



REQUEST FOR PROPOSALS

Title: SAN MATEO COUNTY CORRECTIONAL COMMISSARY SERVICES

The San Mateo County Sheriff's Office is seeking proposals from experienced providers of correctional center commissary services to provide, operate, and support inmate commissary services within its two correctional facilities.

Solicitation Number	N/A
Number of contracts expected to be awarded	1
Estimated Value or Range per contract	N/A
Funding Sources	N/A
Expected Contract Duration	36 months
Options to Renew	Two (2) options of twelve (12) months each
Hard copy proposals required	1 original; 5 copies
County Mailing Address <i>(for hard-copy communication & proposal submissions)</i>	San Mateo County Sheriff's Office 400 County Center, 3 rd Floor Redwood City, CA 94063
Authorized Contact Person	Lieutenant Richard Cheechov
Authorized Contact Person E-mail	rcheechov@smcgov.org
E-mail Address for Protests	vrui@smcgov.org
RFP Released	July 10, 2023
Deadline for Questions, Comments and Exceptions	July 17, 2023 1:00 PST
Release Responses to Questions	July 20, 2023
Proposal Due Date and Time	August 11, 2023 1:00 PST
Formal Review of Proposals	Week of August 13, 2023
Notice of Intent to Award	Week of August 20, 2023
Submission to County Board for approval	September 26, 2023
Anticipated Contract Award Date	September 26, 2023

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SECTION I - DEFINITIONS

Business Day: Monday through Friday except for holidays as observed per the California Government Code.

Confidential Information: Information in any form that is not generally known and treated as confidential by a party, including business, financial, statistical, and non-public personal information, trade secrets, know-how, applications, documentation, schematics, procedures, Personally Identifiable Information, information covered by legal privilege, and other proprietary information that may be disclosed or incorporated in materials provided to one party by the other, whether or not designated as confidential, whether or not intentionally or unintentionally disclosed, and whether or not subject to legal protections or restrictions.

Contract Materials: finished or unfinished documents, data, studies, maps, photographs, reports, specifications, lists, manuals, software, and other written or recorded materials produced or acquired by the Contractor pursuant to the Contract for or on behalf of the County, whether or not copyrighted.

Contract: The agreement between San Mateo County and Contractor awarded pursuant to this solicitation.

Contractor: The person or other entity awarded a Contract in conformance with the terms of this solicitation and any subsequently-agreed upon terms.

County Data: All information, data, and other content, including Confidential Information and other information whether or not made available by San Mateo County or San Mateo County's agents, representatives or users, to a Contractor or potential Contractor or their employees, agents, representatives or Subcontractors, and any information, data and content directly derived from the foregoing, including data reflecting user access or use.

County Systems: The information technology infrastructure of San Mateo County or any of its designees, including computers, software, databases, networks, and related electronic systems.

County: San Mateo County

Deliverables: Goods or services required to be provided to San Mateo County under the Contract.

DUNS (Data Universal Numbering System): a proprietary nine-digit number issued by Dun and Bradstreet, Inc. to identify unique business entities.

Force Majeure: An event or circumstance not caused by or under the control of a party, and beyond the reasonable anticipation of the affected party, which prevents the party from complying with any of its obligations under the Contract, including acts of God, fires, floods, explosions, riots, wars, hurricane, sabotage, terrorism, vandalism, accident, governmental acts, and other events.

Hosting: Storage, maintenance, and management of hardware, software, and San Mateo County Data by a party other than San Mateo County, on machines and at locations other than those operated by San Mateo County, where a party other than San Mateo County has regular responsibility for back-up, disaster recovery, security, upgrades, replacement, and overall responsibility for ensuring that all hardware and software continues to function as intended.

Key Employee: Employees of the Contractor jointly identified by San Mateo County and the Contractor as possessing unique skill and experience that was a material consideration in San Mateo County's decision to award a contract.

Maintenance Updates: Any revision, update, improvement, modification, enhancement, correction, bug fix, patch, or new release for a system, platform, software or other product, including any change made as a result of applicable federal, State, or local law.

Major Change: A change to the specified performance, maintainability, operation, power requirements, compatibility, measurement, user interface, reliability, quantity, scale, quality, terms, delivery method, or

requirement of any product or service that affects the obligations of the parties or reflects a substantial alteration in circumstances surrounding the agreement, or is of such a nature that knowledge of the change would affect a person's decision-making process.

PII (Personally Identifiable Information): information in any format that can be used to identify a specific individual, either used alone or combined with other private or public information that can be linked in some way to a specific individual.

Project Manager: The individual identified by San Mateo County as San Mateo County's primary contact for the receipt and management of the goods and services required under the Contract.

PST: Pacific Standard Time, including Pacific Daylight Time when in effect

Subcontractor: Firms engaged by the Contractor to perform work or provide goods pursuant to the Contract, including vendors and suppliers

Task Order or Purchase Order: A written request from San Mateo County to a vendor to provide goods or services, indicating types, quantities, prices and delivery criteria.

SECTION II - INSTRUCTIONS FOR PROPOSERS

2.1 PRE-SUBMITTAL ACTIVITIES

A. Questions, Comments, Exceptions

Read the entire RFP and all enclosures before preparing your proposal. Submit questions, comments, and exceptions, including notifications of apparent errors, to Lieutenant Richard Cheechov at rcheechov@smcgov.org by the Deadline for Questions, Comments and Exceptions. Questions and comments received after the deadline may not be acknowledged.

(1) Request for changes

If requesting changes to a part of this solicitation, identify the specific words or phrases and the sections and paragraphs in which they occur. State the reason for each request and provide alternative suggested language. Failure to submit requests by the deadline will be deemed a waiver of any exception. The County's consideration of a suggestion does not imply acceptance. If sufficient proposals are received with no requested changes, the County may reject those requesting changes.

(2) Request for Substitution of Specified Equipment, Material, or Process

- (a) Unless otherwise stated in the solicitation, references to items or processes by trade names, models or catalog numbers are to be regarded as establishing a standard of quality and not construed as limiting competition.
- (b) If requesting a substitution for a required item, submit requests by the Deadline for Questions, Comments, and Exceptions. Furnish all necessary information required for the County, in its sole judgement, to make a determination as to the comparative quality and suitability of any suggested alternatives. The County's decision will be final. If alternatives are accepted, the County will issue an addendum to the solicitation.

B. Revisions to the Solicitation

The County may cancel, revise, or reissue this solicitation, in whole or in part, for any reason. Revisions will be posted as addenda on <https://www.smcsheriff.com/request-for-proposal-rfp>. No other revision of this solicitation will be valid. Proposers are responsible for ensuring that they have received all addenda from the Sheriff's Office website.

C. Contact with County Employees

Violation of the following prohibitions may result in a proposer being found non-responsible, barred from participating in this or future procurements, and becoming subject to other legal penalties.

- (1) As of the issuance date of this RFP and continuing until it is canceled or an award is made, no proposer or person acting on behalf of a prospective proposer may discuss any matter relating to the RFP with any officer, agent, or employee of the County, other than through email, to the Authorized Contact Person, or as outlined in the evaluation or protest procedures.
- (2) Proposers may not agree to pay any consideration to any company or person to influence the award of a contract by the County, nor engage in behavior that may be reasonably construed by the public as having the effect or intent of influencing the award of a contract.

D. Pre-proposal conference and site visits

If a pre-proposal conference or site visit is scheduled, answers to questions raised prior to and at the events will be posted on the Sheriff's Office website at <https://www.smcsheriff.com/request-for-proposal-rfp>.

2.2 PROPOSAL CONTENT REQUIREMENTS

A. Proposal Format

- (1) Proposals should be created in the following format:
 - Typewritten or prepared on a computer with consecutively numbered pages
 - Arial 12-point font
 - 1" margins on all sides
 - 1.15 line spacing
- (2) Cover Letter - no longer than one page, officially submitting the proposal and signed by an individual authorized to execute legal documents for the proposer, identifying all materials being submitted
- (3) Table of Contents, listing all major topics and their respective page numbers
- (4) Executive Summary - no more than two pages describing the most important elements of the proposal and how the major requirements will be met
- (5) Minimum Qualifications
- (6) Organizational Capacity and Experience
- (7) Exceptions to the solicitation, if any
- (8) References, if requested
- (9) Technical Proposal
- (10) Price Proposal
- (11) Diagrams, plans, specifications, drawings, illustrations, etc.
- (12) Other requested documents, e.g. sample invoices, financial statements

B. Organizational Capacity and Experience

Provide all of the following information for the firm that will be responsible for the project.

- (1) Organizational Capacity:
 - (a) Titles and names of staff members who will be on the team, specifying who will be on site and who will be available by telephone or e-mail during roll-out. Include the resume of a dedicated, full-time project manager. Financial Documents.
 - (b) Licenses and license numbers relevant to or required for the project, the names of the holders of those licenses, and the names of the agencies issuing the licenses.
 - (c) If a partnership, the names and contact information for the partners.
 - (d) All subcontractors other than suppliers and their roles. If over 20% of the work will be performed by subcontractors, include a letter of commitment from each subcontractor.
 - (e) The name and address of each proposed subcontractor other than suppliers that will provide services. State the number of years each subcontractor has been in business providing the proposed subcontracted services and specify the role and responsibility of each subcontractor that will be providing service to Sheriff's Office.
- (2) Experience
 - (a) The number of years in business providing the requested services.
 - (b) All previous business names, if any, and number of years in business under current and each previous business name.

- (c) A list of all correctional clients for the past ten years, including those currently under contract for commissary services. Indicate the name of the facility, the number of meals served and type of services provided.
- (d) A list of facilities, if any, where the company provided commissary services in the past five years but no longer does. Explain why the service is no longer provided, which may include loss of business to a competitor or corporate change/buyout. If there are no such facilities, state that.
- (e) At least three references from successfully completed projects of similar nature to that described in this solicitation. Provide the name of the organization for which work was performed, noting whether it was a public agency. Include the name, phone number, and e-mail address of the individual at the organization who was responsible for managing and accepting the work. A project currently underway may be submitted as one of the references. Ensure that contact information is current. If San Mateo County is unable to contact the reference because of incorrect or out-of-date information, the reference will be deemed not to have been provided.
- (f) Detail any complaints which have been filed against the company, its subsidiaries, parent, or other corporate affiliate, or its subcontractors in the past five years.

C. Technical Proposal

- (a) Describe the technical and management approach to providing the goods and services requested. Address each requirement outlined in this solicitation in the order presented. Responses to requirements that refer evaluators to an exhibit or another section of the proposal may be deemed unresponsive.
- (b) Explain all responses in such a way as to be understood by staff unfamiliar with industry jargon. Use drawings, diagrams, schematics and illustrations as needed.
- (c) If applicable or requested, include a suggested project schedule with milestones, deliverables, dates, and a project management plan.

D. Price Proposal

- (a) Paper copies: place all cost and pricing data in a separate sealed envelope clearly marked "PRICE PROPOSAL".
- (b) Electronic copies: place all cost and pricing data in a separate file named "PRICE PROPOSAL, RFP name".
- (c) If paper or electronic forms and templates are provided for the Price Proposal, use them without modification. Failure to use the materials provided, or modification of the materials, may result in rejection of the entire proposal.
- (d) Alternative Price Proposals may be submitted, but only in addition to, not in place of, the requested Price Proposal. If submitting an alternative Price Proposal, clearly identify it as an alternative.
- (e) Include prices for the base period of service and if applicable, for each additional year including option years.

2.3 PROPOSAL SUBMISSION

A. Submit proposals as directed below.

(1) Electronic Submissions

Include the proposer name and the RFP title in each filename. Submit proposals to Lieutenant Richard Cheechov at rcheechov@smcgov.org, allowing sufficient time for the upload to complete by the Due

Date and Time. Partial uploads will automatically terminate and proposals will be rejected. The email time stamp will be the official submission time. The County will not be responsible for and may not accept proposals that are late due to slow internet connections or for any other failure of the proposer's system.

(2) Hard copy submissions

- (a) One (1) signed original and five (5) hard copy submissions are also requested, submit proposals with all required documents in a sealed package to the designated County Mailing Address. Within the package, submit the Technical Proposal and the Price Proposal in separate envelopes. Clearly mark the following information on the outside of the package:
- Proposer Name
 - Return address
 - Solicitation title
 - Solicitation number

Submit hard copy proposals to:

Richard Cheechov, Sheriff's Lieutenant
San Mateo County Sheriff's Office
400 County Center, 3rd Floor
Redwood City, CA 94063

- (b) Submit proposals and all required documentation so as to physically reach the designated address by the Due Date and Time.
- (3) Hand-written responses, whether or not submitted electronically, will be rejected, with the exception that signatures may be hand-written.

B. Errors in Proposals

The County will not be liable for any errors in proposals. Proposals may be rejected as unresponsive if they are incomplete, are missing pages or information, or cannot be opened for any reason. The County may waive minor irregularities but such waiver will not modify any remaining RFP requirements.

2.4 PROPOSER CERTIFICATIONS

By submitting a proposal, each proposer certifies under penalty of perjury that:

- Its submission is not the result of collusion or any other activity that would tend to directly or indirectly influence the selection process; and
- Proposer is able or will be able to comply with all requirements of this solicitation at the time of contract award; and
- Neither proposer, its employees, nor any affiliated firm providing the requested goods and services has prepared plans, specifications, terms or requirements for this solicitation, or has any other actual or potential conflict of interest; and
- Proposer is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, and is unaware of any financial or economic interest of any County officer or employee relating to this solicitation.

2.5 WITHDRAWAL OF PROPOSALS

Proposals may be withdrawn, modified, or replaced at any time prior to the Due Date and Time. After that time, whether or not a new solicitation is issued for the same subject matter, withdrawal of a proposal may preclude the proposer from participating in the procurement as a proposer or subcontractor, except that an original equipment manufacturer may participate indirectly through a reseller.

2.6 NO COMMITMENT

Neither submission of a proposal nor the County's receipt of proposal materials confers any right to the proposer nor any obligation on the County. This RFP does not commit the County to award a contract, nor will the County defray any costs incurred in preparing proposals or participating in any presentations or negotiations.

2.7 ESTIMATED QUANTITIES

If the solicitation results in an indefinite quantity or a requirements Agreement, the goods and services actually requested by the County may be less than the maximum value of the Agreement and there is no guarantee, either expressed or implied, as to the actual quantity of goods and services that will be authorized under the Agreement.

2.8 PROPOSER SELECTION

At any time in the evaluation process, the County may request clarifications from proposers.

A. Determination of Responsiveness

A responsive proposal conforms to the instructions set forth in this solicitation and any modifications to it. Non-responsive proposals will be rejected. The County, in its sole discretion, may waive non-consequential deviations if the deviations cannot have provided an advantage over other proposers.

B. Proposal Evaluation

The County will establish an evaluation committee which will evaluate responsive proposals based on the criteria specified in the solicitation. The committee may then recommend one or more top-ranked proposers for final negotiation of contract terms, or may invite one or more proposers for oral presentations and demonstrations, following which those proposers may be allowed to amend their proposals. After evaluating presentations and amended proposals, the committee may recommend one or more top-ranked proposers for final negotiation of contract terms.

C. Determination of Responsibility

The County will make a determination of the responsibility of any proposer under consideration for award, taking into consideration matters such as the proposer's integrity, compliance with public policy and laws, past performance, fiscal responsibility, trustworthiness, financial and technical resources, capacity, and experience to satisfactorily carry out its responsibilities. The County will notify any proposer found non-responsible and allow the finding to be contested.

2.9 CONTRACT AWARD

A. Notice of Intent to Award

Once a decision has been made to award a contract to one or more proposers, the County will post a Notice of Intent to Award, notifying the remaining proposers of their non-selection. The posting may be inclusion of the recommendation to award as an agenda item on the Board of Supervisors schedule.

B. Award Procedure

Contract negotiations are neither an offer nor an implicit guarantee that a contract will be executed. Award, if made, will be to the responsive, responsible proposer offering the overall best value to the County for the services and goods described in this solicitation, or as applicable, for a specific portion of the services and goods described. Any agreement reached will be memorialized in a formal agreement using the attached Standard Agreement template.

C. Commencement of Performance

After all parties have signed the Agreement, the County will notify the proposer and performance may proceed. Prior to County execution of the Agreement, no County employee may authorize work. Any work performed prior to that time may be uncompensated.

2.10 PROTESTS

Protests that do not comply with the protest procedures outlined below will be rejected.

A. Protest Eligibility, Format, and Address

- (1) Protests or objections may be filed regarding the procurement process, the content of the solicitation or any addenda, or contract award.
- (2) The County will only review protests submitted by an interested party, defined as an actual or prospective proposer whose direct economic interest could be affected by the County's conduct of the solicitation. Subcontractors do not qualify as interested parties.
- (3) Submit protests to Sheriff Christina Corpus c/o Veronica Ruiz, Contracts Manager by e-mail to vruiz@smcgov.org or via hard copy to: Sheriff Christina Corpus c/o Veronica Ruiz, Contracts Manager, 400 County Center, 3rd Fl, Redwood City, CA 94063

B. Protest Deadlines

Submit protests with any supplemental materials by 5 p.m. PST, as appropriate, on the deadlines set forth below. The date of filing is the date the County receives the protest, unless received after 5 p.m. PST, or on other than a Business Day, in which case the date of filing will be the next Business Day. Failure to file by the relevant deadline constitutes a waiver of any protest on those grounds. Supplemental materials filed after the relevant deadline may be rejected by the County.

- (1) If relating to the content of the solicitation or to an addendum, file within five Business Days after the date the County releases the solicitation or addendum.
- (2) If relating to any notice of non-responsiveness or non-responsibility, file within five Business Days after the County issues such notice.
- (3) If relating to intent to award, file within five Business Days after the County issues notice of Intent to Award. No protests will be accepted once actual award has been made.

C. Protest Contents

- (1) The letter of protest must include all of the following elements:
 - (a) Detailed grounds for the protest, fully supported with technical data, test results, documentary evidence, names of witnesses, and other pertinent information related to the subject being protested; and
 - (b) The law, rule, regulation, ordinance, provision or policy upon which the protest is based, with an explanation of the violation.
- (2) Protests that simply disagree with decisions of the Evaluation Committee will be rejected.

D. Reply to Protest

The County will send a written response to the protestor and to any other party named in the protest.

E. No Stay of Procurement Action during Protest

Nothing in these protest requirements will prevent the County from proceeding with negotiations or awarding a purchase order or contract while a protest is pending.

2.11 PUBLIC RECORDS

A. General

- (1) All proposals, protests, and information submitted in response to this solicitation will become the property of the County and will be considered public records. As such, they may be subject to public review.
- (2) Any contract arising from this RFP will be a public record.
- (3) Submission of any materials in response to this RFP constitutes:
 - (a) Consent to the County's release of such materials under the Public Records Act without notice to the person or entity submitting the materials; and
 - (b) Waiver of all claims against the County and/or its officers, agents, or employees that the County has violated a proposer's right to privacy, disclosed trade secrets, or caused any damage by allowing the proposal or materials to be inspected; and
 - (c) Agreement to indemnify and hold harmless the County for release of such information under the Public Records Act; and
 - (d) Acknowledgement that the County will not assert any privileges that may exist on behalf of the person or entity submitting the materials.

B. Confidential Information

- (1) The County is not seeking proprietary information and will not assert any privileges that may exist on behalf of the proposer. Proposers are responsible for asserting any applicable privileges or reasons why a document should not be produced in response to a public record request.
- (2) If submitting information protected from disclosure as a trade secret or any other basis, identify each page of such material subject to protection as "CONFIDENTIAL". If requested material has been designated as confidential, the County will attempt to inform the proposer of the public records request in a timely manner to permit assertion of any applicable privileges.
- (3) Failure to seek a court order protecting information from disclosure within ten days of the County's notice of a request to the proposer will be deemed agreement to disclosure of the information and the proposer agrees to indemnify and hold the County harmless for release of such information.
- (4) Requests to treat an entire proposal as confidential will be rejected and deemed agreement to County disclosure of the entire proposal and the proposer agrees to indemnify and hold the County harmless for release of any information requested.
- (5) Trade secrets will only be considered confidential if claimed to be a trade secret when submitted to the County, marked as confidential, and compliant with Government Code Section 6254.7.

SECTION III - QUALIFICATIONS, EXPERIENCE, AND EVALUATION CRITERIA

3.1 MINIMUM QUALIFICATIONS

Proposals will be accepted only from organizations that meet the following required qualifications at the time of proposal submission:

- Five years of being regularly and continuously engaged in the business of providing commissary services for correctional facilities with inmate populations of 1000 or more; and
- A minimum of five current commissary accounts; and
- Ability to commence services by the Commencement Date; and
- Existing qualified staff with identifiable support personnel dedicated to the sole purpose of providing Commissary services; and
- Central office capability to supervise and monitor the program ensuring satisfactory provision of services; and
- A certified copy of a current financial report of the company; and
- The proposer is legally authorized to do business in the State of California.

3.2 ORGANIZATIONAL CAPACITY AND EXPERIENCE

Provide all of the following regarding the prime proposer and if applicable, all joint proposers.

A. Organizational Capacity

- (1) Titles and names of staff members who will be on the team responsible for the project, as well as the expected availability of the various individuals. If requested, include the resume of a dedicated, full-time project manager.
- (2) All applicable licenses and license numbers relevant to the project, the names of the holders of those licenses, and the names of the agencies issuing the licenses.
- (3) If portions of work will be performed by subcontractors, names of proposed subcontractors other than suppliers and descriptions of their respective responsibilities.

B. Experience

- (1) The number of years providing services similar to those contemplated
- (2) The number of years providing services to government entities

3.3 REFERENCES

Provide at least three references from successfully completed projects of similar nature to that described in this solicitation, including the name of the organization for which work was performed, and the name, phone number, and e-mail address of an individual at the organization who was responsible for managing and accepting the work. Ensure that contact information is current. If the County cannot contact the reference because of incorrect or out-of-date information, the reference will be deemed not to have been provided.

3.4 EVALUATION CRITERIA

Proposals will be reviewed by a committee and will be evaluated on the following criteria, listed in order of importance.

- Vendor's operational plan, technological solutions, and transition schedule
- Demonstrated experience and expertise in correctional facilities, including current service in correctional facilities of similar size and volume, as well as experience of staff, district manager and transition team.
- Ability to provide added value programs and menu selection.
- Ability to provide services in coordination with existing commissary staff
- Financial stability and condition.
- Vendors management information system and programs.

SECTION IV - INSURANCE

Provide evidence of insurance for each of the checked categories

<input checked="" type="checkbox"/>	General Liability (Including operations, products and completed operations, as applicable.)	\$1,000,000 - per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit either must apply separately to this project or must be twice the required occurrence limit.
<input checked="" type="checkbox"/>	Automobile Liability	\$1,000,000 - per accident for bodily injury and property damage.
<input checked="" type="checkbox"/>	Workers' Compensation	As required by the State of California
<input type="checkbox"/>	Employers' Liability	\$1,000,000 - each accident, \$1,000,000 policy limit bodily injury by disease, \$1,000,000 each employee bodily injury by disease.
<input checked="" type="checkbox"/>	Professional Liability (Errors and Omissions)	\$1,000,000 - per occurrence.
<input checked="" type="checkbox"/>	Cyber Liability	\$5,000,000 per occurrence for Privacy and Network Security, \$1,000,000 per occurrence for Technology Errors and Omissions To be carried at all times during the term of the Contract and for three years thereafter.
<input type="checkbox"/>	Pollution Liability	\$ - Per Occurrence
<input type="checkbox"/>	Pollution Liability (Aggregate)	\$

4.1 SPECIAL INSURANCE REQUIREMENTS - CYBER LIABILITY

If the work involves services or goods related to computers, networks, systems, storage, or access to County Data or to any data that may, alone or in combination with other data, become Confidential Information or Personally Identifiable Information, the following insurance is required.

A. Privacy and Network Security

During the term of the Contract and for three years thereafter, maintain coverage for liability and remediation arising out of unauthorized use of or access to County Data or software within Contractor's network or control. Provide coverage for liability claims, computer theft, extortion, network breach, service denial, introduction of malicious code, loss of Confidential Information, or any unintentional act, error, or omission made by users of Contractor's electronic data or systems while providing services to the County. The insurance policy must include coverage for regulatory and PCI fines and penalties, crisis management expenses, and business interruption. No exclusion/restriction for unencrypted portable devices/media may be on the policy.

B. Technology Errors and Omissions

During the term of the Contract and for three years thereafter, maintain coverage for liabilities arising from errors, omissions, or negligent acts in rendering or failing to render computer or information technology services and technology products, including at a minimum, coverage for systems analysis, design,

development, integration, modification, maintenance, repair, management, or outsourcing any of the foregoing.

SECTION V - SCOPE OF WORK AND SPECIAL PROVISIONS

5.1 SCOPE OF WORK

The San Mateo County Sheriff's Office operates a commissary program at its two detention facilities. Because inmates at the facilities are not allowed to possess cash money while in custody, they maintain commissary accounts through which they purchase items such as personal hygiene products, snacks, and stationery supplies from the commissary. Family members and friends may contribute to the inmate accounts.

The objective of this RFP is to obtain proposals from experienced commissary operators, particularly operators of correctional facility commissaries, who can furnish, install, operate and manage an off-site commissary program using experienced personnel that are professionally trained for working with correctional facilities.

The selected vendor will regularly deliver a variety of approved items to the facilities. Proposals are requested for "bag-in" deliveries, in which the items are pre-sorted and bagged for individual orders. The County of San Mateo will employ one full-time position to assist the contractor with deliveries inside the facilities. Any other personnel needed to fulfill the conditions of the contract will be the sole responsibility of the contractor.

The Sheriff is not seeking operational income but is seeking a vendor who will assist in controlling the cost of goods for the inmate population. The selected vendor will:

- Establish an open, collaborative relationship with the administration and staff of the Sheriff's Office;
- Implement a written commissary program with clear objectives, policies, procedures and annual evaluation of compliance;
- Maintain standards established by the Sheriff's Office;
- Provide 24-hour, 7 day a week, 365 day a year in-house support;
- Provide families and friends of inmates with reliable, secure methods to deposit funds into an inmate's personal fund account at no cost to the County. Methods will include:
 - Secure website for debit/credit card deposits
 - Toll-free telephone for debit/credit card deposits
 - Cashiering kiosks for cash and debit/credit card deposits
 - Any fees charged for these services will be approved by the County

LENGTH OF AGREEMENT

The anticipated duration of the agreement will be for three years, with the term tentatively to begin 09/01/2023 and end 08/31/2026, subject to negotiation of a final agreement. Included in this RFP is the option to renew for an additional two (2) years pending program evaluation, availability of funding, and division approval.

FACILITY AND INMATE DEMOGRAPHICS

There are two adult correctional facilities in the County, serving as minimum, medium and maximum-security facilities, with an average daily population of approximately 1,100 inmates.

Maguire Correctional Facility (MCF) is located at 330 Bradford Street in downtown Redwood City. It is adjacent to the San Mateo County Sheriff's Office, which is in the county government complex known as the Hall of Justice and Records. MCF is a direct supervision jail, built in 1993. In addition to seven general housing pods, the MCF contains a Medical unit, Maximum Security/Disciplinary Housing and Administrative Segregation (3- West/3-East) and the Intake/Booking Unit. The rated capacity is 528 inmates. The average daily population of MCF through April of 2023 was 469 inmates. MCF detains both pre-sentence and sentenced inmates requiring a more secure environment for

up to one year. The facility is classified in accordance with Title 15 standards and is made up of federal, State, and County inmates.

Maple Street Correctional Center (MSCC) is located at 1300 Maple Street in Redwood City, housing both male and female inmates. It is approximately two miles from MCF and the Hall of Justice and Records. MSCC is a direct supervision jail, opened in March of 2016. There are two sections for inmate housing: the main housing tower and the transitional housing unit. The total rated capacity for MSCC is 832 beds. The housing tower has 11 general housing units, each holding a maximum of 64 inmates. There is one additional administrative segregation housing unit with 40 beds. MSCC also contains an “intake/processing” area where inmates are transported between facilities/courts/medical appointments etc. MSCC detains both pre-sentence and sentenced inmates, with a heavy emphasis on inmate programming. It is classified as a minimum-medium-maximum correctional facility. The Transitional Housing area consists of three housing units totaling 88 beds. It houses both male and female sentenced inmates who may be participating in work furlough or vocational training where they leave the facility during the day and return at night. The average daily population of MCF through April of 2023 was 538 inmates.

Maple Street Alternative Sentencing Bureau is located in MSCC. It houses the administrative offices that oversee the Sheriff’s Work, Work Furlough, and Electronic Monitoring Programs.

MINIMUM QUALIFICATIONS

Proposals will be accepted only from firms able to demonstrate:

- Five years of being regularly and continuously engaged in the business of providing commissary services for correctional facilities with inmate populations of 1000 or more; and
- A minimum of five current commissary accounts; and
- Ability to commence services by the Commencement Date; and
- Existing qualified staff with identifiable support personnel dedicated to the sole purpose of providing Commissary services; and
- Central office capability to supervise and monitor the program ensuring satisfactory provision of services.
- A certified copy of a current financial report of the company.

REQUIRED SERVICES

Any proposed system must be approved by the Sheriff’s Office prior to being deployed. The Sheriff expects that the selected proposer will provide a “turnkey installation”, bearing all costs associated with furnishing labor, equipment, and software required to install, maintain, operate, and service the commissary system at the San Mateo correctional facilities. All documentation for the system must be provided within 60 days of contract award.

The following services are the minimum required.

General Commissary Services

- Provide, purchase, and maintain custody of inventory. No inventory will be stored on site.
- Deliver items to the facilities as directed by the Sheriff’s Office. Deliveries will be required multiple times weekly. Commissary deliveries must be in clear plastic bags and packed in wheeled plastic bins or alternative delivery vehicles for Sheriff’s delivery to inmates.
- Implement technology that delivers efficiencies and enhances the commissary program. This should include the capability of orders being placed via inmate tablets.
- Provide a complete computerized inmate accounts system, including all hardware and software. Software must interface to the ATIMS inmate management system.
- Provide a payment by Automated Clearing House (ACH) to the Sheriff for the proceeds of each month’s activity within 15 days after the end of that month, using agreed-upon calculations.
- Provide a PC workstation with a printer to enable corrections staff to print checks.
- Provide packages of basic need items to those inmates who are “indigent” as designated by the San Mateo County Sheriff’s Office. These packages will be paid for directly by the Sheriff’s Office, with selected items mutually agreed upon by the Contractor and the Sheriff’s Office.

- Provide a written plan with designated personnel to oversee the commissary operation and will interact with designated San Mateo County Sheriff's Office liaison to provide professional and technical support.
- Provide for "returns" for orders delivered to inmates who are being released or are otherwise unavailable to receive merchandise.
- Provide a commissary order system listing all approved items and prices.
- The delivery schedule must be mutually agreed upon between the Contractor and the San Mateo County Sheriff's Office and may be subject to change.
- Assume all costs for telephone service, faxing, copying and other office expenses associated with the Commissary operation.
- Provide a complete description of the plan for warehouse operations and inventory management.

Computerized Inmate Account Minimum System Requirements

Provide all required hardware and software for a computerized inmate account system offering the following range of features.

Accurate and complete records of commissary activity and the balances of individual inmate accounts.

Multi-terminal, multi-user, and multi-function capability.

The ability of the Sheriff or designated user to process the following types of transactions to occur on an inmate's account:

- Create an account
- Verify funds in an account
- Add funds to an account.
- Draw funds from an account in the form of a check or debit card.
- Close an account, producing a detailed statement
- Pay the balance of a closed inmate account by check or debit card.
- Deduct commissary and other charges in a "live" environment.
- Identify and report on purchases
- Process credits.
- Change inmate locations.
- Carry negative balances.
- Allow for ad hoc reports.
- Allow for the addition of inmate information to control commissary purchases (e.g., disciplinary controls).
- Verify that all orders are within the commissary limit set by the Sheriff
- Verify that orders are within the amount available in the inmate's account

System records must adhere to generally accepted accounting principles and provide a complete audit trail of all transactions, allowing both scheduled and unannounced audits.

Reports must include detailed weekly invoices, cash reconciliation, and records of charges to inmates for other services, such as medical, haircut and work release expenses, with ad hoc reporting capability available on all fields.

Comprehensive checkbook management features must be offered, capable of printing a check registry based on multiple criteria which can be queried by the jail operator.

Security must be provided on several levels, including password control and tracking of transactions by individual and station, with the capability to be customized by the jail site manager.

The Sheriff must be able to restrict orders as to items and amounts based on location, inmate, or facility-imposed restrictions

Internet / e-Commerce

The proposed commissary system must be customizable and include a web site that is specific to the account. Products offered on the web site must be of municipal security standards. The Sheriff must be able to customize the web site with specific language and terminology.

Housing Unit Kiosks

At least two kiosks must be provided on each floor of each designated facility, through which the system may be accessed, and orders placed by inmates, as well as a lobby kiosk for deposits to inmate accounts. The kiosks must be physically secured and stable, must be tamper-proof, and must comply with any other Sheriff-defined security requirements, while allowing inmates to access:

- A scheduling program that is interactive between the inmate and the facility.
- A grievance program that is interactive and can maintain an unlimited number of characters if desired by the facility.

Support

The selected vendor will be required to provide all the following:

- System hardware and software installation, including cabling if required
- Training for Sheriff personnel
- System documentation for users
- Continuing support for the software and hardware throughout the length of the contract, including updates and enhancements as well as problem resolution
- A toll free 24-hour emergency “hot line” seven days a week for service calls to maintain the system.
- Response to assistance calls within two hours of call placement.
- On-site staff to repair hardware within four hours of problem notification

COMMISSARY OFFERINGS AND PRICING

Item specifications

All products and packaging must meet the following specifications:

- Food items must be for individual consumption and must be in the original manufacturer’s packaging
- Food items must be dated and delivered prior to the expiration date. Inmates may return past-dated merchandise for full refunds.
- Containers and packages must be clear or transparent if available.
- All consumable products must be non-alcoholic (mouthwash, etc.)
- No products may be in glass or pressurized bottles

Delivery and handling

Address each of the following, providing examples and brand names as appropriate.

- Procedures for delivery of commissary items to the facilities;
- Quality and inventory control methods and standards;
- Procedures for providing safe, sanitary, and secure commissary service management including supervision and control of labor and internal security of products and equipment available to inmates;
- Procedures for dealing with inmate complaints regarding products and services and minimizing the potential of inmate litigation;
- Commissary menu items that will be offered, including pricing;
- Any additional equipment necessary for efficient commissary service operation, including hardware or software requirements.

Item Menu and Pricing

Prior to being offered for sale, each item and its price must be approved by the Sheriff.

Once an item is offered for sale, price increases must be approved by the Sheriff. Requests for price increases must be in writing and supported by documentation justifying the increase.

No item may be deleted, nor may brand, packaging, or size be changed without prior approval of the Sheriff.

No item may be added without prior approval of the Sheriff.

SAN MATEO COUNTY SHERIFF'S OFFICE RESPONSIBILITIES

Sheriff's Office staff assigned to the housing areas will identify each inmate for delivery of each inmate's commissary order. In addition, the Sheriff's Office will provide:

- Timely orders for the commissary program.
- Adequate ingress and egress to all commissary services areas.
- Heat, lights, ventilation, and all other utilities, including local intercom and business telephone service at no charge. The telephone may be used only for local business-related calls. Service for non-business-related calls, or long-distance calls whether business or personal, may be provided by a separate telephone, not connected to the Sheriff's Office system, which may be installed at the contractor's expense.
- Personnel to operate the computerized inmate accounts system as it pertains to the handling of cash and the posting of cash received/released from an inmate's account.
- A mutually agreed upon delivery schedule that works in the best interest of jail operation.

Access and Records

Keep full and accurate records of sales and order records in connection with the commissary services. Provide copies of records to the Sheriff or designee on the first working day of the subsequent month or as otherwise requested.

All records must be available for auditing at any time during regular working hours.

Facility inspections may be made by the Sheriff when deemed necessary, with or without advance notice.

Other Services

Additional commissary services not identified will be provided at mutually agreed-upon prices.

TECHNICAL PROPOSAL CONTENTS

Address each item listed below in the Technical Proposal:

Company Information

- Length of time the company has been providing commissary management in institutional and correctional facilities.
- Corporate background and depth of support
 - Number of employees
 - Number of years doing business under current and prior names
- Describe at least five current contracts or business with other correctional commissary service facilities. For each, identify the:
 - Client name and address
 - Contact name and phone number
 - Date of original contract
 - Type/size
- Company achievements in providing correctional commissary service management
- Corporate office organizational structure
- Resume of the Regional Manager and Regional Corporate Support Staff

Menu items

Submit a suggested menu of products with suggested retail prices that include the cost of all services and the percentage profit to Sheriff's Office.

Service and procedures

Describe procedures for managing fulfillment and delivery services, including:

- Procedures for weekly billing and weekly inventory of commissary supplies
- Methods for establishing and revising commissary services policies and procedures

Implementation plan

Propose a timeline and transition plan to show how food delivery will be handled in a seamless fashion at the commencement of the engagement as well as on termination.

SPECIAL CONDITIONS

Contractor Employees

All employees will be required to comply with Sheriff's Office rules and regulations regarding:

- Contact with inmates and conduct on County property.
- Prohibitions on cell phones, cigarettes, alcohol, or other contraband materials.
- Identification cards verifying the individual's employment when on premises.
- Background checks and fingerprinting by the County. Individuals who are indicated as unsuitable will not be allowed in the facilities.
- Any other rules or requirements identified by the Sheriff's Office.

Contract Review

San Mateo County Sheriff's Office and the commissary service provider will set dates through the scheduled contract termination date for quarterly review meetings between the San Mateo County Sheriff's Office and the commissary personnel for the evaluation and any necessary amendment of the agreement.

The San Mateo County Sheriff's Office and the commissary provider will formulate a monthly report form which will establish the basis for the quarterly review sessions.

FINGERPRINTING AND BACKGROUND CHECKS

Selected contractor(s) will be subject to fingerprinting requirements and background checks.

SERVICE LEVELS

The inmate population may change rapidly, as inmates are released, and new inmates are admitted. It is the responsibility of the proposer to maintain adequate stock to meet the required monthly fill rate and reduce the number of credits due.

Defective or unsatisfactory merchandise may be returned for full refunds.

Deliveries

Deliveries will be required from two to five times per week. If the normal delivery date falls on a holiday, or if the delivery is not possible for some reason, delivery must be made the following day or as otherwise directed by the Sheriff. Orders submitted at least 24 hours prior to a delivery date will be included with the next scheduled delivery. Orders submitted less than 24 hours prior to the next delivery date may be included with the following scheduled delivery. Substitutions are not allowed unless expressly permitted by the

Sheriff. Refunds for products not delivered must be returned to the inmate's account within 24 hours of the failed delivery. Recurring delivery of products past expiration dates may be cause for contract cancellation.

Minimum Fill Rate

Back-orders will not be allowed. Past-dated merchandise will not be included when calculating delivered merchandise. After an initial three-month start-up period, the completed average monthly fill rate must be 98% or better, calculated by eliminating cancellations and past-dated deliveries, and then dividing the difference between orders submitted and orders delivered by the orders submitted.

orders submitted - cancellations - outdated merchandise = actual deliveries

(orders submitted - actual deliveries) ÷ orders submitted = percent fill rate

Liquidated Damages

To be determined upon final contract negotiation.

SECTION VI - STANDARD TERMS AND CONDITIONS

These are attached for information only. Do not complete this form. The final agreement between the County and any successful proposer will be based on this template.

Agreement No. _____

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND [Contractor name]

This Agreement is entered into this ____ day of _____, 20____, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and [Insert contractor legal name here], hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and Whereas, it is necessary and desirable that Contractor be retained for the purpose of [Enter information here].

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A—Services
- Exhibit B—Payments and Rates
- Attachment H—HIPAA Business Associate Requirements
- Attachment I—§ 504 Compliance
- Attachment IP – Intellectual Property

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County’s total fiscal obligation under this Agreement exceed [write out amount] (\$Amount). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this agreement.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from [Month and day], 20[last 2 digits of start year], through [Month and day], 20[last 2 digits of end year].

5. Termination

This Agreement may be terminated by Contractor or by the [Title of County Department Head] or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

County may terminate this Agreement for cause. In order to terminate for cause, County must first give Contractor notice of the alleged breach. Contractor shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged breach. If Contractor fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

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

b. Intellectual Property Indemnification

Contractor hereby certifies that it owns, controls, and/or licenses and retains all right, title, and/or interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and/or other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement.

Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

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

9. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by

Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- (a) Comprehensive General Liability... \$1,000,000
- (b) Motor Vehicle Liability Insurance... \$1,000,000
- (c) Professional Liability..... \$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

11. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.107 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County. Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

12. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with

the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

h. Compliance with Living Wage Ordinance

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor certifies all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

13. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply unless this Agreement's total value listed in the Section titled "Payments", exceeds two-hundred thousand dollars (\$200,000); Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value exceeds that threshold amount.

14. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

15. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

16. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

17. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: [insert]
Address: [insert]
Telephone: [insert]
Email: [insert]

In the case of Contractor, to:

Name/Title: [insert]
Address: [insert]
Telephone: [insert]
Email: [insert]

18. Electronic Signature

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

19. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

20. Prevailing Wage

When applicable, Contractor hereby agrees to pay not less than prevailing rates of wages and be responsible for compliance with all the provisions of the California Labor Code, Article 2-Wages, Chapter 1, Part 7, Division 2, Section 1770 et seq. A copy of the prevailing wage scale established by the Department of Industrial Relations is on file in the office of the Director of Public Works, and available at www.dir.ca.gov/DLSR or by phone at 415-703-4774. California Labor Code Section 1776(a) requires each contractor and subcontractor keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request.

Additionally,

- No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations

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