceed with the award and implementation of the contract.

G. Appeals Process

- i. The Judicial Council's decision shall be considered the final action by the Judicial Council unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal, within five (5) calendar days of the issuance of the Judicial Council's decision.
- ii. The justification for appeal is specifically limited to:
 1. Facts and/or information related to the protest, as previously submitted, that were not available at the time the protest was originally submitted;
 2. The Judicial Council's decision contained errors of fact, and such errors of fact were significant and material factors in the Judicial Council's decision; or
 3. The Judicial Council's decision was in error of law or regulation.
- iii. Firm's request for appeal shall include:
 1. The name, address telephone and facsimile numbers, and email address of the Firm filing the appeal or their representative;
 2. A copy of the Judicial Council's decision;
 3. The legal and factual basis for the appeal; and
 4. The ruling or relief requested.
- iv. Upon receipt of a request for appeal, the Judicial Council will review the request and the decision and shall issue a final determination. The decision shall constitute the final action of the Judicial Council.

H. Protest Remedies

- i. If the protest is upheld, the Judicial Council will consider all circumstances surrounding the RFP in its decision for a fair and reasonable remedy, including the seriousness of the RFP deficiency, the degree of prejudice to the protesting party or to the integrity of the competitive process, the good faith efforts of the parties, the extent of performance, the cost to the Judicial Council, the urgency of the procurement, and the impact of the recommendation(s) on the Judicial Council. The Judicial Council may recommend, but not limited to any of the following:

1. Terminate the awarded contract for convenience;
 2. Re-solicit the requirement;
 3. Issue a new RFP;
 4. Refrain from exercising options to extend the term under the contract, if applicable;
 5. Award a contract consistent with statute or regulation; or
 6. Any other remedies as may be required to promote compliance.
- j. **Disposition of Materials.** All materials submitted in response to this RFP will become the property of the State of California and will be returned only at the Judicial Council's option and at the expense of the Firm submitting the Proposal. One copy of a submitted Proposal will be retained for official files and become a Judicial Administrative Record subject to public disclosure pursuant to California Rules of Court, Rule 10.500.

END OF RFP FORM