

Solicitation 1212-002

BLUECAT ADONIS AND PROTEUS

Bid designation: Public



Superior Court of California, County of Orange

Bid 1212-002 BLUECAT ADONIS AND PROTEUS

Bid Number	1212-002
Bid Title	BLUECAT ADONIS AND PROTEUS
Bid Start Date	Dec 7, 2012 5:39:54 PM PST
Bid End Date	Dec 14, 2012 4:00:00 PM PST
Question & Answer End Date	Dec 11, 2012 7:00:00 AM PST
Bid Contact	Karl Truong Procurement Specialist II Purchasing ktruong@occourts.org
Contract Duration	2 years
Contract Renewal	Not Applicable
Prices Good for	30 days
Standard Disclaimer	<p>The Court is not responsible for and accepts no liability for any technical difficulties or failures that result from conducting business electronically. The Court shall have no obligation to any company or firm or the successful bidder unless or until the Court and the successful bidder fully execute a final and definitive contract negotiated between the parties. Neither the mere selection and notification by the Court that a bidder has been selected as the successful bidder for the purposes of negotiating a contract nor the process of negotiating a contract shall create any obligation on the Court. No oral representations, agreements, or modifications shall be binding on the Court. All modifications must be in writing and executed by a properly authorized Court employee.</p> <p>By not taking exception(s) to any specific terms, conditions, documents, clauses, certifications, etc., vendor acknowledges its full acceptance of any and all terms, conditions, documents, clauses, certifications, etc., included in this solicitation.</p> <p>All questions or requests for clarification must be submitted through BidSync. BidSync Customer Service contact information is shown at the bottom of this screen. Please do not contact the Buyer or other Court personnel directly. The only exception would be if you are having website or document accessibility issues/problems, in which case you may e-mail or contact the Buyer for assistance.</p>
Bid Comments	<p>The Superior Court of California, County of Orange (Court) is the third largest trial Court of general jurisdiction in California with approximately 115 Judges and 29 Commissioners. The Court employs over 1800 people in more than 70 different job classifications to perform a wide range of Court-related functions. Cases are heard in seven (7) Justice Centers located across the county.</p> <p>The Court is seeking <u>Quotes</u> for BlueCat Adonis 1000 and Proteus 2150 Maintenance & Support.</p> <p>PLEASE NOTE: PRICE SHOULD BE ALL INCLUSIVE, WITH THE EXCEPTION OF ANY APPLICABLE TAXES. QUOTE NEW PRODUCT ONLY, USED/REFURBISHED ITEMS WILL NOT BE ACCEPTED. ALTERNATE BRANDS WILL NOT BE ACCEPTED. AS APPLICABLE AND NECESSARY, PLEASE ATTACH/SUBMIT YOUR DOCUMENTS USING THE <u>UPLOAD ATTACHMENT</u> COMMAND YOU WILL SEE WHEN YOU ENTER YOUR PRICE QUOTE FOR LINE ITEM #1. AS YOU ACCESS THE COURT DOCUMENTS, SOME MAY BE VIEW ONLY, BUT MOST OF THE DOCUMENTS CALL FOR YOU TO INPUT INFORMATION INTO THE BLANKS, DIRECTLY ONTO THE DOCUMENT.</p>

Item Response Form

Item 1212-002--01-01 - BLUECAT ADONIS 1000 MAINTENANCE & SUPPORT 2013
 Quantity 1 each
 Unit Price
 Delivery Location Superior Court of California, County of Orange
 CENTRAL JUSTICE CENTER
 700 Civic Center Drive West
 Santa Ana CA 92701
 Qty 1

Description

ANNUAL ADONIS 1000 MAINTENANCE & SUPPORT FROM JANUARY 01, 2013 THROUGH DECEMBER 31, 2013 FOR THE FOLLOWING SERIAL#(S):
 A100HS1010-33065-1
 A100HS1010-33063-1

 A100HS1010-33082-1
 A100HS1010-33083-1
 A100HS1010-33062-1
 A100HS1010-33080-1
 A100HS1210-32050-1
 A100HS1010-32045-1
 A100HS1010-32046-1
 SERVICE PART#: A-1000-M1Y

Item 1212-002--01-02 - BLUECAT ADONIS 1000 MAINTENANCE & SUPPORT 2014
 Quantity 1 each
 Unit Price
 Delivery Location Superior Court of California, County of Orange
 CENTRAL JUSTICE CENTER
 700 Civic Center Drive West
 Santa Ana CA 92701
 Qty 1

Description

ANNUAL ADONIS 1000 MAINTENANCE & SUPPORT FROM JANUARY 01, 2014 THROUGH DECEMBER 31, 2014 FOR THE FOLLOWING SERIAL#(S):
 A100HS1010-33065-1
 A100HS1010-33063-1

 A100HS1010-33082-1
 A100HS1010-33083-1
 A100HS1010-33062-1
 A100HS1010-33080-1
 A100HS1210-32050-1
 A100HS1010-32045-1
 A100HS1010-32046-1
 SERVICE PART#: A-1000-M1Y

Item 1212-002--01-03 - BLUECAT PROTEUS 2150 MAINTENANCE & SUPPORT 2013

Quantity 1 each
Unit Price
Delivery Location Superior Court of California, County of Orange
CENTRAL JUSTICE CENTER
700 Civic Center Drive West
Santa Ana CA 92701
Qty 1

Description

ANNUAL PROTEUS 2150 MAINTENANCE & SUPPORT FROM JANUARY 01, 2013 THROUGH DECEMBER 31, 2013 FOR THE FOLLOWING SERIAL#(S):
P215HS0309-05015-1

SERVICE PART#: P-2150-M1Y

Item 1212-002--01-04 - BLUECAT PROTEUS 2150 MAINTENANCE & SUPPORT 2014
Quantity 1 each
Unit Price
Delivery Location Superior Court of California, County of Orange
CENTRAL JUSTICE CENTER
700 Civic Center Drive West
Santa Ana CA 92701
Qty 1

Description

ANNUAL PROTEUS 2150 MAINTENANCE & SUPPORT FROM JANUARY 01, 2014 THROUGH DECEMBER 31, 2014 FOR THE FOLLOWING SERIAL#(S):
P215HS0309-05015-1

SERVICE PART#: P215HS0309-05015-1



COURT LOCATIONS

This list of Court Locations is an Informational Sheet. This Bid/RFP may, or may not, involve all of these locations. Refer to the Bid/RFP document and/or the Bid Information screen for the specific Court delivery locations for this Bid/RFP.

Vendor acknowledges reading and understanding the particular delivery information for each location described below, and hereby confirms:

- **The vendor is willing and able to make delivery in accordance with the requirements of each location below; and,**
- **The vendor has included any cost associated with meeting these requirements in its Bid/Proposal.**

CENTRAL JUSTICE CENTER (CJC)

700 CIVIC CENTER DRIVE WEST
SANTA ANA, CA 92701

Loading Dock:	Yes
Loading Dock Instructions:	Check in at security gate.
Parking:	Loading dock or paid public parking only, no parking validation available.
Delivery Instructions:	Check in with security at the loading dock to check out a temporary access card. Valid I.D. required. Take the #4 elevator to the first floor and deliver to Facilities Management.
Delivery Hours:	8:00 a.m. – 5:00 p.m.

HARBOR JUSTICE CENTER (HJC/LH)

23141 MOULTON PARKWAY
LAGUNA HILLS, CA 92653-1251

Loading Dock:	No
Loading Dock Instructions:	N/A
Parking:	Free public parking.
Delivery Instructions:	Enter facility through main entrance, proceed through weapons screening, and deliver to Facilities Management on the 1 st floor.
Delivery Hours:	8:00 a.m. – 5:00 p.m.

HARBOR JUSTICE CENTER (HJC/NB)

4601 JAMBOREE ROAD RM

NEWPORT BEACH, CA 92660-2595

Loading Dock: No
 Loading Dock Instructions: N/A
 Parking: Free public parking.
 Delivery Instructions: Enter facility through main entrance, proceed through weapons screening, and deliver to Facilities Management in Administration on the 1st floor.
 Delivery Hours: 8:00 a.m. – 5:00 p.m.

LAMOREAUX JUSTICE CENTER (LJC)

341 THE CITY DRIVE SOUTH
 ORANGE, CA 92868-3205

Loading Dock: Yes
 Loading Dock Instructions: Press red button and identify yourself to security. Security will notify Facilities Management of the delivery. Facilities Management staff will open the roll up gate for access to the loading dock.
 Parking: Loading dock or paid public parking only, no parking validation available.
 Delivery Instructions: Follow Loading Dock Instructions or enter facility through main entrance, proceed through weapons screening, and deliver to Facilities Management in Administration on the 7th floor.
 Delivery Hours: 8:00 a.m. – 5:00 p.m.

NORTH JUSTICE CENTER (NJC)

1275 N. BERKELEY AVE
 FULLERTON, CA 92832-1258

Loading Dock: No
 Loading Dock Instructions: N/A
 Parking: Free public parking.
 Delivery Instructions: Enter facility through main entrance, proceed through weapons screening, and deliver to Facilities Management in Administration on the 3rd floor. Facilities Management will escort delivery to the proper location.
 Delivery Hours: 8:00 a.m. – 4:30 p.m.

WEST JUSTICE CENTER (WJC)

8141 13TH STREET
WESTMINSTER, CA 92683-4593

Loading Dock:	No
Loading Dock Instructions:	N/A
Parking:	Free public parking.
Delivery Instructions:	Enter facility through main entrance, proceed through weapons screening, and deliver to Facilities Management in Administration on the 1 st floor.
Delivery Hours:	8:00 a.m. – 5:00 p.m.

COMPLEX CIVIL CENTER (CXC)

751 WEST SANTA ANA BLVD.
SANTA ANA, CA 92701

Loading Dock:	No
Loading Dock Instructions:	N/A
Parking:	Free public parking.
Delivery Instructions:	Contact CJC Facilities Management prior to delivery.
Delivery Hours:	8:00 a.m. – 5:00 p.m.

COMMUNITY COURT

909 N. MAIN ST.
SANTA ANA, CA 92701

Loading Dock:	No
Loading Dock Instructions:	N/A
Parking:	North side (10 th Street) or 1 st space on right next to building on north side.
Delivery Instructions:	Contact CJC Facilities Management prior to delivery.
Delivery Hours:	8:00 a.m. – 5:00 p.m.

SUPERIOR COURT RECORDS STORAGE / Irvine Facility

17112 ARMSTRONG AVE.
IRVINE, CA 92614

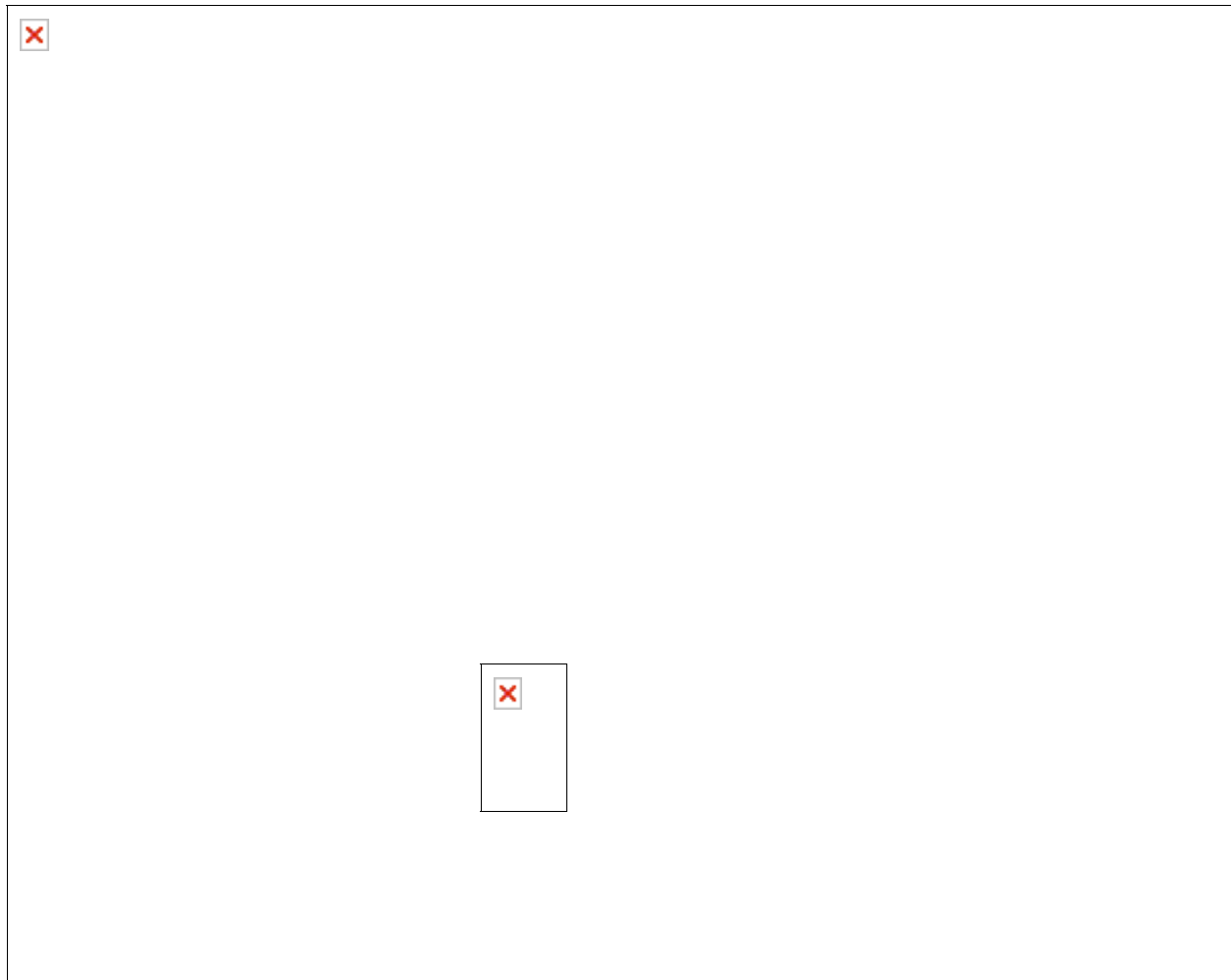
Loading Dock:	Yes
Loading Dock Instructions:	Stop at south double glass doors, ring bell and announce delivery to Records staff answering bell.
Parking:	Free public parking.
Delivery Instructions:	Anyone from Records can receive.
Delivery Hours:	8:00 a.m. – 5:00 p.m.

BID SYNC SCREEN SHOT DIRECTIONS

HOW A VENDOR UPLOADS ATTACHMENTS

INTRODUCTION: Depending on the requirements of each bid, the vendor may need to attach and submit its own documents, such as proposals, background information, financial statements, etc.

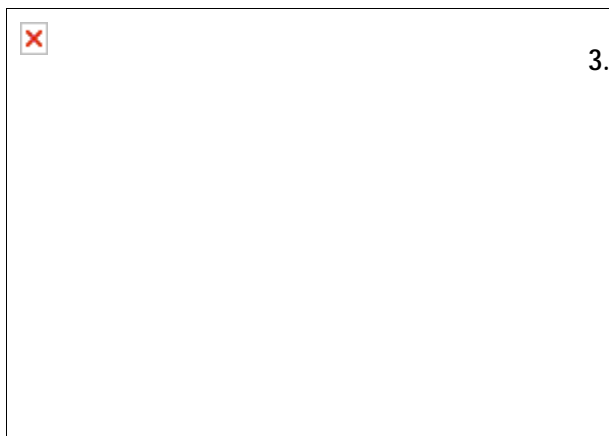
ATTACHMENTS: These directions show the vendor how to upload, attach and submit **any type** of documents. Please note that some documents may require the vendor to download, save the document and then upload to BidSync, as a part of their response to the bid/RFP.



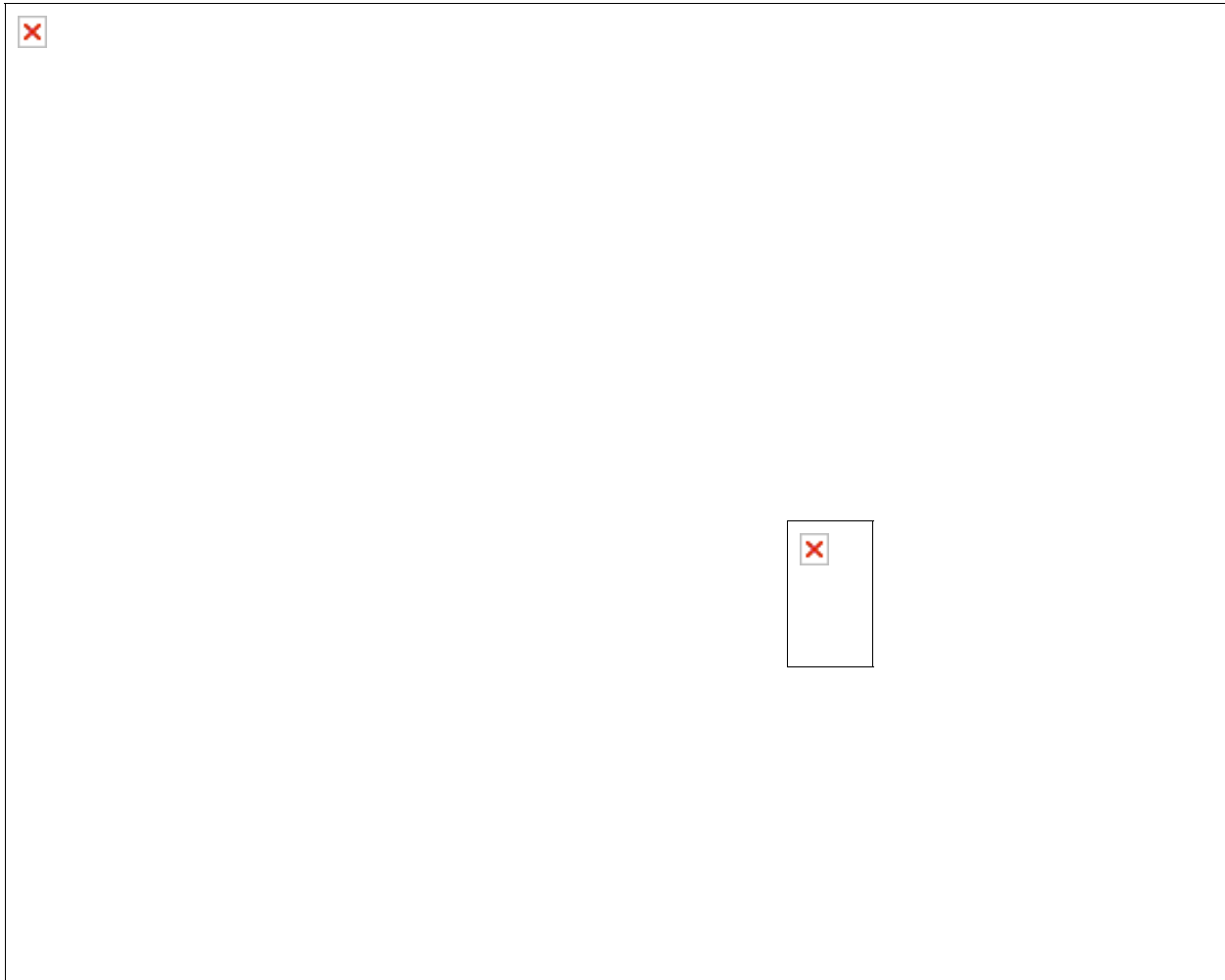
1. Vendor clicks the "Place Offer" button at the bottom of the main Bid/RFP page.



2. This screen is for the vendor to enter its price quote for Line Item #01. Vendor clicks the [Upload Attachment](#) link/command.



3. Vendor uploads and submits its proposal using this familiar box.



4. This screen shows the name of the now-attached document, "MAIN STREET PUBLISHING – Proposal for OC Court".

REMINDER: To confirm offer, once you have put in the pricing by clicking submit, then put in your password in the review page and click confirm.

Electronic Funds Transfer Authorization (via Automated Clearing House)

SECTION 1. Enrollment Type			
<i>Please select the box that indicates the enrollment action.</i>			
<input type="checkbox"/> New	<input type="checkbox"/> Change	<input type="checkbox"/> Certification	<input type="checkbox"/> Cancel
SECTION 2. Account Information			
Name of Individual/Business: <input style="width: 90%;" type="text"/>			
Name of Financial Institution: <input style="width: 90%;" type="text"/>			
Branch Number or Name: <input style="width: 70%;" type="text"/>			Branch Phone: <input style="width: 20%;" type="text"/>
Financial Institution Address (Number and Street): <input style="width: 90%;" type="text"/>			
City: <input style="width: 25%;" type="text"/>	State: <input style="width: 25%;" type="text"/>	Zip Code: <input style="width: 50%;" type="text"/>	
Type of Account: <input type="checkbox"/> Checking <input type="checkbox"/> Savings			
Nine-Digit Routing Number: <input style="width: 60%;" type="text"/>		Depositor Account Number: <input style="width: 20%;" type="text"/>	
Re-enter Routing Number: <input style="width: 60%;" type="text"/>		Re-enter Account Number: <input style="width: 20%;" type="text"/>	
SECTION 3. Authorization			
<p>1. Select the appropriate action:</p> <p style="margin-left: 20px;"><input type="checkbox"/> Authorize direct deposit of payments due the entity named in Section 2</p> <p style="margin-left: 20px;"><input type="checkbox"/> Cancel direct deposit for the entity named in Section 2</p> <p>2. Provide certification information:</p> <p style="margin-left: 20px;"><input type="checkbox"/> I certify that the entire amounts authorized to be received by this account are not subject to be transferred to a foreign bank account. I acknowledge that if this box is not selected, the Administrative Office of the Courts (AOC) will issue all payments by check only.</p> <p><small>If I transfer money from this account to an offshore bank, I will cancel this authorization and notify the AOC. This authorization remains in full force and effect until the AOC receives written notification from the entity of its termination in such manner as to afford the AOC and financial institution a reasonable opportunity to act on it, or until the AOC terminates the agreement. This authorization and any future notifications must be sent to the address listed in Section 4:</small></p>			
Authorized Signature of Entity Named in Section 1: × _____ <i>Signature</i>			Date: <input style="width: 150px;" type="text"/>
E-mail: <input style="width: 300px;" type="text"/>			Phone: <input style="width: 150px;" type="text"/>
SECTION 4. General Instructions			
<p>1. To enroll for direct deposit of payments from the Superior Courts of California or change, certify, or cancel your existing direct deposit, complete sections 1, 2, and 3 of this form.</p> <p>2. To obtain routing number or account number information, contact your financial institution.</p> <p>3. Your direct deposit will continue to be deposited into your designated account at your financial institution until the AOC is notified that you wish to re-designate your account and/or your financial institution. To re-designate, complete and submit a new form with the new information. Do not close your old account until your first payment is deposited into your newly designated account and/or financial institution.</p> <p>4. Send this authorization and any future notifications to:</p> <p style="text-align: center;">Judicial Council of California – Administrative Office of the Courts Trial Court Administrative Services Division – Attention Vendor Management P.O. Box 981268 West Sacramento, CA 95798</p>			

PAYEE DATA RECORD (in lieu of IRS W-9)		
Required in lieu of IRS W-9 form when receiving payments from the Judicial Council of California - Administrative Office of the Courts (AOC) on behalf of the Superior Courts of California		
1 Instructions	<p>See page two for additional instructional information and Privacy Statement. Complete all information on this form, sign, date, and return the form. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used to prepare Information Returns (1099). If this form was provided to you by one of the Superior Courts of California, return the form to the court. If this form was provided to you by the Judicial Council of California - Administrative Office of the Courts, submit the completed form to TCAFS.VendorRequest@jud.ca.gov or mail to the form the following address:</p> <p style="text-align: center;">Judicial Council of California - Administrative Office of the Courts Trial Court Administrative Services Division – Vendor Maintenance Unit P.O. Box 981268 West Sacramento, CA 95798</p>	
SECTIONS 2 THRU 5 TO BE COMPLETED BY VENDOR		
2 Legal Name	PAYEE'S LEGAL NAME - AS SHOWN ON FEDERAL INCOME TAX RETURN <input style="width: 100%;" type="text"/>	
	BUSINESS NAME - IF DIFFERENT FROM ABOVE <input style="width: 60%;" type="text"/>	E-MAIL ADDRESS <input style="width: 40%;" type="text"/>
	MAILING ADDRESS <input style="width: 100%;" type="text"/>	BUSINESS ADDRESS (if different from mailing address) <input style="width: 100%;" type="text"/>
	CITY, STATE, ZIP CODE <input style="width: 33%;" type="text"/> , <input style="width: 15%;" type="text"/> , <input style="width: 33%;" type="text"/>	CITY, STATE, ZIP CODE <input style="width: 33%;" type="text"/> , <input style="width: 15%;" type="text"/> , <input style="width: 33%;" type="text"/>
	PHONE NUMBER <input style="width: 100%;" type="text"/>	FACSIMILE NUMBER <input style="width: 100%;" type="text"/>
3 Payee Entity Type Complete One Box Only	ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN) <input style="width: 15%;" type="text"/> - <input style="width: 15%;" type="text"/>	
	<input type="radio"/> PARTNERSHIP <input type="radio"/> CORPORATION <input type="radio"/> EXEMPT (NON-PROFIT) <input type="radio"/> LIMITED LIABILITY COMPANY <input type="radio"/> CORPORATION – LEGAL <input type="radio"/> GOVERNMENT	
	<input type="radio"/> CORPORATION – MEDICAL <input type="radio"/> OTHER - <input style="width: 20%;" type="text"/> <input type="radio"/> ESTATE OR TRUST <input type="radio"/> INDIVIDUAL/SOLE PROPRIETOR	
<small>NOTE A taxpayer identification number is required</small>	ENTER SOCIAL SECURITY NUMBER (SSN) <input style="width: 15%;" type="text"/> - <input style="width: 15%;" type="text"/> - <input style="width: 15%;" type="text"/>	
4 Resident Status <small>check the appropriate box</small>	<input type="radio"/> California Resident - Qualified to do business in California or maintains place of business	
	<input type="radio"/> California Nonresident (see reverse side) - Payments to non-resident for services may be subject to State Income Tax withholding.	
	<input type="radio"/> No services performed in California	
	<input type="radio"/> Copy of Franchise Tax Board waiver of State Withholding attached	
5 Certification <small>NOTE See instructions on page 2</small> Vendor Contact Information and signature	Under penalties of perjury, I certify that:	
	1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. citizen or other U.S. person, as defined by the IRS.	
	I hereby certify under the penalty of perjury that the information provided on this document is true and correct. Should my information change, I will promptly notify the AOC at the address listed in Section 1.	
	VENDOR REPRESENTATIVE'S NAME (Type or Print) <input style="width: 100%;" type="text"/>	TITLE <input style="width: 100%;" type="text"/>
	AUTHORIZED VENDOR SIGNATURE <input style="width: 100%;" type="text"/>	DATE <input style="width: 100%;" type="text"/>
		E-MAIL <input style="width: 100%;" type="text"/>
		TELEPHONE <input style="width: 100%;" type="text"/>
SECTION 6 TO BE COMPLETED BY COURT		
6	Please choose from the AOC Vendor category below to help us expedite payment	
	<input type="radio"/> ARBITRATOR <input type="radio"/> VOLUNTEER <input type="radio"/> OTHER (<i>description required</i>) <input style="width: 20%;" type="text"/> <input type="radio"/> CONTRACTOR <input type="radio"/> GRAND JURY <input type="radio"/> RENT	

Vendor Category	<input type="checkbox"/> COURT APPT. COUNSEL <input type="checkbox"/> INTEREST PAYMENTS ONLY <input type="checkbox"/> DECEASED FINAL PAYMENT <input type="checkbox"/> COURT REPORTER <input type="checkbox"/> COURT INTERPRETER: <i>(indicate language)</i> <input style="width: 50px;" type="text"/>
Court Contact	<input type="checkbox"/> EMPLOYEE <input type="checkbox"/> MEDIATOR <input type="checkbox"/> GARNISHMENT TRUSTEE PAYMENT TERMS <input style="width: 50px;" type="text"/>
FOR AOC USE ONLY (Form updated 4/12/2012)	
Assigned Vendor Number	Assigned By:



|

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Requirement to Complete Payee Data Record	
<p><i>A completed Payee Data Record (in lieu of the IRS W-9) is required for payments and will be kept on file at the Judicial Council of California - Administrative Office of the Courts, Trial Court Administrative Services Division. Since each state agency with which you do business must have a separate Payee Data Record on file, it is possible for a payee to receive a similar form from various state agencies.</i></p>	
SECTIONS 2 THRU 5 TO BE FILLED OUT BY VENDOR	
2	<p>Enter the payee's legal name. Sole proprietorships must also include the owner's full name.</p> <p>An individual must list his/her legal name as it appears on his/her Federal Income tax return. If a different name is used, that name should also be entered, beneath the legal name.</p> <p>The mailing address should be the address at which the payee chooses to receive correspondence. The business address is the physical location of business, if different than mailing address. The phone number, e-mail address, and facsimile number should also be provided.</p>
3	<p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation.</p> <p>The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals is their Social Security Number (SSN). A sole proprietor may have both a Federal Employer Identification Number (FEIN) and a SSN, the IRS prefers that sole proprietors use their SSN. Only partnerships, estates, trusts, and corporations will enter their FEIN.</p>
4	<p>Are you a California resident or non-resident?</p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California.</p> <p>An estate is a resident if the decedent was a California resident at the time of death.</p> <p>A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a non-resident.</p> <p>Payments to all non-residents may be subject to withholding. Non-resident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Non-resident Withholding, contact the Franchise Tax Board at the numbers listed below: Withholding Services and Compliance Section: 1-888-792-4900 E-mail address: wscs.gen@ftb.ca.gov For hearing impaired with TDD, call: 1-800-822-6268 Website: www.ftb.ca.gov</p>
5	<p><u>This form must be signed.</u> Provide the name, title, e-mail, and telephone number of the individual completing this form. Also, provide the date the form was completed.</p> <p><u>Certification Instructions:</u> You must cross out item 2 if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. If you are not a U.S. Citizen or U.S. person, as defined by the Internal Revenue Service, a different form may be required and tax withholdings may apply. See IRS website http://www.irs.gov/businesses/international/index.html for additional information.</p>
SECTION 6 TO BE FILLED OUT BY COURT	
6	<p>Please check the box that best describes the type of business/work the vendor provides. This will assist us in processing payment and tax withholdings. If the court is sending the request, please include contact information to assist with processing your request. Not including court contact information may delay processing the vendor request.</p>
<p>Privacy Statement: Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it. It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes non-compliance penalties of up to \$20,000. You have the right to access records containing your personal information, such as your SSN. To exercise the right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact that business.</p>	



SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

ADMINISTRATIVE RULES OF THE BID/RFP

(Court Online Procurement Website: www.BidSync.com)

1. BID/PROPOSAL PREPARATION COSTS

Contractors submitting Bids/Proposals do so entirely at their expense. There is no express or implied obligation by the Court to reimburse a Contractor for any costs incurred in preparing or submitting Bids/Proposals, providing additional information when requested by the Court, participating in any selection interviews or product demonstrations, or participating in this procurement.

2. PRE-SUBMITTAL PROCESS

2.1 Requests for Clarifications or Modifications

Contractors interested in responding to this solicitation may submit questions on procedural matters related to the solicitation or requests for clarification or modification of this solicitation document electronically through the Court Online Procurement Website. If the Contractor is requesting a change, the request must set forth the recommended change and the Contractor's reasons for proposing the change. All questions and requests must be submitted no later than the date specified in the Bid Information screen.

Questions or requests submitted after the due date will not be accepted.

Without disclosing the source of incoming questions or requests, the Court will post a copy of the questions and the Court's responses on the Court Online Procurement Website. Within the discretion of the Court, and within the Court's desire to present information in any organized, easy to understand fashion, not every question may be specifically, individually answered.

If a Contractor's question relates to a proprietary aspect of its Bid/Proposal and the question would expose proprietary information if disclosed to competitors, the Contractor may submit the question in writing via direct e-mail to the Submittal Contact (as opposed to posting the question on the Court Online Procurement Website) conspicuously marking it as "CONFIDENTIAL." With the question, the Contractor must submit a statement explaining why the question is sensitive.

- If the Court concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence.

- If the Court does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the Contractor will be notified. Contractor may then submit the question through the normal process for questions through the Court Online Procurement Website.

2.2 Ambiguity, Discrepancies, Omissions

If a Contractor submitting a Bid/Proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the Contractor shall immediately provide notice of the problem via direct e-mail to the Buyer, or notification through the Court Online Procurement Website, and request that the solicitation document be clarified or modified. Without disclosing the source of the request, the Court may modify the solicitation document prior to the date fixed for submission of Bids/Proposals by posting an addendum on the Court Online Procurement Website.

If prior to the date fixed for submission a Contractor submitting a Bid/Proposals knows of or should have known of an error in the solicitation document but fails to notify the Court of the error, the Contractor shall propose at its own risk, and if the Contractor is awarded the contract, the Contractor shall not be entitled to additional compensation or time by reason of the error or its later correction.

2.3 Contact with Court

Contractors are specifically directed NOT to contact any Court personnel or consultants for meetings, conferences, or discussions that are specifically related to this solicitation at any time prior to any award of a contract. Unauthorized contact with any Court personnel or consultants may be cause for rejection of the Contractor's Bid/Proposal.

All contact with Court during the solicitation process must be in writing, via e-mail, to the Submittal Contact, or through the Court Online Procurement Website.

2.4 Solicitation Addenda

The Court may modify this solicitation document prior to the date fixed for submission of Bids/Proposals by posting an addendum on the Court Online Procurement Website. If any potential Contractor determines that an addendum unnecessarily restricts its ability to propose, it must notify the Buyer via e-mail no later than three (3) business days following the date the addendum provided or posted.

Pricing shall reflect all addenda issued by the Court. Failure to do so will permit the Court to interpret the Bid/Proposal to include all addenda issued in any resulting contract.

3. SUBMISSION OF BIDS/PROPOSALS

3.1 Bid/Proposal Submission (Electronic Submission)

All Bids/Proposals shall be electronically submitted via the Court Online Procurement Website.

The Contractor is solely responsible for ensuring that the full Bid/Proposal is submitted via the Court Online Procurement Website, prior to the date and time specified on the Bid Information screen of this Quick Quote.

If the Contractor encounters any problems in submitting its Bid/Proposal electronically, or needs any assistance, please contact www.BidSync.com online or call www.BidSync.com

Customer Service toll free at 1 800 990 9339.

The Court is not responsible for and accepts no liability for any technical difficulties or failures that result from conducting business electronically. The Court shall have no obligation to any company or firm or the successful bidder unless or until the Court and the successful bidder fully execute a final and definitive contract negotiated between the parties.

Neither the mere selection nor notification by the Court that a Contractor has been selected as the successful bidder for the purposes of negotiating a contract nor the process of negotiating a contract shall create any obligation on the Court. No oral representations, agreements, or modifications shall be binding on the Court. All modifications must be in writing and executed by a properly authorized Court employee.

3.2 Amendment or Withdrawal of Bids/Proposals

A Contractor may amend its Bid/Proposal prior to the Due Date and Time. Contractor should follow the process as set forth on the Court Online Procurement Website to amend its Bid/Proposal. If the Contractor encounters any problems in amending its Bid/Proposal electronically, or needs any assistance, please contact www.BidSync.com online or call www.BidSync.com Customer Service toll free at 1 800 990 9339.

A Contractor may withdraw its Bid/Proposal at any time prior to the Bid/Proposal Due Date and Time. Contractor should follow the process as set forth on the Court Online Procurement Website to withdraw its Bid/Proposal. If the Contractor encounters any problems in withdrawing its Bid/Proposal electronically, or needs any assistance, please contact www.BidSync.com online or call www.BidSync.com Customer Service toll free at 1 800 990 9339.

Amendments or withdrawals offered in any other manner, than described above will not be considered. Bids/Proposals cannot be amended or withdrawn after the Bid/Proposal Due Date and Time.

3.3 Mistake in Bid/Proposal

If, after the Bid/Proposal Due Date and Time but prior to a contract award, a Contractor discovers a mistake in their Bid/Proposal that renders the Contractor unwilling to perform under any resulting contract, the Contractor must immediately notify the Buyer via e-mail or through the Court Online Procurement Website and request to withdraw the Bid/Proposal. It shall be solely within the Court's discretion as to whether withdrawal will be permitted. If the solicitation contemplated evaluation and award of "all or none" of the items, then any withdrawal must be for the entire Bid/Proposal. If the solicitation provided for evaluation and award on a line item or combination of items basis, the Court may consider permitting withdrawal of specific line item(s) or combination of items.

3.4 Error in Submitted Bids/Proposals

If an error is discovered in a Contractor's Bid/Proposal, the Court may at its sole option retain the Bid/Proposal and allow the Contractor to submit certain corrections. The Court may, at its sole option, allow the Contractor to correct obvious clerical errors. In determining if a correction will be allowed, the Court will consider the conformance of the Bid/Proposal to the format and content required by the solicitation, the significance and magnitude of the correction, and any unusual complexity of the format and content required by the solicitation.

If the Contractor's intent is clearly established based on review of the complete Bid/Proposal

submitted, the Court may, at its sole option, allow the Contractor to correct an error based on that established intent.

The total price of unit-price items or individual line items will be the product of the unit or line item price and the quantity. If the unit or line item price is ambiguous, unintelligible or uncertain for any cause, or is omitted, the unit or line item price shall be the amount obtained by dividing the "extension" price by the item quantity.

3.5 Knowledge of Requirements

The Contractor shall carefully review all documents referenced and made a part of this solicitation to ensure that all information required to properly respond has been submitted or made available and all requirements are priced in the Bid/Proposal. Failure to examine any document, drawing, specification, or instruction will be at the Contractor's sole risk.

Contractors shall be responsible for knowledge of all items and conditions contained in their Bids/Proposals and in this solicitation, including any Court issued clarifications, modifications, amendments, or addenda.

3.6 Independence of Bid/Proposal and Joint Bid/Proposals

Unless a Contractor is submitting a joint Bid/Proposal, the Contractor represents and warrants that by submitting its Bid/Proposal it did not conspire with any other Contractor to set prices in violation of anti-trust laws.

A Bid/Proposal submitted by two or more Contractors participating jointly in one Bid/Proposal may be submitted, but one Contractor must be identified as the prime Contractor and the other as the Subcontractor. The Court assumes no responsibility or obligation for the division of orders or purchases among joint Subcontractors.

3.7 Covenant Against Gratuities

Contractor warrants by signing its Quote that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the Contractor or any agent, director, or representative of the Contractor, to any officer, official, agent, or employee of any Court with a view toward securing award of or securing favorable treatment with respect to any determinations concerning the performance of any resulting contract. For breach or violation of this warranty, the Court will have the right to terminate any resulting contract in whole or in part. The right and remedies of the Court provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the resulting contract.

4. PUBLIC ACCESS TO RECORDS AND CONFIDENTIAL OR PROPRIETARY INFORMATION

PUBLIC ACCESS TO RECORDS AND INFORMATION

Effective January 1, 2010, Rule 10.500 of the California Rules of Court (http://www.courtinfo.ca.gov/rules/index.cfm?title=ten&linkid=rule10_500) set forth comprehensive access provisions applicable to administrative records maintained by a trial court.

The Court will make identifiable administrative records available upon request, unless the records are exempt from disclosure under Rule 10.500. Providing copies of records may be subject to payment of a fee by the requestor.

Please direct any requests for access to administrative records related to this Bid/RFP to:

Superior Court of California, County of Orange
Public Information Office
700 Civic Center Drive West
Santa Ana, CA 92701
Phone: (657) 622-5000
Fax: (714) 647-4849

ACCESS TO MATERIAL AND CONFIDENTIAL OR PROPRIETARY INFORMATION

All materials submitted in response to a Bid/RFP will become the property of the Court and will be returned only at the Court's option and at the expense of the vendor submitting the Bid/Proposal. A copy of each Bid/Proposal will be retained for official files.

Please be aware that Contractor's response(s) to this Bid/RFP may be considered a public record and be made available to anyone who requests a copy.

If a Bid/Proposal contains particular material noted or marked by the vendor as "Confidential" and/or "Proprietary" and if under Rule 10.500 such material would be exempt from public disclosure, then that information may not be made available to the public. However, if the Court considers that under Rule 10.500 such material is not exempt from public disclosure, the material may be made available to the public, regardless of the vendor's notation or markings.

If an entire Bid/Proposal contains a wholesale, blanket, or general marking by the vendor as "Confidential" and/or "Proprietary," under Rule 10.500 it is very unlikely that the entire Bid/Proposal would be exempt from public disclosure. If the Court considers that under Rule 10.500 such material is not exempt from public disclosure, the material may be made available to the public, regardless of the vendor's notation or markings.

If a vendor is unsure if its confidential and/or proprietary material would fall within the disclosure exemption requirements of Rule 10.500, then it should not include such information in its Bid/Proposal because such information may be disclosed to the public.

5. AWARD BASED ON "LOW BID" OR "BEST VALUE"

Depending on the specific situation/scenario of each Bid/RFP, award may be based on "Low Bid" (i.e. the lowest bid received from a responsive, responsible bidder), "Best Value" (i.e. the bid/proposal that represents the best overall value to the Court and the community which the Court serves), or other suitable basis for making an award decision.

5.1 Evaluation Criteria

In those situations where /Proposals will be evaluated to determine best value, to the Court and the community which the Court serves, Contractors shall refer to the RFP for further details.

6. INTERVIEWS AND NEGOTIATIONS

6.1 Interviews

Following the initial screening of Bids/Proposals, the Court reserves the right to require, and each Contractor must be prepared to conduct, oral presentations and other discussions (written or verbal) on the content of its Bid/Proposal. If the Court determines that interviews or presentations are required, selected Contractors will be notified in writing of the date, place, time and format of the interview or presentation. Contractors will be responsible for all costs related to the interview, which, at the Court's sole discretion, may be in-person and/or by teleconference. Failure to participate in such interviews or presentations shall result in a Contractor's disqualification from further consideration.

6.2 Negotiations

If the Court desires to enter into negotiations, it will do so with one or more Contractors, at its discretion. If the Court enters into negotiations and no contract is reached, the Court can negotiate with the other Contractors or make no award under this solicitation. The Court reserves the right to award a contract, if any, without negotiations.

6.3 News Releases

News releases pertaining to the award of any contract resulting from this solicitation may not be made by a Contractor without the prior written approval of the Court Contracts Officer.

7. AWARD OF CONTRACT

Upon award, the successful Contractor(s) will be required to execute a Contract in accordance with the Statement of Work and the General Conditions, if applicable, and provide a certificate of insurance in conformance with the requirements set forth in the General Conditions within thirty (30) business days of award, if applicable. The period for execution of the Contract may be changed by mutual contract of the parties. Contracts are not effective until signed by both parties.

8. RESERVATION OF RIGHTS

The Court, in its complete discretion, may eliminate Bids/Proposals that have not scored adequately in relation to other Bids/Proposals to warrant further consideration during any phase of the evaluation process. The Court reserves the right to reject any or all Bids/Proposals, in whole or in part, and may or may not waive any immaterial deviation or defect in a Bid/Proposal.

The Court's waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a Contractor from full compliance with solicitation document specifications.

If a Bid/Proposal fails to meet a material solicitation document requirement, the Bid/Proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with the requirements of the solicitation document. Material deviations cannot be waived.

Unless otherwise specified in the solicitation, the Court may accept any item or combination of items as specified in the solicitation, of any Bid/Proposal unless the Contractor expressly restricts an item or combination of items in its Bid/Proposal and conditions its response on receiving all items for which it provided a Bid/Proposal. In the event that the Contractor so restricts its Bid/Proposal, the Court may consider the Contractor's restriction and evaluate whether the award on such basis will result in the best value to the Court or may determine in its sole discretion that such restriction is non-responsive and renders the Contractor ineligible for

further evaluation.

The Court reserves the right to negotiate with Contractors who have presented, in the opinion of the Court, the best Bid/Proposal in an attempt to reach a contract. If no contract is reached, the Court can negotiate with other Contractors or make no award under this solicitation. At any time the Court can reject all Bids/Proposals and make no award under this solicitation. Moreover, the Court reserves the right to reconsider any Bid/Proposal submitted at any phase of the procurement. It also reserves the right to meet with Contractors to gather additional information.

Bid/Proposals that contain false or misleading statements may be rejected if in the Court's opinion the information was intended to mislead the Court regarding a requirement of the solicitation document.

Court may investigate the qualifications of any Potential Contractor under consideration, require confirmation of information furnished by a Potential Contractor, and require additional evidence of qualifications to perform the Services described in this solicitation.

- Court reserves the right to:
- Reject any or all of the Bids/Proposals;
- Issue subsequent solicitation;
- Cancel the entire solicitation;
- Remedy errors in the solicitation;
- Reduce the scope of work for a reasonable amount if in the best interest and at the sole discretion of Court;
- Appoint Courts to review Bids/Proposals;
- Seek the assistance of outside technical experts to review Bids/Proposals;
- Approve or disapprove the use of particular Subcontractors and suppliers;
- Establish a list of Potential Contractors eligible for discussions after review of written Bids/Proposals;
- Negotiate with any, all, or none of the Potential Contractors;
- Solicit best and final offers (BAFO) from all or some of the Potential Contractors;
- Award a contract to one or more Potential Contractors;
- Accept other than the lowest priced Bid, if such award is in the best interests of Courts;
- Waive informalities and irregularities in Bids/Proposals;
- Award a Contract without discussions or negotiations;
- Disqualify a Bid/Proposal upon evidence of collusion with intent to defraud, or other illegal practice(s) on the part of a Potential Contractor; and/or,
- Take any/all other actions related to this solicitation and this solicitation process that may
- be deemed necessary by Court to meet the needs of the Court and the community which it serves.

9. NO COMMITMENT TO AWARD

Issuance of the solicitation and receipt of Bid/Proposals does not commit Court to award a contract. Court expressly reserves the right to postpone Bid/Proposal opening for its own convenience, to accept or reject any or all Bids/Proposals received in response to this

solicitation, to negotiate with more than one Contractor concurrently, or to cancel all or part of this solicitation.

10. NO OBLIGATION TO EXECUTE A SOLE CONTRACT

Court has the right to award zero, one, two, or more contracts through this solicitation. No guarantee or promise is made by Court of any sole or exclusive contracting relationship with any of the Contractors.

11. PROTEST PROCEDURES

The Court intends to be completely open and fair to all Contractors in making an Award that is the most advantageous to the Court within budgetary and other constraints described in the solicitation document. In applying evaluation criteria and making the selection, members of the evaluation team will exercise their best judgment.

11.1 Solicitation Specifications Protests

A solicitation specifications protest is a protest alleging that a Solicitation Document contains a technical, administrative, or cost specification or requirement that is defective. The specification or requirement may be defective because it is:

- Onerous, unfair, or illegal; or
- Imposes unnecessary constraints in proposing less costly or alternate solutions.

A Protester's failure to comply with the protest procedures may result in the Court's rejection of a solicitation specifications protest.

A. Deadline for Receipt of Protest

The deadline for the Court to receive a solicitation specifications protest is the applicable date specified in the Solicitation Document. If no date is specified in the Solicitation Document, the deadline for the Court to receive a solicitation specifications protest is the Bid Closing Time.

The Protester is solely responsible for ensuring that a solicitation specifications protest is received by the Court by the deadline. The failure of a Protester to submit a timely solicitation specifications protest constitutes a waiver of the Protester's right to protest the solicitation's specifications or requirements.

B. Required Information

A solicitation specifications protest must include the following information:

- Contact information of the Protester or its representative (this must include name, address, and telephone number, and should include email address and facsimile number);
- The title of the Solicitation Document to which the protest is related;
- The specific alleged deficiency in the solicitation's technical, administrative, or cost specifications or requirements;
- A detailed description of the specific legal and factual grounds of protest and any supporting documentation; and
- The specific ruling or relief requested.

A solicitation specifications protest lacking any of this information may be rejected by the protest hearing officer [Chief Financial Officer (“CFO”)].

The CFO may issue a written determination regarding the solicitation specifications protest without requesting further information from the Protester. Therefore, the solicitation specifications protest must include all grounds for the protest and all evidence available at the time the protest is submitted. If the Protester later raises new grounds or evidence that was not included in the initial protest submittal but which could have been raised at that time, the Court shall not consider the new grounds or new evidence.

C. Submission of the Protest

The Protester must send the solicitation specifications protest to the individual identified in the solicitation document. The Protest must be in writing and sent by certified or registered mail or delivered personally to the address indicated in the solicitation. If the protest is hand-delivered, a receipt must be requested.

Note: The Protester bears the burden of proof to show that the Solicitation Document contains a defective technical, administrative, or cost specification or requirement.

D. Written Determination

The CFO must issue a written determination before the Court opens the Bids (or evaluates the Bids, if the Bids are not sealed). If required, the Court may extend the Bid Closing Time to allow for time to review the solicitation specifications protest.

If the CFO determines that the solicitation specifications protest has merit, the CFO must take appropriate remedial action. Such action may include:

Changing or clarifying the defective technical, administrative, or cost specification or requirement through an addendum to the Solicitation Document; or canceling the solicitation.

If an addendum to the Solicitation Document is issued and the addendum may require additional time for Protester to respond, the addendum should extend the Bid Closing Date by an appropriate amount of time (as determined by the CFO).

E. Appeal

The CFO’s written determination is the final action by the Court unless the Protester submits an appeal to the protest appeals officer [Chief Executive Officer (“CEO”)] within two (2) Court Days of the issuance of the CFO’s written determination.

11.2 Award Protests

An award protest is a protest alleging that:

- The Court has committed an error in the award process sufficiently material to justify

invalidation of the proposed award; or

- The Court’s decisions are lacking a rational basis and are, therefore, arbitrary and capricious.

Failure to comply with the protest procedures may result in the Court’s rejection of an award protest.

A person or entity who did not submit a Bid may not make an award protest.

In no event will the Court consider a protest if the Court rejected all Bids or the solicitation was canceled for any reason.

A. Deadline for Receipt of Protest

For solicitations using a Bid or RFP, the deadline for the Court to receive an award protest is specified in the table below.

The Protester is solely responsible for ensuring that an award protest is received by the Court by the applicable due date. In no event will the Court consider a protest after the contract has been awarded.

NON-IT GOODS	NON-IT SERVICES	IT GOODS AND SERVICES
<p>The Court must receive the award protest within 24 hours after the Court issues the intent to award.</p> <p>The Protester will have 10 calendar days after the Court receives the protest to submit all information in section B below to the Court.</p>	<p>The Court must receive the award protest within 5 court days after the Court issues the intent to award.</p> <p>The Protester will have 5 calendar days after the Court receives the protest to submit all information in section B below to the Court.*</p>	<p>The Court must receive the award protest within 5 court days after the Court issues the intent to award.</p> <p>The Protester will have 10 calendar days after the Court receives the protest to submit all information in section B below to the Court.</p>

B. Required Information

An award protest must include the following information:

- Contact information of the Protester or its representative (this must include name, address, and telephone number, and should include email address and facsimile number);
- The title of the Solicitation Document to which the protest is related;
- The specific alleged error or irrational decision made by the Court;
- A detailed description of the specific legal and factual grounds of protest and any supporting documentation; and
- The specific ruling or relief requested.

If an award protest is missing any of this information (by the date the Protester is required to have all such information to the Court), the award protest may be rejected by the CFO.

The CFO may issue a written determination regarding the award protest without requesting further information from the Protester. Therefore, the award protest must include all grounds and all evidence available at the time the award protest is submitted. If the Protester later raises new grounds or evidence that was not included in the initial protest submittal but which could have been raised at that time, the Court shall not consider such new grounds or new evidence.

C. Submission of the Protest

The Protester must send the award protest (and any supporting documentation) to the individual identified in the Solicitation Document. The Protest must be in writing and sent by certified or registered mail or delivered personally to the address indicated in the solicitation. If the protest is hand-delivered, a receipt must be requested.

The Protester bears the burden of proof to show that (i) the Court has committed an error in the award process sufficiently material to justify invalidation of the proposed award, or (ii) the Court's decisions are lacking a rational basis and are, therefore, arbitrary and capricious.

D. Written Determination

The CFO must respond to an award protest with a written determination before the contract is awarded. The CFO should issue the written determination within 10 Court Days of the complete submission of the award protest, or notify the Protester that additional time will be required. The Court may extend the award date to allow for time to review the award protest.

If the CFO determines that the award protest has merit, the CFO must take appropriate remedial action. In determining the appropriate remedial action, the CFO should consider all circumstances surrounding the procurement, including:

- Seriousness of the procurement deficiency;
- Degree of prejudice to other Bidders;
- Impact on the integrity of the competitive procurement system;
- Good faith of the parties;
- Cost to the Court;
- Urgency of the procurement; and,
- Impact on the Court.

Remedial actions may include:

- Issuing a new solicitation;
- Re-competing the Agreement;
- Terminating the Agreement (e.g., if an Agreement was executed despite a pending appeal);
- Refraining from the exercise of options under the awarded Agreement; and,
- Awarding the Agreement consistent with law.

E. Appeal

The CFO's written determination is considered the final action by the Court unless the Protester submits an appeal to the protest appeals officer [Chief Executive Officer (CEO)] within 5 (five) calendar days of the issuance of the CFO's written determination.

The Court may, at its sole discretion, delay the Agreement award until the appeal is resolved or proceed with the award and execution of the Agreement.

11.3 Appeals Process

The Protester must send the appeal to the CEO in writing and sent by certified or registered mail or delivered personally to the address indicated in the solicitation. If the protest is hand-delivered, a receipt must be requested.

The basis for appeal is limited to: (1) facts and/or information related to the protest, as previously submitted, that was not available at the time the protest was originally submitted; or (2) the decision of the CFO was an error of law or regulation. Upon receipt of a request for appeal, the CEO or his/her designee will review the request and the decision of the CFO and shall issue a final determination. The decision of the CEO shall constitute the final action of the Court

Any appeal not received by the CEO by the applicable deadline for submission will be rejected by the Court. The Protester is solely responsible for ensuring that an appeal is received by the CEO by the applicable due date.

The appeal must include:

- Contact information of the Protester or its representative (this must include name, address, and telephone number, and should include email address and facsimile number);
- The title of the Solicitation Document to which the protest is related;
- A copy of the CFO's written determination;
- A detailed description of the specific legal and factual basis for the appeal and any supporting documentation; and,
- The specific ruling or relief requested. Issues that could have been raised earlier will not be considered on appeal.

An appeal lacking any of this information may be rejected by the CEO. The appeal must include all information that the Protester wants the CEO to consider.

The Protester bears the burden of proof to show that the CFO's written determination is incorrect:

- In light of new information related to the protest that was not available at the time the protest was originally submitted; or,
- Because it is in error of law or regulation.

The CEO reviews the appeal and issues a written determination. Issues that could have been raised earlier are not to be considered on appeal. The written determination of the CEO constitutes the final determination of the Court regarding the protest.

If the CEO determines that the appeal has merit, the CEO will direct the CFO to take appropriate remedial action.

PROPOSER CERTIFICATION FORM

I certify that neither (*insert the name of your company*) nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency, and that neither Proposer nor any of its proposed subcontractors are tax delinquent with the State of California.

I certify that (*insert the name of your company*) has no interest that would constitute a conflict of interest under California Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or rule 10.103 or rule 10.104 of the California Rules of Court, which restrict employees and former employees from contracting with judicial branch entities.

If a Corporation (or Limited Liability Company), I certify that (*insert the name of your company*) is in good standing and qualified to do business in California. (*Proposer to attach Certificate of Good Standing to proposal documents.*)

Below, I have listed all contracts with government or commercial customers during the five years preceding submission of this Proposal that have terminated for cause or default.

I acknowledge that if Proposer or any of its subcontractors subsequently are placed under suspension or debarment by a local, state or federal government entity, or if Proposer or any of its subcontractors subsequently become delinquent in California taxes, our Proposal may be disqualified.

List of all Contracts with Government or Commercial Customers during the Five Years preceding Submission of this Proposal that have terminated for cause or default:

PROPOSER’S ACCEPTANCE OF THE PO/ CONTRACT TERMS AND CONDITIONS

DIRECTIONS: Please Mark the Appropriate Choice, below:

- ☐ Proposer accepts: (1) The Model Contract included with this solicitation including all of its Terms and Conditions; and/or, (2) The PO included with this solicitation including all of its Terms and Conditions, without exception.

OR

- ☐ Proposer proposes exceptions/modifications to one or both of the items listed directly above.

DIRECTIONS: If Proposer indicates the 2nd choice above, Proposer must attach a list of any and all exceptions to PO/Contract Terms and Conditions and provide rationale for the exception(s).

Proposer must attach a list of any and all exceptions to Model Contract, including its Terms and Conditions, below, and provide rationale for the exception(s):

CERTIFICATION OF ACCEPTANCE

PROPOSER

EMPLOYER IDENTIFICATION NUMBER

In response to the Bid/Request for Proposal, I/we the undersigned hereby declare that I/we have carefully read and examined the Bid/RFP documents and all other documents and information posted online at the Court Online Procurement Website (www.BidSync.com) and hereby propose to perform the Statement of Work and/or provide the goods/products as required in this solicitation.

The PO/Contract pursuant to this Bid/RFP may not be exclusive. Court expressly reserves the right to contract for performance of services and/or procurement of goods/products such as those described herein through other Proposers.

The undersigned agrees to supply the services set forth and/or provide the goods/products in its submitted Bid/Proposal at the costs indicated, if the Bid/Proposal is accepted within 90 days, or as otherwise set forth in this solicitation, from the Bid/Proposal submission deadline date. If recommended for Contract award, the undersigned agrees to execute a Contract that will be prepared by Court for execution, within thirty (30) calendar days following Notification of Award.

Proposer represents that the following person is authorized to negotiate on its behalf with Court in connection with this Bid/RFP:

(Name) (Title) (Phone)

Email Address:

The undersigned certifies that he/she has examined and is fully familiar with all of the provisions of the Bid/RFP Documents, Addenda, etc. The undersigned hereby agrees that Court will not be responsible for any errors or omissions in these Bid/RFP Documents and Addenda. The undersigned certifies that he/she has the legal capacity to sign on behalf of the Proposer listed above, and that this signature is a legally binding signature upon the Proposer.

(Signature)

(Email)

(Type or Print Name)

(Phone)

(Title)

(Name of Company)



CONTRACTOR INFORMATION QUESTIONNAIRE

CONTRACTOR - NAME, ADDRESS, PHONE AND E-MAIL ADDRESS:

2. CONTACT PERSON FOR THIS BID/RFP - NAME, ADDRESS, PHONE, AND E-MAIL ADDRESS:

3. PRINCIPAL TYPE OF BUSINESS:

4. NUMBER OF YEARS IN BUSINESS:

4A. NUMBER OF YEARS PROVIDING PRODUCTS/SERVICES SIMILAR TO SIZE AND SCOPE AS THOSE IN THIS SOLICITATION:

4B. NUMBER OF YEARS PROVIDING PRODUCTS/SERVICES SIMILAR TO SIZE AND SCOPE AS THOSE IN THIS SOLICITATION TO GOVERNMENT AGENCY CLIENTS:

5. PREVIOUS BUSINESS NAMES, PREVIOUS LOCATIONS, AND LENGTH OF TIME AT EACH LOCATION:

6. DESCRIPTION OF CONTRACTOR'S BUSINESS ORGANIZATION, INCLUDING COMPANY OFFICERS,

PARTNERS, PRINCIPALS, ETC., AS APPLICABLE:

Empty text box with a vertical scrollbar on the right side.

7. DESCRIPTION OF CONTRACTOR'S PRIMARY PRODUCTS/SERVICES:

Empty text box with a vertical scrollbar on the right side.

8. DESCRIPTION OF CONTRACTOR'S TYPICAL CLIENTS:

Empty text box with a vertical scrollbar on the right side.

9. REFERENCES - LIST THE NAME, ADDRESS, PHONE AND E-MAIL ADDRESS OF THREE (3) BUSINESS REFERENCES FOR WHOM YOU HAVE PROVIDED SIMILAR SERVICES AS THOSE IN THIS BID/RFP WITHIN THE PAST THREE (3) YEARS. CONTRACTOR'S PROPOSAL SHALL IDENTIFY THE CONTRACT INFORMATION, CONTRACT VALUE, CONTRACT DURATION AND CONTRACT TIME FRAME. IDENTIFY THE AGENCY IF A GOVERNMENT ENTITY.

(Please notify these References that you have provided them to the Court as References):

Empty text box with a vertical scrollbar on the right side.

10. LIST CONTRACTOR'S GROSS INCOME/RECEIPTS FOR THE PRIOR THREE (3) YEARS. (COURT RESERVES THE RIGHT TO REQUEST ADDITIONAL FINANCIAL INFORMATION, RECORDS, PROFIT AND LOSS STATEMENTS, ETC.):

Empty text box with a vertical scrollbar on the right side.

11. LIST AND DESCRIBE SIGNIFICANT TRANSACTIONAL EVENTS IN THE PAST FIVE (5) YEARS SUCH AS: BANKRUPTCIES, MERGERS, ACQUISITIONS, INITIAL PUBLIC OFFERINGS (IPO'S).

Empty text box with a vertical scrollbar on the right side.

- 12. LIST THE ANNUAL CONTRACT VALUE OF THE CONTRACTOR'S THREE (3) LARGEST CONTRACTS FOR SIMILAR PRODUCTS AND SERVICES IN THE PAST THREE (3) YEARS.

- 13. PERCENT OF TURNOVER IN THE CONTRACTOR'S ORGANIZATION FOR EACH OF THE LAST THREE (3) YEARS OF SERVICE STAFF WHO WILL BE RESPONSIBLE FOR PROVIDING PRODUCTS AND SERVICES DESCRIBED IN THIS RFP (E.G., ACCOUNT MANAGER, CUSTOMER SERVICE PERSONNEL, ETC.).

- 14. LIST AND DESCRIBE ANY CURRENT OR PENDING BUSINESS DISPUTES OR LITIGATION OF ANY TYPE, i.e. LAWSUITS, BANKRUPTCY PROCEEDINGS, ARBITRATIONS, MEDIATIONS, OTHER FORMAL DISPUTES, ETC:

- 15. LIST AND DESCRIBE ANY/ALL LICENSES, PERMITS, ETC., YOU HOLD THAT MAY BE RELATED TO SUPPLYING THE PRODUCTS OR PERFORMING THE SERVICES IN THIS BID/RFP IN THE STATE OF CALIFORNIA, COUNTY OF ORANGE:

- 16. THIS FINAL SECTION APPLIES ONLY IF YOU ARE PROPOSING THE USE OF SUBCONTRACTORS.

IF YOU ARE NOT PROPOSING THE USE OF SUBCONTRACTORS, LEAVE THESE FINAL BOXES BLANK.

- 16A. Provide the following information for the first Subcontractor:

- a. Subcontractor name and address.

- b. Federal tax identification number.

c. If incorporated, identify the state of incorporation.

d. Description of the subcontractor's business organization.

e. Principal type of business.

f. Total number of years in business.

g. Number of years providing services similar in size and scope to those requested in this RFP.

h. Contractor's gross income/receipts for the prior three (3) years.

i. Significant transactional events in the past five (5) years such as: bankruptcies, mergers, acquisitions, initial public offerings (IPO's).

j. Percent of turnover in the Subcontractor's organization for each of the last three (3) years of service staff who will be responsible for providing products and services described in this RFP (e.g., Account Manager, Customer Service personnel, etc.).

16B. Provide the following information the second Subcontractor:

a. Subcontractor name and address.

b. Federal tax identification number.

c. If incorporated, identify the state of incorporation.

d. **Description of the subcontractor's business organization.**

e. **Principal type of business.**

f. **Total number of years in business.**

g. **Number of years providing services similar in size and scope to those requested in this RFP.**

h. **Contractor's gross income/receipts for the prior three (3) years.**

i. **Significant transactional events in the past five (5) years such as: bankruptcies, mergers, acquisitions, initial public offerings (IPO's).**

j. **Percent of turnover in the Subcontractor's organization for each of the last three (3) years of service staff who will be responsible for providing products and services described in this RFP (e.g., Account Manager, Customer Service personnel, etc.).**



INSURANCE REQUIREMENTS FORM

& SAMPLE INSURANCE CERTIFICATE

CONTRACTOR'S STATEMENT REGARDING INSURANCE REQUIREMENTS

Mark the Appropriate Choice, below:

- ☐ Contractor currently maintains, and will continue to maintain, insurance that meets the requirements set forth in the Bid/RFP document, specifically in the Model Contract or the included Terms and Conditions, and satisfies the requirements illustrated on the attached Sample Insurance Certificate.

(In case of any conflict or discrepancy between the insurance requirements in the Bid/RFP vs. the Sample Insurance Certificate, the Bid/RFP insurance requirements take precedence and prevail.)

OR

- ☐ Contractor is ready, willing and able to maintain insurance that meets the requirements set forth in the Bid/RFP document, specifically in the Model Contract or the included Terms and Conditions, and satisfies the requirements illustrated on the attached Sample Insurance Certificate.

(In case of any conflict or discrepancy between the insurance requirements in the Bid/RFP vs. the Sample Insurance Certificate, the Bid/RFP insurance requirements take precedence and prevail.)

OR

- ☐ Contractor takes exceptions to the insurance requirements of this Bid/RFP **and** has provided an explanation of these exceptions in the box below.

Contractor:

Company:

Signature:

Title:



|

|

|

|

XYZ		CERTIFICATE OF INSURANCE			DATE MM/DD/YY		
PRODUCER Sample only			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.				
INSURED COMPANY NAME & ADDRESS			COMPANIES AFFORDING COVERAGE COMPANY A: COMPANY B: COMPANY C: COMPANY D:				
COVERAGE'S THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.							
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE MM/DD/YY	POLICY EXPIRATION DATE MM/DD/YY	LIMITS		
A	GENERAL LIABILITY	123456789 SAMPLE	10/02/2007	10/02/2008	GENERAL AGGREGATE	\$ 2,000,000	
	COMMERCIAL GENERAL LIABILITY				PRODUCTS COMP/OP AGG	\$ 2,000,000	
	CLAIMS MADE OCCUR				PERSONAL & ADV INJURY	\$ 1,000,000	
	OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE	\$ 1,000,000	
					FIRE DAMAGE (ANY ONE FIRE)	\$ 100,000	
					MED EXP (ANY ONE PERSON)	\$ 10,000	
A	AUTOMOBILE LIABILITY	A12345678 SAMPLE	10/02/2007	10/02/2008	COMBINED SINGLE LIMIT	\$ 1,000,000	
	X ANY AUTO				BODILY INJURY (PER PERSON)	\$	
	X ALL OWNED AUTO'S				BODILY INJURY (PER ACCIDENT)	\$	
	X SCHEDULED AUTO'S				PROPERTY DAMAGE	\$	
	X HIRED AUTO'S						
	X NON-OWNED AUTO'S						
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$	
	ANY AUTO				OTHER THAN AUTO ONLY:		
					EACH ACCIDENT	\$	
					AGGREGATE	\$	
C	EXCESS LIABILITY	B12345678 SAMPLE	10/02/2007	10/02/2008	EACH OCCURRENCE	\$ 1,000,000	
	UMBRELLA FORM				AGGREGATE	\$	
	OTHER THAN UMBRELLA FORM					\$	
B	WORKERS COMPENSATION AND EMPLOYEE'S LIABILITY	C1234578 SAMPLE	10/02/2007	10/02/2008	X STATUTORY LIMITS OTHER		
					EACH ACCIDENT	\$1,000,000	
	THE PROPRIETOR / PARTNERS / EXECUTIVE OFFICERS ARE				INCL	DISEASE - POLICY LIMIT	\$1,000,000
	OTHER				EXCL	DISEASE - EACH EMPLOYEE	\$1,000,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS: STATE OF CALIFORNIA/SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE AND COUNTY OF ORANGE AND THE PRESIDING JUDGE, ITS ELECTED AND APPOINTED OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES WHEN ACTING IN THE SCOPE OF THEIR APPOINTMENT OR EMPLOYMENT. The State of California/ Superior Court of California, County of Orange and County of Orange shall be added as an additional insured on all insurance policies required by this paragraph with respect to work done by the contractor under the terms of this contract. All insurance policies required by this paragraph shall be primary insurance, and any insurance maintained by the Court shall be excess insurance.							
CERTIFICATE HOLDER SUPERIOR COURT OF CA, COUNTY OF ORANGE AND COUNTY OF ORANGE 700 CIVIC CENTER DRIVE WEST SANTA ANA, CA 92701 REFERENCE CONTRACT NO. XXX/PO NO.				CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICY BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, JANE DOE			
_____ /BUYER: JOHN DOE				AUTHORIZED REPRESENTATIVE			
XYZ 00-S (1/90)							



**AGREEMENT FOR BLACKCAT HARDWARE
MAINTENANCE & SUPPORT SERVICES**

BETWEEN

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

AND

VENDOR

AGREEMENT #: SC4933

COMMENCES: JANUARY 01, 2013

TERMINATES: DECEMBER 31, 2013

DOLLAR AMOUNT: XXX

Superior Court of California, County of Orange

BLUECAT HARDWARE MAINTENANCE & SUPPORT SERVICES

Agreement Number SC4933	Amendment Number
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER XXX	

This Agreement is made between Contractor Name, Address, hereafter (“Contractor”) and the Superior Court of California, County of Orange, and entity of the State of California, hereafter (“Court”)

Background

- A. Court has need for **BlueCat Hardware Maintenance and Support Services**.
- B. Court has elected to award a contract to Contractor based on Contractor’s experience, expertise, and ability to meet the needs of the Court.

WITHNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the Court hereinafter expressed, does agree to furnish to the Court services and materials as follows:

1. **Contract Documents.** Incorporated into this Agreement herewith, and attached hereto, are the following documents (“Contractor Documents”):

Exhibit A, Definitions;
 Exhibit B-1, General Terms and Conditions;
 Exhibit B-2, Supplemental Terms and Conditions;
 Exhibit C, Payment Provisions;
 Exhibit D, Scope of Work; and
 Exhibit E, Travel Guidelines

In the event of a conflict between the Contract Documents, the following descending order of precedence shall govern:

Exhibit A, Definitions;
 Exhibit B-1, General Terms and Conditions;
 Exhibit B-2, Supplemental Terms and Conditions;
 Exhibit C, Payment Provisions;
 Exhibit D, Scope of Work; and
 Exhibit E, Travel Guidelines

2. **Term and Effective Date of Agreement.** Any Amendments, starting with the most recent, shall take precedence over the existing Agreement.

No guarantee is given as to any estimated usage amount. As set forth in this Agreement, Contractor agrees to provide the Work as specified, as needed by the Court, at prices listed upon this Agreement regardless of service usage.

The Term of this Agreement begins on January 01, 2013, the Effective Date, and concludes on December 31, 2014, the Expiration Date, unless otherwise terminated for any reason in accordance with such termination clause as specified in this Agreement.

This Agreement is of no force or effect until signed by both parties and Contractor shall not perform any of its obligations under this Agreement, until this Agreement is fully executed and Court is in possession of a Court accepted Certificate of Insurance as required.

3. Contract Amount. As set forth further in Exhibit C, Payment Provisions, the Contract Amount shall not exceed **XXXXXX Dollars and XX/100 (\$XX,XXX.XX)**.

4. Representatives.

A. **Notices.** Notices, as may be required in the Agreement, will be provided to the following:

Court	Contractor
Karl K. Truong Procurement Specialist 700 Civic Center Drive West, Santa Ana, CA 92701 Phone: (XXX)XXX-XXXX Email: ktruong@occourts.org	Contractor Contact Name Title Contractor's Address Phone: (XXX)XXX-XXXX Email: XXXXXXXXXXXXXX
and Vickie Coleman Court Technology Manager 700 Civic Center Drive West, Santa Ana, CA 92701 Phone: (XXX)XXX-XXXX Email: vcoleman@occourts.org	

B. **Project Management.** The roles and responsibilities of the Court's Project Manager(s) and the Contractor's Project Lead, named below, are outlined in the Agreement.

Court Project Manager(s)	Contractor Project Lead
Vickie Coleman Court Technology Manager 700 Civic Center Drive West, Santa Ana, CA 92701 Phone: (XXX)XXX-XXXX Email: vcoleman@occourts.org	Contractor Contact Name Title Contractor's Address Phone: (XXX)XXX-XXXX Email: XXXXXXXXXXXXXX
and (CC) Karl K. Truong Procurement Specialist 700 Civic Center Drive West, Santa Ana, CA 92701 Phone: (XXX)XXX-XXXX Email: ktruong@occourts.org	

5. Signatures.

IN WITNESS HEREOF, this Agreement has been entered into by the parties hereto, effective upon the Effective Date.

Superior Court of California, Orange County	Contractor Name
Signature:	Signature:
Name: Alan Carlson	Name:
Title: Chief Executive Officer	Title:
Date:	Date:

End of Contract Cover Sheet

EXHIBIT A**DEFINITIONS**

1. **Acceptance:** means the written acceptance issued to Contractor by the Court's Project Manager after Contractor has completed a Deliverable, in compliance with this Agreement, including without limitation, Exhibit D, Scope of Work.
2. **Administrative Office of the Courts (AOC):** staff agency to the Judicial Council of California, the policy-making body of the California Court system.
3. **Agreement:** entire integrated agreement, including all Contract Documents, Exhibits, Attachments, and Amendments incorporated therein, signed by Court and Contractor, for performance of the Work.
4. **Amendment:** written Contract Document issued by Court, and signed by both Contractor and Court, modifying the Agreement and identifying any of the following: (1) change in the Work; (2) change in Contract Amount; (3) change in schedule for delivery and performance of Work; or (4) any change to other terms and conditions.
5. **Applicable Law:** any applicable laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders.
6. **Appropriation Year:** authorized period of time for government spending for a defined purpose. The Appropriation Year for state-funded agreements ends on June 30th of each year. The Appropriation Year for federally funded agreements ends on September 30th of each year.
7. **Bid:** A response to a competitive solicitation issued by the Court, regardless of the Solicitation Document used by the Court (e.g., Request for Quote "RFQ", Invitation for Bid "IFB", or Request for Proposal "RFP").
8. **Business Day:** means days of the week excluding Saturday and Sunday, as well as Contractor's pre-established and published holidays applicable to its employees.
9. **Certificate of Insurance:** A document that provides evidence that an insurance policy has been underwritten and that includes a statement of the policy coverage.
10. **Claims:** claims, suites, actions, arbitrations, demands, proceedings, fines, penalties, losses, damages, liabilities, judgments, settlements, costs, and expenses (including reasonable attorneys' fees and costs), including those based on the injury to or death of any person or damage to property.
11. **Compensation:** all remuneration owed to Contractor in respect of Services, including Contractor's professional fees, direct costs (including filing fees), indirect costs (including overhead expenses), profit, and taxes.
12. **Confidential Information:** (i) any information related to the business or operations of the Court, including information relating to Court's personnel and users; (ii) all financial, statistical, personal, technical and other data and information of the Court (and proprietary information of third parties provided to Contractor) which is designated confidential or proprietary, or that Contractor otherwise knows, or would reasonably be expected to know is confidential; and (iii) all Deliverables, Developed Works, Court Works and Court Data. Confidential Information does not include information (that

Contractor demonstrates to the Court's satisfaction, by written evidence): (a) that Contractor lawfully knew prior to the Court's first disclosure to Contractor, (b) that a Third Party rightfully disclosed to Contractor free of any confidentiality duties or obligations, or (c) that is, or through no fault of Contractor has become, generally available to the public.

13. **Consulting Services:** refers to the services performed under "Consulting Services Agreements", which are defined in Public Contract Code section 10335.5, substantially, as contracts that:

- (1) Are of an advisory nature;
- (2) Provide a recommended course of action or personal expertise;
- (3) Have an end product that is basically a transmittal, either written or oral, that is related to the governmental functions of the state agency administration and management and program management or innovation; and
- (4) Are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type.

The end product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

"Consulting Services Agreements" do not include:

- (1) Contracts between a state agency and the federal government; or
- (2) Contracts with local agencies, as defined in Revenue and Taxation Code, section 2211, to subvene federal funds for which no matching state funds are required.

14. **Contract Amount:** total dollar amount of the Agreement.

15. **Contractor:** means the individual, association, partnership, firm, company, consultant, corporation, affiliates, or combination thereof, including joint ventures, contracting with the Court to do the Contract Work. Contractor is one (1) of the parties to this Agreement as defined on the Cover Sheet.

16. **Contractor Key Personnel:** the Contractor Project Manager and those Project Staff members identified as "Key Personnel" as set forth in a Statement of Work.

17. **Contractor Service Location(s):** any location (except a Court Service Location) from which Contractor performs Services.

18. **Contractor Works:** Works owned or developed prior to the provision of the Services, or developed by Contractor independently from the provision of the Services and without use of the Court Works or Confidential Information.

19. **Court:** Superior Court of California, as indicated on the Contract Cover Sheet. Court is a party to this Agreement.

20. **Court Contractors:** the agents, subcontractors and other representatives of the Court, other than Contractor and Subcontractors.

21. **Court Data:** all data and information of the Court or Court Contractors disclosed to or accessed by Contractor or Subcontractors, including all such data and information relating to the Court and its respective contractors, agents, employees, technology, operations, facilities, markets, products, capacities, systems, procedures, security practices, court records, court proceedings, research, development, business affairs and finances, ideas, concepts, innovations, inventions, designs, business methodologies, improvements, trade secrets, copyrightable subject matter, patents and other intellectual property and proprietary information.
22. **Court Project Manager:** the individual(s) appointed by the Court to communicate directly with the Contractor Project Manager.
23. **Court Service Locations:** any Court Facility, Justice Center, or Location at which Contractor performs Services.
24. **Court Works:** Works owned, licensed, made, conceived, or reduced to practice by the Court or a Court Contractor, any Works developed or acquired separate from this Agreement, and all modifications, enhancements, derivative works, and Intellectual Property Rights in any of the foregoing.
25. **Coversheet:** refers to the first sheet of this Agreement.
26. **Data:** information, including, but not limited to, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
27. **Data Safeguards:** industry-standard safeguards against the destruction, loss, misuse, unauthorized disclosure, or alteration of the Court Data or Confidential Information, and such other related safeguards that are set forth in Applicable Laws, a Statement of Work, or pursuant to Court policies and procedures.
28. **Day:** means calendar day
29. **Deliverable:** Developed Works, Contractor Works, Third Party Works, hardware, software, firmware, documentation, services or any combination thereof (including those identified as “Deliverables” in a Statement of Work, together with all Upgrades thereto), as well as any other items, specified in the Agreement, that Contractor shall complete and deliver or submit to Court.
30. **Deliverable Basis:** means that the Services provided under to the Court by Contractor under this Agreement shall result in the provision of a Deliverable or Deliverables.
31. **Defect:** any failure of any Deliverable to conform to and perform in accordance with the requirements of this Agreement and all applicable Specifications and Documentation.
32. **Developed Works:** Works created, made, or developed by Contractor or Subcontractors, either solely or jointly with the Court or Court Contractors, in the course of the performance of the Services under this Agreement, and all Intellectual Property Rights therein and thereto, including, without limitation, (i) all work-in-progress, data or information, (ii) all modifications, enhancements and derivative works made to Contractor Works, and (iii) all Deliverables; provided, however, that Developed Works do not include Contractor Works.
33. **Documentation:** all technical architecture documents, technical manuals, user manuals, flow diagrams, operations guides, file descriptions, training materials and other documentation related to the Deliverables; together with all Upgrades thereto.

34. **DVBE:** is an acronym for disabled veterans' business enterprise.
35. **Effective Date:** has the meaning defined on the coversheet of this Agreement.
36. **Expenses:** means and includes both Travel and Living Expenses and Reimbursable Expenses.
37. **Expiration Date:** is the last day of the Term, unless the Initial Term is extended by exercise of an option. In that event, the Expiration Date will instead refer to the date specified as the expiration date in the notice of exercise of the option.
38. **Firm Fixed Price:** means a single fixed amount or amounts designated as payment for a Deliverable or Deliverables.
39. **Firm Fixed Price Basis:** means that the Contractor shall receive, as full and complete compensation for the provision of Deliverable(s), Firm Fixed Price(s), which shall constitute complete compensation for all costs, expenses, and efforts incurred by Contractor in provision of Deliverable(s).
40. **Hourly Basis:** means that Contractor shall be paid at an hourly rate for each hour of authorized Work actually performed.
41. **Initial Term:** is the period commencing on the Effective Date and expiring on the Expiration Date set forth on the coversheet of this Agreement.
42. **Intellectual Property Rights:** all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorships, including copyrights, moral rights, and mask work rights; (b) trademark and trade name rights and similar rights; (c) trade secret rights; (d) patent and industrial property rights; (e) other proprietary rights in intellectual property of every kind and nature; and (f) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses (a) through (e) of this sentence.
43. **IT Infrastructure:** software and all computers and related equipment, including, as applicable, central processing units and other processors, controllers, modems, servers, communications and telecommunications equipment and other hardware and peripherals.
44. **JBE:** is an acronym for "Judicial Branch Entity."
45. **Judicial Branch Entity:** Any California superior or appellate court, the Judicial Council of California, the Administrative Office of Courts, and the Habeas Corpus Resource Center; these entities comprise the "Judicial Branch".
46. **Judicial Branch Personnel:** means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.
47. **Judicial Branch Contract Law (JBCL):** Part 2.5 of the Public Contract Code ("PCC"); PCC 19201-19210.
48. **Loss:** as used in the indemnity provisions of this Agreement includes any actions, claims, demands, causes of action, fines, penalties, losses, liabilities, damages, costs, expenses, and attorneys' fees.

49. **Malicious Code:** any (i) program routine, device or other feature or hidden file, including any time bomb, virus, software lock, trojan horse, drop-dead device, worm, malicious logic or trap door that may delete, disable, deactivate, interfere with or otherwise harm any of the Court's hardware, software, data or other programs, and (ii) hardware-limiting, software-limiting or services-limiting function (including any key, node lock, time-out or other similar functions), whether implemented by electronic or other means.
50. **Material:** all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication hardware and software.
51. **Notice:** written document signed by an authorized representative of either party to this Agreement, providing formal notification and sent by either:
- (1) Depositing in the U. S. Mail or commercial express mail, prepaid, to the address of the authorized representative of the other party. Notice will be effective on the post-marked date; or
 - (2) Hand-delivery to the other party's authorized representative, as set forth in the Agreement. This Notice shall be effective on the date of receipt.
 - (3) Email notification – Court/Contractor may provide initial notification by email followed by delivery as defined in this Section 34 either section (1) or (2).
52. **Option Period:** means the period, if any, through which this Agreement may be extended by the parties upon mutual agreement.
53. **Parties or Party:** means “us”, the Superior Court of California, County of Orange, and/or “you”, the Contractor, as the context requires.
54. **PCC:** is an acronym for “Public Contract Code”.
55. **Progress Payment:** A partial payment following the completion of a deliverable, milestone, or stage of progress under a contract.
56. **Project Lead:** Contractor's representative who will operate as the main interface with the Court regarding the Work to be performed under this Agreement.
57. **Project Staff:** the personnel of Contractor and Subcontractors who provide the Services.
58. **Proposal:** A response to a Request for Proposals that describes the offeror's approach, scope of work, schedule and cost to provide goods or services, as well as the ability to meet other relevant criteria established by the Court.
59. **Public Contract Code:** the set of California statutes that govern how state and local agencies contract for goods and services.
60. **Service Fees:** the fees for the Services set forth in Exhibit D, Scope of Work.
61. **Service Location(s):** any Court or Contractor Service Location.
62. **Services:** collectively, the services provided under this Agreement, including those services and Deliverables set forth in Exhibit D, Scope of Work, and any incidental services or responsibilities that are reasonable and customary in the industry and not specifically described in this Agreement (or the Scope of Work), but which are required for the performance and delivery of these services.

63. **Source Code:** human-readable program statements written by a programmer or developer in a high-level or assembly language that are not directly readable by a computer and that need to be compiled into object code before they can be executed by a computer.
64. **Specifications:** with respect to each Deliverable, the detailed statements and documents setting out the functionality and requirements for each component of the Deliverable.
65. **Statement/Scope of Work (SOW):** a statement of Services and/or Deliverables to be provided pursuant to and governed under the terms of this Agreement, as agreed to by both parties.
66. **Stop Work Order:** written notice to Contractor from Court, directing Contractor to stop performance of Work for a period of ninety (90) days following delivery of the order to Contractor, or for a longer period by mutual agreement of the parties.
67. **Subcontractor:** a person or business entity that has a contract (as an "independent contractor" and not an employee) with Contractor to provide some portion of the Work of this Agreement.
68. **Task:** one or more functions, services, or actions, as specified in the Agreement, to be performed by Contractor for the Court
69. **Term:** comprises the Initial Term and any Option Period.
70. **Termination Assistance Period:** the period commencing upon the Expiration Date or earlier termination of this Agreement and expiring six (6) months thereafter, as such period may be extended by the Parties.
71. **Termination Date:** has the same meaning as "Expiration Date" unless this Agreement is validly terminated before the applicable Expiration Date, in which case Termination Date means the effective date this Agreement is validly terminated.
72. **Third Party:** any individual or entity not a party to the Agreement.
73. **Third Party Works:** Works that are licensed or obtained by Contractor from a Third Party.
74. **Upgrades:** all new versions, bug fixes, error corrections, workarounds, updates, upgrades, modifications, patches and new releases of software, Deliverables, or Documentation.
75. **Work:** any or all labor, services, Deliverables, equipment, supplies, Materials, Tasks, and any other items or activities necessary for the performance and completion of Contractor's obligations in compliance with the requirements of the Agreement. Work may also include Work Orders, Tasks, Deliverables, and/or Submittals required by the Court.
76. **Works:** all inventions (whether patentable or not), discoveries, literary works and other works and authorship (including software), designations, designs, know-how, technology, tools, ideas and information.

END OF EXHIBIT A

EXHIBIT B-1**GENERAL TERMS AND CONDITIONS**

1. **Accounting.** Contractor will maintain a system of accounting and internal controls that meets Generally Accepted Accounting Principles (U.S. GAAP).
2. **Assignment and Subcontracting; Successors.**
 - A. **Permitted Assignments and Subcontracts.** Neither party may assign or subcontract its rights or duties under this Agreement, except as follows:
 - 1) The Court may assign the Court's rights and duties to any Judicial Branch Entity. The Court shall notify Contractor in writing within thirty (30) days following the assignment.
 - 2) Either party may assign its rights and duties or subcontract portions of this Agreement to a third party if the non-assigning party gives advance written consent to the assigning party. Consent may be withheld for any reason or no reason. If a non-assigning party does consent, the consent will take effect only if there is a written agreement between the assigning or subcontracting party and all assignees and subcontractors, stating the assignees and subcontractors:
 - a) are jointly and severally liable to the non-assigning party for performing the duties in this Agreement of the assigning/subcontracting party;
 - b) affirm the rights granted in this Agreement to the non-assigning party;
 - c) make the representations and warranties made by the assigning/subcontracting party in this Agreement; and
 - d) appoint the non-assigning party an intended third party beneficiary under the written agreement with the assigning/subcontracting party.

No assignment or subcontract will release either party of its duties under this Agreement.

- B. **Successors.** This Agreement binds the parties as well as their heirs, successors, and assignees.

3. **Audit and Records**

- A. **Audit.** Upon reasonable notice, Contractor will provide to Court, to any federal or state entity with monitoring or reviewing authority or to Court's authorized representatives, access to and the right to examine and audit all records and documents relating to performance and billing under this Agreement, subject only to a lawyer's duty of confidentiality owed to a represented party. Contractor agrees to provide Court with all relevant information requested, and will permit access to its premises at reasonable times, for the purpose of interviewing employees and inspecting and copying any relevant records. Contractor shall correct errors and deficiencies by the 20th day of the month following the review or audit.

Contractor shall provide to the Court and Court Contractors, on Contractor's premises (or, if the audit is being performed of a Subcontractor, Subcontractor's premises if necessary), space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office-related equipment and duplicating services as the Court or such Court Contractors may reasonably require to perform the audits described in this Section. Without limiting the foregoing, this Agreement is subject to examinations and audit by the State Auditor for a period of three (3) years after final payment.

- B. **Copies.** Contractor may retain copies of any original documents Contractor provides to the Court.
- C. **Ownership.** The Court is the exclusive owner of all materials collected and produced in connection with the Services. Upon the Termination Date (subject to any mutually agreed period of continuation of Services), or upon the Court's notice at any time, and subject only to the duty of confidentiality owed to a represented party, Contractor shall give original materials to the Court or to another party at the Court's discretion. Contractor shall maintain all other materials in an accessible location and condition for a period of not less than four (4) years after the later of:
- 1) Contractor's receipt of final payment under this Agreement; and
 - 2) The Court's resolution with Contractor of findings of any final audit.
 - 3) Any interest of Contractor in data, products, recordings, writings, or services of any kind prepared by Contractor for performance of services under this Agreement shall become the property of the Court. Upon Court's written request, Contractor shall provide Court with all such data, products, recordings, writings, etc., within thirty (30) days of the request.
- D. **Retention of Records.** Contractor will maintain all financial Data, supporting documents, and all other records relating to performance and billing under this Agreement for a period in accordance with state and federal law. The minimum retention period will be four (4) years from the date of the submission of the final payment request or until audit findings are resolved, whichever is later.
4. **Availability of Funds.** The Court's obligation to compensate Contractor is subject to the availability of funds. The Court shall notify Contractor if funds become unavailable or limited during the Term.
5. **Certifications and Representations.** Contractor's signature on the cover page shall also serve as certification for the following paragraphs, A-Z.
- A. **Authority and Binding Effect.** Contractor warrants it has the full power and authority to enter into and perform its obligations under this Agreement, to grant the rights and licenses herein, and Contractor's signatory has authority to bind Contractor to this Agreement. This Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms. Contractor is qualified to do business and is in good standing in the State of California. The execution, delivery and performance of this Agreement have been duly authorized by all requisite corporate action on the part of Contractor.

- B. **Compliance with Permits, Laws, and Regulations.** Contractor, its business, and its performance of its obligations under this Agreement comply in all material respects with all Applicable Laws.

During the term of this Agreement, Contractor will obtain and keep current and in full force and effect, all necessary licenses, approvals, permits and authorizations required by Applicable Laws for performance of the Services. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any Applicable Law. Such permits and licenses will be made available to Court, upon request.

Contractor will promptly provide Notice to Court of any conflict discovered between the Agreement and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict. If Contractor proceeds with the Work in question without resolution of the conflict, Contractor will be solely liable for any costs, fines, penalties, or damages that accrue, including costs for remedial work required to comply with such requirements.

- C. **Drug-free Workplace.** Contractor certifies that it and its Subcontractors will provide a drug-free workplace as required by Calif. Gov. Code, § 8355-8357.
- D. **Electronic Waste Recycling Act.** If this Agreement provides for the purchase or lease of covered electronic devices under the Electronic Waste Recycling Act of 2003, Public Resources Code sections 42460 et seq., Contractor complies with the requirements of that Act, and Contractor maintains documentation and provides reasonable access to its records and documents that evidence compliance.
- E. **Labor/Collective Bargaining.** Contractor certifies that it and its Subcontractors will provide notice of their obligations under the foregoing provisions to labor organizations with which it or they have collective bargaining agreements, prior to execution of this Agreement.
- F. **National Labor Relations Board (NLRB) Certification.** Contractor certifies that, within the immediately preceding two-year period, no more than one final, unappealable finding of contempt of Court by a federal Court has been issued against Contractor because of Contractor's failure to comply with an order of the National Labor Relations Board.
- G. **No Conflict of Interest.** Contractor has no interest that would constitute a conflict of interest under Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.
- H. **No Gratuities.** Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Court Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement.
- I. **No Harassment.** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance

of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring.

- J. **No Interference with Other Contracts.** To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest, breach, or default under any of Contractor's other contracts.
- K. **No Litigation.** No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or, to Contractor's knowledge, threatened against or affecting Contractor or Contractor's business, financial condition, or ability to perform this Agreement, except any suit, action, arbitration, proceeding, or investigation that individually or in the aggregate with others will not or would not have a material adverse effect on Contractor's business, the validity or enforceability of this Agreement, or Contractor's ability to perform this Agreement.
- L. **Non-discrimination.** Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of non-discrimination.
- M. **Not an Expatriate Corporation.** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1, and is eligible to contract with the Court.
- N. **Prohibition Against Hiring Court Employees.** Contractor certifies and will require all Subcontractors to certify to the following:

"Former Court employees will not be offered employment position for two years from the date of separation, if that employee participated in the decision-making process relevant to the Agreement, or for one year from the date of separation if that employee was in a policy-making position in the same general subject area as the proposed Agreement, within the prior twelve-month period of Court employment."
- O. **Sales and Use Tax Collection.** Contractor collects and remits sales and use taxes as and to the extent required under the Revenue and Taxation Code.
- P. **Special Provisions regarding Compliance with National Labor Relations Board Orders.** If this Agreement provides for making any purchase of goods or services from a private entity, except for a purchase of goods by credit card for an amount less than \$2,500 from any one Contractor (but not to exceed in the aggregate \$7,500 per year from the Contractor), no more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of

the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.

Q. Special Provisions regarding Compliance with the Child Support Compliance Act. If Contractor is a private entity, and this Agreement provides for Compensation of \$100,000.00 or more:

- 1) Contractor recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- 2) Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

R. Special Provisions regarding Compliance with the Sweatfree Code of Conduct. If this Agreement provides for furnishing equipment, materials, or supplies other than public works, or for the laundering of apparel, garments or corresponding accessories:

- 1) No apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the Court under this Agreement have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that it adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108. This declaration is made under penalty of perjury.
- 2) Contractor cooperates fully in providing reasonable access to Contractor's records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a) and shall provide the same rights of access to the Court.

S. Special Provisions regarding Discharge Violations. If Contractor is a private entity, Contractor is not in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; or subject to any cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions. Contractor has not been finally determined to be in violation of provisions of federal law relating to air or water pollution.

T. Special Provisions regarding Domestic Partners, Spouses, and Gender Discrimination. If this Agreement provides for total Compensation of more than \$100,000, Contractor is in

compliance with Public Contract Code section 10295.3, which, subject to specified exceptions, generally prohibits discrimination in the provision of benefits between employees with spouses and employees with domestic partners, or discriminates between employees with spouses or domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminates between same-sex and different-sex domestic partners of employees or between same-sex and different-sex spouses of employees.

- U. **Use of Postconsumer Material.** If this Agreement provides for the purchase and sale of Goods specified in PCC section 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods.

Without limiting the foregoing, if this Agreement includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable.

Contractor shall use recycled products in its performance under this Agreement to the maximum extent doing so is economically feasible.

Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of postconsumer material as defined in PCC section 12200, in such goods regardless of whether the goods meet the requirements of PCC section 12209.

With respect to printer or duplication cartridges that comply with the requirements of PCC section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.

- V. **Work Eligibility.** All personnel assigned to perform this Agreement are able to work legally in the United States and possess valid proof of work eligibility.
- W. **Special Provisions for Agreements for Equipment, Materials, or Supplies; Loss Leader Prohibition.** If this Agreement involves the furnishing of equipment, materials, or supplies, Contractor shall not sell or use any article or product as a “loss leader” as defined in Business and Professions Code section 17030.
- X. **Special Provisions for Agreements for Certain Services with Compensation over \$200,000.** If this is an Agreement for Services, other than consulting services, with total compensation over \$200,000, Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with Public Contract Code section 10353.
- Y. **Special Provisions regarding Conflict Minerals.** Contractor certifies either; (i) it is not a “scrutinized company” as defined in PCC 10490(b), or (ii) the goods or services the Contractor will provide to the Court are not related to products and services that are the reason the Contractor must comply with Seciton 13(p) of the Securities Exchange Act of 1934.
- Z. **Covenant as to Representations and Warranties.** Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly notify the Court if any representation and warranty becomes untrue.

6. Changes in Work; Stop Work

A. Changes in Work.

- 1) Court reserves the right to require Contractor to make changes in the Work, as set forth in Exhibit D, Scope of Work, which may include additions, deletions, or modifications to the Work, or changes in the timing or level of effort for the Work.
- 2) From time to time during the Term of this Agreement, the Parties may mutually agree on a change to the Services, which may require an extension or reduction in the schedule and/or an increase or decrease in the fees and expenses and/or the Services (each, a "Change"), including (i) a change to the scope or functionality of the Deliverables; or (ii) a change to the scope of the Services.
- 3) For any change proposed by Court or Contractor, Contractor will submit in writing:
 - a) A description of the proposed change and the reasons for the change;
 - b) A summary of the total compensation to be paid Contractor with a breakdown of tasks and costs, including any reduction in Work or costs resulting from the change; and
 - c) A statement of the expected impact on schedule.
- 4) If Court and Contractor agree on a Change, the Parties will seek to mutually agree on a change order identifying the impact and setting forth any applicable adjustments in Exhibit D, Scope of Work and/or payments to Contractor. Court will issue an Amendment documenting the change, for the parties' execution.
- 5) If the parties cannot agree to the terms of a change, Contractor will proceed diligently with Work unless otherwise directed by Court, and any continuing disagreement will follow the process set forth in the provisions entitled "Dispute Resolution." Contractor should not proceed with any change prior to receiving a written directive or Amendment from Court. All costs for changes performed by Contractor without Court's prior written approval will be at Contractor's sole risk and expense.

B. Stop Work.

- 1) Court may, at any time, by delivery of a written Stop Work Order to Contractor, require Contractor to stop any or all of the Work, for ninety days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree.
- 2) Upon receipt of the Stop Work Order, Contractor will immediately comply with its terms and take all reasonable steps to minimize the costs incurred to Court during the applicable Stop Work period. Within ninety days after a Stop Work Order is delivered to Contractor, or within any mutually agreed extension of that period, Court will either cancel the Stop Work Order or terminate the Work, as provided in Section 28, Termination.

- 3) If a Stop Work Order is cancelled by the Court, or the period of the Stop Work Order or any extension thereof expires, Contractor will promptly resume Work covered by such stop work order. Court may make an equitable adjustment in the delivery schedule, the Contract Amount, Exhibit D, Scope of Work, or all, if (a) the Stop Work Order directly and proximately results in an increase in the time required for the performance of any part of the Scope of Work; and (b) Contractor asserts its right to such equitable adjustment within thirty (30) days after the end of the applicable Stop Work period.
- 4) If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated other than for cause, Court may allow reasonable costs resulting from the Stop Work Order.
- 5) Court will not be liable to Contractor for loss of profits because of any Stop Work Order.

7. **Choice of Law and Jurisdiction.** California law, without regard to its choice-of-law provisions, governs this Agreement. Jurisdiction for any legal action arising from this agreement shall exclusively reside in state or federal courts located in California, and the parties hereby consent to the jurisdiction of such courts.

8. **Confidential Information.** The provisions of this section shall survive beyond the expiration or termination of this Agreement. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than reasonable care and industry-standard care. During the Term and at all times thereafter, Contractor will refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement. Contractor will not remove any Confidential Information from the Court's facilities or premises without the Court's express prior written consent. Upon the Court's request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the Court or, if so directed by the Court, destroy all Confidential Information (in every form and medium), and (b) certify to the Court in writing that Contractor has fully complied with the foregoing obligations.

A. **Permissible Disclosures.** Contractor may disclose Court's Confidential Information on a "need to know" basis to Contractor's employees and Subcontractors and any representatives of Court that are working on the project, provided that they have executed a confidentiality agreement with Contractor which requires that they protect the Court's confidential information to the same extent as this section. Additionally, Contractor may disclose the Confidential Information, to the extent necessary to (i) comply with any applicable law, rule, regulation, or ruling; (ii) respond to any enforceable summons or subpoena; or (iii) enforce its rights under this Agreement, provided advance notice has been delivered to the Court.

B. **Publicity.** Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the Chief Executive Officer.

C. **Requirements of Strict Confidence.** While performing Work under this Agreement, Contractor and its Subcontractors may gain access to Confidential Information that, if disclosed to Third Parties, may be damaging to Court, its personnel, Court users, or other government entity. Neither Contractor nor its Subcontractors acquires any right or title to the Confidential Information, and Contractor and its Subcontractors agree not to disclose any Confidential Information to any Third Party. All Confidential Information disclosed to Contractor or its

Subcontractor will be held in strict confidence and used only in performance of Work under this Agreement. In the event of any unauthorized disclosure or loss of Confidential Information, Contractor will immediately provide Notice to Court, with pertinent details of the unauthorized disclosure or loss, and any remedial measures taken.

D. **Specific Performance; Breach of Confidentiality.** Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations hereunder, that any such breach will likely result in irreparable harm, and therefore, that upon breach or threatened breach of the confidentiality obligations, the Court shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies by law.

9. **Consideration.** Subject to the terms of this Agreement, Contractor shall invoice the Court, and the Court shall compensate Contractor, as set forth in Exhibit C, Payment Provisions. The consideration or Service Fees to be paid to Contractor under this Agreement shall be the total and complete compensation to be paid to Contractor for all Work performed under this Agreement, including all of Contractor's expenses incurred, such as travel and per diem expenses, unless otherwise expressly provided, as set forth in Exhibit C, Payment Provisions. Contractor shall bear, and the Court shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature which Contractor incurs.

A. **Payment Does Not Imply Acceptance of Work.** Court's payment will not relieve Contractor from its obligation to replace unsatisfactory Work, even if the unsatisfactory character of such Work may have been apparent or detected at the time such payment was made. Work, Data, or components that do not conform to requirements of this Agreement will be rejected, and will be replaced by Contractor, without delay or additional cost to Court.

B. **Disallowance.** If Contractor receives payment from Court for a service or reimbursement that is later disallowed or rejected by the Court, Contractor will promptly refund the disallowed amount to Court upon Court's request. At its option, Court may offset the amount disallowed from any payment due to Contractor, under this Agreement or any other agreement.

10. Contractor Status

A. **Independent Contractor.**

- 1) Contractor, Subcontractors, and their officers, agents, employees, and all others acting on behalf of Contractor for this Work, act as independent contractors and not as Court agents, officers or employees. Contractor has no authority to bind or incur any obligation on behalf of Court. Except as expressly provided in Exhibit D, Scope of Work, Contractor has no authority or responsibility to exercise any rights or power vested in Court.
- 2) This Agreement will not be considered under any circumstance to create a joint-venture relationship.
- 3) If any governmental entity concludes that Contractor is not an independent contractor, Court may terminate this Agreement immediately upon Notice. Alternatively, Contractor may agree to a reduction in Court's financial liability, so that Court's total costs under this Agreement do not exceed the originally contemplated amount.

B. Contractor's Employees.

- 1) Contractor's employees will be entirely and exclusively under the direction, supervision, and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring, and termination, or any other employment issues or requirements of law, will be determined by Contractor.
- 2) Contractor will issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's employees, consultants, and independent contractors.
- 3) If the Internal Revenue Service or any other federal or state governmental entity should investigate or challenge Contractor's independent status with respect to Court, the parties agree that (i) each will inform the other party of such investigation or challenge; and (ii) Court will have the right, but not the obligation, to participate in any discussion or negotiation occurring with the federal or state entity, regardless who initiates such discussions or negotiations.
- 4) Contractor will indemnify and hold Court harmless from all claims, costs, and liabilities resulting from third-party actions alleging an employment relationship between Court and any Contractor or Subcontractor personnel.

C. Exclusive Control of Means and Method of Performance. Contractor will determine the method, details, and means of performing or supplying the Work under this Agreement. Contractor will be responsible to Court only for the requirements and results specified in this Agreement and more particularly as set forth in Exhibit D, Scope of Work, and will not be subjected to Court's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor will have the "right to control" and bear the sole responsibility for the job site conditions and safety.

D. Subcontracting.

- 1) Contractor will not engage a Subcontractor to perform any portion of this Work, without the express written consent of Court. Any subcontracting without Court's written consent is a material breach of this Agreement.
- 2) Contractor warrants and represents that all Subcontractors will be subject to the same terms and conditions applicable to Contractor under this Agreement. Contractor will incorporate this Agreement as the prime agreement in any subcontracting relationship. Contractor will be liable for all Subcontractor acts or omissions, including indemnity obligations.

11. Contractor's Personnel.

A. Contractor shall assign to this project only persons who have sufficient training, education, and experience to successfully perform Contractor's duties. If the Court is dissatisfied with any of

Contractor's personnel, for any reason or no reason, Contractor shall replace them with qualified personnel.

- B. Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to this project. Any additional personnel are subject to approval by the Court.
- C. For Contractor's employees, Subcontractors, or agents performing work, and with access to Court's systems (on-site or remotely) in the performance of their Work under this Agreement, Court will have the right, but not the obligation, to request or conduct a background check, before granting access to Court's premises or systems or at any other time. Contractor will cooperate with Court in performing any background checks, will provide prompt Notice to Court of (i) any person refusing to undergo such background check, and will immediately remove such person from the project, and (ii) the results of any background check as requested by Court. Contractor will obtain all releases, waivers, or permissions required for the release of such information to Court. Any additional costs will be borne by Contractor.

Granting or denying access will be at the sole discretion of the Court. The contractor will receive a written response with a notification of "Approved" or "Denied" for the facility access for each individual. No background information will be released to the contractor.

It is the responsibility of the Contractor to notify the Court of any additional staff or change in staff, to submit to the court a completed and signed Application and Consent for Background Check form for each person, and to receive authorization from the court before the individual begins to work in a court facility.

- D. If this Agreement provides for the payment of \$5,000 or more for Consulting Services performed for the Court, Contractor has attached to this Agreement resumes of each Contractor participant who will exercise a major administrative role or major policy or consultative role.
- E. Contractor and any subcontractor(s) shall provide certain Key Personnel as may be particularly identified in this Agreement, the Scope of Work, etc. Court reserves the right to disapprove the continuing assignment of any such Key Personnel if, in the Court's opinion, the performance of such Key Personnel is unsatisfactory. If the Court exercises this right, the Contractor shall immediately assign replacement Key Personnel, possessing equivalent or greater experience and skills. If any Key Personnel, through no cause or fault of Contractor, become unavailable to provide services under this Agreement, Contractor shall immediately provide replacement Key Personnel possessing equivalent or greater experience and skills.
- F. Contractor will be responsible for all costs associated with replacing personnel, including additional costs to familiarize replacement personnel with the Work. If Contractor does not promptly furnish replacement personnel acceptable to the Project Manager, Court may terminate this Agreement for cause.

12. Counterparts. This Agreement may be executed in counterparts, each of which is considered an original.

13. Default and Remedies.

- A. **Default.** A default exists under this Agreement if:

- 1) Contractor fails or is unable to meet for perform any of Contractor's duties under this Agreement, and this failure is not cured within ten (10) days following notice of default or is not capable of being cured within this cure period;
- 2) Contractor or Contractor's creditors file a petition as to Contractor's bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business;
- 3) Contractor makes or has made under this Agreement any representation or warranty that is or was incorrect, inaccurate, or misleading;
- 4) Any act, condition, or thing required to be fulfilled or performed by Contractor to (i) enable Contractor lawfully to enter into or perform its obligations under this Agreement, (ii) ensure that these obligations are legal, valid, and binding, or (iii) make this Agreement admissible when required is not fulfilled or performed.

B. Notices. Contractor shall notify the Court immediately if Contractor defaults, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement.

C. Remedies.

- 1) **Available Remedies.** The Court may do any of the following:
 - a. Withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights or setoff as may be provided in this Agreement or any other agreement between the Court and Contractor;
 - b. Require Contractor to enter into non-binding mediation;
 - c. Exercise, following notice, the Court's right of early termination of this Agreement as provided below; and
 - d. Seek any other remedy available at law or in equity.
- 2) **Remedies Cumulative.** All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy. The rights and remedies of the Court provided in this Agreement will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. The representations and warranties that Contractor makes in this Agreement shall be true and accurate as of the Effective Date, and shall remain true during the term of this Agreement and the Termination Assistance Period. Contractor shall promptly notify the Court if any representation or warranty becomes untrue.

14. Dispute Resolution. Court and Contractor will attempt, in good faith, to resolve any disputes informally. Contractor will meet with Court's Project Manager or other designated representative to discuss the matter and any actions necessary to resolve a dispute.

A. Escalation.

- 1) If a dispute remains unresolved either party may give Notice requesting each party's Chief Executive Officer ("CEO") or designated representative to meet, exchange information and attempt resolution within fifteen days of the effective date of the Notice.
- 2) If the matter is not resolved as set forth in Section 14, Dispute Resolution, Subsection A, Escalation, Article 1), the aggrieved party will submit a second Notice which will:
 - a) provide detailed factual information;
 - b) identify the specific provisions in this Agreement on which any demand is based;
 - c) advise if the demand involves a cost adjustment and, if so, provide the exact amount, accompanied by all supporting records; and
 - d) attach a declaration that the demand is made in good faith, the supporting data are accurate and complete, and the amount requested properly reflects the necessary adjustment. Notice will be signed by an authorized representative of the aggrieved party.
- 3) Each party will comply with reasonable requests for additional information. Any additional information will be provided within fifteen days after receipt of a written request, unless otherwise agreed.

B. Confidentiality During Dispute Resolution. All dispute resolution negotiations are considered confidential, and will be treated as compromise and settlement negotiations, to which California Evidence Code § 1152 applies.

C. Continued Performance of Work. Pending final resolution of any dispute, Contractor agrees to proceed diligently with the performance of the Work, including Work associated with the dispute, unless otherwise directed by Court. Contractor's failure to diligently proceed in accordance with Court's instructions will be considered a material breach of the Agreement.

15. Force Majeure

A. Force Majeure events include, but are not limited to:

- 1) catastrophic acts of nature, or public enemy;
- 2) civil disorder;
- 3) fire or other casualty for which a party is not responsible; and
- 4) quarantine or epidemic.

The party asserting a Force Majeure event will immediately provide Notice to the other party of the occurrence and nature of the Force Majeure event, and its expected impact on schedule. The party claiming Force Majeure will use commercially reasonable efforts to continue or resume

performance, including alternate sources or means. Contractor will have no right to additional payment for costs incurred as a result of a Force Majeure event.

B. Any assertion of a Force Majeure event by Subcontractors will be attributed to Contractor.

16. Indemnity. Contractor shall indemnify and defend (with counsel satisfactory to the Court Office of the General Counsel) Judicial Branch Entities and Judicial Branch Personnel against all claims, damages, losses, and expenses, including attorney fees and costs, founded upon (i) Contractor's performance of, or failure to perform, the Services or Contractor's other duties under this Agreement, (ii) any other breach by Contractor of this Agreement, or (iii) Third Party Claims relating to infringement or misappropriation of any Intellectual Property Right by Contractor of the Deliverables, software, systems or other materials provided by Contractor or Subcontractors to Judicial Branch Entities (collectively, the "Covered Items"). Contractor shall not make any admission of liability or other statement of on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the Court's prior written consent, which consent shall not be unreasonably withheld; and the Court shall have the right, at its option and expense, to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.

A. Certain Remedies: If any Covered Item provided under this Agreement becomes, or in Contractor's or the Court's reasonable opinion is likely to become, the subject of any Claim arising from or alleging infringement, misappropriation or other violation of, or in the event of any adjudication that such Covered Item infringes, misappropriates or otherwise violates any Intellectual Property Right of a Third Party, Contractor at its own expense shall take the following actions in the listed order of preference:

- 1) Secure for the Court the right to continue using the applicable Covered Item; or
- 2) If commercially reasonable efforts are unavailing, replace or modify the infringing Covered Item to make it non-infringing; provided, however, that such modification or replacement shall not degrade the operation or performance of the Covered Item.

17. Infringement Protection. Contractor shall hold the Court and its officers, agents, and employees harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted compositions, secret process, or patented or unpatented invention, article, or appliance furnished or used in connection with this Agreement.

18. Insurance Requirements; Required Coverage

A. General Insurance Requirements: Contractor shall obtain, provide, and maintain at Contractor's expense the minimum insurance set forth in this section with reputable insurer(s). All insurance policies shall be placed with insurers admitted in the State of California and having an A.M. Best rating of not less than A-: VIII.

B. Minimum Scope and Limits of Coverage: Contractor shall maintain the following minimum insurance in full force during the Term of the Agreement:

- 1) **Worker's Compensation and Employer's Liability.** The policy is required only if Contractor has employees. It must include worker's compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1,000,000 per accident or disease.
 - 2) **Commercial General Liability Insurance.** Commercial General Liability Insurance provided on an occurrence form with limits of not less than \$1,000,000 per occurrence, and a \$2,000,000 annual aggregate. The policy must coverage for liabilities arising out of premises and operation, independent contractors, products – completed operations, liability assumed under an insured contract, personal and advertising injury liability, at minimum limits of \$1,000,000 per occurrence, and a \$2,000,000 annual aggregate.
 - 3) **Professional Liability.** The policy must cover liability resulting from any act, errors or omissions committed or alleged to have been committed by the Contractor's or any person or organization for whom the Contractor is responsible that arises out of professional services provided in the performance of the Work under this Agreement, at minimum limits of \$1,000,000 per claims made or per occurrence, and a \$2,000,000 annual aggregate.
 - 4) **Commercial Automobile Liability.** The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in Contractor's performance of the Work under this Agreement whether owned, non-owned, leased, rented, or hired. The minimum liability limit must be \$1,000,000 per occurrence, combined single limit.
 - 5) **Commercial Crime Insurance.** The policy must cover dishonest acts including loss due to theft of money, securities, property; forgery, and alteration of documents; or fraudulent transfer of money, securities, and property. The minimum liability limit must be \$50,000.
 - 6) **Sexual Misconduct and Molestation Liability.** If not covered under the terms and conditions of the Commercial general Liability insurance policy required in section 2 above, Sexual Misconduct and Molestation Liability insurance with coverage for negligent hiring, employment, training, investigation and retention or failure to report employees who commit acts of sexual misconduct or molestation at minimum liability \$1,000,000 per occurrence.
 - 7) **Claims Made Coverage.** If any required insurance is provided on a "claims made" form, Contractor shall maintain the coverage continuously throughout the Term, and, without lapse, for three (3) years beyond the termination or expiration of this Agreement and the Court's acceptance of all Work provided under this Agreement. The retroactive date or "prior acts inclusion date" of any "claims made" policy must be no later than the date the Work commences under this Agreement.
 - 8) **Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of primary insurance, excess liability insurance or umbrella liability insurance.
- C. **Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retentions that exceed \$100,000 per occurrence must be declared to, and approved by, the Court. The

deductible and/or self-insured retentions will not limit or apply to Contractor's liability to the Court and shall be the sole responsibility of Contractor.

D. **Endorsements:** All Contractor policies will contain, or be endorsed to contain, the following provisions:

- 1) **Additional Insureds.** The State of California, the Judicial Council of California, the Administrative Office of the Courts, the County of Orange, and the Superior Court of California, County of Orange and the Presiding Judge, its elected and appointed officials, officers, agents and employees when acting in the scope of their appointment or employment shall be covered as additional insureds for liability arising out of activities performed by, or on behalf of, Contractor under the terms of the Agreement.

Wording for the Additional Insured Endorsement shall be the following:

"The State of California, the Judicial Council of California, the Administrative Office of the Courts, the County of Orange, and the Superior Court of California, County of Orange and the Presiding Judge, its elected and appointed officials, officers, agents and employees when acting in the scope of their appointment or employment are named as additional insureds on all above policies except workers' compensation, professional liability, and crime insurance."

- 2) **Insurance Primary.** The insurance provided is primary insurance with respect to the State of California, the Judicial Council of California, the Administrative Office of the Courts, the County of Orange, and the Superior Court of California, County of Orange and the Presiding Judge, its elected and appointed officials, officers, agents and employees, and non-contributory with any insurance or self-insurance maintained by the Court. Any insurance and/or self-insurance maintained by the State of California, the Judicial Council of California, the Administrative Office of the Courts, the County of Orange, and the Superior Court of California, County of Orange and the Presiding Judge, its elected and appointed officials, officers, agents and employees will not contribute with the insurance, or benefit Contractor in any way.
- 3) **Separation of Insureds.** The commercial general liability policy, or, if maintained in addition to that policy, the excess liability or umbrella liability policy, applies separately to each insured against whom a claim is made and/or a lawsuit is brought, except with respect to the limits of the insurer's liability.
- 4) **Certificates of Insurance.** Prior to Contractor beginning any performance of the Work, Contractor shall provide the Court certificates of insurance satisfactory to the Court, attesting to the existence of coverage. Any replacement certificates of insurance are subject to the approval of the Court, and, without prejudice to the Court, Contractor shall not perform Work prior to Court's approval of the certificates. Contractor must obtain and provide complete copies of each policy upon the Court's request. If at any time, the foregoing policies become unsatisfactory to the Court, as to form or substance, or if a company issuing any such policy becomes unsatisfactory to the Court, Contractor shall, upon written notice from the Court, promptly obtain a new policy, and submit the same to the Court, with the appropriate certificates and endorsements, for Court approval.

- a) Certificate(s) of Insurance shall be submitted in accordance with Notice requirements set forth in the Agreement and as follows:

Superior Court of CA, Orange County
 Attn: Karl K. Truong, Procurement Specialist
 700 Civic Center Drive West
 Santa Ana, CA 92701

Certificate Holder name should read as follows: "Superior Court of California, County of Orange and County of Orange" and must reference Agreement No. SC4933/ Karl K. Truong

- b) **Failure to Provide Certificates of Insurance.** If Contractor fails to provide Certificate(s) of Insurance within seven (7) days of notification by the Court, award may be made to the next qualified vendor(s).
- 5) All of Contractor's policies will be endorsed to provide written notice to the Court of cancellation in coverage within thirty (30) business days, mailed to the Court. Such notice will be provided in accordance with Notice requirements set forth in the Agreement and must reference the relevant project, and Agreement number. Contractor shall provide Court with thirty (30) business day's written notice of any non-renewal or reduction in coverage with respect to these policies.

- E. **Waiver of Recovery or Subrogation.** Contractor and its insurance carrier waive any and all rights of recovery or subrogation against the State of California, the Judicial Council of California, the Administrative Office of the Courts, the County of Orange, and the Superior Court of California, County of Orange and the Presiding Judge, its elected and appointed officials, agents and employees when acting in the scope of their appointment or employment. This waiver will be reflected on the Certificate of Insurance provided by Contractor in accordance with the following:

Wording for Waiver of Recovery or Subrogation shall be the following:

"Waiver of recovery or subrogation in favor of the State of California, the Judicial Council of California, the Administrative Office of the Courts, the County of Orange, and the Superior Court of California, County of Orange and the Presiding Judge, its elected and appointed officials, officer, agents and employees when acting in the scope of their appointment or employment applies to all policies as required by written contract."

- F. **Consequences of Lapse; Failure to Maintain Insurance.**

- 1) **Consequences of Lapse.** If required insurance lapses during the Term, the Court is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.
- 2) **Failure to Maintain Insurance.** If Contractor fails to obtain the appropriate Waiver(s) of Recovery or Subrogation, Additional Insured status(es), or Certificates of Insurance from carrier, Contractor shall indemnify the State of California, the Judicial Council of California, the

Administrative Office of the Courts, the County of Orange, and the Superior Court of California, County of Orange and the Presiding Judge, its elected and appointed officials, officers, agents and employees from all costs and liability caused by Contractor's breach.

G. **Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods:

- 1) **Separate.** Separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or
- 2) **Joint.** Joint insurance program with the association, partnership, or other joint business venture included as a named insured.

19. Intellectual Property. Contractor shall perform its obligations under this Agreement in a manner that the Services (including each Deliverable) and any portion thereof, does not infringe, or constitute and infringement, misappropriation or violation of, any Intellectual Property Right. Contractor has full Intellectual Property Rights and authority to perform all of its obligations under this Agreement, and Contractor is and will be either the owner of, or authorized to use for its own and the Court's benefit, all Contractor Works and Third Party Works used and to be used in connection with the Services.

20. Limitation of Liability. Court will not be liable to Contractor, its officers, employees, Subcontractors, or Third Parties for any indirect, special, or consequential damages, including lost profits or revenue, arising from or relating to this Agreement, regardless whether Court was advised of the possibility of such loss or damage. In no event will Court's liability for direct damages arising from or related to this Agreement, for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, exceed the amounts paid to Contractor by Court under this Agreement.

21. Miscellaneous Provisions; Interpretation

A. **Special Provisions for Agreements Providing for Compensation of \$50,000 or more; Union Activities Restrictions.** As required under Government Code sections 16645-16649, if this Agreement provides for total Compensation of \$50,000 or more to Contractor, then the covenants in this section apply to Contractor's activities. Contractor shall not:

- 1) Assist, promote, or deter union organizing by employees performing work under state or judicial branch contracts;
- 2) Use the state's or Court's funds received under this Agreement to assist, promote, or deter union organizing; or
- 3) For any business conducted under this Agreement, use any property of the state or Court to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote, or deter union organizing, unless the state or judicial branch property is equally available to the general public for holding meetings.

If Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor shall maintain records sufficient to show that no reimbursement from the state's or Court's funds has been sought for these costs, and provide those records to the Attorney General upon request.

- B. **Special Provisions regarding DVBE Participation Certification.** If Contractor made a commitment to achieve disabled veterans business enterprise participation, Contractor shall within 60 days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the Court: (1) the total amount the prime Contractor received under the Agreement; (2) the name and address of any disabled veterans business enterprises (DVBE) that participated in the performance of this Agreement; (3) the amount each DVBE received from the Contractor; (4) that all payments under this Agreement have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.
- C. **Special Provisions regarding Ownership of Results.**
- 1) *Special Provisions regarding Grant Funds.* If this Agreement provides Compensation to Contractor for a project funded through a grant, at the conclusion of the Project, title to all expendable and non-expendable personal property with a value of \$500 or more purchased with Court funds shall vest, automatically and without further action of the parties, with the Court. If Contractor provides written certification to the Court that the property will continue to be used for grant-related purposes and the Court approves such certification in writing, the Court may permit title to all such property to remain with Contractor in accordance with the Court's written instructions. Contractor must await specific written instructions from the Project Manager regarding any transfer of title or disposition.
 - 2) *Special Provisions regarding Ownership of Certain Equipment.* If Compensation under this Agreement is not through grant funding and this Agreement provides for the provision of equipment purchased or built with Court funds, title to any equipment purchased or built with Court funds shall vest in the Court immediately upon payment of the purchase price. Before delivery to the Court, Contractor is responsible for loss or damage to the equipment to the extent it results from the negligent act or omission of Contractor or its directors, officers, employees, or agents, and Contractor shall make all necessary or appropriate repairs and adjustments.
- D. **Special Provisions Applicable to Competitively Bid Contracts; Antitrust Claims.** If Services or Goods under this Agreement were obtained by means of a competitive bid, Contractor shall comply with the requirements of Government Code sections set out below.
- 1) Contractor shall assign to the Court all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the Court pursuant to the bid. Such assignment shall be made and become effective at the time the Court tenders final payment to the Contractor. (GC 4552)
 - 2) If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Court any portion of the recovery, including treble damages, attributable to overcharges

that were paid by the Contractor but were not paid by the Court as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (GC 4553)

- 3) Upon demand in writing by the Contractor, the Court shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (1) the Court has not been injured thereby, or (2) the Court declines to file a court action for the cause of action. (GC 4554)

22. **Modification.** No modification or change to this Agreement will be valid without written approval by Court, in the form of an Amendment, including any changes to Exhibit D, Scope of Work.
23. **Notices.** Notices under this Agreement must be in writing. Notices may be delivered in person, via a reputable express carrier, by registered or certified mail (postage pre-paid), or by email. Notice is effective on receipt; however, any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified will be treated as effective on the first day that the notice was refused, unclaimed, or deemed undeliverable. Notices must be addressed to a party's project manager, if one is designated in on the Cover Sheet of this Agreement. Either party may change its address for receipt of notice by entering a different recipient and address below or by giving notice at any time to the other party in the manner permitted by this paragraph.
24. **Prohibited Bids for End Product of this Agreement.** No person, firm, or subsidiary thereof which has been awarded a consulting services agreement may submit a bid for, or be awarded an agreement for, the provision of services, procurement of Materials or Data, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of this Agreement. This provision will not apply to any person, firm, or subsidiary thereof, which is awarded a subcontract under this Agreement in an amount no more than ten percent of the total monetary value of this Agreement.
25. **Public Contract Code.** Effective March 24, 2011, Part 2.5 of the California Public Contract Code (§ 19201 – 19210), cited as the California Judicial Branch Contract Law, requires the Judicial Branch (including the Court) to comply with Public Contract Code parts that apply to state agencies and departments re: procurement of goods/services. The California Judicial Branch Contract Law applies to all contracts initially entered into or amended by Judicial Branch entities (including the Court) on or after October 1, 2011.
26. **Scope of Work; Delivery; Acceptance.**
 - A. **Scope of Work.** Contractor will perform the Services described in this Agreement, Exhibit D, Scope of Work, and the Specifications. Except as set forth in Exhibit D, Scope of Work, Contractor is responsible for providing all facilities, materials, and resources (including personnel, equipment and software) necessary and appropriate for delivery of the Services and to meet Contractor's obligations under this Agreement, to the satisfaction of the Court.
 - B. **Delivery.** Contractor shall deliver to the Court the Deliverables in accordance with this Agreement.
 - C. **Acceptance.**
 - 1) All Work provided by Contractor under this Agreement is subject to written acknowledgement and acceptance by Court's Project Manager. The Court may reject any

Services or Deliverables that: (i) fail to meet applicable requirements, Specifications, or acceptance criteria; (ii) are not as warranted; (iii) are performed or delivered late, or not provided in accordance with this Agreement; or (iv) contain Defects. The Court's Project Manager will apply the acceptance criteria set forth in Exhibit D, Scope of Work, (including timeliness, completeness, technical accuracy and conformance to statistical, industry or marketplace standards) to determine acceptance or non-acceptance of the Work.

- 2) If the Work is not acceptable, Project Manager shall detail its failure to meet the acceptance criteria and provide a notice of rejection of such Deliverable or Service. Contractor shall have ten (10) business days, or as mutually agreed upon, from receipt of such notice to correct the failure(s) to conform to the acceptance criteria. Contractor will re-submit the Work and the Project Manager shall re-apply the acceptance criteria to determine its acceptance or non-acceptance. Thereafter, the parties shall repeat the process set forth in this Section until Contractor's receipt of Court's written acceptance of such corrected Work; provided, however, that if Court rejects any Work on at least two (2) occasions, Court may terminate that portion of this Agreement which relates to the rejected Work at no expense to Court.
- 3) If or when Contractor does not provide service(s) as specified, the Court may provide or contract with others to provide the service(s), and the amount payable under the Agreement shall be reduced by the cost to Court of labor, material, overhead, and administration for such corrective action. Such action does not constitute an acceptable alternative to performance of the Work by the Contractor.
- 4) If the Court rejects any Services or Work Product after payment to Contractor, the Court may exercise all contractual and other legal remedies, including (i) setting off the overpayment against future invoices payable by the Court, (ii) setting off the overpayment against any other amount payable for the benefit of Contractor pursuant to this Agreement or otherwise, and (iii) requiring Contractor to refund the overpayment within thirty (30) days of the Court's request.

D. **Prior Work.** Prior work, performed by Contractor pursuant to Court's authorization, but before execution of this Agreement, will be considered as having been performed subject to the provisions of this Agreement.

E. **Non-Exclusivity.** This is a non-exclusive agreement. Court reserves the right to perform, or have others perform the Work of this Agreement. Court reserves the right to bid the Work to others or procure the Work by other means.

27. **Services and Deliverables.** (i) the Services will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services; and (ii) Contractor will use efficiently the resources or services necessary to provide the Services; and perform the Services in the most cost efficient manner consistent with the required level of quality and performance. Contractor represents and warrants that each Deliverable will conform to and perform in accordance with the requirements of this Agreement and all applicable Specifications and Documentation. For each such

Deliverable, the foregoing representation and warranty in this section shall commence for such Deliverable upon the Court's acceptance of such Deliverable, and shall continue for a period of one (1) year following Acceptance. In the event any Deliverable does not conform to the foregoing provisions of this section, Contractor shall promptly correct all non-conformities.

28. Standard of Performance; Warranties

A. **Standard of Performance.** Contractor will perform all Work with the requisite skill and diligence consistent with professional standards for the industry and type of work performed under the Agreement, and pursuant to the governing rules and regulations of the industry. Contractor understands that Court relies on the accuracy, competence, and completeness of Contractor's services.

B. Warranties.

- 1) Contractor warrants and represents that all Work shall meet all applicable requirements of the latest revision of the Mechanical, National Electrical, Unified Building and Plumbing, and any other code which may apply to the Work. Contractor must warranty all Work against defects in workmanship; and shall satisfactorily correct, at no cost to the Court, any such defect that may become apparent within a period of one (1) year after completion of the work. The warranty period shall commence upon date of acceptance by the Court. Court's approval of designs or specifications furnished by Contractor will not relieve Contractor of its obligations under this warranty.

Contractor warrants and represents that all parts furnished during the Work shall be the latest improved models in current production, as offered to commercial trade, and shall be of quality material. USED, SHOPWORN, DEMONSTRATOR, PROTOTYPE, RECONDITIONED OR DISCONTINUED MODLES OR MATERIALS ARE NOT ACCEPTABLE. The warranty period for Contractor provided materials shall be for a period of one (1) year after completion of the installation or within manufacturer's warranty, whichever is the later period. The warranty period shall commence upon date of acceptance by the Court. Contractor shall provide specified Court Project Manager with all manufacturers' warranty documents upon completion of the installation and prior to leaving the job site.

- 2) **Non-Infringement.** Contractor represents and warrants to Court that it is and will be either its own, or be authorized to use for its own and the Court's benefit, all intellectual property rights used and to be used in connection with providing and/or performing the Work.
- 3) All warranties will inure to Court, its successors, assigns, customer agencies, and users of the Work provided hereunder.
- 4) Unless otherwise specified, the warranties set forth in this Section 26 commence after Work has been approved and accepted by Court.

29. Survival. Terms that will survive termination or expiration of this Agreement include, but are not limited to: Assignment, Audit Rights and Retention of Records, Confidentiality, Indemnification, Limitation of Liability, Warranties.

30. Termination

A. **Termination for Cause.** Court may terminate this Agreement, in whole or in part, and be relieved of any payments, if Contractor fails to perform the requirements of this Agreement at the time and in the manner agreed. Court may proceed with the Work in any manner deemed proper. All costs to Court arising from Contractor's default, including costs to complete or correct the Work, will be deducted from any sum due Contractor. Contractor will not be entitled to recover overhead or profit on the uncompleted portions of the Work.

If the Court terminates this Agreement or any portion thereof for cause, the Court may acquire from third parties, under the terms and in the manner the Court considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the Court for any excess costs for those goods or services. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Court for such goods or services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Court. Contractor shall continue the Services not terminate hereunder.

B. **Termination for Convenience.**

- 1) Court may terminate this Agreement, in whole or in part, at any time and for any reason, upon at least ten (10) days Notice to Contractor. Upon receipt of the termination Notice, Contractor will promptly discontinue Work as specified in the Notice.
- 2) If Court terminates all or part of this Agreement other than for cause, the Court will pay Contractor for the Work satisfactorily performed prior to the termination. Contractor will not recover overhead or profit on the uncompleted portions of the Work.

C. **Termination due to Fund Appropriation and Availability.**

- 1) Court's obligations under this Agreement are subject to the availability of funds authorized for this Work. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the current Appropriation Year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement.
- 2) Upon Notice, Court may terminate this Agreement in whole or in part, without prejudice to any right or remedy of Court, for lack of appropriation of funds. Upon termination, Court will pay Contractor for the fair value of Work satisfactorily performed prior to the termination, not to exceed the total Agreement amount.

D. **Termination due to Death, Permanent Incapacity.**

- 1) This entire Agreement will terminate immediately without further action of the parties upon the death or temporary or permanent incapacity, of a natural person who is a party to this Agreement or a general partner of a partnership that is a party to this Agreement.

E. Effect of Termination and/or Expiration.

- 1) Upon any expiration or termination, or any portion thereof, Contractor shall promptly provide the Court with all originals and copies of Deliverables (including (i) any partially-completed Deliverables and related work product or materials; and (ii) any Contractor Works, Third Party Works, and Developed Works comprising such Deliverables or partially-completed Deliverables), Confidential Information, Court Data, Court Works, and all portions thereof, in its possession, custody, or control. In the event of any termination of this Agreement or any portion thereof, the Court shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the Court's termination is not based on a Default, Court shall pay any fees due under this Agreement for Deliverables completed and accepted as of the date of the Court's termination notice. Should Contractor not comply with the provisions of this section, Court will have the right to take possession of any materials, equipment, Deliverables, and other Work including partially completed Work. Contractor will immediately assign to Court all of Contractor's right, title, and interest in and to such Work and related materials and Work product, and any and all intellectual property rights.
 - a. Contractor shall return to the Court any equipment purchased or built with Court funds, with costs incurred by Contractor being reimbursed by the Court.
- 2) Upon termination of any kind, Court may withhold from payment any sum that Court determines to be owed to Court by Contractor, or necessary to protect Court against loss due to outstanding liens or claims of former lien holders.
- 3) Upon the Expiration/Termination Date:
 - a. The Court shall be released from compensating Contractor for Services, other than those Contractor satisfactorily performed before the Termination Date, and for any indirect costs.
 - b. Without prejudice to the Court, Contractor shall be released from performing Services.

F. Termination Assistance. At the Court's request and option, during the Termination Assistance Period, Contractor shall provide, at the same rates charged immediately before the start of the Termination Assistance Period, to the Court or to its designee (collectively, "Successor") services reasonably necessary to enable the Court to obtain from another contractor, or to provide for itself, services to substitute for or replace the Services, together with all other services to allow the Services to continue without interruption or adverse effect and to facilitate the orderly transfer of the Services to the Successor (collectively, the "Termination Assistance Services"). Termination Assistance Services will be provided to the Court by Contractor regardless of the reason for termination or expiration. At the Court's option and election, the Court may extend the Termination Assistance Period for an additional six (6) months.

31. Cancellation.**A. Cancellation Rights.**

- 1) The Court may also cancel delivery immediately of all or any portion of unshipped Goods or limit Contractor's Services, and, proportionately, Contractor's compensation except to reimburse Contractor for its actual costs incurred before expenses arising out of early termination by the Court, and any direct and indirect expenses incurred by cancellation of Goods in process that are custom made for the Court, if terminated for reason of cause as defined in Section 28 A, Termination for Cause.

32. Time is of the Essence. Time of performance is of the essence in the performance of services by Contractor under this Agreement.

33. Travel Rate Guidelines. Contractor's travel expenses are not reimbursable by the Court, unless the Agreement expressly indicates that the Court will reimburse such expenses in accordance with Exhibit E, Travel Guidelines.

34. Waiver; Severability

- A. **Waiver of Rights.** Court's action, inaction, or failure to enforce any right or provision of this Agreement is not a waiver of its rights, and will not prevent Court from enforcing such rights on any future occasion.
- B. **Severability.** The provisions of this Agreement will be effective in all cases, unless otherwise prohibited by applicable state or federal law. The provisions of this Agreement are separate and severable. The invalidity of any sentence, paragraph, provision, section, or portion of this Agreement will not affect the validity of the remainder of this Agreement.

35. Entire Agreement.

- A. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and will not be used to interpret or determine the validity of this Agreement.
- B. This Agreement was negotiated between the parties, and neither party "prepared" this Agreement for purposes of California Civil Code §1654. Any ambiguity will not be construed against the drafter, but rather the terms and provisions will be given a reasonable interpretation.
- C. This Agreement constitutes the entire and final understanding of the parties regarding this matter, and supersedes and terminates any and all prior or contemporaneous negotiations, representations, understandings, discussions, offers, proposals, or agreements between the parties, whether written or oral, express or implied, relating in any way to the this matter.

END OF EXHIBIT B-1

EXHIBIT B-2**SUPPLEMENTAL TERMS AND CONDITIONS****1. Data and Security.**

- A. **Safety and Security Procedures.** Contractor shall maintain and enforce, at the Contractor Service Locations, industry-standard safety and physical security policies and procedures. While at each Court Service Location, Contractor shall comply with the safety and security policies and procedures in effect at such Court Service Location.
- B. **Data Security.** Contractor shall comply with the Data Safeguards. Contractor personnel and Subcontractors shall not attempt to access, and shall not allow access to the Court data and other Confidential Information that is not required for the performance of the Services by such personnel or Subcontractors. In the event Contractor or a Subcontractor discovers or is notified of a breach or potential breach of security relating to the Court data or other Confidential Information, Contractor shall promptly, at its own expense:
- 1) Notify the Court Project Manager (“CPM”) of such breach or potential breach; and
 - 2) If the applicable Court Data or other Confidential Information was in the possession of Contractor or Subcontractors at the time of such breach or potential breach, Contractor shall:
 - a. Investigate and cure the breach or potential breach; and
 - b. Take measures satisfactory to the Court to prevent such breach or potential breach from recurring.
- C. **Security Assessments.** At least once a year, or upon the Court’s request, Contractor shall, at its expense, perform, or cause to have performed an assessment of Contractor’s compliance with the safety and security policies set forth in this Agreement or any Statement of Work. Contractor shall provide to the Court the results, including any findings and recommendations made by Contractor’s assessors, of such assessment, and, at its expense, take any corrective actions. The Court and Court Contractors may, at the Court’s expense, perform the assessments described in this Section and “snap” assessments (e.g., safety and data/physical security assessments) of the Court Service Locations.
- 2. Four-Digit Date Compliance.** Contractor represents and warrants that it will provide only Four-Digit Date Compliant Deliverables and/or Services to the Court. “Four-Digit Date Compliant” Deliverables and Services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries.

3. Intellectual Property.

- A. **Contractor/Third Party Works.** Contractor shall set forth in an exhibit to each Statement of Work all Contractor Works and Third Party Works that Contractor intends to use in connection with that Statement of Work. The Court shall have the right to approve in writing the introduction of any Contractor Works or Third Party Works into any Deliverable or Service prior to such introduction. Contractor grants to the Court, together with all Court Contractors, without additional charge, a perpetual, irrevocable, royalty-free, fully paid-up, worldwide, non-exclusive license to use, reproduce, perform, display, transmit, distribute, modify, create derivative works of, make, have made, sell, offer for sale and import Contractor Works and Third Party Works (including Source Code) and to sublicense such rights to other entities, in each case for the purpose of conducting the Court's business.
- B. **Rights in Developed Works.** Upon their creation, the Developed Works (and all Intellectual Property Rights therein) will be the sole and exclusive property of the Court. Contractor (for itself, Project Staff and Subcontractors) hereby irrevocably assigns, transfers and conveys to the Court without further consideration all worldwide right, title and interest in and to the Developed Works, including all Intellectual Property Rights therein. Contractor further agrees to execute, and shall cause Project Staff and Subcontractors to execute, any documents or take any other actions as may be reasonably necessary or convenient to perfect the Court's or its designee's ownership of any Developed Works and to obtain and enforce Intellectual Property Rights in or relating to Developed Works. Contractor may use Developed Works solely to provide the Services during the term of this Agreement. Contractor shall promptly notify the Court upon the completion of the development, creation or reduction to practice of any and all Developed Works.
- C. **Retention of Rights.** The Court retains all rights, title and interest (including all Intellectual Property Rights) in and to the Court Works. Subject to rights granted herein, Contractor retains all rights, title and interest (including all Intellectual Property Rights) in and to the Contractor Works.
- D. **Third-Party Rights.** Contractor hereby assigns to the Court all of Contractor's licenses and other rights (including any representations, warranties, or indemnities that inure to Contractor from third parties) to all Third Party Works incorporated into the Deliverables or Services. If such licenses and rights cannot be validly assigned to or passed through to Court by Contractor without a Third Party's consent, then Contractor will use its best efforts to obtain such consent (at Contractor's expense) and will indemnify and hold harmless the Court, Judicial Branch Entities and Judicial Branch Personnel against all Claims arising from Contractor's failure to obtain such consent.

4. **Malicious Code.** No Deliverable will contain any Malicious Code. Contractor shall immediately provide to the Court written notice in reasonable detail upon becoming aware of the existence of any Malicious Code. Without limiting the foregoing, Contractor shall use best efforts and all necessary precautions to prevent the introduction and proliferation of any Malicious Code in the Court's IT Infrastructure or networks or in the Contractor systems used to provide Services. In the event Contractor or the Court discovers the existence of any Malicious Code, Contractor shall use its best efforts, in cooperation with the Court, to effect the prompt removal of the Malicious Code from the Deliverables and the Court's IT Infrastructure and the repair of any files or data corrupted thereby, and

the expenses associated with the removal of the Malicious Code and restoration of the data shall be borne by Contractor. In no event will Contractor or any Subcontractor invoke any Malicious Code.

- 5. Progress Reports.** As directed by the Court, Contractor must deliver progress reports or meet with Court personnel on a regular basis to allow: (i) the Court to determine whether the Contractor is on the right track and the project is on schedule, (ii) communication of interim findings, and (iii) opportunities for airing difficulties or special problems encountered so that remedies can be developed quickly.
- 6. Project Staff.**
- A. **Contractor Project Manager.** The Contractor Project Manager shall serve, from the Effective Date, as the Contractor project manager and primary Contractor representative under this Agreement. The Contractor Project Manager shall (i) have overall responsibility for managing and coordinating the performance of Contractor's obligations under this Agreement, including the performance of all Subcontractors; and (ii) be authorized to act for and bind Contractor and Subcontractors in connection with all aspects of this Agreement. The Contractor Project Manager shall respond promptly and fully to all inquiries from the Court Project Manager.
- B. **Contractor Key Personnel.** The Court reserves the right to interview and approve proposed Contractor Key Personnel prior to their assignment to the Court. Contractor shall not replace or reassign any Contractor Key Personnel unless the Court consents in advance in writing or such Contractor Key Personnel (i) voluntarily resigns or takes a leave of absence from Contractor, (ii) has his/her employment, professional or other for-hire relationship terminated by Contractor, (iii) fails to perform his or her duties and responsibilities pursuant to this Agreement, or (iv) dies or is unable to work due to his or her disability. If Contractor needs to replace a Contractor Key Personnel for any of the foregoing reasons, Contractor shall:
- 1) notify the Court promptly;
 - 2) provide resumes for proposed replacement Contractor Key Personnel within two (2) Business Days after so notifying the Court; and
 - 3) be responsible for all costs and expenses associated with any replacement of any Contractor Key Personnel member (including, without limitation, any costs and expenses associated with training, project orientation or knowledge transfer reasonably required for replacement personnel to provide the applicable Services).
- C. **Subcontractors.** Contractor shall not subcontract or delegate any of the obligations under this Agreement except as approved by the Court in writing in advance. The Court may withdraw its approval of a subcontractor if the Court determines in good faith that the subcontractor is, or will be, unable to effectively perform its responsibilities. If the Court rejects any proposed subcontractor in writing, Contractor will assume the proposed subcontractor's responsibilities. No subcontracting shall release Contractor from its responsibility for performance of its obligations under this Agreement. Contractor shall remain fully responsible for the performance of Subcontractors hereunder, including, without limitation, all work and activities of Subcontractors providing services to Contractor in connection with the Services. Contractor shall be the sole point of contact with Subcontractors under this Agreement, and Contractor shall be solely responsible for Subcontractors, including, without limitation, payment of any and all

charges resulting from any subcontract. The Court's consent to any subcontracting or delegation of Contractor's obligations will take effect only if there is a written agreement with the Subcontractor, stating that the Contractor and Subcontractor:

- 1) are jointly and severally liable to the Court for performing the duties in this Agreement;
- 2) affirm the rights granted in this Agreement to the Court;
- 3) make the representations and warranties made by the Contractor in this Agreement;
- 4) appoint the Court an intended third party beneficiary under Contractor's written agreement with the Subcontractor; and
- 5) shall comply with and be subject to the terms of this Agreement, including with respect to Intellectual Property Rights, Confidential Information and Data Safeguards.

D. Project Staff. Contractor shall appoint to the Project Staff:

- 1) Individuals with suitable training and skills to perform the Services; and
- 2) Sufficient staffing to adequately provide the Services.

Contractor shall make commercially reasonable efforts consistent with sound business practices to honor the specific request of the Court with regard to assignment of its employees. The Court shall have the right to require Contractor to remove any personnel from the Project Staff that interact with any personnel of the Court or Court Contractors (including, without limitation, the Contractor Project Manager) upon providing to Contractor a reason (permitted by law) for such removal. Contractor may, with the Court's consent, continue to retain such member of the Project Staff in a role that does not interact with any personnel of the Court or Court Contractors. The Contractor Project Manager and the Court Project Manager shall work together to mitigate any impact on the schedule as set forth in a Statement of Work caused by any replacement of a Project Staff member. Contractor shall be responsible for all costs and expenses associated with any Project Staff replacement. Contractor shall assure an orderly and prompt succession for any Project Staff member who is replaced. Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.

E. Conduct of Project Staff.

- 1) While at the Court Service Locations, Contractor shall, and shall cause Subcontractors to:
 - a. comply with the requests, standard rules and regulations and policies and procedures of the Court regarding safety and health, security, personal and professional conduct generally applicable to such Court Service Locations;
 - b. otherwise conduct themselves in a businesslike manner.
- 2) Contractor further shall enter into an agreement with each of the members of the Project Staff which assigns, transfers and conveys to Contractor all of such Project Staff

member's right, title and interest in and to any Developed Works, including all Intellectual Property Rights in and to Developed Works.

- 3) Contractor shall cooperate with the Court if the Court wishes to perform any background checks on Contractor's personnel by obtaining, at no additional cost, all releases, waivers, and permissions the Court may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Court of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Court and performed by Contractor. Contractor shall remove from the Project Staff any person refusing to undergo such background checks and any other person whose background check results are unacceptable to Contractor or that, after disclosure to the Court, the Court advises are unacceptable to the Court.

7. **Third Party or Court Services.** Notwithstanding anything in this Agreement to the contrary, the Court shall have the right to perform or contract with a Third Party to perform any service within or outside the scope of the Services, including services to augment or supplement the Services or to interface with the IT Infrastructure of the Court or Court Contractors. In the event the Court performs or contracts with a Third Party to perform any such service, Contractor shall cooperate in good faith with the Court and any such Third Party, to the extent reasonably required by the Court, and the Court shall reimburse Contractor for its actual out-of-pocket costs and personnel time based on the discounted rate table set forth in the applicable Statement of Work, in each case, as incurred in providing such assistance. Such cooperation shall include, without limitation, providing such information as a person with reasonable commercial skills and expertise would find reasonably necessary for the Court or a Third Party to perform its work relating to the Services.
8. **Communication(s):** Any correspondence referring to the terms, prices and conditions of this Agreement must be directed to the Contracts & Procurement Unit, Attn: Frank J. Perez.
9. **Publicity:** Contractor may not make a public announcement, or issue any press release or other writing, related to this Agreement without first obtaining the Court's prior written approval, which may be denied for any or no reason.

END OF EXHIBIT B-2

EXHIBIT C**PAYMENT PROVISIONS****1. Contract Amount**

- A. The total amount the Court may pay to Contractor under this Agreement for performing all Work, as well as all Travel and Living Expenses and/or Reimbursable Expenses specified therein, shall not in any event exceed the Total Contract Value to Date specified on the cover sheet of this Agreement, Section 3, Contract Amount.
- B. The total amount the Court may pay to Contractor under this Agreement (“Contract Amount”) shall not in any event exceed the total of all Total Amount(s) to Date on the coversheet of this Agreement, Section 3, Contract amount and all amendments authorized under this Agreement.

2. Taxes

The Court is exempt from federal excise taxes and no payment will be made for any taxes levied on Contractor’s or any Subcontractor’s employees’ wages. The Court will pay for any applicable State of California or local sales or use taxes on the Deliverables provided or Services rendered pursuant to this Agreement.

3. Invoicing Requirements**A. Invoice Procedures:**

After the Court has accepted Services and Work Product, Contractor will send one (1) original correct, itemized invoice for the accepted Services and Work Product to “Accounts Payable,” at the address shown below. Invoices shall reference the Agreement and Purchase Order Number(s) as applicable.

Invoices are to be submitted in arrears for the services provided and within thirty (30) days of the accepted Work. Billing shall cover services not previously invoiced.

B. Invoice Submittals

Invoices may be submitted either electronically via e-mail or hard copy submittal by mail, in accordance with the following instructions:

- Electronic Submittal of Invoices

Contractors may submit Invoices electronically (PDF version) to the Court Accounting Services email address: AccountingServices@occourts.org.

On the Subject Line of the e-mail, please reference Contractor Name, Invoice Number(s), Agreement Number, and Purchase Order Number.

Example:

Contractor Name. – Invoice # XXXXX – Agreement # SC4933

OR

- Hard Copy Submission of Invoices

Contractors may mail Invoices (hard copy) to Court PO box address if they choose not to submit them electronically.

Superior Court of California, County of Orange
 Financial Services (Reference PO. # XXXXX)
 700 Civic Center Drive West
 P.O. Box 22002
 Santa Ana, CA 92702

C. Invoice Instructions

Contractor will print each invoice on Contractor's standard printed bill form, and each invoice will include at least (i) the Purchase Order Number, (ii) a unique invoice number, (iii) Contractor's name and address, (iv) the nature of the invoiced charge, (v) the total invoiced amount, (vi) any/all receipts for Contractor provided materials, and (vii) all other details the Court considers reasonably necessary to permit the Court to evaluate the Services performed and the Work Product delivered, including the number of hours worked and the applicable hourly rate. If requested, Contractor will promptly correct any inaccuracy and resubmit the invoice.

D. Invoice Details

Contractor will submit invoices to the Court. Each invoice will have a number and will include, at minimum, the following information:

- (1) Purchase Order # XXXX
- (2) Service request date
- (3) Description of service(s), including the following information:
 - Location where service(s) were performed
 - Description of service(s) performed
 - Court Project Manager
- (4) Hours billed
- (5) Hourly billing rate
- (6) List of materials used with pricing
- (7) Date of service completion
- (8) Name and address of contractor
- (9) Contractor's federal taxpayer's ID number.

Contractor will include all back up documentation and receipts associated with each invoice.

For Fixed Price Work Provided on a Deliverables Basis, Contractor shall invoice on successful acceptance of a Deliverable. Contractor's invoice(s) shall clearly specify:

- The Agreement number, SC4933;

- Purchase Order # XXXX
- A unique invoice number;
- Contractor's name and address;
- Contractor's Taxpayer identification number (FEIN);
- Description of the Deliverable
- The Fixed Price of the Deliverable
- Preferred remittance address, if different from the mailing address

For Time and Materials Not to Exceed Basis Work Provided on a Deliverables Basis, Contractor shall invoice on successful acceptance of a Deliverable. Contractor's invoice(s) shall clearly specify:

- The Agreement number, SC4933
- Purchase Order # XXXXX
- A unique invoice number;
- Contractor's name and address;
- Contractor's Taxpayer identification number (FEIN);
- For each Deliverable accepted in the previous calendar month, provide separately by Deliverable:
- Description of the accepted Deliverable
- Names, Titles, Hours, Rates and Dates of Performance for all of Contractor or its Subcontractor employees for hours of Work actually incurred in providing that Deliverable during the previous calendar month, including a total for all such Work.
- If the Court specifies that the Contractor is to be compensated for Travel and Living Expenses incurred in providing that Deliverable, the dates the expense was incurred, name of employee, and separate costs for air transportation, overnight lodging, and private vehicle ground transportation (include origin, destination, and miles claimed).
- If the Court specifies that the Contractor is to be compensated for Reimbursable Expenses incurred in providing that Deliverable, the date the expense was incurred description of the expense, and amount of the expense.
- A grand total for all hours, Travel and Living Expenses, and Reimbursable Expenses billed on the invoice, individually for each Deliverable and in total for the invoice, with a grand total
- Preferred remittance address, if different from the mailing address

For Time and Materials Not to Exceed Basis Work Not Provided on a Deliverables Basis, Contractor shall invoice as follows. Contractor's invoice(s) shall clearly specify:

- The Agreement number; SC4933
- Purchase Order # XXXXX
- A unique invoice number;
- Contractor's name and address;
- Contractor's Taxpayer identification number (FEIN);
- Names, Titles, Hours, Rates and Dates of Performance for all of Contractor or its Subcontractor employees for hours of Work actually incurred during the previous calendar month, including a total for all such Work.
- If the Court specifies that the Contractor is to be compensated for Travel and Living

Expenses, the dates the expense was incurred, name of employee, and separate costs for air transportation, overnight lodging, and private vehicle ground transportation (include origin, destination, and miles claimed).

- If the Court specifies that the Contractor is to be compensated for Reimbursable Expenses, the date the expense was incurred, description of the expense, and amount of the expense.
- A grand total for all hours, Travel and Living Expenses, and Reimbursable Expenses billed on the invoice.
- Preferred remittance address, if different from the mailing address

4. **Payment**

The Court will endeavor to pay invoices within thirty (30) days after receipt of a correct, itemized invoice. In no event shall the Court be liable for interest or late charges for any late payments.

Payment shall be made by the Court to the Contractor at the address specified on the invoice.

The Court may withhold full or partial payment to the Contractor in any instance in which the Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

5. **Pricing / Rate Sheet**

6. **Final Payment**

The following conditions must be fulfilled prior to final payment: suffice

- Contractor shall have delivered to the Court all applicable written guarantees and warranties, including those of its subcontractors, if applicable;
- The Contractor shall have delivered to the Court all applicable manuals;

The final payment shall be the amount of owed to Contractor, in accordance with this Agreement, less the following: (i) any amounts reasonably disputed by the Court; (ii) one hundred fifty percent (150%) of the Court's estimate of any amount necessary to complete any Punch List Items which are still not complete; (iii) any amounts attributable to stop notices which the Court is required to withhold under California law (i.e. Civil Code sections 3181 et. seq.).

7. **Release of Claims**

The acceptance by the Contractor of its final payment due under this Agreement shall be and shall operate as a release to the State Entities, County of Orange, and the Court of all claims and all liability to the Contractor for everything done or furnished in connection with this Agreement (including every act and neglect of the Court), with the exception of any claims that are expressly identified by the Contractor as outstanding as of the date of Contractor's submission of Contractor's final application for payment. Contractor's failure to identify any such claims shall operate as a release of all claims.

END OF EXHIBIT C

EXHIBIT D

SCOPE OF WORK

END OF EXHIBIT D

EXHIBIT E**TRAVEL RATE GUIDELINES**

The Court's policy and limits on reimbursable travel-related expenses are listed below. To be eligible for lodging and/or meal reimbursement, expenses must be incurred in excess of 25 miles from headquarters; must be pre-approved in advance by Court designated project manager and is provided herein for Work performed on a time and material or reimbursable not-to-exceed basis. All Work performed on a fixed price lump-sum basis is inclusive of travel and travel expenses.

1. Lodging.

Receipts are required and each day of lodging claimed must be listed separately on the reimbursement claim form. Maximum rates are listed below. Exceptions may be considered on a case-by-case basis, and for centrally booked conferences or meetings.

A. In-state.

Actual costs are reimbursable up to a maximum of \$110 per day, plus tax and energy surcharge. Within the counties of Alameda, San Francisco, San Mateo, and Santa Clara, the maximum rate is \$140, plus tax and energy surcharge.

B. Out-of-state.

Actual costs are reimbursable with appropriate prior approval.

2. Meals.

Actual costs are reimbursable up to the limits stated below for continuous travel of more than 24 hours.

A. Breakfast.

Up to six dollars (**\$6.00**)

B. Lunch.

Up to ten dollars (**\$10.00**).

C. Dinner.

Up to eighteen dollars (**\$18.00**).

Meal reimbursement for one-day trips is taxable and reportable income unless travel included an overnight stay. For continuous travel of less than 24 hours, actual expenses up to the above limits may be reimbursable if:

A. Travel begins one (1) hour before normal work hours, breakfast may be claimed.

B. Travel ends one (1) hour after normal work hours, dinner may be claimed.

C. Lunch may not be claimed on trips of less than 24 hours.

In accordance with agency policy, judges, commissioners, and those non-represented personnel who earn more than \$100,000 per year are not reimbursed for travel-related lunch meal expenses, effective October 1, 2003.

3. Incidental Expenses.

Up to six dollars (**\$6.00**) per day. Incidentals are not reimbursable for one-day trips; they may only be claimed after 24 hours.

4. Transportation.

The actual cost of tickets for air, rail, bus, rental car, or other forms of public transportation is reimbursable. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler's itinerary may be submitted in lieu of a receipt.

A. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of three dollars and fifty cents (**\$3.50**) or more.

B. Mileage.

Personal vehicle mileage is reimbursable at a rate of thirty-four cents (**\$.34**) per mile

C. Privately owned aircraft.

Reimbursement is fifty cents (**\$.50**) per statute mile. This reimbursement is taxable and reportable income.

5. Other Business Expenses.

Actual cost is reimbursable. Receipts are required for all other business expenses, regardless of the amount claimed.

In the event receipts cannot be obtained or have been lost, a statement to that effect and the reason provided shall be noted in the expense account. In the absence of a satisfactory explanation, the amount involved shall not be allowed. Further, a statement explaining that a receipt has been lost shall not be accepted for lodging, airfare, rental car, or business expenses.

Receipts for telephone or telegraph charges related to court business of two dollars and fifty cents (**\$2.50**) or less are not required. However, claims for phone calls must include the place and party called.

END OF EXHIBIT E

END OF AGREEMENT

Question and Answers for Bid #1212-002 - BLUECAT ADONIS AND PROTEUS

OVERALL BID QUESTIONS

There are no questions associated with this bid. If you would like to submit a question, please click on the "Create New Question" button below.

Question Deadline: Dec 11, 2012 7:00:00 AM PST