



# CITY OF FAYETTEVILLE REQUEST FOR QUALIFICATIONS

<b>Issue Date:</b> July 15, 2020	<b>RFQ Number:</b> MC265-01	<b>RFQ Title:</b> City of Fayetteville Indigent Defense Attorney Services
<b>RFQ Due Date and Time:</b> August 14, 2020 and 5:00 PM		<b>Number of Pages:</b>

CONTACT INFORMATION	
<b>Procurement Agent and Contact for this RFQ:</b> Carleetha Talmadge	<b>Procurement Official:</b> Carleetha Talmadge, Assistant Finance Director
City of Fayetteville Finance & Administrative Services Department 240 South Glynn Street Fayetteville, GA 30214	<b>Phone:</b> (770) 461-6029 <b>Fax:</b> (770) 460-4238 <b>Website:</b> www.fayetteville-ga.gov

INSTRUCTIONS TO OFFERORS	
Return Sealed Proposal to:	Mark Face of Sealed Envelope/Package:
<b>City of Fayetteville Finance &amp; Administrative Services Department 240 South Glynn Street Fayetteville, GA 30214</b>	Offeror's Name and Address <b>RFQ Name and Number:</b> City of Fayetteville Indigent Defense Attorney Services and MC265-01 <b>RFQ Due Date &amp; Time:</b> August 14, 2020 & 5:00 PM
	<b>Special Instructions:</b>
<b>IMPORTANT: SEE STANDARD TERMS AND CONDITIONS</b>	

OFFERORS MUST COMPLETE THE FOLLOWING	
<b>Offeror Name &amp; Address:</b>	<b>Authorized Signatory:</b>
	(Please Print Name and Sign in Ink)
<b>Offeror Phone Number:</b>	<b>Offeror Fax Number:</b>
<b>Offeror Federal I.D. Number:</b>	<b>Offeror Email Address:</b>
<b>OFFEROR MUST RETURN THIS COVER SHEET WITH RFP RESPONSE</b>	

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## **SECTION 1: BACKGROUND**

### **BACKGROUND A. GENERAL INFORMATION ON THE CITY AND THE COURTS**

#### **THE CITY:**

Fayetteville is a city and the county seat of Fayette County, Georgia, United States. As of the 2010 census, the city had a population of 15,945, up from 11,148 at the 2000 census. Fayetteville is located 22 miles south of downtown Atlanta.

#### **THE COURTS:**

The City's Municipal Court principle activities include:

- Conduct arraignments for all defendants charged with applicable traffic and criminal misdemeanors in the City of Fayetteville. This is the defendants' opportunity to enter a plea or negotiate a settlement in their cases
- Hold bench trials for those defendants who have pleaded "not guilty." A bench trial is heard by a Judge as opposed to a jury. Jury trials are held in Fayette County State Court.
- Adjudicate all alleged violations of Fayetteville environmental, building, and development codes.
- Maintain complete and accurate records of all court proceedings.

## **SECTION 2: SCOPE OF SERVICE**

### **PURPOSE**

The City of Fayetteville, Georgia, is requesting qualifications/submittals from qualified attorneys interested in serving as the Public Defender for the Fayetteville Municipal Court.

### **SCOPE OF SERVICES AND QUALIFICATIONS:**

All indigent criminal defendants charged under ordinances of the city or state charges under the city's jurisdiction who qualify for appointed counsel, may be referred to the Public Defender. The Public Defender will provide legal representation for each of these defendants from court appointment or screening through trial, sentencing, post-conviction review and any appeals. If applicable and/or necessary, the Public Defender will provide criminal defense services at in-custody bail hearings and will be available to talk and meet with indigent defendants in the custody of the city. Legal counsel and services to be provided by the Public Defender shall include:

- Representation of indigent clients at arraignment calendars bases on the schedule determined by the Municipal Court;
  - The Public Defender shall provide counsel to defendants at arraignment and preliminary appearances regardless of whether they have been screened.

- Representation of all indigent clients to all Municipal Court proceedings after appointment
- Arrival to all Municipal Court calendars on time and appropriately prepared
- Initiating contact with new indigent clients in a confidential setting whether by phone or in person within 72 hours of appointment and maintaining the attorney-client relationship, which includes appropriate Response to client contact, legal research, investigation, case operation, witness interviews, legal advisement, preliminary hearings and motions, plea negotiations, trial preparation, and trial or disposition without trial, sentencing recommendations, the filing of a notice of appeal with specific errors noted, designation of record to be transmitted to Superior Court, and motions and orders for finding of indigence and appointment of counsel on appeal, and preparation of all legal documents, all as necessary to ensure competent legal representation of those determined to be indigent;
- Comply with all applicable public records and records retention laws;
- Maintain attorney-client privilege;

**Qualifications:**

Education and Experience:

Minimum qualifications include a Juris Doctorate degree from an accredited law school, license to practice law in the state of Georgia, membership in the State Bar of Georgia, and three (3) years' experience as a practicing attorney with no prior disciplinary actions with the State Bar of Georgia.

**Term:**

The Public Defender Contract will last for a term of one year, but is subject to renewal at the will of the City of Fayetteville. Termination can take place at any time with a thirty (30) day notice by either party.

**Compensations/Hours of Work:**

The City of Fayetteville Municipal Court is held at Fayetteville Municipal/Police Building, 760 Jimmie Mayfield Blvd., Fayetteville, GA 30215. Court is generally held 2 days a week, including bond hearings at the jail on weekends. The Public Defender will be required to attend all jail hearings and bench trials, exclusive of weekends. Any trials where a Public Defender is appointed to a case will be scheduled weekly. The city will compensate the selected Public Defender \$60 per hour for time spent in and out of court.

**Reporting:**

The Public Defender shall file monthly reports with the city delineating each client who has been appointed to the Public Defender, including the name(s), charge(s), citation number(s), disposition, bench or jury trial, and whether an appeal was filed. The report is due on or before the tenth (10th) day of the following month for services of the prior month.

**Associated Counsel:**

Any counsel associated with or employed by the Public Defender shall have the authority to perform the services called for herein, and the Public Defender may employ associated counsel to assist at the Public Defender's expense; however, the associated counsel may only perform services not to exceed 25% of the court sessions for the Public Defender. The Public Defender and all associated counsel hired pursuant to this section shall be admitted to practice pursuant to the rules of the Supreme Court of the State of Georgia and be members in good standing with the State Bar of Georgia.

**Attorney Conflict:**

In the event the Public Defender must withdraw from a case because of a conflict of interest, the Public Defender shall be responsible for providing a conflict attorney at the Public Defender's expense.

**Accessibility:**

The Public Defender shall provide a telephone number(s) so that the Public Defender can be accessible to the Court staff, Police Department, and defendants.

**SECTION 3: PROPOSAL CONTENT AND FORMAT**

In order for the City of Fayetteville to adequately compare and evaluate Qualifications, all qualifications must be submitted in accordance with the format detailed in the following pages.

Cover Letter:

(One printed page maximum.) The letter should designate the proposing firm/individual attorney, the business/independent contractor's address of where the relationship will be housed, and be signed by authorized company officers. The letter should address the firm's willingness and commitment to providing the proposed services and why the firm and/or independent contractor/attorney believes it should be selected.

Company Profile:

Please respond to the following sections:

Company Overview: (If applicable) General overview of company/firm, how long the company/firm has been in business, customer service philosophy, and identification of the primary office, which will be supporting the City of Fayetteville.

Experience: Company or individual, provide experience in servicing public sector clients. Include the number of services offered and resumes of attorneys who will be assigned to the city. If individual contractor/attorney, provide resume demonstrating experience.

References: Include three (3) references letters.

## **SECTION 4: SUBMISSION OF RESPONSE**

Each Response to this RFQ shall address the elements described in the Scope of Service (Section 2) and Proposal Content and Format (Section 3). The Offeror shall describe its approach and experience in each area as instructed. Responses shall be as succinct as possible while completely providing all requested information. Responses should be kept to a maximum of ten (10) pages, not including required forms or certifications. All Responses shall be printed on single-sided 8-1/2" X 11" in size or folded to such a size. The font shall be 11 point or larger. All Responses/Qualifications must be addressed to the attention of Carleetha Talmadge, City of Fayetteville, Asst. Director of Finance, via email at [ctalmadge@fayetteville-ga.gov](mailto:ctalmadge@fayetteville-ga.gov). Submittals/qualifications are due no later than August 15, 2020, 5:00 p.m. via email at [ctalmadge@fayetteville-ga.gov](mailto:ctalmadge@fayetteville-ga.gov).

Submissions/Qualifications received after this date and time or at any other location will not be accepted or considered. It is the sole responsibility of the Offeror to submit its Response before the deadline.

The deadline for questions is 5:00 p.m., August 07, 2020. Questions received after this date and time may not be answered. Questions must be directed in writing to the City of Fayetteville Asst. Director of Finance, Carleetha Talmadge, via email at [ctalmadge@fayetteville-ga.gov](mailto:ctalmadge@fayetteville-ga.gov)

## **SECTION 5: GENERAL EVALUATION PROCESS AND CRITERIA**

### **A. General Information**

The RFQ will enable the city to gather additional information and identify one or more qualified firms to perform the services described in the Scope of Work. The city will conduct a comprehensive, fair, and impartial evaluation of all Responses received. An evaluation team will be established by the city to evaluate the Responses ("Evaluation Committee"). The Evaluation Committee may invite the most qualified Offerors to interview; however, the city retains the right to select only one Offeror and negotiate a contract. The city may also determine that no qualified Responses have been received and reject all Responses.

### **B. Interviews**

At the city's discretion, selected Offerors may be interviewed and re-evaluated based upon the criteria set out in the RFQ or other criteria to be determined by the Evaluation Committee (i.e., unique qualities, methodologies, or approaches taken to differentiate from other Offerors). Selected Offerors may be asked to provide additional information to the Evaluation Committee regarding demonstrated competence and qualifications, the feasibility of implementing the Project as proposed, the ability to meet schedules, costing methodology, or other factors as appropriate.

Any information received by the Evaluation Committee subsequent to the Offeror's Response will be used to evaluate the short-listed Offerors further to determine a rank-order. Final approval of a selected Offeror is subject to the City's Purchasing Policies.

### **C. Past Performance- References**

The city, at its discretion, may review the past performance of the Offeror. The Offeror shall include three (3) reference assignments from the past three to five years. Projects shall be a similar scope to this contract.

References should include the following: Name of the organization, contact information, description of the Project, a brief summary of services provided, and period of performance. Contact name, address, email address, and telephone number. The sample reference letter shall be prepared on the Offeror's letterhead, addressed to the contact at the reference, signed by the Offeror, and included with the submittal.

### **D. Negotiation and Best and Final Offer (as applicable)**

1. If the city deems it is in its best interest to retain the services of one or more Offerors, the city reserves the right to negotiate a revised scope and/or fees. Negotiations will encompass all phases of work, including but not limited to: hourly rates, fees for services, markups for overhead and profit on subcontractors, a "not to exceed" contract amount, as well as any other items the city deems appropriate.
2. If negotiations are successful, the City and the highest-ranking Offeror will enter into an agreement to develop the services as outlined in this RFQ. If an acceptable agreement cannot be reached between the city and the highest-ranking Offeror, the city may choose to negotiate with other Offeror(s).
3. Qualified firms submitting Responses may be required to submit financial statements for a minimum of three recording periods prior to the contract award.
4. Separate meetings with more than one Offeror may be conducted during the same time frame; however, negotiation sessions with an Offeror will not be held in the presence of another Offeror.
5. Offerors submitting Responses should be aware that the Evaluation Committee has sole discretion to determine what constitutes the "best Qualified and offer" for the city. Consequently, Offerors are urged to submit the best possible terms in their original submittal.

### **E. Evaluation Criteria**

The evaluation criteria will include the following:

1. Qualification of Assigned Personnel: The credentials qualification of the person(s) assigned to our relationship. Provide documentation of minimum qualifications and experience. The Indigent Attorney's resume must be included.
2. Experience with a Similar Entity: Provide information on the firm's experience or Independent contractor's/ attorney for multi-jurisdictional clients of a similar type, size,

function, and complexity. Describe three (3) accounts, in order of most relevant to least relevant, which demonstrate the firm's capabilities to perform services for the city.

## **QUALIFICATION RFQ/SCORING**

Qualification submittals will be evaluated and scored based upon the following categories:

1. Qualifications of Assigned Personnel	50 points
2. Experience	50 points
<b>TOTAL</b>	<b>100 points</b>

## **SECTION 6: ANTICIPATED SCHEDULE OF EVENTS**

Questions due – August 07, 2020, 5:00 p.m.

Submittals/Qualifications due – August 14, 2020; 5:00 p.m. by email only.

## **SECTION 7: TERMS OF CONDITIONS**

All Responses and supporting materials as well as correspondence relating to this RFQ become the property of the city when received. Any proprietary information contained in the Response should be so indicated; however, a general indication that the entire contents, or a major portion, of the Response is proprietary will not be honored. The following terms and conditions shall also apply:

- A. All applicable Federal and State of Georgia laws, City of Fayetteville and Fayette County ordinances, licenses, and regulations of all agencies having jurisdiction shall apply to Offerors throughout and are incorporated herein.
- B. Professionals requiring special licenses must be licensed in the State of Georgia and shall be responsible for those portions of the work as may be required by law.
- C. No Response shall be accepted from, and no contract will be awarded to, any person, firm, or corporation that (i) is in arrears to the city with respect to any debt, (ii) is in default with respect to any obligation to the city, or (iii) is deemed irresponsible or unreliable by the city.
- D. The city shall be able to request the Offerors to provide satisfactory evidence that they have the necessary financial resources to accomplish the requirements of the RFQ.
- E. From the date this RFQ is issued until a firm is selected, Offerors are not allowed to communicate with any staff or elected officials of the city regarding this procurement, except at the direction of Carleetha Talmadge, Asst. Director of Finance for the city and procurement agent in charge of this solicitation. Any unauthorized contact may disqualify the Offeror from further consideration. Contact information for the single point of contact is as follows:

Carleetha Talmadge, Asst. Director of Finance  
City of Fayetteville, 240 South Glynn Street  
Fayetteville, GA 30214  
Email Address: ctalmadge@fayetteville-ga.gov

- F. The costs for developing and delivering Responses to this RFQ and any subsequent presentations of the Response as requested by the city are entirely the responsibility of the Offeror. The city is not liable for any expense incurred by the Offeror in the preparation and presentation of its Response.
- G. While the city has every intention to make an award as a result of this solicitation, issuance of the RFQ in no way constitutes a commitment by the city to award and execute a contract. Upon a determination, such actions would be in its best interest, the city, in its sole discretion, reserves the right to:
1. Cancel or terminate this RFQ at any time. Notice of cancellation will be issued. If the RFQ is canceled, the city will not reimburse any Offeror for the preparation of its Response. Responses may be returned upon request if unopened;
  2. Reject any or all Responses received, make a contract award based directly on the Responses received in the best interest of the city, in its sole discretion, or enter into further discussions with one or more Offerors;
  3. Waive and/or amend any undesirable, inconsequential, or inconsistent provisions/specifications of this RFQ which would not have a significant impact on any Response;
  4. Make partial award or no award if it is in the best interest of the city to do so; and
  5. Terminate any contract if the city determines adequate funds are not available.

H. Contract Term:

The term of the contract will be for up to one (1) year term with three (3) one year options to renew contingent upon annual appropriations of funds by the city. The contract will terminate at the close of each calendar year but will automatically renew absent any positive action by the city.

I. Subcontractors:

The highest-scored Offeror will be the prime Contractor if a contract is awarded and shall be responsible, in total, for all work of any subcontractors. All subcontractors, if any, must be listed in the proposal. The City of Fayetteville reserves the right to approve all subcontractors. The Contractor shall be responsible to the City of Fayetteville for the acts

and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. Further, nothing contained within this document or any contract documents created as a result of any contract award derived from this RFQ shall create any contractual relationships between any subcontractor and the City of Fayetteville and its' partners.

J. Invoicing and Payment

The City of Fayetteville agrees to pay the Offeror in current funds for the performance of the contract subject to additions and deductions as provided in the General Conditions of the contract. Upon completion of work and acceptance of the items, the Offeror shall submit an invoice detailing the appropriate charges as currently allowed.

Invoices shall be submitted electronically to: contact will be provided upon award.

Upon receipt of invoice and inspection and acceptance of the project work, the City of Fayetteville will render payment. All such invoices will be paid within thirty (30) days by the City of Fayetteville unless any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. The Offeror will provide complete cooperation during any such investigation.

K. Miscellaneous

In the event there are to be deliveries onsite, all goods and materials will be F.O.B. Destination, Freight Prepaid, and Allowed. The onsite delivery address is:

Director of Finance  
City of Fayetteville  
240 South Glynn Street  
Fayetteville, Georgia 30214

No freight or postage charges will be paid by the City of Fayetteville unless such charges are included and accepted in the bid price and awarded by contract. The Offeror, at Offeror's expense, will arrange to have someone onsite to inspect and accept delivery.

The Offeror has sole responsibility for securing all materials at the project site.

## **SECTION 8: MODEL CONTRACT INFORMATION**

The form of contract ("Model Contract") the city intends to execute with the selected Offeror is included in this RFQ as Exhibit G. Offerors are urged to read this Model Contract carefully prior to submitting a Proposal.

In general, the city is unable to negotiate or revise contract provisions. If an Offeror believes certain contract provisions are out of date, not applicable, or place an undue burden or cost on the Offeror

or the City, the Offeror must address these concerns in writing during the question and answer period. The Asst. Director of Finance will review and determine the appropriate Response. If the city determines a change is warranted, an addendum will be posted to this RFQ. If a firm is unwilling to execute the Model Contract, whether modified by addendum or not, a Proposal should not be submitted.

The city may deem any Proposal containing contract changes or exceptions non-responsive and reject the Proposal.

This RFQ document, together with its addenda, amendments, attachments, modifications, Offeror's Proposal, including any amendments, a "best and final offer," and any clarification question responses, when executed, becomes part of the contract between the parties. The city does not intend to accept alternate terms and conditions to the Model Contract. All questions are due in writing no later than the date stated on the first page of this RFQ. Questions received after this date and time may not be answered. Prior to award, the apparent selected Offeror may be required to enter into discussions with the city to resolve any contractual differences before an award is made. These discussions shall be finalized and all exceptions resolved within one (1) week of notification; if not, the Proposal may be rejected and discussions initiated with the second-highest scoring Offeror.

The selected Offeror shall not begin the performance of services requested by this RFQ prior to the execution of a formal written contract (based on the Model Contract) by the City and Offeror. Any Offeror beginning performance prior to the execution of a contract shall be deemed to be proceeding at Offeror's risk, and shall not be entitled to any compensation for such performance. In addition, the city reserves the right to withdraw or cancel an award. The city may, by written notice to the selected Offeror, terminate any resulting contract without cause. The city must give notice of termination to the selected Offeror at least thirty (30) days prior to the effective date of termination.

**[MODEL CONTRACT]  
SERVICE AGREEMENT  
INDIGENT DEFENSE ATTORNEY SERVICES**

*This Service Agreement (hereinafter "Agreement") is made this X day of Month 2020 by and between Contractor (hereinafter "Contractor") located at Contractor Address and the City of Fayetteville, Georgia (hereinafter "Fayetteville").*

**WITNESSETH:**

**WHEREAS**, Contractor is engaged in the business of providing Indigent Defense Attorney Services; and

**WHEREAS**, Fayetteville has a need to acquire the services described in the Scope of Services attached hereto as Exhibit A (hereafter "Services"); and

**WHEREAS**, Contractor is willing and able to render the Services and wishes to perform the Services for Fayetteville; and

**WHEREAS**, Fayetteville wishes to acquire the Services from Contractor;

**NOW, THEREFORE**, in consideration of the mutual terms, conditions and covenants set forth herein, the parties hereto agree as follows:

**1. Services.**

Contractor hereby agrees to render the Services to Fayetteville as set forth in the Scope of Services attached hereto as Exhibit A and incorporated herein by this reference. Contractor agrees to perform the Services at the direction of the Fayetteville Court Clerk, or designee, in the manner and to the extent required by the parties herein, as may be amended hereafter in writing by mutual agreement of the parties.

**2. Compensation.**

a. Fee. As consideration for the Services, Fayetteville shall pay to Contractor the fee described in Exhibit A attached hereto and incorporated herein by this reference.

b. Manner of Payment. Contractor shall, on a monthly basis, prepare and submit to the Fayetteville Finance Department an invoice, indicating work performed and approved and additional equipment expenses incurred during the applicable time period, together with such supporting documentation as may be required by Fayetteville. Each compliant invoice shall be paid within thirty (30) days after submission of an invoice.

**3. Relationship of Parties.**

a. Independent Contractors. Nothing contained herein shall be deemed to create any relationship other than that of independent contractor between Fayetteville and Contractor. This

Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency or similar arrangement between Fayetteville and Contractor. It is expressly agreed that Contractor is acting as an independent contractor and not as an employee in providing the Services under this Agreement.

b. Employee Benefits. Contractor shall not be eligible for any benefit available to employees of Fayetteville including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, or savings plans.

c. Payroll Taxes. No income, social security, state disability or other federal or state payroll tax will be deducted from payments made to Contractor under this Agreement. Contractor shall be responsible for all FICA, federal and state withholding taxes and workers' compensation coverage for any individuals assigned to perform the Services for Fayetteville.

#### 4. Term.

This Agreement shall become effective as of the date of its execution, shall continue in effect until July 31, 2021. Further Fayetteville has an option to renew this agreement for an additional three (3) one (1) year terms.

#### 5. Termination.

Either party shall have the right to terminate this Agreement if the other party is in default of any obligation hereunder and such default is not cured within ten (10) days of receipt of a notice from the other party specifying such default. "Default" shall mean:

a. If Fayetteville fails to make payments when due or fails to perform or observe any of its duties or obligations under the terms of this Agreement;

b. If Contractor fails to perform or observe any of its duties or obligations under the terms of this Agreement;

c. If Fayetteville or Contractor shall have made any warranty or representation in connection with this Agreement which is found to have been false at the time such warranty or representation was made and is materially harmful to the other party.

This Agreement may also be terminated by either party by giving written notice thirty (30) days prior to the effective date of termination.

If this Agreement is terminated pursuant to this paragraph, Contractor shall be exclusively limited to receiving only compensation for the work performed and appropriately documented to and including the effective date identified in the written termination notice.

## **6. Termination of Services and Return of Property.**

Upon the expiration or earlier termination of this Agreement, Contractor shall immediately terminate the Services hereunder and shall deliver promptly to Fayetteville all property relating to the Services, exclusive of any Attorney/Client Privileged Material and Attorney Work Product. Attorney/Client Privileged Material and Attorney Work Product shall include, but not be limited to, written, electronic, graphical, and recorded material, and any copies, abstracts or summaries thereof. As to active defense services being provided to a defendant of the Municipal Court, Contractor shall deliver related Attorney/Client Material and Attorney Work Product to the defendant or his/her replacement attorney or replacement public defender.

## **7. Standard of Performance and Compliance with Applicable Laws.**

Contractor warrants and represents that it possesses the special skill and professional competence, expertise and experience to undertake the Services and the obligations imposed by this Agreement. Contractor agrees to perform in a diligent, efficient, competent and skillful manner commensurate with the highest standards of the profession, and to otherwise perform as is necessary to undertake the Services required by this Agreement, including the requirements set forth in the Certification of Contractor - Georgia Security and Immigration Compliance Act attached hereto as Exhibit B, in the Certification of Sponsor Drug Free Workplace attached hereto as Exhibit C, and in the Affidavit Verifying Status for City Public Benefit Application attached hereto as Exhibit D, Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1) attached hereto as Exhibit E, and agrees to execute and provide such certifications to Fayetteville, which are incorporated into and made a part of this Agreement.

Contractor warrants and represents that it will, at all times, observe and comply with all federal, state, local and municipal ordinances, rules, regulations, relating to the provision of the Services to be provided by Contractor hereunder or which in any manner affect this Agreement.

The Contractor shall comply with and shall require its Subcontractors to comply with the regulations for compliance with Title VI of the Civil Rights Act of 1964, as amended.

## **8. Conflicts of Interest.**

Contractor warrants and represents that:

- a. the Services to be performed hereunder will not create an actual or apparent conflict of interest with any other work it is currently performing; and
- b. Contractor is not presently subject to any agreement with a competitor or with any other party that will prevent Contractor from performing in full accord with this Agreement; and
- c. Contractor is not subject to any statute, regulation, ordinance or rule that will limit its ability to perform its obligations under this Agreement; and

d. Contractor shall be free to accept other work during the term hereof; provided, however, that such other work shall not interfere with the provision of Services hereunder.

**9. Proprietary Information.**

Contractor acknowledges that it may have access to and become acquainted with confidential and other information proprietary to Fayetteville including, but not limited to, information concerning Fayetteville, its operations, customers, citizens, business and financial condition, as well as information with respect to which Contractor has an obligation to maintain confidentiality (collectively referred to herein as “Proprietary Information”). Contractor agrees not to disclose, directly or indirectly, to anyone or to use or to allow others to use, for any purpose whatsoever, any Proprietary Information of any type, whether or not designated confidential or proprietary, acquired in the course of performing under this Agreement. The obligations of Contractor under this section shall survive the termination of this Agreement.

10. **Insurance and Indemnification.** Contractor agrees to defend, indemnify and hold harmless the City of Fayetteville, to the extent allowed by applicable law, from and against any and all claims, losses, liabilities or expenses (including, without limitation, attorneys’ fees) which may arise, in whole or in part, out of a breach by Contractor of its obligations under this Agreement. Insurance requirements are attached hereto as Exhibit G and incorporated herein by this reference.

11. **Non-Discrimination.** During performance of this Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender, national origin, age, disability, or military or veteran status, or any other status or classification protected by applicable federal, state and local laws. This practice shall apply to all terms and conditions of employment, including but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leave of absence, compensation, and training.

Contractor shall undertake equal employment opportunity efforts to ensure that applicants and employees are treated without regard to their race, color, religion, sex, sexual orientation, gender, national origin, age, disability, or military or veteran status, or any other status or classification protected by applicable federal, state and local laws. Contractor's equal employment opportunity efforts shall include, but not be limited to, all terms and conditions of employment, including but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leave of absence, compensation, and training.

Contractor shall, in all solicitations or advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, sexual orientation, gender, national origin, age, disability, or military or veteran status, or any other status or classification protected by applicable federal, state and local laws.

Contractor shall cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

12. **Assignment.** Contractor shall not assign this Agreement or the rights and obligations created herein without the prior express written consent of Fayetteville. Any attempted assignment by Contractor without the prior express written approval of Fayetteville may, at Fayetteville' sole option, result in the termination of this Agreement without any notice to Contractor of such termination.

13. **Notices.** All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally in hand, or when mailed by certified or registered mail, return receipt requested with proper postage prepaid, addressed to the appropriate party at the following address or such other address as may be given in writing to the parties:

**If to Fayetteville:**

Ray Gibson, City Manager  
240 South Glynn Street  
Fayetteville, Georgia 30214

**If to Contractor:**

---

Contractor Contact, Title

---

Address

---

City, State, Zip

14. **Governing Law and Consent to Jurisdiction.**

This Agreement is made and entered into in the State of Georgia and this Agreement and the rights and obligations of the parties hereto shall be governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The Courts in Fayette County, Georgia shall have jurisdiction over any litigation arising out of this agreement.

15. **Waiver of Breach.**

The waiver by either party of a breach or violation of any provision of this Agreement shall not operate or be construed to constitute a waiver of any subsequent breach or violation of the same or other provision thereof.

16. **Disputes.**

No civil action with respect to any dispute, claim or controversy arising out of or relating to this Contract may be commenced without first giving fourteen (14) calendar day's written notice to Fayetteville of the claim and the intent to initiate a civil action.

17. **Severability.**

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

18. **Entire Agreement.**

This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior discussions, representations and understandings, whether oral or written.

19. **Heading.**

This Agreement shall not be interpreted by reference to any of the titles or headings to the sections or paragraphs of this Agreement, which have been inserted for convenience purposes only and are not deemed a part hereof.

20. **Interpretation of Exhibits and Exclusion of External References.**

The provisions of the main body of this Agreement shall govern the relationship between the City and the Contractor. In the event of conflicts or inconsistencies between this Agreement and its exhibits and attachments, including, but not limited to, those provided by Contractor, the provisions of the main body of this Contract Agreement shall control. Website links inserted by the Contractor into exhibits or attachments to this Agreement shall not govern, alter, control or otherwise affect the provisions of this Agreement and shall be of no force or effect in the construction or interpretation of this Agreement.

21. **Copyright, Trademark and Patient Indemnification.**

Contractor warrants it has the rights to use and license all products, software and services provided under this agreement. Contractor further agrees to defend and save harmless Fayetteville against any claims brought by a third party including, without limitation, reasonable attorneys' fees

and costs, arising out of or in connection with a claim that the Software, Products and Services used in the scope of this agreement violated a third party's trademark, copyright or patent. Copyright, Trademark and Patient Indemnification shall survive the termination, cancellation or expiration of this agreement.

22. **Counterparts.**

This Agreement may be executed in one or more counterparts, all of which together shall be deemed to constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto, acting through their duly authorized agents, have signed and sealed this Agreement.

**CITY OF FAYETTEVILLE, GEORGIA**

By: \_\_\_\_\_

Ray Gibson, City Manager

ATTEST:

\_\_\_\_\_  
Date of Execution

By: \_\_\_\_\_

City Clerk

(SEAL)

\_\_\_\_\_  
**CONTRACTOR NAME**

By: \_\_\_\_\_

Name:

\_\_\_\_\_  
Date of Execution

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

## **EXHIBITS**

**EXHIBIT A** Scope of Services and Compensation

**EXHIBIT B** Certification of Contractor - Georgia Security and Immigration Compliance Act

**EXHIBIT C** Certification of Sponsor Drug-Free Workplace

**EXHIBIT D** Affidavit Verifying Status for City Public Benefit Application

**EXHIBIT E** Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

**EXHIBIT F** Insurance Requirements

## **EXHIBIT A SCOPE OF SERVICES**

### **SCOPE OF SERVICES AND QUALIFICATIONS:**

All indigent criminal defendants charged under ordinances of the City or state charges under the City's jurisdiction who qualify for appointed counsel, may be referred to the Public Defender. The Public Defender will provide legal representation for each of these defendants from court appointment or screening through trial, sentencing, post-conviction review and any appeals. If applicable and/or necessary, the Public Defender will provide criminal defense services at in-custody bail hearings and will be available to talk and meet with indigent defendants in the custody of the City. Legal counsel and services to be provided by the Public Defender shall include:

- Representation of indigent clients at arraignment calendars bases on the schedule determined by the Municipal Court;
  - The Public Defender shall provide counsel to defendants at arraignment and preliminary appearances regardless of whether they have been screened.
- Representation of all indigent clients to all Municipal Court proceedings after appointment
- Arrival to all Municipal Court calendars on time and appropriately prepared
- Initiating contact with new indigent clients in a confidential setting whether by phone or in person within 72 hours of appointment and maintaining the attorney-client relationship, which includes appropriate response to client contact, legal research, investigation, case operation, witness interviews, legal advisement, preliminary hearings and motions, plea negotiations, trial preparation, and trial or disposition without trial, sentencing recommendations, the filing of a notice of appeal with specific errors noted, designation of record to be transmitted to Superior Court, and motions and orders for finding of indigence and appointment of counsel on appeal, and preparation of all legal documents, all as necessary to ensure competent legal representation of those determined to be indigent;
- Comply with all applicable public records and records retention laws;
- Maintain attorney-client privilege;

### **Qualifications:**

Education and Experience:

Minimum qualifications include a Juris Doctorate degree from an accredited law school, license to practice law in the state of Georgia, membership in the State Bar of Georgia, and three (3) years' experience as a practicing attorney with no prior disciplinary actions with the State Bar of Georgia.

### **Compensations/Hours of Work:**

The City of Fayetteville Municipal Court is held at Fayetteville Municipal Court/Police Building, 760 Jimmie Mayfield Blvd., Fayetteville, GA 30215. Court is generally held 2 days a week, including bond hearings at the jail on weekends. The Public Defender will be required to attend all jail hearings and bench trials, exclusive of weekends. Any trials where a Public Defender is

appointed to a case will be scheduled once a month. The City will compensate the selected Public Defender \$60 per hour for time spent in and out of court.

**Reporting:**

The Public Defender shall file monthly reports with the City delineating each client who has been appointed to the Public Defender, including the name(s), charge(s), citation number(s), disposition, bench or jury trial, and whether an appeal was filed. The report is due on or before the tenth (10th) day of the following month for services of the prior month.

**Associated Counsel:**

Any counsel associated with or employed by the Public Defender shall have the authority to perform the services called for herein, and the Public Defender may employ associated counsel to assist at the Public Defender's expense; however, the associated counsel may only perform services not to exceed 25% of the court sessions for the Public Defender. The Public Defender and all associated counsel hired pursuant to this section shall be admitted to practice pursuant to the rules of the Supreme Court of the State of Georgia and be members in good standing with the State Bar of Georgia.

**Attorney Conflict:**

In the event the Public Defender must withdraw from a case because of a conflict of interest, the Public Defender shall be responsible for providing a conflict attorney at the Public Defender's expense.

**Accessibility:**

The Public Defender shall provide telephone number or numbers so that the Public Defender can be accessible to the Court staff, Police Department, and defendants.

**EXHIBIT B**  
**CERTIFICATION OF CONTRACTOR**  
**GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT**

I hereby certify that I am a principle and duly authorized representative of \_\_\_\_\_, (“Contractor”), whose address is \_\_\_\_\_, \_\_\_\_\_.

Contractor hereby agrees to comply with all applicable provisions and requirements of the Georgia Security and Immigration Compliance Act of 2006 (the “Act”), as codified in O.C.G.A. Sections 13-10-90 and 13-10-91 and regulated in Chapter 300-10-1 of the Rules and Regulations of the State of Georgia, "Public Employers, Their Contractors and Subcontractors Required to Verify New Employee Work Eligibility Through a Federal Work Authorization Program," accessed at <http://www.dol.state.ga.us>, as further set forth below.

Contractor agrees to verify the work eligibility of all of newly hired employees through the U.S. Department of Homeland Security’s Employment Eligibility Verification (EEV) / Basic Pilot Program, accessed through the Internet at <https://www.vis-dhs.com/EmployerRegistration>, in accordance with the provisions and timeline found in O.C.G.A. 13-10-91 and Rule 300-10-1-.02 of the Rules and Regulations of the State of Georgia. As of July 1, 2007, the verification requirement applies to contractors and subcontractors with five-hundred (500) or more employees.

Contractor understands that the contractor and subcontractor requirements of the Act apply to contracts for, or in connection with, the physical performance of services within the State of Georgia.

Contractor understands that the following contract compliance dates set forth in the Act apply to the Agreement, pursuant to O.C.G.A. 13-10-91:

On or after July 1, 2007, to public employers, contractors, or subcontractors of 500 or more employees;

On or after July 1, 2008, to public employers, contractors, or subcontractors of 100 or more employees; and

On or after July 1, 2010, to all other public employers, their contractors, and subcontractors.

To document the date on which the Act is applicable to Contractor, and to document Contractor’s compliance with the Act, the undersigned agrees to initial one of the three (3) lines below indicating the employee number category applicable to Contractor, and to submit the indicated affidavit with the Agreement if the Contractor has 500 or more employees.

Contractor has:

- \_\_\_\_\_ 500 or more employees [Contractor must register with the Employment/Eligibility Verification/Basic Pilot Program and begin work eligibility verification on July 1, 2007];
- \_\_\_\_\_ 100-499 employees [Contractor must register with the Employment Eligibility Verification/Basic Pilot Program and begin work eligibility verification by July 1, 2008];  
or
- \_\_\_\_\_ 99 or fewer employees [Contractor must begin work eligibility verification by July 1, 2010].

Contractor further agrees to require O.C.G.A. Sections 13-10-90 and 13-10-91 compliance in all written agreements with any subcontractor employed by Contractor to provide services connected with the Agreement, as required pursuant to O.C.G.A. 13-10-91.

Contractor agrees to obtain from any subcontractor that is employed by Contractor to provide services connected with the Agreement, the subcontractor’s indication of the employee number category applicable to the subcontractor.

Contractor agrees to secure from any subcontractor engaged to perform services under this Agreement an executed “Subcontractor Affidavit,” as required pursuant to O.C.G.A. 13-10-91 and Rule 300-10-1-.08 of the Rules and Regulations of the State of Georgia, which rule can be accessed at <http://www.dol.state.ga.us>.

Contractor agrees to maintain all records of the subcontractor’s compliance with O.C.G.A. Sections 13-10-90 and 13-10-91 and Chapter 300-10-1 of the Rules and Regulations of the State of Georgia.

CONTRACTOR:

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT C**  
**CERTIFICATION OF SPONSOR**  
**DRUG-FREE WORKPLACE**

I hereby certify that I am a principle and duly authorized representative of \_\_\_\_\_, (“Contractor”), whose address is \_\_\_\_\_, \_\_\_\_\_, and I further certify that:

(1) The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the “Drug-Free Workplace Act” have been complied with in full; and

(2) A drug-free workplace will be provided for Contractor’s employees during the performance of the Agreement; and

(3) Each Subcontractor hired by Contractor shall be required to ensure that the subcontractor’s employees are provided a drug-free workplace. Contractor shall secure from that subcontractor the following written certification: “As part of the subcontracting agreement with Contractor, \_\_\_\_\_ certifies to Contractor that a drug-free workplace will be provided for the Subcontractor’s employees during the performance of this Agreement pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated, Section 50-24-3”; and

(4) The undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Agreement.

CONTRACTOR:

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT D**  
**AFFIDAVIT VERIFYING STATUS**  
**FOR CITY PUBLIC BENEFIT APPLICATION**

By executing this affidavit under oath, as an applicant for a City of Fayetteville, Georgia Business License or Occupation Tax Certificate, Alcohol License, Taxi Permit, execution of contract or other public benefit as referenced in O.C.G.A. §50-36-1, I am stating the following with respect to my application for a City of Fayetteville license/permit and/or contract for \_\_\_\_\_ [Name of natural person applying on behalf of individual, business, corporation, partnership, or other private entity]:

1. \_\_\_\_\_ I am a United States citizen

OR

2. \_\_\_\_\_ I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.\*

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. §16-10-20.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

\*Alien Registration number for non-citizens: \_\_\_\_\_

**\*\*PLEASE INCLUDE A COPY OF YOUR PERMANENT RESIDENT CARD, EMPLOYMENT AUTHORIZATION, GREEN CARD, OR PASSPORT WITH A COPY OF YOUR DRIVER'S LICENSE IF YOU ARE A LEGAL PERMANENT RESIDENT (#2).**

Subscribed and Sworn Before Me, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

\*Note: O.C.G.A. § 50-36-1(e)(2) requires that aliens under the Federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the Federal definition of "alien", legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:

\_\_\_\_\_

**EXHIBIT E**  
**CONTRACTOR AFFIDAVIT UNDER O.C.G.A. §**  
**13-10-91(B)(1)**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13- 10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Fayetteville has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Name of Project

\_\_\_\_\_  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ in \_\_\_\_\_(city), \_\_\_\_\_(state).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME

ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**EXHIBIT F**  
**INSURANCE REQUIREMENTS**

Prior to the date of this Agreement, and at all times that this Agreement is in force, Contractor shall obtain, maintain and furnish the City Certificates of Insurance from licensed companies doing business in the State of Georgia with an A.M. Best Rating A-6 or higher and acceptable to the City covering:

1. As to Contractor's employees, Workers' Compensation & Employer's Liability Insurance. Workers' Compensation Insurance in compliance with the applicable Workers' Compensation Act(s) of the state (of Georgia) wherein the work is to be performed.

2. Professional (Errors and Omissions) Insurance- For Professional Services with limits of liability of not less than \$1,000,000 per occurrence or claim / \$3,000,000 policy aggregate. Such coverage shall insure damage, injury and loss caused by error, omission or negligent acts, including all prior acts without limitation, related to the professional services to be provided under this Contract. The policy shall be amended (or separate insurance with same limits must be provided) to include independent contractors or employees providing professional services on behalf of or at the direction of the Contractor. The Contractor shall ensure that coverage under this policy continues for a period of thirty-six (36) months after completion of services.

Certificates of Insurance showing that such coverage is in force shall be filed under this Contract by the Contractor to the City.

The obligations for the Contractor to procure and maintain insurance shall not be construed to waive or restrict other obligations and it is understood that insurance in no way limits liability of the Contractor whether or not same is covered by insurance.

Certificate Holder should read:

The City of Fayetteville  
240 South Glynn Street  
Fayetteville, Georgia 30214.