

EXHIBIT A: OFFER AGREEMENT: POST-CONVICTION RELIEF PANEL (1 OF 9 PAGES)

1. INTENT:

WHEREAS, Pima County, ("COUNTY") requires the services of a CONTRACTOR qualified to provide mandated legal defense services to indigent persons in proceedings for post-conviction relief filed pursuant to Rule 32, Arizona Rules of Criminal Procedure, ("Rule 32"); and

WHEREAS, CONTRACTOR is an attorney duly licensed to practice law in the State of Arizona and is qualified and willing to provide such services; and

WHEREAS, both parties recognize and acknowledge that the determination of whether to appoint or continue the appointment of CONTRACTOR'S services under this Contract, which authority lies with either the Pima County Office of Court Appointed Counsel, ("OCAC"), or the Pima County Superior Court, ("Court"), through its Presiding Judge or designee, constitutes no evaluation or warranty of CONTRACTOR'S competency; and

WHEREAS, pursuant to RFQ # **0802175** issued pursuant to Pima County Procurement Code Section 11.12.030 CONTRACTOR has certified that he/she satisfies all the requirements defined by the solicitation and is qualified to provide professional legal services under this Contract.

WHEREAS, pursuant to RFQ # **0802175** issued pursuant to Pima County Procurement Code Section 11.12.030 CONTRACTOR submitted an application advantageous to the COUNTY,

NOW, THEREFORE, the parties hereto agree as follows:

2. AGREEMENT TERM, RENEWALS & REVISIONS:

The initial term of the agreement will be for a three year period and include one three-year renewal option that may be exercised upon the written agreement of the parties, as set forth below:

Proposed extension/renewal/revisions to the contract shall be made through the issuance by COUNTY to CONTRACTOR of a revised Blanket Contract or Purchase Order document setting forth the requested changes. Failure by CONTRACTOR to object in writing to proposed revised terms, conditions and/or specifications within ten (10) calendar days of issuance by COUNTY shall signify acceptance by CONTRACTOR and the amendment shall be binding upon the parties, effective on the date of issuance.

3. CONTRACTOR MINIMUM QUALIFICATIONS:

CONTRACTOR certifies that the CONTRACTOR, individuals acting for CONTRACTOR, and all services and products provided pursuant to this agreement will conform to the following minimum qualifications and will provide the documents requested for certifying compliance:

MQ #.	MINIMUM QUALIFICATIONS (MQ)	COMPLIANCE YES/NO (SELECT ONE)	DOCUMENT TITLE AND NUMBER OF PAGES SUBMITTED FOR EACH DOCUMENT
1	A licensed attorney in good standing with the State Bar of Arizona, AND	Yes / No	Attach certificate issued by the Supreme Court of Arizona, Attorney Discipline Unit
2	Experienced in criminal law with at least three years criminal litigation and/or criminal appellate/post-conviction experience	Yes / No	Application, as substantiated by responses to questions 6,7,8 9, 10 & 11.
3	If required by law, CONTRACTOR shall attach a copy of the Certificate of Insurance as per the terms of Exhibit A.	Yes /No	

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4	Attached is one copy of W-9 on the form as issued by the Department of Treasury Internal Revenue Service. It properly identifies the legal business name and Taxpayer Identification Number (TIN). This form will not be maintained as a part of the official procurement file which is subject to A.R.S §39-121.01 et seq, public information. It is required to establish and update vendor record required for payment.	Yes / No	
5	CONTRACTOR certifies acceptance of compensation and payment terms contained in Contract. CONTRACTOR understands that only COUNTY authorized representatives to include those of the Court and/or Board of Supervisors shall amend any rates and/or compensation terms. Alternative price bids will not be accepted and will be rejected as non-responsive. Rates stipulated by the COUNTY shall include all costs required to implement and actively conduct cost control and reduction activities.	Yes / No	

4. SCOPE OF SERVICES:

Background Information:

OCAC works with the Pima County Superior Court, Juvenile Court, Court of Appeals and Pima County Consolidated Justice Court to assign indigent defense cases to the appropriate office, Public Defender, Legal Defender or Contract Attorney. OCAC determines financial eligibility for court appointed counsel, and assesses fees to defray part of the cost of providing indigent defense services. OCAC administers contracts with attorneys, investigators, paralegals and mitigation specialists who provide counsel and support services in indigent defense cases. OCAC’s mission is to assure that effective legal representation is afforded to all persons eligible for counsel under Arizona Law.

Each CONTRACTOR by responding to this solicitation certifies that they have familiarized themselves with the operations of the County Judicial System by visiting the following websites:

- Office of Court Appointed Counsel: <http://www.pima.gov/ocac/>
- Juvenile Court: <http://www.pcjcc.co.pima.az.us/>
- Superior Court: <http://www.sc.co.pima.az.us/>
- Justice Courts: <http://jp.co.pima.az.us/>
- Court of Appeals: www.apltwo.ct.state.az.us

CONTRACTOR shall provide COUNTY the services as defined in this Contract. All services shall comply with the requirements and specifications as called for in this Contract and solicitation documents contained or referenced in Pima County Solicitation No. 0802175 these documents are hereby incorporated into the Contract the same as if set forth herein.

This contract establishes an indefinite quantity blanket contract for the provision of as required/ordered services as defined by this agreement. CONTRACTOR shall provide services as needed and authorized by the OCAC as follows:

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5. GENERAL

- A. Assignment. CONTRACTOR shall provide legal assistance and representation to those eligible persons ("Client" or "Clients") as appointed by the Court. Assignments will be limited to representation in Rule 32 proceedings.
- B. Contract Administration. This Contract shall be administered by OCAC. CONTRACTOR shall:
1. Maintain a confidential e-mail address so CONTRACTOR and OCAC can send and receive e-mail, and,
 2. Check daily for messages from OCAC sent via e-mail, voice mail and fax.
 3. Contract administration for the County may be performed by Philip J. Maloney, Jr., Administrative Attorney, Office of Court-Appointed Counsel; Philip.Maloney@pima.gov. Or the Pima County Procurement Department.
- C. Service After Completing Approved Hours or Completion of Case. CONTRACTOR is not entitled to reimbursement for work performed outside the scope of this Contract, unless OCAC or the Court expressly authorizes such work.
- D. Case Assignment. No maximum or minimum number of case assignments is anticipated by this Contract.
- E. Professional Services Pursuant To This Contract. CONTRACTOR shall comply with the Arizona Rules of Professional Conduct, state and local court rules, and the written administrative and procedural policies and procedures established by the Court or OCAC. CONTRACTOR shall devote such time to the cases assigned so as to provide competent, effective, and timely legal assistance and representation and shall perform the work in accordance with the terms of the Contract to the best of CONTRACTOR'S ability. If CONTRACTOR uses any employee(s) to assist in the performance of professional services under this contract, said employee(s) shall be suitably trained and skilled professional personnel.
- F. Completion of Representation. Subject only to withdrawal or substitution permitted by the Court, CONTRACTOR'S representation shall be from the date of appointment through every stage of the Rule 32 proceeding including, if appropriate, the Petition for Review. It is understood that the duty of representation continues until the proceeding is terminated (Termination) by the Court, or if applicable, the Court of Appeals. Once appointed, CONTRACTOR'S duty to represent a Client shall survive the expiration date of this Contract.
- G. Interpreters. Qualified interpreters for non-English speaking Clients for all in-court proceedings shall be provided by the Court through the Office of the Court Interpreter.
- H. Mandatory Continuing Legal Education. CONTRACTOR shall comply with all mandatory continuing legal education requirements (ACLE) of the State Bar of Arizona and shall attend at least six hours of continuing legal education in the area of criminal law and/or procedure during the time period encompassed by this Contract. Proof of attendance shall be furnished to OCAC upon request.

6. ASSIGNMENT/WITHDRAWAL/SUBSTITUTE REPRESENTATION

- A. Assignment of Cases. CONTRACTOR shall accept all assignments unless either a genuine conflict of interest prevents CONTRACTOR from ethically representing a Client or if CONTRACTOR'S caseload is likely to impact the rendering of quality service or to lead to a breach of professional obligations. Immediately upon assignment, CONTRACTOR shall make every effort to determine whether a genuine conflict exists or if there is another reason justifying refusal of the assignment, and if so, will promptly notify the Court and OCAC.

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- B. Deferring Assignments Temporarily. CONTRACTOR may defer acceptance of assignments for any period of time up to six months without terminating this Contract by notifying OCAC and shall notify OCAC if CONTRACTOR is unavailable or cannot be readily contacted because of vacation or illness or for any other reason. OCAC shall maintain a current list of CONTRACTOR'S available for appointments under the terms of this Contract.
- C. Discontinuance of Appointments/Termination of Representation by OCAC and Court. Both parties recognize and acknowledge the Court has discretion to assign or not assign CONTRACTOR to any case, with or without cause, and may terminate CONTRACTOR'S assignment in pending cases for good cause.
- D. Withdrawal from Cases. In the event of a conflict of interest, or other circumstances, which CONTRACTOR believes justifies the reassignment of any appointed case, CONTRACTOR shall notify OCAC prior to withdrawal from the case and provide the reason for the withdrawal. OCAC will give CONTRACTOR the name of the next available attorney or in-house office. In the motion to withdraw, CONTRACTOR shall aver that CONTRACTOR contacted OCAC and was informed that (name of attorney or in-house office) was the next available attorney for appointment.

7. REDETERMINATION OF INDIGENCE

Should CONTRACTOR become aware of assets, income, or change in circumstances of a Client such that a question exists as to the Client's continued eligibility to receive counsel at the public's expense, CONTRACTOR shall promptly bring the instance of non-indigence to the attention of the Court. This section shall not, however, require the disclosure of any privileged information which is considered a confidential communication under Court Rules or the Arizona Rules of Professional Conduct. The inquiry and decision as to the client's eligibility will be the responsibility of the assigned judge or the presiding judge.

8. OFFER ACCEPTANCE:

Offer(s) will be accepted and executed by the COUNTY by issue of a Blanket Contract (Recurring requirements) and effective on the document's date of issue without further action by either party. Blanket Contract and Contract documents will document the term of the agreement.

9. ACCEPTANCE OF SERVICES

Acceptance of the services defined by the contract shall be given by designated staff of the Office of Court Appointed Counsel, Philip J. Maloney, Jr., Administrative Attorney, Philip.Maloney@pima.gov, 520-243-4460, 130 W. Congress, 2nd Floor, Tucson, Arizona 85701.

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this agreement to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

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10. COMPENSATION & PAYMENT:

In consideration for the goods and services specified in this Contract, the COUNTY agrees to pay CONTRACTOR in an amount not to exceed three hundred thousand dollars (\$300,000.00).

Pricing for services will be as set forth herein. CONTRACTOR shall provide detailed documentation in support of requested payment.

Payment requests shall assign all costs to items identified herein. Compensation items contained herein shall include all costs incidental to the provision of the items and no further payment will be made or requested.

In consideration of the professional services provided pursuant to this Contract, and subject to the availability and authorization of funds, COUNTY shall pay CONTRACTOR, but only for properly authorized work performed during CONTRACTOR'S assignment, as follows:

- A. Compensation. For each case assignment, CONTRACTOR shall receive \$70 an hour for all reasonable and necessary time spent representing the client. This rate as established by Administrative Order of the Court, is subject to change. Notice of such change will be posted at www.pima.gov/OCAC/.
- B. Extraordinary case compensation. If a case is of an extraordinarily complex or protracted nature, CONTRACTOR may file a petition with the Presiding Criminal Judge requesting that the case be designated as extraordinary for purposes of compensation. **A copy of the petition must be submitted to the assigned trial judge and OCAC.** If the Court grants the petition, the terms of CONTRACTOR'S compensation must be specified in the Court order, a copy of which must be attached to each bill submitted to OCAC.
- C. Change in rates of compensation. The rates of compensations established in this Article are subject to the provisions of ARS § 13-4013 and may be changed if the Court, through its Presiding Judge or designee, determines that it is necessary to change the rates of compensation. Any change to the total payment amount of this Contract is subject to the approval of the Board of Supervisors or its designee.
- D. Ancillary Services Expenses. All ancillary expenses shall be in accordance with the Pima County Guidelines for Payment located at www.pima.gov/OCAC/. All sub-contractors shall submit billing through the CONTRACTOR. CONTRACTOR shall review any billing, certify to its reasonableness and that all costs were expended in the defense of the assigned case and forward the billing with CONTRACTOR'S certification to OCAC for payment.
- E. OCAC Authorized Case-Specific Compensation. For reimbursement of any case-specific costs, including, but not limited to, travel beyond a fifty mile radius of the Pima County Court Building, use of an expert, rush rate for transcriptions or trial clothing for a defendant, CONTRACTOR must make specific request to OCAC before incurring the expense. In the event OCAC denies the request, CONTRACTOR may apply to the Court for authorization. CONTRACTOR must submit a copy of the OCAC approval or the Court order along with a copy of the OCAC denial with the billing.
- F. Failure to obtain prior approval/review by Court or OCAC. Failure to obtain prior approval for certain expenditures as set forth herein shall constitute a waiver of CONTRACTOR'S right to additional compensation. However, the parties acknowledge the right of OCAC or the Court to allow additional compensation to prevent manifest injustice.
- E. Filing a Payment Request. Upon filing a Payment Request, CONTRACTOR shall include a copy of:
 - 1. Any OCAC approval authorizing compensation under this section; or

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2. Any Court authorization along with a copy of the OCAC denial; plus
3. A typed itemization of the specific services provided together with the time spent on each particular service.

CONTRACTOR shall not provide services in excess of the Contract Compensation Amount without prior authorization by an amendment executed by COUNTY. Services provided in excess of the Contract Compensation Amount Total without prior authorization by fully executed amendment will be at CONTRACTOR'S own risk.

For the period of record retention required under **BOOKS AND RECORDS**, COUNTY reserves the right to question any payment made under this Article and to require reimbursement therefore by setoff or otherwise for payments determined to be improper or contrary to the contract or law.

11. PRIVATE COMPENSATION

CONTRACTOR shall neither charge nor accept any fee or other compensation for services rendered pursuant to this Contract except as provided for herein. The CONTRACTOR may not provide services to the Client for a fee on an appointed case, except as provided for herein, without prior written approval of the Court. Attorney must then notify OCAC of any change in status. Under no circumstances may CONTRACTOR solicit such outside compensation.

12. METHOD OF PAYMENT

- A. Procedure. All bills for CONTRACTOR'S services and reimbursement under this Contract, including bills submitted for services rendered by expert witnesses, investigators and any other approved vendors must be submitted on a Payment Request form with appropriate documentation to OCAC and must be in accordance with this Contract and/or the Pima County Guidelines for Payment established by OCAC. OCAC will be responsible for reviewing and verifying all bills and back-up documentation, and may consult with the Court and request from CONTRACTOR additional back-up documentation or explanation. Backup documentation submitted by CONTRACTOR and other approved vendors will remain confidential and will not be disbursed to the COUNTY Finance Department or any other COUNTY Department. **THERE WILL BE NO REIMBURSEMENT FOR UNNECESSARY OR EXCESSIVE FEES AND COSTS.**
- B. Timely Submission of Pay Claims. CONTRACTOR may file a Payment Request upon the filing of the Petition for Post Conviction Relief **and** a final Payment Request upon completion of the case, **or** one Payment Request upon the completion of the case. Monthly billing may be permitted in appropriate cases with prior approval of OCAC. **ALL PAYMENT REQUESTS SHOULD BE SUBMITTED TO OCAC NO LATER THAN 30 DAYS AFTER TERMINATION OF THE CASE.** Per ARS §11-622, CONTRACTOR understands and agrees that CONTRACTOR has no right to payment and the COUNTY will not honor any claim for payment submitted six months after the date of the provision of the last service for which payment is sought.
- C. Payment Requests. Payment Requests shall be submitted to: Pima County Government, Office of Court Appointed Counsel, 130 W. Congress 2nd Floor Tucson, AZ 85701 for services provided in accordance with the contract. Said documents shall reference the County Blanket Contract number under which the charges are authorized, and assign and reference all charges to a particular case number/defendant.

Invoices are not considered received until verified and received by Financial Operations. Invoices discrepant to Pima County Purchase Orders will not be paid and will be returned to the Contractor.

- D. Payment terms are net 30 and pursuant to all other terms of the agreement.

13. AUDIT AND AUDIT DISALLOWANCES

If OCAC determines that a cost for which payment has been made is a disallowed cost, OCAC shall notify CONTRACTOR in writing of the disallowance and of the required course of action, which, at OCAC'S option, may be to adjust any future claim submitted by the amount of the disallowance or to require CONTRACTOR to pay the disallowed amount immediately to COUNTY.

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14. INSURANCE

CONTRACTOR shall obtain and maintain at its own expense, during the entire term of this Contract the following type(s) and amounts of insurance:

1. Professional liability insurance in the amount of \$100,000 per claim, \$300,000 in the aggregate; and,
2. If required by law, workers' compensation coverage including employees' liability coverage

CONTRACTOR shall provide COUNTY with current certificates of insurance. All certificates of insurance must provide for guaranteed thirty (30) days written notice to the COUNTY of cancellation, non-renewal or material change.

15. CERTIFICATION TO MINIMUM REQUIREMENTS

Certification to Minimum Requirements of CONTRACTOR or any of CONTRACTOR'S sub-contractor(s) or employee(s) may be requested by OCAC at any time and must be provided forthwith. Failure to provide certification of Minimum Requirements may be cause for the Contract to be deemed in default. CONTRACTOR shall be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor, and of persons for whose acts CONTRACTOR may be liable to the same extent that the CONTRACTOR is responsible for the acts and omissions of persons directly employed by it. Nothing in this Contract shall create any obligation on the part of COUNTY to pay or see to the payment of any money due any sub-contractor, except as may be required by law.

16. AUTHORITY TO CONTRACT

CONTRACTOR warrants its right and power to enter into this Contract. If any court or administrative agency determines that COUNTY does not have authority to enter into this Contract, COUNTY shall not be liable to CONTRACTOR or any third party by reason of such determination or by reason of this Contract.

17. SUSPENSION OR DEBARMENT

CONTRACTOR represents that it, its principals, and its key employees (collectively for purposes of this article, 'Principals') have never been convicted of an offense or found liable for an event constituting cause for suspension or debarment under Pima County Code § 11.28-040. CONTRACTOR shall inform COUNTY if any Principal is or becomes subject to any of the following:

1. a criminal charge, whether due to indictment or complaint,
2. a criminal conviction,
3. an investigation by an agency or organization through which the professional license of a Principal is maintained, which investigation may result in action against the Principal's professional license, or
4. suspension, debarment, or any type of action by another governmental entity disqualifying or prohibiting the Principal from participating in any procurement.

CONTRACTOR'S failure to truthfully and promptly fulfill this continuing duty of disclosure to COUNTY shall constitute cause for termination of this Contract and may result in CONTRACTOR'S and its Principals' suspension or debarment from receiving any contract award from COUNTY as provided in Pima County code Chapters 11.28 and 11.32. For purposes of this section, dismissal of any criminal charge following the completion of any type of deferred prosecution program constitutes a conviction on the underlying criminal charge.

18. TAXES, FEES, EXPENSES:

Articles sold to Pima County are exempt from federal excise taxes. The COUNTY is subject to State and City sales tax. Posada Del Sol is exempt from all taxes as provided in A.R.S. 42-1321 and Arizona State Revenue Code #R-15-5-2320. Pima County will furnish an exemption certificate upon request. No separate charges for delivery, sales tax, drayage, express, parcel post, packing, insurance, license fees, permits, costs of bonds, surcharges, or bid preparation, will be paid by Pima County, unless expressly included and itemized by the solicitation documents.

EXHIBIT A: OFFER AGREEMENT: POST-CONVICTION RELIEF PANEL (8 OF 9 PAGES)

19. OTHER DOCUMENTS

CONTRACTOR and COUNTY in entering into this Contract have relied upon information provided by CONTRACTOR in the application and review process approved by the County Administrator under Procurement Code 11.12.030(B). These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this Contract.

CONTRACTOR and County in entering into this agreement have relied upon information provided in the Pima County Solicitation No. 0802175 including the Request for Qualifications, Instructions to Bidders, Standard Terms and Conditions, Solicitation Addenda, Contractor's Application and on other information and documents submitted by the CONTRACTOR in its' response to Solicitation No. 0802175. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this contract.

20. ACKNOWLEDGEMENT of SOLICITATION ADDENDA:

CONTRACTOR acknowledges that the following solicitation addenda has been incorporated in their offer and this agreement:

Addendum #	Date	Addendum #	Date	Addendum #	Date

21. REQUIRED MWBE INFORMATION

Is this firm a Women-Owned Business? Yes No

Is this firm a Minority-Owned Business? Yes No

Are you currently certified by any Agency? Yes No If so, Agency Name: _____

Is Contractor a certified Local and MWBE Supplier Eligible for MWBE Preference? Yes No (Select one)

If 'Yes', **attach** and so indicate that a copy of LOCAL MWBE Certification document is attached: Yes No (Select one)

22. APPLICATION /OFFER CERTIFICATION:

CONTRACTOR LEGAL NAME: _____

BUSINESS ALSO KNOWN AS: _____

MAILING ADDRESS: _____

CITY/STATE/ZIP: _____

REMIT TO ADDRESS: _____

CITY/STATE/ZIP: _____

CONTACT PERSON NAME/TITLE: _____

PHONE: _____ FAX: _____

CONTACT EMAIL ADDRESS: _____

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By signing and submitting these application and Offer Agreement documents, the undersigned certifies that they are legally authorized to represent and bind the "CONTRACTOR" to legal agreements, that all information submitted is accurate and complete, that the firm has reviewed the Procurement website for solicitation addenda and incorporated to their offer, that the firm is qualified and willing to provide the services requested, and that the firm will comply with all requirements of the solicitation. The undersigned hereby offers to furnish the service in compliance with all terms, conditions, specifications, defined or referenced by the solicitation, which includes and may not be limited to the Standard Terms & Conditions, and this Offer Agreement. Conditional offers that modify the solicitation requirements may be deemed not 'responsive' and may not be evaluated.

CONTRACTOR'S submission of a signed agreement shall constitute a firm offer and upon the issuance of a blanket contract or purchase order document signed by the Pima County Procurement Director or authorized designate, a binding contract is formed that shall require the CONTRACTOR to provide the services described in this solicitation. The resulting contract incorporates by reference all requirements set forth by the solicitation, solicitation instructions, Pima County standard terms and conditions, and other documents listed in this Offer Agreement's "Other Documents" article.

SIGNATURE: _____

DATE: _____

PRINTED NAME & TITLE OF AUTHORIZED CONTRACTOR REPRESENTATIVE EXECUTING OFFER

PHONE AND E-MAIL: _____

END OF EXHIBIT A: OFFER AGREEMENT

PIMA COUNTY RFQ SOLICITATION STANDARD TERMS AND CONDITIONS (Five pages)

1. APPLICATION OPENING:

Applications will be publicly opened and CONTRACTOR'S name will be read on the date and at the location defined BY the *Request for Qualifications* document. All interested parties are invited to attend.

2. APPLICATION EVALUATION:

Applications shall be evaluated to determine which responses are advantageous to Pima County (COUNTY) considering conformity to the specifications and other factors.

If an award is made, the COUNTY will enter into an agreement with the contractor(s) that submitted the application(s) determined responsive and responsible for providing the required services. The COUNTY reserves the following rights: 1) to waive informalities in the bid or bid procedure; 2) to reject the response of any persons or corporations that have previously defaulted on any contract with COUNTY or who have engaged in conduct that constitutes a cause for debarment or suspension as set forth in COUNTY Code section 11.32; 3) to reject any and all responses; 4) to re-advertise for Applications previously rejected; 5) to otherwise provide for the purchase of such services as may be required herein; 6) to increase or decrease the contract compensation cap herein specified.

Pima County shall evaluate applications meeting the Minimum Qualifications contained in **EXHIBIT A: OFFER AGREEMENT** and the EXHIBIT B: **APPLICATION FOR PIMA COUNTY POST-CONVICTION RELIEF PANEL (4 Pages)** and deemed RESPONSIVE and RESPONSIBLE. The following will be used by the COUNTY in the evaluation of **RESPONSIVE APPLICATIONS** and selection of the Contractor(s):

Evaluation Criteria

Minimum Qualifications:

- Licensed member in good standing with the State Bar of Arizona as documented and provided with application in response to question #2.
- Three years of experience in criminal law comprised of criminal litigation and/or appellate/post-conviction experience as documented and provided with application in response to questions 6,7,8,9,10 & 11

The criteria is designed to evaluate the ability of the CONTRACTOR to fulfill requirements as outlined in this RFQ, with the evaluation team noting how well the CONTRACTOR:

- Provides a clear, concise, and complete application, which addresses: related experience, background and professional qualifications.

Pima County reserves the right to request additional information and/or clarification from any source regarding the content of submitted documents pursuant to this RFQ.

3. AWARD NOTICES:

A *Notice of Recommendation for Award* will be posted on the Procurement website and available for review by interested parties. A tabulation of responses will be maintained at the Procurement department.

4. AWARD:

Submittals received prior to the initial Due In and Opens date will be evaluated and a recommendation of award will promptly be made for the **qualified and number** of required CONTRACTORS. Qualified CONTRACTORS not needed at the time of evaluation will be added to a Qualified Consultant List (QCL) maintained by the Procurement Department. The QCL will be subsequently utilized by the Office of Court Appointed Counsel (OCAC) to supplement the panel of CONTRACTORS. CONTRACTORS whose applications are deemed not qualified by the evaluation panel will be notified by the Procurement Department and include an explanation provided by the evaluation panel. Questions regarding rejections should be addressed to the Office of Court Appointed Counsel. At such time that OCAC requires additional contracts, the COUNTY will recommend for award a contract to those CONTRACTORS listed on the QCL. Recommendation for award will be to the CONTRACTOR(s) who has submitted the application meeting the terms, conditions and specifications in a manner that is determined to be the most advantageous to the COUNTY.

PIMA COUNTY RFQ SOLICITATION STANDARD TERMS AND CONDITIONS (Five pages)

Awards shall be made by either the Procurement Director or the Board of Supervisors in accordance with the Pima County Procurement Code. The COUNTY reserves the right to reject any or all Applications, or to waive irregularities and informalities if it is deemed in the best interest of the COUNTY. Unless expressly agreed otherwise, resulting agreements are not exclusive, are for the sole convenience of COUNTY, and COUNTY reserves the right to obtain like goods or services from other sources.

A fully executed blanket contract, purchase order or contract document mailed, or otherwise furnished, to the selected CONTRACTOR will result in a binding contract without further action by either party.

5. WAIVER:

Each CONTRACTOR, by submission of an application, proclaims and agrees and does waive any and all claims for damages against COUNTY or its officers or employees when any of the rights reserved by COUNTY may be exercised.

6. ACKNOWLEDGEMENT AND ACCEPTANCE:

If CONTRACTOR'S terms are inconsistent with the terms of the resultant agreement, the terms herein shall govern, unless CONTRACTOR'S terms are accepted in writing by COUNTY. No oral agreement or understanding shall in any way modify this order or the terms and conditions herein. CONTRACTOR'S acceptance, delivery or performance called for herein shall constitute unqualified acceptance of the terms and conditions of the resultant agreement.

7. INTERPRETATION; APPLICABLE LAW:

The contract shall be interpreted, construed and given effect in all respects according to the laws of the State of Arizona. If any of contractor's terms or conditions is not in agreement with COUNTY's terms and conditions as set forth herein, COUNTY's shall govern. This Agreement incorporates the complete agreement of the parties with respect to the subject matter of this Agreement. No oral agreement or other understanding shall in any way modify these terms and conditions.

8. QUANTITY:

The contract compensation cap shall not be exceeded or reduced without **written** permission in the form of a properly executed purchase order or contract amendment as required by Pima County Procurement Code except in conformity with acknowledged industry tolerances. All compensation caps are estimates and no guarantee regarding actual payment.

9. DELIVERY:

On -time delivery of services is an essential part of the consideration to be received by COUNTY.

10. RIGHTS AND REMEDIES OF PIMA COUNTY FOR DEFAULT:

The COUNTY may terminate this agreement at any time without advance notice and without further obligation when CONTRACTOR is found to be default of any provision of this agreement. If COUNTY determines that the CONTRACTOR is in default of any provision of the contract, COUNTY may terminate the contract at any time without advance notice and without further obligation.

11. AUDIT & AUDIT DISALLOWANCE^{3S}:

If COUNTY determines that a cost for which payment has been made is a disallowed cost, COUNTY shall notify vendor in writing of the disallowance and of the required course of action which at COUNTY'S option, may be to adjust any future claim submitted by CONTRACTOR by the amount of the disallowance or to require vendor to pay the disallowed amount immediately to COUNTY.

12. FRAUD AND COLLUSION:

Each CONTRACTOR, by submission of an application, proclaims and agrees that no officer or employee of COUNTY or of any subdivision thereof has: 1) aided or assisted the CONTRACTOR in securing or attempting to secure a contract to furnish services; 2) favored one CONTRACTOR over another by giving or withholding information or by willfully misleading the CONTRACTOR in regard to the services called for or the conditions under which the proposed work is to be done; 3) knowingly accepted services of a quality inferior to those required; 4) any direct or indirect financial interest in the solicitation. Additionally, during the conduct of business with COUNTY, the CONTRACTOR will not knowingly certify, or induce others to certify, to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kind of service that has been actually received. If at any time it shall be found that the awardee(s) has in presenting any Application, colluded with any other party or parties for the purpose of preventing any

PIMA COUNTY RFQ SOLICITATION STANDARD TERMS AND CONDITIONS (Five pages)

other award being made, then the contract so awarded shall be terminated and that person or entity shall be liable for all damages sustained by COUNTY.

13. INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the CONTRACTOR, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of this Contract.

Contractor shall indemnify, defend, and hold harmless COUNTY, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the Contractor, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of the blanket contract, purchase order or contract. Contractor warrants that all services provided under this contract are non-infringing. Contractor will indemnify, defend and hold COUNTY harmless from any claim of infringement arising from services provided under this contract.

14. UNFAIR COMPETITION AND OTHER LAWS:

Responses shall be in accordance with Arizona trade and commerce laws (Title 44 A.R.S.) and all other applicable County, State, and Federal laws and regulations.

15. COMPLIANCE WITH LAWS:

CONTRACTOR shall comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation. The laws and regulations of the State of Arizona shall govern the rights, performance and disputes of and between the parties. Any action relating to this Contract shall be brought in a court of the State of Arizona in COUNTY. Any changes in the governing laws, rules, and regulations during an agreement shall apply, but do not require an amendment/revisions.

16. ASSIGNMENT:

CONTRACTOR shall not assign its rights to the resultant agreement, in whole or in part, without prior written approval of the COUNTY. Approval may be withheld at the sole discretion of COUNTY, provided that such approval shall not be unreasonably withheld.

17. CONFLICT OF INTEREST:

All agreements are subject to the provisions of A.R.S. § 38-511, the pertinent provisions of which are incorporated into and made part of all resultant contracts or purchase orders as if set forth in full herein.

18. NON-DISCRIMINATION:

CONTRACTOR agrees that during the performance of this contract, CONTRACTOR shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin. CONTRACTOR shall comply with the provisions of Arizona Executive Order 75-5, as amended by Executive Order 99-4, which is incorporated into this Contract as if set forth in full herein.

19. NON-APPROPRIATION OF FUNDS:

Pursuant to the provisions of A.R.S. § 11-251, sub-section 42, this agreement may be canceled if for any reason the COUNTY Board of Supervisors does not appropriate funds for the stated purpose of maintaining any agreement. In the event of such cancellation, COUNTY shall have no further obligation, other than for services or goods that have already been received.

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20. PUBLIC INFORMATION:

Pursuant to A.R.S. § 39-121 et seq, all information submitted in response to this solicitation, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.

Any records submitted in response to this solicitation that CONTRACTOR believes constitute proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL by CONTRACTOR prior to the close of the solicitation.

Notwithstanding the above provisions, in the event records marked CONFIDENTIAL are requested for public release pursuant to A.R.S. § 39-121 et seq., COUNTY shall release records marked CONFIDENTIAL ten (10) business days after the date of notice to the CONTRACTOR of the request for release, unless CONTRACTOR has, within the ten day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purpose of this paragraph, the day of the request for release shall not be counted in the time calculation. CONTRACTOR shall be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable.

COUNTY shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor shall COUNTY be in any way financially responsible for any costs associated with securing such an order.

21. AMERICANS WITH DISABILITIES ACT:

CONTRACTOR shall comply with all applicable provisions of the Americans with Disabilities Act (public law 101-336, 42 USC 12101-12213) and all applicable federal regulations under the act, including 28 CFR parts 35 and 36.

22. PROTESTS:

An interested party may file a protest regarding any aspect of a solicitation, evaluation, or recommendation for award. Protests must be filed in accordance with the Pima County Procurement Code, Section 11.20.010.

23. NON-EXCLUSIVE:

Agreements resulting from this solicitation are non-exclusive and are for the sole convenience of COUNTY. COUNTY reserves the right to obtain like goods and services from other sources for any reason.

24. TERMINATION:

COUNTY reserves the right to terminate any blanket contract, purchase order, contract or award, in whole or in part, at anytime, without penalty or recourse when in the best interests of the COUNTY, Upon receipt of written notice, CONTRACTOR shall immediately cease all work as directed by the notice, notify all sub-Contractor of the effective date of termination and take appropriate actions to minimize further costs to the COUNTY. In the event of termination under this paragraph, all documents, data, and reports prepared by the CONTRACTOR under the contract shall become the property of and be promptly delivered to the COUNTY. The CONTRACTOR shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures defined by A.A.C. R2-7-701 shall apply.

CONTRACTOR may terminate this agreement with 30 days written notice to OCAC and Procurement.

25. ORDER OF PRECEDENCE-CONFLICTING DOCUMENTS:

In the event that there are inconsistencies between agreement documents, following is the order of precedence, superior to subordinate, that shall be applied to resolve the inconsistency: blanket contract; purchase order; offer agreement or contract attached to a blanket contract or purchase order; standard terms and conditions; other solicitation documents.

26. INDEPENDENT CONTRACTOR:

The status of the CONTRACTOR shall be that of an independent contractor. Neither CONTRACTOR, nor CONTRACTOR'S officers agents or employees shall be considered an employee of COUNTY or be entitled to receive any employment-related fringe benefits under the COUNTY Merit System. CONTRACTOR shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Contract and shall indemnify and hold COUNTY harmless from any and all liability which COUNTY may incur because of

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CONTRACTOR'S failure to pay such taxes. CONTRACTOR shall be solely responsible for program development and operation.

27. BOOKS AND RECORDS

CONTRACTOR shall keep and maintain proper and complete books, records and accounts and complete files, including itemized time sheets for each case assigned under the Contract. All records shall be made available to COUNTY for inspection, audit and copying upon request. CONTRACTOR shall keep and preserve each file and all records pertaining thereto on cases referred under this Contract, for a period prescribed by the Arizona State Bar Association, or applicable statute or rule. This section shall not require the disclosure of any privileged information, which is considered a confidential communication under Court Rules or the Arizona Rules of Professional Conduct.

In addition, CONTRACTOR shall retain all records relating to this Contract at least 5 years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

28 COUNTERPARTS

The Contract awarded pursuant to this solicitation may be executed in any number of counterparts and each counterpart shall be deemed an original, and together such counterparts shall constitute one and the same instrument. For the purposes of this Contract, the signed offer of CONTRACTOR and the signed acceptance of COUNTY shall each be deemed an original and together shall constitute a binding Contract, if all other requirements for execution have been met.

29. AUTHORITY TO CONTRACT:

CONTRACTOR warrants its right and power to enter into the blanket contract, purchase order or contract. If any court or administrative agency determines that COUNTY does not have authority to enter into the blanket contract, purchase order or contract, COUNTY shall not be liable to CONTRACTOR or any third party by reason of such determination or by reason of the blanket contract, purchase order or contract.

30. FULL AND COMPLETE PERFORMANCE:

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of the blanket contract, purchase order or contract to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

31. SUBCONTRACTOR:

CONTRACTOR shall be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor, and of persons for whose acts CONTRACTOR may be liable to the same extent that the CONTRACTOR is responsible for the acts and omissions of persons directly employed by it. Nothing in this contract shall create any obligation on the part of COUNTY to pay or see to the payment of any money due any subcontractor, except as may be required by law.

32. SEVERABILITY:

Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

END OF RFQ STANDARD TERMS AND CONDITIONS