

Solicitation 1302-001

IT Maintenance (2) NCR Check Readers Hardware & Software

Bid designation: Public



Superior Court of California, County of Riverside

Bid 1302-001 IT Maintenance (2) NCR Check Readers Hardware & Software

Bid Number 1302-001
 Bid Title IT Maintenance (2) NCR Check Readers Hardware & Software

Bid Start Date Feb 5, 2013 3:38:04 PM PST
 Bid End Date Feb 22, 2013 4:00:00 PM PST
 Question & Answer End Date Feb 13, 2013 7:00:00 AM PST

Bid Contact Luana Eutsler
 Luana.Eutsler@riverside.courts.ca.gov

Contract Duration 3 years
 Contract Renewal 2 annual renewals
 Prices Good for 150 days

Standard Disclaimer The Court is not responsible for, and accepts no liability for, any technical difficulties or failures of any type or fashion that result from conducting business electronically. The Court shall have no obligation to any company or successful bidder unless or until the full execution of a final PO/contract. Mere selection and notification by the Court to the successful bidder and/or the process of negotiating a PO/contract shall not create any obligations on the Court.

Bid Comments The Superior Court of California, County of Riverside serves the 2.2 million residents of Riverside County through 15 court locations in three geographical regions – Desert, Mid-County and Western. Located in the heart of Southern California, Riverside County encompasses 28 cities, over 7,300 square miles, and ranks among the nation’s fastest growing, and the state’s most populous, counties. In addition to judges and commissioners, the Court has over 1,100 employees.

The Court is seeking proposals for NCR Maintenance for (2) Check Readers - Hardware and Software. See Attachment A for List of Equipment and Software. 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 upload attachment command you will see when you open a Line Item.

As you access the court documents, some may be view only, but many of the documents call for you to input information into the blanks, directly onto the document. Failure to input requested information may result in your bid being deemed non-responsive.

Item Response Form

Item	1302-001--01-01 - Upload Excel Price Sheet Here and Enter TOTAL ANNUAL COST ALL ITEMS
Quantity	1 each
Unit Price	<input style="width: 150px; height: 20px;" type="text"/>
Delivery Location	Superior Court of California, County of Riverside <u>Riverside Historic Courthouse</u> Superior Court of CA, County of Riverside 4050 Main Street Riverside CA 92501 Qty 1

Description

Upload your completed excel price sheet - and enter TOTAL ANUAL COST for All Items here.

Item **1302-001--01-02 - Upload Vendors Response to SOW-Statement of Work items**

Quantity **1 each**

Prices are not requested for this item.

Delivery Location **Superior Court of California, County of Riverside**
Riverside Historic Courthouse
Superior Court of CA, County of Riverside
4050 Main Street
Riverside CA 92501
Qty 1

Description

Please upload your detailed response to the Court's SOW Statement of Work.
In particular, please respond to Sections C-E.

Item **1302-001--01-03 - ATTACH YOUR CALIF SELLER'S PERMIT OR CERT OF REGISTRATION
HERE**

Quantity **1 each**

Prices are not requested for this item.

Delivery Location **Superior Court of California, County of Riverside**
Riverside Historic Courthouse
Superior Court of CA, County of Riverside
4050 Main Street
Riverside CA 92501
Qty 1

Description

Upload and attach one of the following to this line item:

A California seller's permit issued under Revenue and Taxation Code 6066 and following; or,
A certificate of registration issued under Revenue and Taxation Code 6226.



Superior Court of California, County of Riverside
Procurement Department
4050 Main Street, Lower Level
Riverside, CA 92501

TO: POTENTIAL PROPOSERS

FROM: Superior Court of California, County of Riverside
Procurement Department

DATE: February 5, 2013

SUBJECT: Request For Proposal ("RFP") #1302-001
Maintenance for (2) NCR Check Readers- Hardware and Software

ACTION REQUESTED: You are invited to review and respond to the RFP.

This is a fully electronic RFP process, including electronic submission of proposals. See the Court Online Procurement Website at www.BidSync.com.

The RFP includes:

- STATEMENT OF WORK
- TIMELINE
- INSURANCE REQUIREMENTS
- ADDITIONAL PROVISIONS
- ATTACHMENT A – List of Equipment & Software
- ATTACHMENT B – Court Locations
- Any/all other attachments, documents, forms, terms and conditions, Model Contract, etc., as posted for this RFP on the Court Online Procurement Website:
www.BidSync.com

STATEMENT OF WORK

A. BACKGROUND / PURPOSE:

The Court is requesting proposals for a highly qualified Contractor to provide maintenance for hard and software support for NCR check readers.

B. PERIOD OF PERFORMANCE:

1. The term of the contract will be for three (3) years with two (2) one year (1) options to renew. Maintenance services starting 3/28/13.

C. DETAILED DESCRIPTION OF GOODS AND/OR SERVICES NEEDED:

The court is requesting maintenance services for two NCR check readers (hardware and software). Services required are outlined as follows:

1. Contractor to provide services, 5 days a week (Monday through Friday), 8AM to 5PM. Excluding Court Holidays.
2. Court requires a 4 hour response time. Contractor shall exert all reasonable efforts to respond to On Demand Call requests within 4 hours after such call is received during coverage hours. Demand Maintenance Service calls are those calls initiated by the Court to request that Contractor repair equipment that is malfunctioning or not operating.
3. Court requires Preventative Maintenance Service. This is a periodic call initiated by the Contractor to keep the Equipment operating in accordance with manufacturer specifications. The minimum number of PM calls the Court is requesting is 12 annually. PM call may be performed in conjunction with a Demand Call placed by the Court, and or at the discretion of the Contractor's service technician.
4. All parts provided under this maintenance agreement must be new. Used, refurbished, shopworn, demonstrator, prototype, or discontinued models will not be accepted.
5. Equipment and Software Covered. The machine (s) and software identified on Attachment A (List of Equipment and Software) shall be covered under this agreement. Contractor shall furnish "Maintenance Service" (as outlined below) on Equipment and Software at Court locations listed in Attachment B.
6. "Maintenance Service". Generally. Maintenance Service is defined as all labor and replacement parts necessitated by normal wear and tear from the operation of the equipment.
7. Contractor must provide after each service call a Field Service Report. The Field Service Report should provide a summary of the maintenance service provided to the Court upon completion of each service call. The Field Service Report shall contain the following information:
 - Date and time of arrival;
 - Identification of equipment or software serviced (make, model, serial number);
 - Time of Maintenance Service;
 - Description of the malfunction (if any); and
 - List of parts replaced
8. Additional or Deleted Equipment. Equipment may be added or deleted from Attachment A from time to time.

D. SPECIAL PROVISIONS RELATING TO PROPOSER'S PERSONNEL:

1. No subcontractors will be allowed.

E. PRODUCT AND/OR SERVICE WARRANTIES:

1. Contractor warrants that all work required to be performed shall conform to the published specifications in order to maintain the equipment in good operating condition. All work to be performed in a professional manner according to generally accepted industry standards.

F. PAYMENT AND INVOICING PROVISIONS

1. COMPENSATION

Please provide the court with an all-inclusive cost for maintenance service. Please give detailed list of all applicable charges; as listed in the chart below.

Maintenance Service Cost	QTY	ANNUAL RATE	DISCOUNT PERCENT	DISCOUNT AMOUNT	NET ANNUAL RATE	EXTENDED NET ANNUAL RATE
ITRAN 3000t Autofeed Hopper – AFS800	2					
ITRAN 3000t Main Front/Rear Image with Endorser & MICR	2					
ITRAN 3000t 3 Pocket Module – SRT800	4					
ITRAN 3000t Table Top Thermal Encoder	2					
Dell Desktop Client/Server Support Service Dell GX280SMT Small Mini Tower	2					
Software Maintenance ITRAN 3000t WiselP Platform S/W – order tracking	2					
TOTAL ANNUAL COST ALL ITEMS						\$

No price increases will be permitted during the initial term of this Agreement.

2. SHIPPING

If and when parts are ordered under this agreement, time is of the essence for delivery and any other performance required of Contractor. The court shall not pay for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, and or cost of bonds.

3. EXPENSES - No expenses will be allowed under this agreement.

4. PAYMENT SCHEDULE

The Court shall have no obligations to pay for any work until one original, itemized invoice for the item is received by the Court’s Project Manager. Contractor shall submit an Annual invoice to the

Court with itemized detail. Contractor shall adhere to reasonable billing guidelines issued by the Court from time to time.

The Court shall endeavor to remit payment within thirty (30) days from the Court's approval of a correct, itemized invoice. Invoice shall be printed on Contractor's standard printed bill form, and shall include: (i) the Agreement and Purchase Order number, (ii) Contractor's name and address, (iii) the nature of the invoiced charge, (i.e. Annual Maintenance) (iv) the total Annual invoiced amount, and (v) such detail as is reasonably necessary to permit the Court to process payment (list of equipment, quantity, model, s/n, annual rate to be paid for each item, et). Upon request by the Court, Contractor shall promptly correct any inaccuracy and resubmit the invoice.

TIMELINE

The following estimated timeline is provided for proposer's general information. None of the dates are binding upon the Court:

EVENT	DATE
RFP Issued	2/5/13
RFP Conference	See www.BidSync.com for exact date(s)
Deadline for Submission of Questions	See www.BidSync.com for exact date(s)
Deadline for Submission of Proposal (Late proposals cannot be accepted)	See www.BidSync.com for exact date(s)
Proposal Evaluation, Oral Interviews and/or Proposer Demonstrations (Optional, at the Court's discretion)	Week of 2/25/13
Notice of Intent to Award	Week of 3/4/13
Contract Execution	Week of 3/11/13
START DATE OF SERVICES	3/28/13

INSURANCE REQUIREMENTS

Contractor must procure and maintain the insurance coverage as marked below.

The Model Contract document on www.BidSync.com describes the Court's specific insurance requirements.

Model Contract, Exhibit C, Section 19.2 Insurance Requirements – Specific Coverages

Workers Compensation/Employer's Liability

Comprehensive General Liability

Business Automobile Liability

ADDITIONAL PROVISIONS

CONTENT OF PROPOSAL

Description of proposed techniques, approaches, and methods to be used in performing the services, including a listing of all specifications contained in the RFP's Statement of Work for which Proposer shall supply to the Court under any contract awarded under this RFP (e.g., model numbers, warranty information).

EVALUATION OF PROPOSALS

The Court will evaluate the proposals using the criteria set forth in the table below. An award, if any, will ultimately be made to the Proposer who provides the most value effective solution to the Court's requirements.

CRITERION	PERCENT WEIGHTED
<i>Quality of work plan submitted</i>	25%
<i>Experience on similar assignments</i>	25%
<i>Cost</i>	50%

DISABLED VETERAN BUSINESS ENTERPRISE PREFERENCE

The Court has waived the inclusion of DVBE participation in this solicitation. As such, DVBE incentives will not be awarded or considered in this solicitation.

COOPERATIVE AGREEMENT ("PIGGYBACKING"):

Following discussion, consideration, and requiring the mutual agreement of Court and the eventual, successful bidder/proposer, the following (or similar) "piggybacking clause" may be included in the final form of the Agreement if mutually desired:

"The Court conducted a competitive procurement process in compliance with the California Judicial Branch Contract Law and Manual and which resulted in the execution of this Agreement. The provisions and pricing of this Agreement may be extended to other California government agencies. A government agency wishing to utilize the provisions and pricing of this Agreement will be responsible for issuing its own purchase documents and making any and all payments relative to its agreement. Any participating government agency is responsible for obtaining its own certificates of insurance and any required performance bonds. The Court makes no guarantee to other government agencies that may utilize the provisions or pricing of this Agreement. By utilizing the provisions or pricing of this Agreement, the participating government agency agrees to hold the Court harmless from all claims, demands, or actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the utilization of the provisions or pricing of this Agreement. The Court makes no guarantee to Contractor that any other government agency will make use of the provisions or pricing of this Agreement."

ATTACHMENT A
List of Equipment and Software

Equipment - Check Reader Systems

Qty	Product ID	Description	Serial Number
2	9850-8100	ITRAN 3000t Autofeed Hopper – AFS800 (1 each Corona, 1 each Larson Justice Center)	100203,100217
2	9850-8204	ITRAN 3000t Main Front/Rear Image with Endorser & MICR (1 each Corona, 1 each Larson Justice Center)	110051,110052
4	9850-8400	ITRAN 3000t 3 Pocket Module – SRT800 (2 each Corona, 2 each Larson Justice Center)	120063, 120097, 120102,120106
2	9851-8000	ITRAN 3000t Table Top Thermal Encoder (1 each Corona, 1 each Larson Justice Center)	53-38240692, 53- 38240694

Software – Check Reader Systems

Qty	Product ID	Description	Serial Number
2	7260-9051	Dell Desktop Client/Server Support Service Dell GX280SMT Small Mini Tower (1 each Corona, 1 each Larson Justice Center)	407PYB1, 507PYB1
2	G825-9850	Software Maintenance ITRAN 3000t WiseIP Platform S/W – order tracking (1 each Corona, 1 each Larson Justice Center)	110051,110052

ATTACHMENT B

COURT LOCATIONS

The NCR check reader systems are located at the following court locations.

Superior Court of California
505 S. Buena Vista Avenue
Corona, CA 92882

Superior Court of California
Larson Justice Center
46-200 Oasis Street
Indio, CA 92201

**Price Sheet - Complete spreadsheet and upload
RFP# 1302-001 NCR Maintenance**

Please provide the court with an all-inclusive cost for maintenance services. Please give details below.

Maintenance Service Cost	QTY	ANNUAL RATE	DISCOUNT PERCENT	DISCOUNT AMOUNT
ITRAN 3000t Autofeed Hopper – AFS800	2			
ITRAN 3000t Main Front/Rear Image with Endorser & MICR	2			
ITRAN 3000t 3 Pocket Module – SRT800	4			
ITRAN 3000t Table Top Thermal Encoder	2			
Dell Desktop Client/Server Support Service Dell GX280SMT Small Mini Tower	2			
Software Maintenance ITRAN 3000t WiselP Platform S/W – order tracking	2			
TOTAL ANNUAL COST ALL ITEMS				

ed to BidSync

ed list of all applicable charges, as listed in the chart

NET ANNUAL RATE	EXTENDED NET ANNUAL RATE
	\$



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:

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

- 8. DESCRIPTION OF CONTRACTOR'S TYPICAL CLIENTS:

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

- 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.):

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

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 RIVERSIDE:

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

16A. Provide the following information for each Subcontractor:

a. **Subcontractor name and address.**

	m
	n

b. **Federal tax identification number.**

	m
	n

c. **If incorporated, identify the state of incorporation.**

	m
	n

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

	m
	n

e. **Principal type of business.**

	m
	n

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

	m
	n

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

	m
	n

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

	m
	n

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

	m
	n

- 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.).

	m
	n



COURT ONLINE PROCUREMENT PROCEDURES

The Court has developed this one set of unified COURT ONLINE PROCUREMENT PROCEDURES setting forth the Court Procedures for any/all types of procurements that may appear on the Court Online Procurement Website at www.BidSync.com, including items such as Invitation for Bid, Request for Proposal, Quick Quote, Invitation for Bid, Request for Qualifications, etc.

Definitions for this document only:

- **Bid** – is used in its generic sense, to describe any/all types of procurements that may appear on the Court Online Procurement Website at www.BidSync.com. Additionally, it is used in its generic sense to mean any type of response submitted to any Court procurement, including items such as Bids, Proposals, Formal Bids, Qualifications, etc.
- **Contract** – is used in its generic sense, to describe any formal, final contract between the vendor and the Court, including a contract, purchase order, agreement, order, etc.
- **Vendor** – is used in its generic sense to describe any/all companies or individuals that may participate in any court procurement, including contractors, bidders, proposers, vendors, etc.

1.0 BID CONFERENCES OR WALKTHROUGHS

Times, dates, and additional information related to Bid conferences or walkthroughs will be found on the Court Online Procurement Website at www.BidSync.com.

MANDATORY BID CONFERENCE OR WALKTHROUGH: The Court may require that interested vendors attend a mandatory vendor conference or walkthrough. In the event a vendor is unable to attend a mandatory vendor conference, an authorized representative may attend on their behalf. A representative may only sign in for one vendor. Each vendor must be certain to check-in at the mandatory vendor conference, as the attendance list will be used to ascertain compliance with this requirement. Bids from vendors who do not attend the mandatory vendor conference will not be accepted or considered.

OPTIONAL VENDOR CONFERENCE OR WALKTHROUGH: The Court may hold an optional vendor conference, in which vendor attendance is not mandatory. In the event a vendor is unable to attend an optional vendor conference, an authorized representative may attend on their behalf. A representative may only sign in for one vendor. Vendors are encouraged to attend any optional vendor conferences.

USE OF CONFERENCE CALL: If the Court elects to conduct a vendor conference via conference call, there will not be any opportunity to attend the conference “in person.” Limit of two (2) callers per company.

2.0 SUBMITTAL OF BIDS

METHOD OF SUBMITTAL

All Bids shall be electronically submitted via the Court Online Procurement Website at www.BidSync.com. The Vendor is solely responsible for ensuring that the full Bid is submitted via the Court Online Procurement Website, prior to the submission deadline date and time specified. If the Vendor encounters any problems in submitting its Bid 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 vendor unless or until the Court and the vendor fully execute a final and definitive contract negotiated between the parties.

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

AMENDMENT OR WITHDRAWAL OF BIDS

A Vendor may amend its Bid prior to the Bid Due Date and Time. Vendor should follow the process as set forth on the Court Online Procurement Website to amend its Bid. If the Vendor encounters any problems in amending its Bid 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 Vendor may withdraw its Bid at any time prior to the Bid Due Date and Time. Vendor should follow the process as set forth on the Court Online Procurement Website to withdraw its Bid. If the Vendor encounters any problems in withdrawing its Bid 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 may not be considered. Bids cannot be amended or withdrawn after the Bid Due Date and Time.

MISTAKE IN BID

If, after the Bid Due Date and Time but prior to a contract award, a Vendor discovers a mistake in their Bid that renders the Vendor unwilling to perform under any resulting contract, the Vendor must immediately notify the Buyer via e-mail or through the Court Online Procurement Website and request to withdraw the Bid. 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. 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.

ERROR IN SUBMITTED BIDS

If an error is discovered in a Vendor's Bid, the Court may at its sole option allow the Vendor to submit certain corrections. The Court may, at its sole option, allow the Vendor to correct obvious clerical errors. In determining if a correction will be allowed, the Court will consider the conformance of the Bid 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 Vendor's intent is clearly established based on review of the complete Bid submitted, the Court may, at its sole option, allow the Vendor to correct an error based on that established intent.

3.0 CONTENT OF BID

Responsive Bids must provide clear, concise, and complete information that satisfy all requirements of the Bid. Bids should be limited to a reasonable length, given the directions and circumstances of the procurement. Do

not submit large amounts of marketing materials or voluminous general information about your company unless such is requested within the Bid.

Prior to execution of a Contract, the following additional item may be required:

1. If Vendor is a corporation, proof that Vendor is in good standing and qualified to conduct business in California (e.g., copies of current business licenses).

Additionally, if the Contract is for the sale of tangible personal property, one of the following items will be required:

2. Proof that the Vendor and all of its affiliates that make sales for delivery into California are currently holders of either:
 - A California seller's permit issued under Revenue and Taxation Code § 6066 et seq.; or,
 - A certificate of registration issued under Revenue and Taxation Code § 6226.

4.0 PROCEDURES RELATING TO THE EVALUATION AND METHOD OF AWARD

QUICK QUOTES ("QQ") / INVITATION FOR BIDS ("IFB"):

Depending upon the individual details of the QQ/IFB, award of a Contract, if made, will be made in accordance with the QQ/IFB: (1) to the Lowest Responsible Vendor; or, (2) awarded on the basis of Value Effectiveness within the competitive framework; or, (3) awarded to other than the Lowest Responsible Bidder based upon Court's valid business reason.

During the evaluation process, the Court may perform certain checks to determine if a Vendor is ineligible for contract award, and may require the Vendor's representative to answer questions with regard to the Vendor's bid. Failure of a Vendor to demonstrate that a statement made in its bid is in fact true may be sufficient cause for rendering a bid non-responsive. Bids that contain false or misleading statements may also be rejected if in the Court's opinion, the information was intended to mislead the evaluation team regarding a requirement of the IFB.

The Court may conduct phone or in-person interviews with any Vendor to clarify aspects of their bids. If conducted in person, interviews will likely be held at the Court's offices, and the Court will not reimburse Vendors for any costs incurred in traveling to or from the interview location. The Court may also seek the assistance of outside technical personnel in reviewing bids.

The Court may approve or disapprove the use of particular subvendors or suppliers.

The Court will make a reasonable effort to execute any contract based on this bid within a timely manner. Exceptions taken by a Vendor may delay execution of a contract. A Vendor submitting a bid must be prepared to use a Court standard contract form rather than its own contract form. The Court reserves the right to reduce the scope of work if it is in the best interest of the Court, or add, delete, and/or modify the terms and conditions prior to execution of the Contract.

Upon award of the contract, the Contract shall be signed by the Vendor and returned to the Court no later than ten (10) business days of receipt of the contract form. Contracts are not effective until executed by both parties and approved by the appropriate Court officials. Any work performed prior to receipt of a fully-executed contract shall be at the Vendor's own risk. If the successful Vendor refuses, delays, or otherwise fails to execute the contract, the Court may award the contract to the next qualified Vendor.

REQUEST FOR PROPOSALS (“RFP”):

Depending upon the individual details of the RFP, award of a Contract, if made, will be made in accordance with the RFP: (1) to the Highest Scoring Vendor; or, (2) awarded on the basis of Value Effectiveness within the competitive framework.

Shortly after bids are opened, each bid will be checked for the presence or absence of the required bid contents. The Court will evaluate bids using the criteria set forth in the Additional Provisions section of this RFP.

For IT RFPs, an evaluation team will initially review the Non-Cost Information portion of the bid to determine its compliance with the RFP's requirements. The Cost Information portion of a bid will only be evaluated if the Non-Cost Information portion of the bid is determined to be responsive.

During the evaluation process, the Court may perform certain checks to determine if a Vendor is ineligible for contract award, and may require the Vendor's representative to answer questions with regard to the Vendor's bid. Failure of a Vendor to demonstrate that a statement made in its bid is in fact true may be sufficient cause for rendering a bid non-responsive. Bids that contain false or misleading statements may also be rejected if in the Court's opinion, the information was intended to mislead the evaluation team regarding a requirement of the RFP. The Court may approve or disapprove the use of particular subvendors or suppliers.

The Court may conduct phone or in-person interviews with any Vendor to clarify aspects of their bid or to assist in finalizing the ranking of bids. The Court is not obligated to hold an interview with every Vendor. If conducted in person, interviews will likely be held at the Court's offices, and the Court will not reimburse Vendors for any costs incurred in traveling to or from the interview location. The Court will notify Vendors regarding interview arrangements. The Court may also seek the assistance of outside technical personnel in reviewing bids.

The Court may request to have product demonstrations as part of the Court's evaluation process. The product demonstrations may be conducted in person, via the web, or through other suitable means or arrangements. The Court will not reimburse Vendors for any costs incurred in traveling to or from the product demonstration location. The Court will notify eligible Vendors regarding demonstration arrangements.

The Court may approve or disapprove the use of particular subvendors or suppliers.

The Court will make a reasonable effort to execute any contract based on this RFP within a timely manner. Exceptions taken by a Vendor may delay execution of a contract. A Vendor submitting a vendor must be prepared to use a Court standard contract form rather than its own contract form. The Court reserves the right to reduce the scope of work if it is in the best interest of the Court, or add, delete, and/or modify the terms and conditions contained in Attachment A prior to execution of the contract.

Upon award of the contract, the contract shall be signed by the Vendor in two original contract counterparts and returned, along with the required attachments, to the Court no later than ten (10) business days of receipt of the contract form. Contracts are not effective until executed by both parties and approved by the appropriate Court officials. Any work performed prior to receipt of a fully-executed contract shall be at the Vendor's own risk. If the successful vendor refuses, delays, or otherwise fails to execute the contract, the Court may award the contract to the next qualified Vendor.

5.0 ADMINISTRATIVE RULES GOVERNING THIS PROCUREMENT**ACCEPTANCE OF TERMS AND CONDITIONS**

The Vendor who is awarded a Contract under this Bid must be prepared to accept a Court standard contract rather than its own contract form.

Per instructions in the Bid, if exceptions are identified, the Vendor must submit proposed changes in a clearly presented manner, and provide an explanation or rationale for each exception and/or proposed change. All other terms, conditions, and certifications not excepted to by Vendor shall be deemed to be accepted and affirmed by the Vendor.

Please note that numerous, onerous, burdensome, and/or other material exceptions taken may render a bid non-responsive as determined in the Court's sole discretion. Additionally, any exception to the following minimum terms and conditions will render a bid non-responsive: Vendor certification clauses, Indemnity provisions, Limitation of Liability, and Choice of Law and Jurisdiction provisions.

AUTHORITY TO OBLIGATE OR BIND THE COURT

All contracts and purchase orders with the Court, and all amendments or modifications thereto, are subject to written approval by the Court Presiding Judge (PJ) or Court Executive Officer (CEO). Court personnel other than the PJ and/or CEO do not have actual, apparent, or implied authority to obligate the Court to any contract or purchase order term. Nothing other than written approval by the PJ and/or CEO shall be construed as an offer or acceptance of any contract or purchase order term, as an expression of the Court's assent to any contract or purchase order term, or as an expression of the Court's intent in forming any contract or purchase order. Nothing other than written approval by the PJ and/or CEO shall be construed as a modification, cancellation, waiver, or amendment to any Court contract or purchase order. Correspondence, including emails, shall not establish a trade practice and/or prior course of dealing on the part of the Court in connection with any Court contract or purchase order.

BID PREPARATION COSTS

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

CONFIDENTIAL OR PROPRIETARY INFORMATION

Rule 10.500 of the California Rules of Court sets 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.

ACCESS TO MATERIAL AND CONFIDENTIAL OR PROPRIETARY INFORMATION

All materials submitted in response to a Bid 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. A copy of each bid will be retained for official files.

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

If a bid 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 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 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 because such information may be disclosed to the public.

CONFIDENTIALITY OF QUESTIONS TO THE COURT

If a Vendor's question relates to a proprietary aspect of its pbid and the question would expose proprietary information if disclosed to competitors, the Vendor may submit the question via email to the assigned Court Buyer conspicuously marking the email as "CONFIDENTIAL." Along with the question, the Vendor 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, and the Vendor will be notified.

CONTACT WITH COURT

Questions regarding this Procurement must be submitted only through the Court Online Procurement Website at www.BidSync.com. Vendors are specifically directed NOT to contact the Court Buyer or other court personnel or consultants regarding this Procurement at any time prior to bid award. Unauthorized contact with any Court personnel or consultants may be cause for rejection of the vendor's bid.

DISABLED VETERAN BUSINESS ENTERPRISE PREFERENCE

If the instant solicitation is a Quick Quote, the Court has waived the inclusion of DVBE participation in this solicitation. As such, DVBE incentives will not be awarded or considered in this solicitation.

If the instant solicitation is other than a Quick Quote (i.e. IFB, RFP, etc.), refer to the applicable document posted on BidSync as to whether the Court has waived the inclusion of DVBE participation in this solicitation.

ERRORS IN A BID

If an error is discovered in a vendor's bid, the Court may at its sole option retain the bid and allow the vendor to submit certain arithmetic corrections. In determining if a correction will be allowed, the Court will consider the conformance of the bid 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 prior to an award, the Vendor discovers a mistake in its bid that renders it unwilling to perform under any resulting contract, the vendor must immediately notify the Court in writing and request to withdraw the bid. It shall be solely within the Court's discretion as to whether such withdrawal will be permitted.

ERRORS IN THE PROCUREMENT

If, before the bid due date and time listed in the timeline of the Procurement, a Vendor discovers any ambiguity, conflict, discrepancy, omission, or error in the Procurement, the Vendor must immediately notify the Court via email to the assigned Court Buyer and request modification or clarification of the Procurement. Without disclosing the source of the request, the Court may modify the Procurement before the bid due date and time by releasing an addendum to the solicitation.

If a Vendor fails to notify the Court of an error in the Procurement known to Vendor, or an error that reasonably should have been known to Vendor, before the bid due date and time listed in the timeline of the Procurement, Vendor shall bid at its own risk. Furthermore, if Vendor is awarded the contract, Vendor shall not be entitled to additional compensation or time by reason of the error or its later correction.

If a Vendor discovers an error in the Procurement after the bid due date and time listed in the timeline of the Procurement but before award of the contract, the Vendor may be allowed to withdraw its bid if the Vendor can demonstrate to the Court's satisfaction that: (i) an error exists in the Procurement, (ii) the error materially affected the Vendor's bid, and (iii) the Vendor did not discover the error prior to submission of its bid.

NEWS RELEASES

News releases or other publicity pertaining to the award of a contract may not be issued without prior written approval of the Court.

PAYMENT

Payment terms will be specified in any contract that may be awarded as a result of this Procurement. The Court does not make advance payment for goods or services. Payment is normally made based upon completion of tasks as provided in the contract between the Court and the selected Vendor. The Court may withhold ten percent of each invoice until receipt and acceptance of the final deliverable. The amount withheld may depend upon the length of the project and the payment schedule provided in the contract between the Court and the selected Vendor.

PERIOD OF FIRM PRICING; NEGOTIATIONS

A Vendor's bid is an irrevocable offer for the number of days indicated for this bid on the Court Online Procurement System Website at www.BidSync.com. In the event a final contract has not been awarded within this period, the Court reserves the right to negotiate extensions to this period.

Until a contract resulting from this Procurement is signed, the Court may award a contract in whole or in part, and/or negotiate any or all items with any individual Vendor if it is deemed to be in the Court's best interest. The Court may also solicit best and final offers (BAFO) from any or all contracttential Vendors. A notice of intent to award does not constitute a contract, and confers no right of contract on any Vendor.

PROCUREMENT ADDENDA

The Court may modify this Procurement prior to the date fixed for submission of bids by providing notice to vendors by way of an addendum. If any vendor determines that an addendum unnecessarily restricts its ability to submit a bid, it must notify the Court no later than three (3) business days following the date the addendum was provided. It is each Vendor's responsibility to inform itself of any addendum prior to its submission of a bid.

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

RESERVATION OF RIGHTS

The Court may take any other action related to this Procurement and/or this solicitation process deemed necessary by the Court and permitted by law to meet the needs of the Court and the public community for which it serves.

RIGHT TO REJECT/ACCEPT BIDS

Before the bid due date and time listed in the timeline of the Procurement, the Court may cancel the Procurement for any or no reason. After the bid due date and the time listed in the timeline of the Procurement, the Court may reject any or all bids and cancel the Procurement if the Court determines that: (i) the bids received do not reflect effective competitive; (ii) the cost is not reasonable; (iii) the cost exceeds the amount expected; or (iv) awarding the contract is not in the best interest of the Court. The Court may also disqualify a Vendor should it suspect the Vendor has engaged in collusion with intent to defraud, or other illegal practices in connection with this Procurement.

Classification of any deviation or excpetion within a bid as material or non-mateial is fully within the discretion of the Court. The Court may or may not waive an immaterial deviation or defect in a bid. The Court's waiver of an immaterial deviation or defect shall in no way modify the Procurement or excuse a Vendor from full compliance with Procurement specifications.

The Court reserves the right to accept or reject any line item or combination of line items in a bid. The Court also reserves the right to award zero, one, two, or more contracts through a bid. No guarantee or promise is made by the Court of any sole or exclusive contracting relationship with any Vendor.

The Court may also issue similar bids in the future.

WITHDRAWAL AND RESUBMISSION / MODIFICATION OF BIDS

A Vendor may withdraw its bid at any time before the deadline for submission by following the applilcable guidelines on the Court Online Prcocurementn System Website at www.BidSync.com. The Vendor may thereafter submit a new or modified bid, again by by following the applilcable guidelines on the Court Online Procurement System Website at www.BidSync.com. Modifications offered in any other manner, oral or written, will not be considered. Bids cannot be changed or withdrawn after the bid due date and time listed in the timeline of the Procurement.

6.0 PROTEST PROCEDURES

The Court intends to be open and fair to all vendors in selecting the best service providers 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.

This section contains the procedures that a vendor must follow should it seek to protest either a solicitation specification or an award. Failure of a vendor to comply with the protest procedures set forth herein will render a protest inadequate and/or untimely, and will result in rejection of the protest. Any protest or request for appeal lacking any of the required information below may be rejected by the Protest Hearing Officer or Protest Appeals Officer. In no event will a protest be considered if all bid submittals are rejected, the solicitation was canceled for any reason, or the contract has been awarded.

Please also note that the Court has adopted minimum thresholds for the acceptance of protests. The Court shall reject any protest received for procurement if the procurement is below the applicable thresholds listed below:

Type of Procurement	Threshold
Non-IT Goods	\$ 50,000
Non-IT Services	\$ 5,000
IT Goods and Services	\$100,000

1. SOLICITATION SPECIFICATIONS PROTESTS

1.1. Description. A solicitation specifications protest is a protest alleging that a solicitation document (e.g., Invitation for Bid, Request for Proposal) 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 procuring less costly or alternate solutions. The protestor bears the burden of proof in showing that the solicitation document contains such a defective technical, administrative, cost specification or requirement.

1.2. Submission and Content of Protest. A vendor who is qualified to protest must submit the protest to the individual listed below. The protest must be in writing, and must be sent by certified or registered mail or overnight courier to the address below:

Protest Hearing Officer:
 Luke McDannel, Procurement Manager, or designee
 P.O. Box 1547
 Riverside, CA 92501

A. The protest must include the following:

1. The name, address, telephone, e-mail, and facsimile numbers of the party protesting or its representative;
2. The title of the solicitation document under which the protest is submitted;
3. The specific alleged defect in the solicitation document;
4. A detailed description of the specific legal and factual grounds of protest and any supporting documentation; and
5. The specific ruling or relief requested.

1.3. Deadline for Submission. The protest must be submitted before the bid closing date.

1.4. Determination of Protest.

A. Upon receipt of a timely and proper protest, the Court will provide a written determination to the protestor. The protest hearing officer may, however, issue a written determination regarding the protest without requesting further information or documents from the protestor. Therefore, the protest submittal must include all grounds for the protest and all evidence available at the time the protest is submitted. If the protestor later raises new grounds or evidence that was not included in the initial protest but which

could have been raised at that time, the Protest Hearing Officer will not consider such new grounds or new evidence.

B. If necessary, the Court may extend the bid closing time to allow for a reasonable time to review the protest. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below and the Court, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the contract.

1.5. Appeals Process. The Protest Hearing Officer's decision shall be considered the final action by the Court unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal with the Protest Appeals Officer within two (2) Court days of the issuance of the Protest Hearing Officer's written determination.

A. A qualified request for appeal must be submitted to the individual below, must be in writing, and must be sent by certified or registered mail or overnight courier to the address below:

Protest Appeals Officer:
Michael Cappelli, General Counsel, or designee
4050 Main Street
Riverside, CA 92501

B. The justification for appeal is limited to the following:

1. Facts and/or information related to the protest, as previously submitted, that are new and were not available at the time the protest was originally submitted; or
2. The decision of the Protest Hearing Officer was in error of law or regulation.

C. The request for appeal must include the following:

1. The name, address, telephone, e-mail, and facsimile numbers of the party protesting or its representative;
2. The title of the solicitation document to which the protest is related;
3. A copy of the protest as previously submitted;
4. A copy of the protest hearing officer's written determination;
5. A detailed description of the specific legal and factual grounds for the appeal and any supporting documentation; and
6. The specific ruling or relief requested.

The appeal must include all information that the vendor wants the protest appeals officer to consider. The protestor bears the burden of proof of showing that the Protest Hearing Officer's written determination was incorrect.

The protest appeals officer will review the appeal and issue a written determination. The written determination of the protest appeals officer constitutes the final determination of the Court regarding the protest. Issues that could have been raised earlier will not be considered on appeal. If the Protest Appeals Officer determines that the appeal has merit, the Protest Appeals Officer will direct the Protest Hearing Officer to take appropriate remedial action.

2. **AWARD PROTESTS**

2.1. Description. A solicitation specifications 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 alleging that the Court's decisions are lacking a rational basis and are therefore arbitrary and capricious. The protestor bears the burden of proof in showing the same. The following do not constitute the absence of a rational basis:

- A. The vendor disagrees with the scores assigned by the evaluation team; or

B. The evaluation team could have assigned different scores based on the same information.

2.2. Who May Submit an Award Protest.

A vendor who is qualified to protest must submit the protest to the individual listed below. The protest must be in writing, and must be sent by certified or registered mail or overnight courier to the address below:

Protest Hearing Officer:
Luke McDannel, Procurement Manager, or designee
P.O. Box 1547
Riverside, CA 92501

A vendor may protest the award only if it meets all of the following requirements:

- A. The vendor submitted a bid that it believes to be responsive to the solicitation document;
- B. The vendor believes that the Court has incorrectly selected another vendor submitting a bid for an award; and
- C. For protests of non-IT goods solicitations, the vendor must assert that it is the lowest responsible vendor meeting all specifications.

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

2.3. Deadline for Submission. Protests must be received by the Protest Hearing Officer by the following deadlines:

NON-IT GOODS	NON-IT SERVICES	IT GOODS OR SERVICES
The Court must receive the award protest within 24 hours after the Court issues the intent to award.	The Court must receive the award protest within 5 court days after the Court issues the intent to award.	The Court must receive the award protest within 5 court days after the Court issues the intent to award.
The vendor will have 10 calendar days after the Court receives the protest to submit all required information to the Court.	The vendor will have 5 calendar days after the Court receives the protest to submit all required information to the Court.	The vendor will have 10 calendar days after the Court receives the protest to submit all required information to the Court.

2.4. Required Information. An award protest must include the following:

- A. The name, address, telephone, e-mail, and facsimile numbers of the party protesting or its representative;
- B. The title of the solicitation document under which the protest is submitted;
- C. The specific alleged error made by the Court;
- D. A detailed description of the specific legal and factual grounds of protest and any supporting documentation; and
- E. The specific ruling or relief requested.

Any protest lacking any of this information may be rejected by the Protest Hearing Officer.

2.5. Determination of Protest.

- A. Upon receipt of a timely and proper protest, the Court will provide a written determination to the protestor. The Protest Hearing Officer may, however, issue a written determination regarding the protest without requesting further information or documents from the protestor. Therefore, the protest submittal must include all grounds for the protest and all evidence available at the time the protest is submitted. If the protestor later raises new grounds or evidence that was not included in the initial protest but which could have been raised at that time, the Protest Hearing Officer will not consider such new grounds or new evidence.
- B. If the Court requires additional time to review the protest and is not able to provide a response within ten (10) court days, the Protest Hearing Officer will notify the vendor.
- C. The Court may, in its sole discretion, delay the contract award until the appeal is resolved or proceed with the award and implementation of the contract.

2.6. Appeals Process. The Protest Hearing Officer's decision shall be considered the final action by the Court unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal with the Protest Appeals Officer within two (2) Court days of the issuance of the Protest Hearing Officer's written determination.

- A. A qualified request for appeal must be submitted to the individual below, must be in writing, and must be sent by certified or registered mail or overnight courier to the Protest Appeals Officer at the address listed above.
- B. The justification for appeal is limited to the following:
 - 1. Facts and/or information related to the protest, as previously submitted, that are new and were not available at the time the protest was originally submitted; or
 - 2. The decision of the Protest Hearing Officer was in error of law or regulation.

C. The request for appeal must include the following:

1. The name, address, telephone, e-mail, and facsimile numbers of the party protesting or its representative;
2. The title of the solicitation document to which the protest is related;
3. A copy of the protest as previously submitted;
4. A copy of the Protest Hearing Officer's written determination;
5. A detailed description of the specific legal and factual grounds for the appeal and any supporting documentation; and
6. The specific ruling or relief requested.

The appeal must include all information that the vendor wants the Protest Appeals Officer to consider. The protestor bears the burden of proof of showing that the Protest Hearing Officer's written determination was incorrect.

The Protest Appeals Officer will review the appeal and issue a written determination. The written determination of the Protest Appeals Officer constitutes the final determination of the Court regarding the protest. Issues that could have been raised earlier will not be considered on appeal. If the Protest Appeals Officer determines that the appeal has merit, the Protest Appeals Officer will direct the Protest Hearing Officer to take appropriate remedial action.



AGREEMENT FOR IT GOODS / IT SERVICES
BETWEEN
THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
AND
 [_____]

AGREEMENT # _____

COMMENCES: _____

TERMINATES: _____

DOLLAR AMOUNT: _____

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
STANDARD AGREEMENT FOR IT GOODS AND/OR IT SERVICES**

1. In this Agreement, the term "Contractor" refers to **[Contractor name]**, and the term "Court" refers to the Superior Court of California, County of Riverside.
-

2. This Agreement is effective _____ ("Effective Date") through _____ ("Expiration Date").

The Court may extend this Agreement upon the same terms and conditions set forth herein, with the exception of ____, which is/are delineated in Exhibit _____. This Agreement may be extended up to ____ times for ____ periods, through _____. Unless an option is affirmatively exercised in writing by the Court prior to the Expiration Date of this Agreement (or the date specified as the Expiration Date in the notice of an exercise of an option), this Agreement will be deemed terminated as of the Expiration Date and the Court will have no further obligations to Contractor.

3. The maximum amount the Court shall pay Contractor under this Agreement is _____.
-

4. The purpose of this Agreement is:

(The purpose listed above is for administrative reference only and does not define or limit the scope or extent of this Agreement.)

5. The parties agree that this Agreement, made up of this Standard Agreement Coversheet and the Exhibits listed below and any referenced attachments ("Contract Documents"), contains the parties' entire understanding related to the subject matter of this Agreement and is mutually binding on the parties in accordance with its terms.

- Exhibit A – Statement of Work
- Exhibit B – Payment Provisions and Invoicing Procedures
- Exhibit C – Standard Business Definitions, Terms and Conditions
- Exhibit D – Additional Definitions, Terms and Conditions Specific to Information Technology (IT)

It is the intention of both parties that all Contract Documents be read and construed as a unified whole whenever possible. However, in the event of a conflict between the terms of the Contract Documents, the following order of precedence shall govern and determine which terms prevail:

1. Standard Agreement Cover Sheet(s)
2. Exhibit A – Statement of Work
3. Exhibit B – Payment Provisions and Invoicing Procedures
4. Exhibit D – Additional Definitions, Terms and Conditions Specific to Information Technology (IT)
5. Exhibit C – Standard Business Definitions, Terms and Conditions

Any Amendments to this Agreement, starting with the most recent, shall take precedence over existing Contract Documents. In the event of a conflict between an Amendment and the terms of any other Contract Document, the terms of the Amendment shall prevail.

All Court-issued competitive solicitation and related documents (e.g., the Court's RFP, IFP, Addendum, Questions and Answers), and cost or technical specifications contained in Contractor's bid or proposal submitted in response to the Court's competitive solicitation, may be relied upon for the purpose of clarifying, illustrating, or explaining the intention and understanding of the parties as to the performance of this Agreement.

6. Insurance. Contractor must procure and maintain the insurance coverages as marked below. Exhibit C (Court Standard Business Definitions, Terms and Conditions 2.0) describes the Court’s specific insurance requirements.

- **Exhibit C Section 19.1 Insurance Requirements – General Coverage**
- OR
- **Exhibit C Section 19.2 Insurance Requirements – Specific Coverages**
 - Workers Compensation/Employer’s Liability
 - Comprehensive General Liability
 - Business Automobile Liability
 - Professional Liability
 - Sexual Misconduct
 - Commercial Crime

7. Contract Representatives: Notices, as required by this Agreement, will be provided to the following:

COURT:	CONTRACTOR:
Name, Title	Name, Title
Address	Address
City, State, ZIP	City, State, ZIP
Phone #	Phone #
Fax:	Fax:
E-Mail	E-Mail

8. Project Management Representatives: Correspondence regarding project-specific issues will be provided to the following:

COURT PROJECT MANAGER:	CONTRACTOR PROJECT LEAD:
Name, Title	Name, Title
Address	Address
City, State, ZIP	City, State, ZIP
Phone #	Phone #
E-Mail	E-Mail
Fax	Fax

COURT'S SIGNATURE	CONTRACTOR'S SIGNATURE
<p>COURT'S LEGAL NAME: SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE</p>	<p>CONTRACTOR'S LEGAL NAME:</p> <p>CONTRACTOR'S TAX IDENTIFICATION NUMBER:</p> <p>CONTRACTOR SELLER PERMIT NUMBER:</p>
<p>BY <i>(Authorized Signature)</i> ?</p>	<p>BY <i>(Authorized Signature)</i> ?</p>
<p>DATE SIGNED</p>	<p>DATE SIGNED</p>
<p>PRINTED NAME AND TITLE OF PERSON AUTHORIZED TO BIND THE COURT TO THIS AGREEMENT</p> <p>Sherri R. Carter Court Executive Officer</p>	<p>PRINTED NAME AND TITLE OF PERSON AUTHORIZED TO BIND CONTRACTOR TO THIS AGREEMENT</p>
<p>ADDRESS</p> <p>Superior Court of California, County of Riverside 4050 Main Street – Executive Office Riverside, CA 92501</p>	<p>ADDRESS</p>

EXHIBIT A**STATEMENT OF WORK**

[as described in the Court's solicitation documents with possible selected provisions from Contractor's bid/proposal, to be further detailed in final contract.

(BUYER'S NOTE: The Statement of Work from the IFB/RFP may become EXHIBIT A-1, and selected relevant portions of the incoming bid/proposal may become EXHIBIT A-2.)

- 1. Background and Purpose.**
- 2. Period of Performance.**
- 3. Description of Goods and/or Services.**
- 4. Special Provisions Relating to Contractor's Personnel.**
- 5. Inspection and/or Acceptance Criteria.**
- 6. Product or Service Warranties.**
- 7. Performance Bonds.**
- 8. Change Orders.**
- 9. Special Provisions Applicable to Certain Agreements.**

END OF STATEMENT OF WORK

EXHIBIT B**PAYMENT PROVISIONS AND INVOICING PROCEDURES**

[as described in the Court's solicitation documents with possible selected provisions from Contractor's bid/proposal, to be further detailed in final contract]

1. Compensation.**2. Expenses.**

- A. Travel. Only if this Agreement specifically provides that the Court will reimburse travel-related expenses, the Court's policies and limits on such reimbursable expenses, as delineated in Exhibit C (Standard Business Definitions, Terms and Conditions), shall apply.

3. Invoicing and Payment.

- A. The Court shall have no obligations to pay for any Work until one original and two copies of a correct, itemized invoice for the item is received by the Court's Project Manager. Contractor shall submit monthly invoices to the Court no later than the 15th day following the month for which Work was performed. Contractor shall adhere to reasonable billing guidelines issued by the Court from time to time.
- B. The Court shall endeavor to remit payment within thirty (30) days from the Court's approval of a correct, itemized invoice. Each invoice shall be printed on Contractor's standard printed bill form, and shall include: (i) the Agreement and Purchase Order number, (ii) Contractor's name and address, (iii) the nature of the invoiced charge, (iv) the total invoiced amount, and (v) such detail as is reasonably necessary to permit the Court to evaluate the Work performed, including the number of hours worked and the applicable hourly rate. Upon request by the Court, Contractor shall promptly correct any inaccuracy and resubmit the invoice.
- C. Progress Payments, Retentions, Withholdings. Only if this Agreement specifically provides for the making of progress payments to Contractor, the Court shall make the progress payments in arrears not more frequently than monthly and at the successful completion of the clearly identifiable project milestones, which Contractor must successfully achieve as indicated in the Agreement. An amount no less than 10 percent of the amount of each installment may be withheld from each progress payment pending final completion of the Work, or, if the Agreement consists of the performance of separate and distinct tasks as distinct from milestones, upon completion of that task.

END OF PAYMENT PROVISIONS AND INVOICING PROCEDURES

EXHIBIT C**SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
STANDARD BUSINESS DEFINITIONS, TERMS, AND CONDITIONS 2.0**PART A: BUSINESS DEFINITIONSPART B: TERMS AND CONDITIONS

1. Accounting
2. Amendment
3. Assignment; Subcontracting; Successors
4. Audit; Ownership of Results; Retention of Records
5. Change Orders; Additional Goods and/or Services
6. Choice of Law; Jurisdiction and Venue
7. Confidential Information
8. Conflict of Interest; Prohibition Against Gratuities
9. Consideration
10. Contractor Certification Clauses
11. Contractor Status
12. Counterparts; Signatures
13. Default and Remedies
14. Dispute Resolution
15. Entire Agreement
16. Force Majeure
17. Indemnification
18. Infringement Protection
19. Insurance Requirements
 - 19.1 General Coverages; or
 - 19.2 Specific Coverages
20. Limitation of Liability
21. Loss Leader
22. Modification
23. Non-Exclusivity
24. Notices
25. Prior Work
26. Prohibited Bids for End Product of the Agreement
27. Public Access to Records and Information
28. Public Contract Code
29. Scope of Work; Acceptance; Rejection
30. Shipping and Packing Slips
31. Standard of Performance; Warranties; Personnel Requirements; Background Checks
32. Stop Work
33. Survival
34. Termination
35. Time is of the Essence
36. Travel Rate Guidelines
37. Waiver; Severability
38. Work Site
39. Miscellaneous Provisions Applicable to Specific Contracting Situations

PART A: DEFINITIONS

1. **Administrative Office of the Courts (AOC):** Staff agency to the Judicial Council of California, the policy-making body of the California Court system.
2. **Agreement:** Entire integrated agreement, including all Contract Documents, Exhibits, referenced Attachments, and Amendments incorporated therein, signed by the Court and Contractor, for performance of the Work.
3. **Agreement Amount:** Total dollar amount of the Agreement.
4. **Amendment:** Written contract document issued by the Court, and signed by both Contractor and the Court, modifying the Agreement and identifying any of the following: (1) change in the Work; (2) change in Agreement Amount; (3) change in schedule for delivery and performance of Work; or (4) any change to other terms and conditions.
5. **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.
6. **Bid:** A response to a competitive solicitation issued by the Court, regardless of the type of solicitation document used by the Court (e.g., Request for Quote, Invitation for Bid, or Request for Proposal).
7. **Certificate of Insurance:** A document that provides evidence that an insurance policy has been underwritten and that includes a statement of the policy coverage.
8. **Compensation:** All remuneration owed to Contractor in respect of Work, including Contractor's professional fees, direct costs (including filing fees), indirect costs (including overhead expenses), profit, and taxes.
9. **Confidential Information:** (i) Any financial, statistical, personal, technical, or other data or information that is designated confidential by a party to the Agreement; (ii) all information related to the business of the Court that may be obtained orally, in writing, or from any source, or on any court mainframe, court or judicial branch computer network or workstation, and all software, whether owned or licensed by the Court and whether accessed by Contractor by direct or remote access method; (iii) any information relating to the methods, processes, financial data, lists, apparatus, statistics, programs, research, development, or related information of the Court concerning the past, present, or future official business and/or the results of the provision of services to the Court; and (iv) information relating to Court personnel and Court users. Confidential Information does not include: (i) information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information generally and lawfully available to the public, other than as a result of disclosure by the receiving party in breach of the Agreement; (iii) information independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.
10. **Consulting Services:** Refers to the services performed under "Consulting Services Agreements," which are defined in Public Contract Code § 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 of information, either written or oral, that is related to the governmental functions of 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 § 2211, to subvene federal funds for which no matching state funds are required.
11. **Contractor:** The person or entity entering into an Agreement with the Court.
12. **Court:** The Superior Court of California, County of Riverside.
13. **Court Personnel:** Members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of the Court.
14. **Court Property:** Includes monetary items such as currency, coins, precious metals, checks, notes, bonds, negotiable instruments, and securities, physical structures or real property, and all other things of value.
15. **Data:** Information, including, but not limited to, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
16. **Deliverable:** Hardware, software, firmware, documentation, services or other items, specified in the Agreement, that Contractor shall complete and deliver or submit to the Court.
17. **DVBE:** An acronym for Disabled Veterans Business Enterprise.
18. **Expiration Date:** 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.

19. **Initial Term:** The period commencing on the Effective Date and expiring on the Expiration Date set forth on the coversheet of the Agreement.
20. **Goods:** Goods to be furnished and/or serviced by Contractor as described in Exhibit A.
21. **Judicial Branch Contract Law (JBCL):** Public Contract Code §§ 19201-19210.
22. **Judicial Branch Entity (JBE):** State of California public entity that includes the Supreme Court of California, any superior Court, any Court of appeal, the Judicial Council of California, the Administrative Office of the Courts, or the Habeas Corpus Resource Center, as defined in California Government Code § 900.3. These entities comprise the "Judicial Branch."
23. **Judicial Branch Personnel:** Members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.
24. **Loss:** As used in the indemnity provisions of the Agreement, includes any actions, claims, demands, causes of action, fines, penalties, losses, liabilities, damages, costs, expenses, and attorneys' fees.
25. **Material:** All types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication hardware and software.
26. **Notice:** Written document signed by an authorized representative of either party to the 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 date of receipt; 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.
27. **Option Period:** The period, if any, through which the Agreement may be extended by a party.
28. **Progress Payment:** Partial payment following the completion of a deliverable, milestone, or stage of progress under the Agreement.
29. **Project Lead:** Contractor's representative who will operate as the main interface with the Court regarding the Work to be performed under the Agreement.
30. **Project Manager:** Court representative who will operate as the main interface between Contractor and the Court regarding the Work to be performed under the Agreement.
31. **Proposal:** Response to a Request for Proposal that describes the offeror's approach, statement of work, schedule and cost to provide goods or services, as well as the ability to meet other relevant criteria established by the Court.
32. **Services:** Services to be performed by Contractor as described in Exhibit A.
33. **Statement of Work (SOW):** Detailed description or reference to the object of a contract (e.g., goods, services, information technology).
34. **Stop Work Order:** Written notice to Contractor from the 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.
35. **Subcontractor:** The person or entity that has a contract (as an "independent contractor" and not an employee) with Contractor to provide some portion of the Work of the Agreement.
36. **Term:** Comprises the Initial Term and any Option Period.
37. **Termination Date:** Has the same meaning as Expiration Date unless the Agreement is validly terminated before the applicable Expiration Date, in which case Termination Date means the effective date the Agreement is validly terminated.
38. **Third Party:** Any individual or entity not a party to the Agreement.
39. **Work:** Any or all labor, goods, services, Deliverables, equipment, supplies, Materials, tasks, and any other items or activities to be furnished under the Agreement or are necessary for the performance and completion of Contractor's obligations in compliance with the requirements of the Agreement. Work may also include Tasks, Deliverables, and/or submittals required by individual work order(s).

PART B: 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. **Amendment.** No modifications, alterations, changes, or waiver to the Agreement or any of its terms shall be valid or binding unless accomplished by a written amendment, signed by both parties, that specifically references and incorporates the terms of the Agreement into the written amendment.
3. **Assignment; Subcontracting; Successors.**

A. Assignment.

- (1) The Court may assign the Court's rights and duties (or subcontract portions of the Agreement) to any other public entity. The Court shall notify Contractor in writing within 30 days following the assignment.
- (2) In addition, either party may assign its rights and duties or subcontract portions of the Agreement to a third party, but only if the non-assigning party gives prior 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/subcontracting party and all assignees/subcontractors, stating that the assignees/subcontractors:
 - (a) are jointly and severally liable to the non-assigning party for performing the duties in the Agreement of the assigning/subcontracting party;
 - (b) affirm the rights granted in the Agreement to the non-assigning party;
 - (c) make the representations and warranties made by the assigning/subcontracting party in the Agreement; and
 - (d) appoint the non-assigning party an intended third party beneficiary under the written agreement with the assigning/subcontracting party.
- (3) No assignment or subcontract will release either party of its duties under the Agreement.

B. Subcontracting. Contractor may engage a subcontractor to perform any portion of the Work, but only with the prior written consent of the Court. Any subcontracting without the Court's written consent is a material breach of the Agreement. Subcontractors will be subject to the same terms and conditions applicable to the Contractor under the Agreement and shall incorporate the Agreement into any subcontracting relationship. Contractor shall be liable for all subcontractor acts or omissions, including indemnity obligations.

C. Successors. The Agreement binds the parties as well as their heirs, successors, executors, administrators, and assignees.

4. **Audit; Ownership of Results; Retention of Records.**

- A. Audit. Upon reasonable notice, Contractor will provide to the Court, to any federal or state entity with monitoring or reviewing authority, or to the Court's authorized representatives, access to and the right to examine and audit all records and documents relating to performance and billing under the Agreement, and, as necessary, to determine compliance with relevant federal, state, and local statutes, rules, and regulations, subject only to a lawyer's duty of confidentiality owed to a represented party. Contractor agrees to provide the 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. Unless otherwise agreed upon, Contractor shall correct errors and deficiencies by the 20th day of the month following the review or audit.
- B. Ownership. Unless otherwise provided in the Agreement, the Court is the exclusive owner of all Materials collected and produced in connection with the Work. Upon the Termination Date (subject to any mutually agreed period of continuation of Work), 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 direction.

- C. Copies. Contractor may retain copies of any original documents Contractor provides to the Court.
- D. Retention of Records. Contractor will maintain all financial data, supporting documents, and all other records relating to performance and billing under the 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.

5. Change Orders; Additional Goods and/or Services.

A. Change Orders.

- (1) Due to the nature of the work to be accomplished by the Agreement, the specific goods, services, and timing needed may not be known until performance is underway. Therefore, the Court reserves the right to require Contractor to make changes in the Work that are within the scope of the Agreement without an Amendment by way of a Change Order issued by the Court's Project Manager. Such changes may include modifications to the Work, or changes in the timing or level of effort for the Work, as delineated in the Statement of Work.
- (2) The Change Order documents the changes to be made, which may include: 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) statement of the expected impact on the Work.
- (3) Contractor should not proceed with any change until Contractor receives a Change Order from the Court's Project Manager. All costs for changes performed by Contractor without the Court's prior written approval will be at Contractor's sole risk and expense.

- B. Additional Goods and/or Services. Although the Court has exercised diligence in providing a full list of Goods, Services, and/or specifications contained in the Statement of Work, the Court reserves the right to require Contractor to provide additional Goods and/or Services up to ten percent (10%) in quantity or ten percent (10%) of the value of the Agreement Amount, with payment to Contractor commensurate with the rates established in the Statement of Work, or if none, as mutually agreed upon.

- 6. Choice of Law; Jurisdiction and Venue.** California law, without regard to its choice-of-law provisions, governs the Agreement. Jurisdiction and venue for any legal action arising from the Agreement shall exclusively reside in Riverside, California, and the parties hereby consent to the jurisdiction and venue of such courts.

7. Confidential Information.

- A. Confidential Information. While performing Work under the Agreement, Contractor and its subcontractors may gain access to Confidential Information that, if disclosed to third parties, may be damaging to the 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 the Agreement. If the Court requests additional security measures to protect Confidential Information from disclosure, Contractor shall not unreasonably refuse or delay to adopt the same. In the event of any unauthorized disclosure or loss of Confidential Information, Contractor will immediately provide notice to the Court, with pertinent details of the unauthorized disclosure or loss, and any remedial measures taken.
- B. Permissible Disclosures. Contractor may disclose the Court's Confidential Information only on a "need to know" basis to Contractor's employees and subcontractors and any representatives of the Court who are working on the project and who have also executed confidentiality agreements that protect the Court's confidential information. Additionally, Contractor may disclose the Confidential Information, to the extent necessary to comply with any applicable law, rule, regulation, or ruling, provided Contractor gives advance notice to the Court.

- C. **Publicity.** Contractor shall not make any public announcement or press release about the Agreement without the prior written approval of the Court.
- D. **Specific Performance.** Contractor understands that a default under this section will result in irreparable damage for which no adequate remedy will be available. Accordingly, injunctive or other equitable relief is a remedy that the Court will be entitled to seek.

8. Conflict of Interest; Prohibition Against Gratuities.

A. Conflict of Interest.

- (4) Contractor covenants that it and its Subcontractors presently have no interest, and will acquire no interest, which would directly or indirectly conflict in any manner or to any degree, with the full and complete performance required under the Agreement. Contractor further agrees to submit full disclosure statements, if required by law to do so, pursuant to the requirements of the California Fair Political Practices Act or any other applicable federal or state law, regulation, or conflict of interest code.
- (5) Contractor and its Subcontractors and employees will not participate in proceedings that involve the use of Court funds or that are sponsored by the Court if the Contractor, its Subcontractors, or their employees, principals, partners, family members, or organizations have a financial interest in the outcome of the proceedings.
- (6) Contractor and its Subcontractors and employees will not engage in actions resulting in, or creating the appearance of:
 - (a) use of an official position with the government for private gain;
 - (b) preferential treatment to any particular person associated with the Work or Agreement;
 - (c) impairment of the Court's independence or impartiality;
 - (d) a decision made outside official channels; or
 - (e) adverse effects on the confidence of the public in the integrity of the Court.

B. Prohibition Against Gratuities.

- (1) Contractor covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by Contractor or any agent, director, or representative of Contractor, to any officer, official, agent, or employee of the Court, in an effort to secure the Agreement or favorable treatment with respect to any determinations concerning the performance of the Agreement.
- (2) For any breach or violation of this covenant, the Court has the right to terminate the Agreement for cause, wither whole or in part. Any loss or damage sustained by the Court in procuring, on the open market, replacement goods or services that Contractor agreed to provide, will be borne and paid for by Contractor. The Court's rights and remedies under this provision are in addition to any other rights and remedies provided by law or under the Agreement.

9. Consideration.

- A. The consideration paid to Contractor is the entire compensation for all Work performed under the Agreement, including all of Contractor's expenses incurred, such as travel and per diem expenses, unless otherwise expressly provided.
- B. **Payment Does Not Imply Acceptance of Work.** The 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 the requirements of the Agreement will be rejected, and will be replaced by Contractor, without delay or additional cost to the Court.
- C. **Disallowance.** If Contractor receives payment from the Court for a service or reimbursement that is later disallowed or rejected by the Court, Contractor will promptly refund the disallowed amount to the Court upon the Court's request. At its option, the Court may offset the amount disallowed from any payment

due to Contractor, under the Agreement or any other agreement.

D. 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 of the Agreement.

10. Contractor Certification Clauses. Contractor certifies that the representations below are true and will remain true throughout the term of the Agreement. Contractor shall have an affirmative duty to promptly notify the Court if any of these representations are not or are no longer true:

A. Authority. Contractor has authority to enter into and perform its obligations under the Agreement, and Contractor's signatory has authority to bind Contractor to the Agreement. The Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms. Contractor is qualified to do business and in good standing in the State of California.

B. Not an Expatriate Corporation. Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code § 10286.1, and is eligible to contract with the Court.

C. 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.

D. No Gratuities. Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement.

E. No Conflict of Interest. Contractor has no interest, and will not engage in any interest, that would constitute a conflict of interest under Public Contract Code §§ 10365.5, 10410 or 10411, which, in general, limit entering into follow-on contracts with a consultant who would benefit thereby from the consultant's advice provided under the first contract; Government Code §§ 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.

F. No Interference with Other Contracts. To the best of Contractor's knowledge, the Agreement does not create a material conflict of interest or default under any of Contractor's other contracts.

G. 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 the 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 the Agreement, or Contractor's ability to perform the Agreement.

H. Compliance with Laws Generally. Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor's business and services, and pays all undisputed debts when they come due.

I. Work Eligibility. All personnel assigned to perform the Agreement are able to work legally in the United States and possess valid proof of work eligibility.

J. Drug Free Workplace. Contractor provides a drug-free workplace as required by California Government Code §§ 8355 through 8357.

K. 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 the Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring.

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 §§ 12990 et seq.)

- and associated regulations (Code of Regulations, title 2, §§ 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. 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."
- N. Provisions regarding Domestic Partners, Spouses, and Gender Discrimination. If the Agreement provides for total Compensation of more than \$100,000, Contractor is in compliance with Public Contract Code § 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.
- O. Provisions regarding Compliance with National Labor Relations Board Orders. If the 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.
- P. Provisions regarding Compliance with the Sweatfree Code of Conduct. If the Agreement provides for the furnishing of 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 the 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 § 6108.
 - (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 (1) and shall provide the same rights of access to the Court.
- Q. Provisions regarding Compliance with the Child Support Compliance Act. If Contractor is a private entity, and the Agreement provides for Compensation of \$100,000 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. 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.
- S. Provisions regarding the Electronic Waste Recycling Act. If the Agreement provides for the purchase or lease of covered electronic devices under the Electronic Waste Recycling Act of 2003, Public Resources Code §§ 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.
- T. Provisions regarding Darfur Contracting Certification. Public Contract Code §§ 10475 – 10481 apply to any bidder or proposer that currently or within the previous three years has had business activities or other operations outside of the United States and seeks to submit a bid or proposal to the Superior Court of California, County of Riverside. Contractor certifies, UNDER PENALTY OF PERJURY, that it is either (a) not a scrutinized company as defined in Public Contract Code § 10476; or (b) is a scrutinized company that has been granted express permission by the Superior Court of California, County of Riverside to submit a bid or proposal. A bidder or proposer who has submitted a false certification may be liable for civil penalties or other measures.
- U. Provisions regarding Plastic Trash Bag Law. Public Resources Code §§ 42290 et seq., requires any plastic trash bag supplier, manufacturer or wholesaler, or any of its divisions, subsidiaries, or successors, to be compliant with the Recycled Content Plastic Trash Bag Law, regardless of the goods or services being provided under the Agreement. Contractor certifies, UNDER PENALTY OF PERJURY, that it, and its divisions, subdivisions, and successors, comply with the Recycled Content Plastic Trash Bag Law, and shall continue to comply with the same throughout the term of the Agreement.
- V. Provisions Regarding Parts Cleaning. If the Agreement involves parts cleaning, Contractor shall use recycled solvents, to the maximum extent economically feasible, in the performance of Work under the Agreement. Contractor further certifies, UNDER PENALTY OF PERJURY, that any post-consumer or secondary materials provided or used in the Work by Contractor meet all California minimum post-consumer content requirements.
- W. Provisions Regarding Document Printing Agreements. If the Agreement is for printing documents, Contractor shall use recycled products, to the maximum extent economically feasible, in the performance of Work under the Agreement. Contractor further certifies, UNDER PENALTY OF PERJURY, that any recycled products provided or used in the Work by Contractor meet all California minimum post-consumer content requirements.
- X. Provisions Regarding Iran Contracting Act. If the Agreement is for the purchase of goods or services of \$1,000,000 or more, Contractor further certifies, UNDER PENALTY OF PERJURY, that it is not on the current list of persons engaged in investment activities in Iran created by the California Department of General Services pursuant to California Public Contract Code section 2203(b).
- Y. Provisions Regarding Conflict Minerals. If the Agreement is for the purchase of goods or services related to or involving “conflict minerals” (columbite-tantalite, cassiterite, wolframite, or gold), Contractor further certifies, UNDER PENALTY OF PERJURY, that it is not a “scrutinized company,” as defined by California Public Contract Code section 10490(b).
- Z. Provisions Regarding Delinquent Taxpayers. If the Agreement is for non-IT goods or services, Contractor further certifies, UNDER PENALTY OF PERJURY, that it is not a person or entity identified by the Franchise Tax Board or the Board of Equalization as one of the 500 largest tax delinquents.

11. Contractor Status.

- A. Independent Contractor. Contractor is an independent contractor to the Court. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the Court. Contractor has no authority to bind or incur any obligation on behalf of the Court. Except as expressly stated, Contractor has no authority or responsibility to exercise any rights or power vested in the Court. Contractor, its employees, or anyone working under Contractor, shall not qualify for workers' compensation or other fringe benefits of any kind through the Court. If any governmental entity concludes that Contractor is not an independent contractor, the Court may terminate the Agreement immediately upon notice. Alternatively, Contractor may agree to a reduction in the Court's financial liability, so that the Court's total costs under the Agreement do not exceed the Agreement Amount.
- B. Exclusive Control of Means and Method of Performance.
- (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 the Court, the parties agree that (i) each will inform the other party of such investigation or challenge; and (ii) the 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, defend, and hold the Court harmless from all claims, costs, and liabilities resulting from third-party actions alleging an employment relationship between the Court and any Contractor or Subcontractor personnel.
 - (5) Contractor will determine the method, details, and means of performing or supplying the Work under the Agreement. Contractor will be responsible to the Court only for the requirements and results specified in the Agreement, and will not be subjected to the Court's control with respect to the physical action or activities of Contractor in fulfillment of the Agreement. Contractor will have the "right to control" and bear the sole responsibility for the job site conditions and safety.
- C. Permits, Laws, and Regulations.
- (1) Contractor must observe and comply with all applicable laws, rules, and regulations affecting the Work. During the term of the Agreement, Contractor will obtain and keep in full force and effect, all permits and licenses necessary to accomplish the Work, and ensure that all subcontractors performing Work under the Agreement comply with the same. Such permits and licenses will be made available to the Court, upon request.
 - (2) Contractor will promptly provide Notice to the 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.

12. Counterparts; Signatures.

- A. Counterparts. The Agreement may be executed in counterparts, each of which is considered an original.
- B. Signatures. Unless otherwise provided, the signatures required for execution of the Agreement may be made by manual signature on an original document, photocopy, or facsimile copy, or by digital signature that conforms to California Government Code § 16.5 and all California regulations promulgated thereunder, including California Code of Regulations, title 2, division 7, chapter 10.

13. Default and Remedies.

- A. Default. Unless otherwise provided, a default exists under the Agreement if:
- (1) Contractor fails or is unable to meet or perform any of Contractor's duties under the Agreement, or furnishes nonconforming Goods or Services, 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 the Agreement any representation or warranty that is or was incorrect, inaccurate, or misleading; or
 - (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 the Agreement, (ii) ensure that these obligations are legal, valid, and binding, or (iii) make the Agreement admissible when required is not fulfilled or performed.
- B. Notice of Default. 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 the Agreement.
- C. Remedies following Contractor Default.
- (1) Available Remedies. The Court may do any of the following:
 - (a) Withhold all or any portion of a payment otherwise due to Contractor, exercise any other rights of setoff as may be provided in the Agreement or any other agreement between a Court and Contractor, or charge to the Contractor any costs to the Court arising from Contractor's default, including costs to complete or correct the Work;
 - (b) Require Contractor to enter into non-binding mediation;
 - (c) Exercise, following notice, the Court's right of early termination of the Agreement as provided below; or
 - (d) Seek any other remedy available at law or in equity.
 - (2) Remedies Cumulative. All remedies provided for in the Agreement may be exercised individually or in combination with any other available remedy.

14. Dispute Resolution. The Court and Contractor will attempt, in good faith, to resolve any disputes informally. Contractor will meet with the 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 above, the aggrieved party will submit a second Notice which will:
 - (a) provide detailed factual information;
 - (b) identify the specific provisions in the 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 (15) 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 the Court. Contractor's failure to diligently proceed in accordance with the Court's instructions will be considered a material breach of the Agreement.

15. Entire Agreement.

A. Headings or captions to the provisions of the Agreement are solely for the convenience of the parties, are not part of the Agreement, and will not be used to interpret or determine the validity of the Agreement.

B. The Agreement was negotiated between the parties, and neither party "prepared" the 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. The Agreement, including all documents incorporated by reference, constitutes the entire and final understanding of the parties regarding the 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, and is mutually binding on the parties in accordance with its terms.

D. No agent, representative, employee or officer of either the Court or the Contractor has the authority to make, or has made, any oral statement, agreement or representation, in connection with the Agreement, which in any way can be deemed to modify, add to and detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Agreement. No subsequent purchase order, invoice, click-through or shrink-wrap agreement, or similar document containing conflicting terms and conditions issued by Contractor in conjunction with the performance of any party's duties and/or obligations due under the Agreement, shall be permitted to modify or contradict any of the terms and conditions of the Agreement.

16. 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.

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

17. Indemnification.

A. To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, and defend (with

counsel satisfactory to the JBE Office of the General Counsel), the Judicial Branch Entities and Judicial Branch Personnel from and against any and all claims, damages, losses, judgments, liabilities, expenses, and other costs (including court fees, litigation or settlement costs, attorneys' fees, and attorneys' fees incurred in enforcing this indemnification clause) arising or resulting from, or in connection with, Contractor's performance of, or failure to perform, Work or Contractor's other duties under the Agreement, or any breach of the Agreement by Contractor or its officers, employees, agents, representatives, or Subcontractors. 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.

B. Contractor's obligation to defend, indemnify, and hold the Judicial Branch Entities and Judicial Branch Personnel harmless is not limited to, or restricted by, any requirement in the Agreement that Contractor procure and maintain insurance policies.

18. Infringement Protection. Contractor shall indemnify, defend (with counsel satisfactory to the Court), and hold the Judicial Branch Entities and Judicial Branch Personnel harmless from liability of any nature or kind, including costs and expenses, for any alleged or actual 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 the Agreement.

19. Insurance Requirements. The Agreement shall specify whether the insurance requirements of Section 19.1 or Section 19.2 apply. Unless the Agreement calls for specific coverage(s) set forth on Section 19.2, the insurance requirements of Section 19.1 shall apply.

19.1 Insurance Requirements – General. Contractor shall maintain insurance that is sufficient in scope and amount to permit Contractor to pay in the ordinary course of business insurable claims, losses and expenses, including insurable claims, losses and expenses arising or resulting from, or in connection with Contractor's performance or breach of the Agreement, or be adequately self-insured for all risk, physical damage, and public liability. Contractor shall maintain employer's liability and workers' compensation coverage at California statutory levels covering all employees performing Work under the Agreement. Should the Court make such a request, Contractor shall provide to the Court certificates of insurance and/or complete copies of all insurance policies maintained by Contractor to meet the insurance requirements contained in this paragraph.

- OR -

19.2. Insurance Requirements – Specific Coverages.

A. Minimum Scope and Limits of Coverage. When required by the Agreement, Contractor shall maintain the following insurance coverages during the term of the Agreement.

- (1) Workers' Compensation and Employer's Liability Insurance. This policy is required only if Contractor has employees. It must include workers' compensation to meet the minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1 million per accident or disease.
- (2) Commercial General Liability Insurance. This policy must cover bodily injury, property damage, products (completed operations hazard and liability assumed in a contract), and personal and advertising injury, with minimum limits of \$1 million for each occurrence, combined single limit, and \$2 million aggregate.
- (3) Business Automobile Liability Insurance. This policy is required only if Contractor uses an automobile or other vehicle in the performance of the Agreement. This policy must cover bodily injury and property damage liability and be applicable to all vehicles used in the Contractor's performance of the Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit.
- (4) Professional Liability. This policy must cover liability resulting from errors or omissions committed in Contractor's performance of Services under the Agreement, at minimum limits of \$1 million per claim.

- (5) Sexual Misconduct Insurance. This policy must cover bodily injury arising out of, resulting from, or in connection with the actual or threatened sexual abuse, molestation, or harassment of any person by Contractor's employees or any other person for whose acts Contractor may be held liable ("Contractor's Agents"), and the negligent employment, investigation, supervision, failure to report, or retention of Contractor's employees or Contractor's Agents for the actual or threatened sexual abuse, molestation, or harassment of any person. The minimum liability limit must be \$1 million per occurrence.
- (6) Commercial Crime Insurance. This policy must cover losses of Court Property arising or resulting from, or in connection with:
 - (a) The theft, robbery, burglary, disappearance, damage, or destruction of Court Property, including the cost of check reconstruction;
 - (b) Dishonest or fraudulent acts, including forgery, alteration, or the fraudulent transfer of Court Property;
 - (c) Losses or damage to any building, vehicle, safe, vault, or cash box within the control or possession of Contractor.

The minimum liability limit must be \$1 million per occurrence.

- (7) Umbrella Policies. Contractor may satisfy basic coverage limits through any combination of basic coverage and commercial umbrella liability insurance.

B. Insurance Requirements Applicable to Required Policies.

- (1) Contractor shall maintain 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-.
- (2) By requiring such minimum insurance, the Court will not be deemed or construed to have assessed the risks applicable to Contractor. Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.
- (3) For full coverage, each insurance policy shall be written on an "occurrence" form, except for professional liability insurance, which may be made on a "claims made" form. If coverage is approved and purchased on a "claims made" basis, Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, for three (3) years, without lapse, from the date of termination or expiration of the Master Agreement and the Court's acceptance of all Work provided under the Agreement. The retroactive date or "prior acts inclusion date" of any "claims made" policy must be no later than the date that the Work commences under the Agreement.
- (4) The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case, the annual aggregate limits of liability must be at least two times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to the Agreement.
- (5) If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods:
 - (a) *Separate*. Separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or
 - (b) *Joint*. Joint insurance program with the association, partnership, or other joint business venture included as a named insured.
- (6) Deductibles and Self-Insured Retentions. The deductible and/or self-insured retentions shall not limit or apply to Contractor's liability to the Court and shall be the sole responsibility of Contractor. Contractor shall declare to the Court all deductibles and self-insured retentions that exceed \$100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to the Court's approval.

- (7) Endorsements; Additional Insureds. All required insurance policies will contain, or be endorsed to contain, the following provisions:
- (a) Additional Insureds. The Superior Court of California, County of Riverside and its Personnel (including judges, officials, officers, employees, agents, and representatives) shall be covered as additional insureds for liability arising out of activities performed by, or on behalf of, Contractor under the Agreement.
 - (b) Primary Insurance; Waiver of Subrogation. Contractor's insurance coverage shall be primary and non-contributory with any insurance or risk management programs covering the Court or Court Personnel. Contractor and its insurance carrier waive any and all rights of subrogation against the Court and Court Personnel.
 - (c) Separation of Insureds. Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
 - (d) Notice. All policies required of Contractor shall be endorsed to provide written notice to the Court of cancellation in coverage, non-renewal, or reduction of coverage within thirty (30) days, via one of the following methods:
 - E-mail to riversidecourt@ebix.com (preferred method);
 - Fax to (770) 325-2082;
 - Mailing Address:
 - Superior Court of California, County of Riverside
 - Insurance Compliance
 - PO Box 12010 - RV
 - Hemet, CA 92546-8010

Please use only one of these methods. Duplicate submission may cause delay.

- (8) Specific Wording for Certificate(s) of Insurance.
- (a) The Certificate Holder name shall be: "The Superior Court of California, County of Riverside, and its Personnel (including judges, officials, officers, employees, agents)."
 - (b) Wording for the Additional Insured Endorsement shall be, in substance:
 - "The Superior Court of California, County of Riverside ("Court") and its Personnel are named as additional insureds on all above policies except workers' compensation."
 - "For each of the above policies, the coverage provided is primary and non-contributory with any insurance or risk management programs covering the Court or Court Personnel. Additionally, each of the above policies applies separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer's liability. The insurer waives any and all rights of subrogation against the Court."
 - "The above policies shall not be canceled, non-renewed or reduced in scope of coverage until after 30 days written notice has been given by the insurer to the Court."

C. Failure to Maintain Insurance / Failure to Provide Certificate(s) of Insurance.

- (1) If Contractor fails to maintain adequate insurance policies conforming to the above requirements, including the appropriate certificate holder/additional insured endorsements, primary/noncontributory and waiver of subrogation clauses, and amounts and extent of coverage, Contractor shall indemnify, defend (with counsel satisfactory to the Court), and hold harmless the Judicial Branch Entities and Judicial Branch Personnel from and be

responsible to the Judicial Branch Entities and Judicial Branch Personnel for all claims, damages, losses, judgments, liabilities, expenses, and other costs, including court fees, litigation or settlement costs, attorneys' fees (including attorneys' fees incurred in enforcing this indemnification clause), arising or resulting from, or in connection with Contractor's performance or breach of the Agreement, notwithstanding any clause or amounts limiting the Contractor's liability to the Court. Contractor's failure to maintain adequate insurance policies conforming to the above requirements may be considered a breach of the Agreement.

(2) Before Contractor begins Work, Contractor shall give the Court certificates of insurance attesting to the existence of adequate coverage. All certificates of insurance and replacement certificates of insurance are subject to the approval of the Court. Certificate(s) of insurance shall be submitted to the Court via one of the following methods:

- E-mail to riversidecourt@ebix.com (preferred method);
- Fax to (770) 325-2082;
- Mailing Address:
Superior Court of California, County of Riverside
Insurance Compliance
PO Box 12010 - RV
Hemet, CA 92546-8010

Please use only one of these methods. Duplicate submission may cause delay.

Submission of certificates of insurance (or lack thereof) and/or their approval by the Court shall not relieve the Contractor of its obligation to ensure that all required insurance policies conform to all foregoing requirements, and to ensure that any exclusions contained in such policies do not unduly or unfairly restrict the coverages required by the Court. Upon the Court's request at any time, Contractor shall provide: (1) complete copies of each required policy; and (2) the same evidence of insurance for its subcontractors as the Court requires of Contractor.

(3) 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.

(4) If any of the required policies 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.

20. Limitation of Liability. The 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 the Agreement, regardless whether the Court was advised of the possibility of such loss or damage. In no event will the Court's liability for direct damages arising from or related to the 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 the Court under the Agreement. Neither the Court nor Court Personnel will be personally responsible for liabilities arising under the Agreement.

21. Loss Leader. Contractor shall not sell or use any article or product as a "loss leader" as defined in section 17030 of the Business and Professions Code.

22. Modification. No modification or change to the Agreement, including any changes to Exhibit A (Statement of Work), shall be valid without the written approval of the Court, in the form of an Amendment.

23. Non-Exclusivity. The Agreement is non-exclusive. The Court reserves the right to perform, or have others perform the Work for the Agreement. The Court further reserves the right to bid the Work to others or procure the Work by other means.

24. Notices. Notices under the Agreement must be in writing. Notices may be delivered in person, via a reputable express carrier, or by registered or certified mail (postage pre-paid). 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 the other Party's Contract Representative as designated in the Standard Agreement Cover Sheet. 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.

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

26. Prohibited Bids for End Product of the Agreement ("Follow-On Contracts").

- A. If Contractor or its affiliates provides Consulting and Direction (as defined below), the Contractor and its affiliates: (i) shall not submit a bid or be awarded a subsequent contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Consulting and Direction; and (ii) will not act as consultant to any person or entity that does receive a contract described in sub-section (i).
- B. "Consulting and Direction" means services for which Contractor received compensation from the Court and includes: (i) development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies; (ii) development or design of test requirements; (iii) evaluation of test data; (iv) direction of or evaluation of another contractor; (v) provision of formal recommendations regarding the acquisition of Information Technology products or services; or (vi) provisions of formal recommendations regarding any of the above. For purposes of this section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.
- C. To the extent permissible by law, the Court may waive the restrictions set forth in this section by written notice to Contractor if the Court determines their application would not be in the Court's best interest. Except as prohibited by law, the restrictions of this section will not apply: (i) to follow-on advice given by vendors of commercial off-the-shelf products, including software and hardware, on the operation, integration, repair, or maintenance of such products after sale; (ii) to contractors that were awarded a subcontract of the original consulting service contract that amounted to no more than ten (10) percent of the total monetary value of the original consulting services contract; or (iii) where the Court has entered into a master agreement for software or services and the statement of work at the time of Agreement execution expressly calls for future recommendations among Contractor's own products.
- D. The restrictions set forth in this section are in addition to conflict of interest restrictions imposed on public contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this section, even if enacted after execution of the Agreement.

27. Public Access to Records and Information.

- A. Rule 10.500 of the California Rules of Court sets forth comprehensive access provisions applicable to administrative records (which includes, among other things, agreements and amendments) 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. Please be aware that an agreement or amendment may be considered a public record and be made available to anyone who requests a copy.
- B. If an agreement or amendment contains material noted or marked by the Contractor as "Confidential" and/or "Proprietary" that, under Rule 10.500 would be exempt from public disclosure, then that information will presumptively not be made available to the public. 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 Contractor's notation or markings. If a Contractor is unsure if its confidential and/or proprietary material would fall within the disclosure exemption requirements of Rule 10.500, then

it should carefully consider whether to include such information in an agreement or amendment because such information may be disclosed to the public.

28. Public Contract Code. 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 provisions in the Public Contract Code that apply to state agencies and departments regarding the procurement of goods and/or 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.

29. Scope of Work; Acceptance; Rejection.

A. Scope of Work. Contractor will perform and complete all Work in compliance with the requirements of the Agreement, and to the satisfaction of the Court. Contractor shall strictly adhere to the delivery and completion schedules specified in the Statement of Work. Time, if stated as a number of days, shall mean calendar days unless otherwise specified.

B. Acceptance. Notwithstanding any prior inspection or payments, all Goods and Services delivered hereunder shall be subject to final inspection and acceptance or rejection by the Court within a reasonable time after delivery to the Court. Until Work is completed and accepted by the Court, the risk of loss or damage to the Work shall remain with Contractor. All items which are not in compliance with the specifications hereof, which are not as warranted or which are shipped late, shipped in excess or insufficient quantities, or substituted for items ordered hereunder may be rejected by the Court and returned or held at Contractor's expense and risk. No damages or extras will be allowed for unforeseen difficulties or obstructions. Payment shall not constitute an acceptance of the Goods, Services, or Work nor impair the Court's right to inspect or any of its remedies. Contractor shall immediately refund any payment made in error.

C. Rejection. The Court may reject any Goods, Services, or deliverables that: (i) fail to meet applicable requirements or acceptance criteria; (ii) are not as warranted; or (iii) are performed or delivered late. The Court's Project Manager may apply any acceptance criteria set forth in the Agreement (including timeliness, completeness, technical accuracy, and conformance to statistical, industry or marketplace standards) to determine acceptance or non-acceptance of the Work.

(1) If the Work is not acceptable, the Court's Project Manager shall detail Contractor's failure to meet the acceptance criteria. Contractor shall have ten (10) business days from receipt of the Court's notification of non-acceptance to correct the failure(s) to conform to the acceptance criteria. Contractor will re-submit the Work and the Court's 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 the Court's written acceptance of such corrected Work; provided, however, that if the Court rejects any Work on at least two (2) occasions, the Court may terminate that portion of the Agreement which relates to the rejected Work at no expense to the Court.

(2) If the Court rejects any Goods, Services, or other deliverables 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 the Agreement or otherwise; and (iii) requiring Contractor to refund the overpayment within thirty (30) days of the Court's request.

30. Shipping and Packing Slips. Time is of the essence to delivery and any other performance required of Contractor. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or any other purpose shall be paid by the Court unless it is expressly included on the face of the Agreement. Unless stated otherwise, shipping point for all deliveries under the Agreement shall be FOB "destination", and on "FOB Shipping Point" transactions, Contractor shall arrange for lowest-cost transportation, prepay and add freight to its invoice, and furnish supporting freight bills over \$25. If delivery is to be made by a carrier, an itemized delivery ticket must be attached to the outside of the package. Each container must be marked with the Agreement number, part number, and quantity. Any itemized packing slip bearing the Court's Agreement number as shown thereon must be left with the Goods to insure their receipt.

31. Standard of Performance; Warranties; Personnel Requirements; Background Checks.

- 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 acknowledges that the Court relies on the accuracy, competence, and completeness of Contractor's services.
- B. Warranties.
- (1) For a period of one (1) year, unless the Agreement or the warranties provided by a third party for Goods or Services procured by Contractor provide for a longer warranty period, Contractor expressly warrants that the Goods and Services covered by the Agreement are: 1) free of liens or encumbrances; (2) merchantable and good for the ordinary purposes for which they are used; and (3) fit for the particular purpose for which they are intended; (4) free from all defects in materials and workmanship; (5) to the extent not manufactured pursuant to detailed designs furnished by the Court, free from defects in design; and (6) conform to the requirements of the Agreement. The Court's approval of designs or specifications furnished by Contractor will not relieve Contractor of its obligations under this warranty.
 - (2) Contractor agrees to indemnify, defend, and hold the Court and Court Personnel harmless from liability, loss, damage and expense, including reasonable attorney's fees, incurred or sustained by the Court by reason for the failure of the Goods or Services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industry Safety Act. Such remedies shall be in addition to any other remedies provided by law.
 - (3) Contractor represents and warrants to the Court that it owns, will own, is authorized, or will 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.
 - (4) All warranties will inure to the Court, its successors, assigns, customer agencies, and users of the Work provided hereunder. Contractor shall not take any action, or fail to perform any act that results in a warranty or representation becoming untrue. Contractor shall promptly notify the Court if any warranty or representation becomes untrue.
 - (5) Unless otherwise specified, the warranties set forth in this Section commence after Work has been accepted by the Court.
- C. Personnel Requirements.
- (1) Contractor shall use adequate numbers of qualified individuals with sufficient training, education, experience, and skill to successfully perform the Work.
 - (2) If the Court is dissatisfied with any of Contractor's personnel for any reason, Contractor shall immediately replace them with qualified personnel upon receipt of the Court's Notice. Otherwise, Contractor shall endeavor to minimize turnover of personnel Contractor assigned to perform the Work under the Agreement. 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 Court, the Court may terminate the Agreement for cause.
- D. Background Checks.
- (1) The Court shall have the right, but not the obligation, to request or conduct backgrounds checks on any of Contractor's personnel, its subcontractors' personnel, or agents performing Work under the Agreement.
 - (2) Contractor shall cooperate with the Court if the Court decides to perform background checks by obtaining, at no additional cost, all releases, waivers, and permissions the Court requires. Contractor shall provide prompt Notice to the Court of: (i) any person refusing to undergo any such

background checks; and (ii) the results of any background checks as requested by the Court. Contractor may not assign to perform Work under the Agreement any personnel or any subcontractor's personnel who refuse to undergo a background check, and shall immediately remove such personnel from performing Work under the Agreement.

(3) The Court, in its sole discretion, shall determine whether Contractor's or its subcontractors' personnel or agents have passed the backgrounds checks required by the Court. No background information will be released to the Contractor or its subcontractors.

32. Stop Work.

- A. The 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.
- B. 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 the 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, the Court will either cancel the Stop Work Order or terminate the Work, as provided in the Termination provisions.
- C. If a Stop Work Order is cancelled, or the period of the Stop Work Order or any extension thereof expires, Contractor will resume Work. The Court may make an equitable adjustment in the delivery schedule, the Agreement Amount, or both, if (i) the Stop Work Order increases Contractor's costs or the time required for performance; and (ii) Contractor asserts its right to an equitable adjustment within thirty days after the end of the applicable Stop Work period.
- D. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated other than for cause, the Court may allow reasonable costs resulting from the Stop Work Order.
- E. The Court will not be liable to Contractor for loss of profits because of any Stop Work Order.

33. Survival. Terms that will survive termination or expiration of the Agreement include those relating to, but are not limited to: assignment, audit rights and retention of records, confidentiality, indemnification, limitation of liability, and warranties.

34. Termination.

- A. Termination for Cause. The Court may terminate the Agreement, in whole or in part, for cause, upon thirty (30) days written notice. The Court shall be relieved of any payments, if Contractor fails to perform the requirements of the Agreement at the time and in the manner agreed. The Court may also cancel delivery immediately of all or any portion of unshipped goods or limit Contractor's Work and, proportionately, Contractor's compensation. The Court may proceed with the Work in any manner deemed proper. All costs to the Court arising from Contractor's default, including costs to complete or correct the Work, will be deducted from any sum due to Contractor. Contractor will not be entitled to recover overhead or profit on the uncompleted portions of the Work.
- B. Termination for Convenience. The Court may terminate the Agreement, in whole or in part, at any time, for any or no reason, upon at least thirty (30) days written notice to Contractor. Upon receipt of notice of termination, Contractor will promptly discontinue Work as specified in the Notice. 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 Non-Appropriation and/or Availability.
 - (1) The Court's obligations under the 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 the Agreement. Funding beyond the current Appropriation Year is conditioned upon appropriation of sufficient funds to support the activities described in the Agreement.

- (2) Upon Notice, the Court may terminate the Agreement in whole or in part, without prejudice to any right or remedy of the Court, for lack of appropriation of funds. Upon termination, the Court will pay Contractor for the fair value of Work satisfactorily performed prior to the termination, not to exceed the total Agreement Amount.

D. Effect of Termination. Upon the Termination Date:

- (1) The Court shall be released from compensating Contractor for Work, other than those Contractor satisfactorily performed before the Termination Date, and for any indirect costs. Without prejudice to the Court, Contractor shall be released from performing Work.
- (2) If only a part of the Agreement is terminated by the Court such that Contractor is released from performing a portion of the Work, the Court shall accordingly be released from compensating Contractor for that portion of Work.
- (3) Court will have the right to take possession of any materials, equipment, and other Work including partially completed Work. Contractor shall return to the Court any equipment purchased or built with Court funds, with costs incurred by Contractor being reimbursed by the Court. Unless otherwise provided in the Agreement, Contractor will immediately assign to the Court all of Contractor's right, title, and interest in and to such Work, related materials, work product, and any and all intellectual property rights.
- (4) Upon termination of any kind, the Court may withhold from payment any sum that the Court determines to be owed to the Court by Contractor, or as necessary to protect the Court against loss due to outstanding liens or claims of former lien holders. Unless otherwise specifically provided, any advance payments made by the Court to Contractor shall be refunded to the Court on a pro rata basis.

35. Time is of the Essence. Time is of the essence in the performance of Work by Contractor under the Agreement.

36. 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. Unless otherwise specified in the Agreement, the Court's policies and limits on reimbursable travel-related expenses, consistent with the Administrative Office of the Courts' travel policies, are listed below. Dollar amounts stated in this section may be adjusted unilaterally by the Court from time to time. Contractor should contact the Court with any questions about the current dollar amounts. Contractor shall endeavor to use the most economical mode of travel whenever possible. Original receipts are required for each claimed item. When a receipt cannot be obtained, an explanation must be given, and proof of payment must be submitted. If requested by the Court, Contractor shall complete the Court's reimbursement claim forms as a condition of receiving any reimbursement from the Court. Contractor shall notify the Court of any anticipated travel prior to booking, which must be pre-approved by the Court.

- A. Lodging. All lodging reimbursements require a valid receipt from a commercial lodging establishment that caters to the general public. Lodging will not be reimbursed without submission of a valid receipt. Each day of lodging claimed must be listed separately for the actual amount up to the maximum allowed below.
 - (1) In-state: Actual costs are reimbursable up to a maximum of \$110 per day, plus tax and energy surcharge. When required to conduct official court business and obtain lodging in the counties of Alameda, San Francisco, San Mateo, and Santa Clara, the maximum rate allowed is \$140, plus tax and energy surcharge.
 - (2) Out-of-state: Actual costs are reimbursable only with the Court's prior approval.
 - (3) Conference or convention lodging: Lodging reimbursement for conferences and conventions sponsored by the Court shall not be in excess of the in-state rate unless Contractor is staying at the conference site. Only the single occupancy rate may be claimed for reimbursement except when sharing a room with other Contractor personnel also traveling in performance of the Agreement.
- B. Meals. If the cost of a meal is included in airfare, lodging, conference, or convention, no reimbursement shall be claimed for that meal. The Court will not reimburse for alcoholic beverages of any kind.

- (1) For continuous travel of more than 24 hours, actual costs for breakfast, lunch, dinner, and incidentals for each 24 hour period are reimbursable up to the maximum rate (which includes tax and tip) as follows:
 - (a) Breakfast: Up to \$6.
 - (b) Lunch: Up to \$10.
 - (c) Dinner: Up to \$18.
 - (d) Incidentals (e.g., tips for non-meal related expenses such as taxis): Up to \$6.
 - (2) For continuous travel of less than 24 hours, actual costs up to the above maximum limits are reimbursable in accordance with the following conditions:
 - (a) Breakfast may be claimed only if travel begins one (1) hour before normal work hours.
 - (b) Dinner may be claimed only if travel ends one (1) hour after normal work hours.
 - (c) Neither lunch nor incidentals may be claimed for a trip of less than 24 hours.
- C. Transportation. The actual and reasonable 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, and Contractor's "convenience" is not a valid justification for purchasing more expensive tickets. Receipts are required for rental cars and air travel. For ticketless travel, the traveler's itinerary may be submitted in lieu of a receipt.
- (1) Airfare. All air travel arrangements should be made through the Court.
 - (2) Ground Transportation. The reasonable costs of cab fare, public parking, and tolls are reimbursable.
 - (3) Rental Vehicles. The Court's Purchasing Division and the State Department of General Services have contracted with several rental car agents for daily, weekly, and monthly rates for the lease of vehicle for Court business. Contractor must contact the Court prior to renting any vehicles. Insurance offered by the rental agent is not reimbursable, and all rental vehicles must be refueled prior to their return. Refueling charges at rental car rates are not reimbursable.
 - (4) Mileage. Personal vehicle mileage is reimbursable at the mileage reimbursement rate established by the IRS that corresponds to the date(s) of travel and in accordance with the Court's mileage reimbursement policy. The reimbursement rate includes all costs related to the operation and maintenance of the vehicle, including both liability and comprehensive insurance.
- D. Business Expenses. Reimbursement is allowed for the reasonable costs of fax service, e-mail, telegrams, and business telephone calls. Telephone charges must be itemized by day with location, phone number, and person(s) called.
- E. Cancellation of Travel or Missed Travel. Contractor shall be responsible for all expenses or charges incurred as a result of Contractor's cancellation of travel or Contractor's failure to make a scheduled travel, regardless of whether travel was booked by Contractor or the Court, unless the cancellation or failure to make such travel was due to an emergency as determined in the Court's sole discretion.

37. Waiver; Severability.

- A. Waiver of Rights. The Court's action, inaction, or failure to enforce any right or provision of the Agreement is not a waiver of its rights, and will not prevent the Court from enforcing such rights on any future occasion. A Court-specific waiver does not constitute a waiver by the Court of any earlier, concurrent, or later breach or default.
- B. Severability. The provisions of the Agreement are separate and severable. If any part of the Agreement is held invalid or unenforceable, all other parts remain valid or enforceable, unless prohibited by applicable state and federal law.
- C. Waiver of Jury Trial. To the extent enforceable under California law, each party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding, or counterclaim brought by any party hereto against the other (and/or against its judges, subordinate judicial officers, officers, administrators, agents, representatives, and employees) on or with regard to any matters

whatsoever arising out of or in any way connected with the Agreement and/or any other claim of injury or damage.

38. Work Site. With respect to Work delivered and/or performed on the Court's premises, Contractor has the responsibility to inform itself fully and shall assume the risk as to the physical conditions at the worksite, including as applicable: (1) the availability, location, and extent of construction and storage areas and other facilities or structures above and below ground, but not limited to gas, water, sewer, electrical, and communication utilities; (2) necessary safety precautions and safeguards; (3) work to be performed by Contractor or others; (4) rules, regulations, and requirements to be observed by Contractor in the conduct of the Work. Lack of knowledge of existing conditions will not be accepted as an excuse for failure to perform the specified Work, nor shall such excuse be accepted as a basis for claims or additional compensation. Contractor shall conform to any specific safety requirements as required by law or regulation. Contractor shall take any additional precautions as the Court may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of the Agreement.

39. Miscellaneous Provisions Applicable to Specific Contracting Situations.

- A. Agreements providing for Compensation of \$50,000 or More; Union Activities Restrictions. As required under Government Code §§ 16645-16649, if the Agreement provides for total Compensation of \$50,000 or more to Contractor, then the covenants in this subsection apply to Contractor's activities.
- (1) Contractor shall not:
 - (a) Assist, promote, or deter union organizing by employees performing work under state or judicial branch contracts;
 - (b) Use the state's or the Court's funds received under the Agreement to assist, promote or deter union organizing; or
 - (c) For any business conducted under the Agreement, use any property of the state or the 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.
 - (2) 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 and the Court's funds has been sought for these costs, and provide those records to the Attorney General upon request.
- B. Provisions Applicable to 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 the Agreement to qualified recipients of aid under Welfare and Institutions Code § 11200 in accordance with Public Contract Code § 10353.
- C. Provisions Applicable to 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 the Agreement (or within such other time period as may be specified elsewhere in the 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 the Agreement; (3) the amount each DVBE received from the Contractor; (4) that all payments under the 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.
- D. Provisions Applicable to Court-Purchased or Court-Financed Equipment.
- (1) If the 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) If Compensation under the Agreement is not through grant funding and the 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.
- (3) Contractor shall maintain an inventory record for each piece of equipment purchased or built with Court funds provided under the Agreement, except for a piece of equipment that (i) has a normal life expectancy of less than one (1) year, or (ii) costs less than \$5,000 and is not easy to steal. The inventory record must include the date acquired, total cost, serial number, model identification, and any other information or description necessary to identify the piece of equipment. Upon request by the Court, Contractor shall submit to the Court a copy of the inventory record.
- (4) Upon the expiration of termination of the Agreement, or as otherwise directed by the Court, Contractor shall return such property to the Court in good condition, reasonable wear and tear expected, unless such property was not utilized, and in such case, shall be returned new and unopened from its original packaging.

E. Provisions Applicable to Competitively Bid Contracts; Antitrust Claims. If Work under the Agreement was obtained by means of a competitive bid, Contractor shall comply with the requirements of Government Code sections set out below.

- (1) The Government Code chapter on antitrust claims contains the following definitions:
 - (a) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the state or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of § 16750 of the Business and Professions Code.
 - (b) "Public purchasing body" means the state or the subdivision or agency making a public purchase. See Government Code § 4550.
- (2) Contractor shall assign to the Court all rights, title, and interest in and to all causes of action it may have under § 4 of the Clayton Act (15 U.S.C. § 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. See Government Code § 4552.
- (3) 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. See Government Code § 4553.
- (4) 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 (i) the Court has not been injured thereby, or (ii) the Court declines to file a court action for the cause of action. See Government Code § 4554.

F. Provisions Applicable to Federal or Federally-Assisted Contracts.

- (1) Funding. If the Agreement is funded in whole or in part by the federal government, then:
 - (a) It is mutually understood between the parties that the Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
 - (b) This contract is valid and enforceable only if sufficient funds are made available to the Court by

the United States Government for the fiscal year in which they are due and consistent with any stated programmatic purpose. In addition, the Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this contract in any manner.

(c) The parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which the Agreement is intended to be paid, the Agreement shall be deemed amended without any further action of the parties to reflect any reduction in funds.

G. Provisions Applicable to Federal or Federally Assisted Contracts; Prevailing Wages. This subsection applies only to federal and federally assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.

- (1) Contractor shall comply with all requirements of the Davis Bacon Act and all Related Acts (40 USC 276(a); 29 CFR 1, 3, 5, 6 & 7) and all related state, county, city and local acts, rules and regulations mandated prevailing wage requirements (e.g. Labor Code §§ 1720-1861; California Code of Regulations, Title 8, §§ 16000-16403). These citations are provided as reference only and not to be interpreted as all-inclusive. Contractor is responsible for complying with all applicable federal, state and local prevailing wage requirements whether referenced or not.
- (2) The David Bacon Act requires that all contractors and subcontractors performing on federal contracts (and contractor and subcontractors performing on federally assisted contracts under the related Acts) in excess of \$2,000.00 pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits (as determined by the Labor Department) for corresponding classes of laborers and mechanics employed on similar projects in the area. Prevailing Wage rates as determined by the Department of Industrial Relations for corresponding classes of laborers and mechanics employed on similar projects in the area are available on the website of the Department of Industrial Relations, Prevailing Wage Unit at www.dir.ca.gov/DLSR/PWD.
- (3) Apprentices and trainees may be employed at less than predetermined rates. Apprentices must be employed to an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Trainees must be employed pursuant to a training program certified by the Department.
- (4) Covered contractors and subcontractors are also required to pay employees weekly and to submit weekly certified payroll records to the contracting agency.
- (5) Contractors and subcontractors on prime contracts in excess of \$100,000 are also required, pursuant to the Contract Work Hours and Safety Standard Act, to pay employees one and one-half times their basic rates of pay for all hours over 40 worked on a covered contract work in a workweek.

H. Provisions Applicable to Consulting Services.

- (1) If the Agreement provides for the payment of \$1,000 or more for consulting services, Contractor must deliver detailed performance criteria, a schedule for performance, and progress reports to the Court to allow the Court to determine whether Contractor is on the right track and the project is on schedule, to provide communication of interim findings, and to afford opportunities for airing difficulties or special problems encountered so that remedies can be developed quickly.
- (2) If the Agreement provides for the payment of \$5,000 or more for consulting services, Contractor shall attach to the Agreement resumes of each Contractor participant who will exercise a major administrative role or major policy or consultative role. Contractor shall use reasonable efforts to make these participants available to perform Services during the term of the Agreement.

I. Provisions Applicable to Legal Services. If the Agreement provides for the performance of legal services, Contractor shall adhere to any legal cost and billing guidelines, legal budgets, and legal bill or law firm audits as may be required by the Court. If the Agreement does not provide for legal representation to low-income or middle-income persons in civil, criminal, or administrative matters, Contractor shall also adhere to any litigation plans or case phasing of activities as may be required by the Court. If the

Agreement does not provide for legal representation to low-income or middle-income persons in civil, criminal, or administrative matters, and also provides for Compensation (other than reimbursement of expenses) over \$50,000, Contractor shall also comply with the requirements of Business and Professions Code § 6072, which concerns the performance of pro bono legal services.

- (1) Under Business and Professions Code § 6072, Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the Agreement equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in California, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10 percent of the Agreement. Failure to make a good faith effort may be cause of non-renewal of the Agreement or another judicial branch or other state contract for legal services, and may be taken into account when determining the award of future contracts with the Court for legal services.
- J. Provisions Applicable to Commercial Office Moving Services Agreements. If this is an agreement of more than \$2,500 with a carrier for commercial office moving services, Contractor shall abide by the requirements contained in the State Administrative Manual, section 3810, which requires the Contractor to employ only drivers and supporting personnel who are under a current collective bargaining agreement or who are paid applicable prevailing wages and employed under prevailing standards and conditions of employment.
 - K. Provisions Applicable to Elevator Maintenance Agreements. If the Agreement provides for elevator maintenance, the Term of the Agreement shall be for a period of no less than five (5) years even if the Coversheet of the Agreement specifies a shorter term; however, the Agreement may be terminated during the Term in accordance with the Termination provisions contained herein.
 - L. Provisions Applicable to Janitorial Services or Building Maintenance Agreements. If the Agreement requires Contractor to perform Services at a new site, Contractor shall retain for 60 days all employees currently employed at that site by any previous contractor that performed the same services at the site. Contractor shall provide upon request information sufficient to identify employees providing janitorial or building maintenance services at each site and to make the necessary notifications required under Labor Code §§ 1060 et seq.
 - M. Provisions Applicable to Mined Mineral Agreements. If the Agreement involves the purchase of mined minerals, Contractor shall not supply through the Agreement any sand, gravel, aggregates, or other minerals a Court may not purchase under Public Contract Code § 10295.5.
 - N. Provisions Applicable to Rental Agreements. If the Agreement provides for the rental of personal property, the Court shall have no responsibility for loss or damage to the rented equipment arising from causes beyond the Court's control. The Court is responsible for repairs and liability for damage or loss only to the extent they become necessary and result from a negligent act or omission of the Court or any Court Personnel. If the Agreement provides for the rental of equipment or other personal property and the Court has not expressly elected through the Agreement to maintain the equipment or other personal property, Contractor shall keep the equipment in good working order and make all necessary or appropriate repairs and adjustments without qualification.
 - O. Provisions Regarding Material Safety Data Sheets. If some or all of the Goods provided by Contractor under the Agreement are on CAL OSHA's "Hazardous Substances List," Contractor shall forward a completed Material Safety Data Sheet (MSDS) to the Court.
 - P. Provisions Regarding Recycled Goods. Unless otherwise provided in the Agreement, pursuant to Public Contract Code § 12203(d), Contractor shall use or sell only recycled products under the Agreement to the maximum extent economically feasible, but only if the fitness and quality of such recycled products are equal to non-recycled products.
 - (1) If the Agreement provides for the purchase and sale of goods specified in Public Contract Code § 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), and the percentage of Contractor's postconsumer material in these goods cannot be verified by reference to a written advertisement, including, for example, a product label, a catalog, or a manufacturer or

vendor website:

- (a) Contractor shall deliver a declaration to the Court specifying the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code § 12200 in Goods offered or sold to the Court, regardless of whether the Goods meet the requirements of Public Contract Code § 12209.1;
- (b) UNDER PENALTY OF PERJURY, the declaration shall be true and correct and will remain so until Contractor delivers any amendment of a the current declaration to the Court, in which case the current declaration as amended will be true and correct; and
- (c) If Contractor sells under the Agreement any printer or duplication cartridges that comply with Public Contract Code § 12209, Contractor shall so specify in the declaration required under this section.

END OF STANDARD BUSINESS DEFINITIONS, TERMS AND CONDITIONS

EXHIBIT D**ADDITIONAL DEFINITIONS, TERMS AND CONDITIONS 2.0
SPECIFIC TO INFORMATION TECHNOLOGY (IT)**PART A: DEFINITIONSPART B: TERMS AND CONDITIONS

1. Custom Hardware or Software Products
2. Enhancements; Upgrades; Losses
3. License; Title to Equipment
4. Liquidated Damages
5. Manuals and Printed Materials
6. Patents, Copyrights, and Trade Secrets
7. Patent, Copyright, and Trade Secret Indemnity
8. Return of Confidential Information
9. Rights in Data; Right to Copy or Modify
10. Rights in Work Product
11. Training; Technical Support
12. Warranties (IT)
13. Miscellaneous Provisions Applicable to Specific Contracting Situations.

PART A: DEFINITIONS

All definitions contained in Exhibit C (Standard Business Definitions, Terms and Conditions), are incorporated herein by reference.

1. **Cost to Cover:** The cost, properly mitigated, of procuring Goods or Services of equivalent capability, function, and performance.
2. **Custom Software or Custom Hardware Product:** Any hardware and/or software product specially designed, developed, and/or programmed by Contractor for use by the Court.
3. **Enhancement:** Includes any modifications, revisions, adjustments, or updates to hardware or software to correct inefficiencies or residual errors, to enhance functionality or operability, to customize user preferences, to promote compatibility among any systems of which the hardware or software is a part, and to effect any other minor changes.
4. **Equipment:** An all-inclusive term referring to the hardware and/or software to be provided under this Agreement or for which services are rendered under this Agreement.
5. **Hardware:** Usually refers to computer machines, electrical or mechanical devices, or parts thereof, and is contrasted with Software.
6. **Hardware Product:** Hardware furnished by Contractor as a distinct unit.
7. **IT:** Information technology, which includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.
8. **Software:** An all-inclusive term which refers to any computer programs, routines, or subroutines, including operating software, programming aids, application programs, and program products.
9. **Software Product:** Software furnished by Contractor as a distinct unit.

PART B: TERMS AND CONDITIONS

1. **Custom Hardware or Software Products.** Unless otherwise specifically provided in the Statement of Work, the Court shall be deemed to have accepted each Custom Hardware or Software Product (i) upon its issuance of written notice of such acceptance; or (ii) sixty (60) days after its installation date, unless at or before that time the Court gives Contractor written notice of rejection. No payment for Custom Hardware or Software Products will be due before acceptance thereof, except to the extent required by progress payment terms in the Court's Statement of Work. Any notice of rejection will explain how the Custom Hardware or Software Product fails to substantially conform to the functional and performance specifications of this Agreement. Contractor will, upon receipt of such notice, investigate the reported deficiency and exercise reasonable best efforts to remedy it promptly. The Court, in its sole discretion, will have the option to re-perform the acceptance test. If the Contractor is unable to remedy the deficiency within (60) days of notice of rejection, the Court shall have the option of accepting substitute Hardware or Software Products, or terminating for default the portion of the Agreement that relates to such Custom Hardware or Software Products, or terminating this Agreement in its entirety for default.
2. **Enhancements; Upgrades; Losses.**
 - A. **Enhancements.** During the term of this Agreement, unless otherwise provided in the Agreement, as soon as any Enhancement applicable to any of the Goods or Services provided under this Agreement, is reasonably reduced to practice, such Enhancement shall be included as part of the license granted, and Contractor shall accordingly incorporate such Enhancement in the Goods or Services provided under this Agreement; provided that such Enhancement is compatible with the Court's existing hardware or software configuration as verified by Contractor and such Enhancement is approved by the Court prior to their incorporation. Such incorporation shall be performed by Contractor without additional charge to the Court.
 - B. **Upgrades.** Unless otherwise provided in the Agreement, for any improved or upgraded versions of any Goods or Services under this Agreement that are developed by Contractor and are made available to other licensees, such versions will be made available to the Court at the Court's option, provided such versions are compatible with the Court's existing hardware or software configuration as verified by Contractor, at a price no greater than the difference between (i) the price established by the Contractor for the later version; and (ii) the prevailing price or the price specified under this Agreement, whichever is greater, of the version provided by Contractor under this Agreement.
 - C. **Losses.** Contractor shall endeavor to ensure that there is no material loss of functionality and/or performance of the Goods or Services due to any Enhancements or Upgrades made by Contractor, and the Enhancements or Upgrades are incorporated in such a way as not to cause any material fault or malfunction in the Goods or Services. If there is any loss in functionality, performance, fault or malfunction, then at the Court's option and at no cost to the Court, Contractor shall roll back the Goods or Services to the state it was in before the Enhancement or Upgrade was incorporated.
3. **License; Title to Equipment.**
 - A. Unless otherwise provided in the Statement of Work:
 - (1) Contractor grants to the Court and the Court accepts from Contractor, subject to the terms and conditions of the Agreement, a royalty-free, non-exclusive, non-transferable, worldwide license to use the Goods and Services listed in the Statement of Work.
 - (2) Contractor may own or hold a license to use and/or sublicense various hardware or software in existence prior to the start date of this Agreement ("Contractor's Materials"). Contractor's Materials may include designs, utilities, and all related materials, as well as programming, consulting, creative and marketing ideas, development tools, routines, sub-routines, algorithms, software, engines, source code, object code, and other programs, data and materials, and any modifications, enhancements, and derivative works thereto. Contractor may, at its option, include Contractor's Materials in the Work performed under this Agreement. If so, Contractor retains all right, title, and interest to all copyrights, patent rights, and trade secret rights in Contractor's Materials; provided that Contractor grants and the Court hereby accepts from Contractor, a royalty-free, non-exclusive, non-

transferable, worldwide license to use any of Contractor's Materials incorporated into the Work performed by Contractor under this Agreement.

- B. The Court, and any division thereof, may use the Goods and Services in the conduct of its own business.
- C. With respect to Software Products furnished by Contractor as listed in the Statement of Work, the license above authorizes the Court to use such Software Products in machine-readable form on any Court computer or computer system; provided however, that no more than the number of machine-readable copies of the Software Products if specified in the Statement of Work will be in existence at any one time without Contractor's prior written consent, not to be unreasonably withheld.
- D. Title to all Custom Software and Custom Hardware furnished by Contractor shall pass to the Court upon the Court's acceptance of the same. Title to other Software or Hardware Product furnished by Contractor shall also pass to the Court upon the Court's acceptance of the same, unless the Statement of Work expressly provides that the Hardware or Goods are rented, leased, or licensed to the Court such that title thereto will remain with Contractor. Title to special features installed on a Hardware Product and for which only a single installation charge was paid shall pass to the Court at no additional charge, together with title to the Hardware Product on which it was installed.

4. Liquidated Damages.

- A. In the event that Contractor fails to complete Work in accordance with the Statement of Work within the time parameters as specified therein, and fails to provide suitable substitutions of Work acceptable to the Court, the Parties agree that the delay will interfere with the proper implementation of the Court's operations or programs to the loss and damage of the Court. From the nature of the case, it may be impracticable and extremely difficult to fix the actual damages sustained in the event of any such delay. The Court and Contractor, therefore, presume that in the event of any such delay, the amount of damage which will be sustained from such delay and payable to the Court as liquidated damages and not as a penalty shall be \$500 for each and every day's delay in excess of the allotted time parameters set forth in the Statement of Work. In the event Contractor fails to pay such liquidated damages, the Court may deduct the amount from any money payable to Contractor under this Agreement.
- B. If Contractor is delayed by reason of force majeure events, change orders or stop orders, or additional Work requested by the Court, or delays directly caused by the Court, the time of Contractor's performance may be extended commensurately by written agreement by the Court's Project Manager, and Contractor shall be relieved of paying liquidated damages for the period of such extension.
- C. Although the Court, at its option, may waive the payment of liquidated damages, nothing herein shall be construed as affording Contractor any additional time for performance. The Court shall notify Contractor in writing of any claim for liquidated damages pursuant to this section on or before the date the Court deducts such sums from money payable to Contractor.

5. Manuals and Printed Materials.

- A. Contractor agrees to provide to the Court, at no charge, all nonproprietary or proprietary manuals and other printed materials, and updated versions thereof, which are necessary or useful to the Court in its use of the Goods or Services provided hereunder. If additional copies of such manuals or printed materials are requested by the Court, Contractor will provide such additional materials at prices not in excess of prices charged by Contractor to its best customers for similar materials.
- B. If Contractor is unable to perform maintenance or the Court obtains Contractor's consent to perform its own maintenance on Equipment under this Agreement, then upon written notice by the Court, Contractor will provide adequate and reasonable assistance including relevant documentation to allow the Court to maintain the Equipment based on Contractor's methodology. Contractor agrees that the Court may reproduce such documentation for its own use in maintaining the Equipment. If Contractor is unable to perform maintenance, Contractor agrees to license any other contractor that the Court may hire to maintain the Equipment to use the above noted documentation. The Court shall not remove, alter, cover, or obliterate any copyright notices on any such documentation reproduced.

6. Patents, Copyrights, and Trade Secrets.

- A. Contractor warrants that the Goods or Services, and any component thereof, furnished by Contractor under this Agreement shall not infringe upon the intellectual property rights of the Court or any third party. Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Agreement.
- B. Contractor further warrants that (i) any Hardware or Software Product as modified by Contractor under this Agreement will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party; and (ii) Contractor has the appropriate systems and controls in place to ensure that Court funds will not be used to acquire, operate, maintain, or modify any Hardware or Software Product in violation of any U.S. intellectual property right or law.

7. Patent, Copyright, and Trade Secret Indemnity.

- A. Contractor will indemnify, defend (with counsel satisfactory to the JBE Office of General Counsel), and save harmless the Court and Court Personnel, from any and all third party claims, damages, penalties, expenses, costs (including attorneys' fees), and losses arising or resulting from, or in connection with any alleged or actual infringement, misappropriation, or violation of any U.S. intellectual property right or proprietary right of any third party in any Goods or Services, or component thereof, furnished by Contractor in connection with this Agreement.
- B. Should either party become aware of a legal action related to, or affecting, the Work furnished under this Agreement, that party shall notify the other party of the action, and the Court shall tender the defense thereof within a reasonable time. Contractor shall have control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that: (i) Contractor shall confer and cooperate with the Court in such defense; (ii) the Court, at its option, may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); and (iii) the Court will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed. Contractor may be required to furnish a bond to the Court against any and all loss, damage, costs, expenses, claims, and liability for any alleged or actual infringement, misappropriation, or violation of any U.S. intellectual property right or proprietary right of a third party.
- C. With respect to claims arising from hardware or software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the Court such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the Court with indemnity protection at least equal to that called for by the Third Party Obligation, or at the Court's option, the indemnity protection provided above in this Agreement.
- D. Should any of the Goods or Services, or any component thereof, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. intellectual property right, Contractor shall provide written notice to the Court. The Court shall permit Contractor at its option and expense either to procure for the Court the right to continue using the Goods or Services, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Goods or Services by the Court shall be prevented by injunction, Contractor agrees to take back such Goods or Services and make every reasonable effort to assist the Court in procuring substitute Goods or Services. If, in the sole opinion of the Court, the return of such infringing Goods or Services makes the retention of other hardware or software acquired from Contractor impractical, the Court shall then have the option of terminating this Agreement, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such Goods or Services and refund any sums the Court has paid Contractor less any reasonable amount for use or damage.

- 8. Return of Confidential Information.** Upon cancellation, expiration, or termination of this Agreement, or at any other time upon the Court's request, Contractor shall promptly return to the Court any Confidential Information belonging to the Court remaining in Contractor's possession. Confidential Information shall be clearly marked and submitted separately, and not embedded in any of Contractor's Work Product. Contractor shall, at the Court's option, destroy all materials in Contractor's possession containing such Confidential Information.

9. Rights in Data; Right to Copy or Modify.

- A. Rights in Data. All electronic files, input or output data, the media upon which such files and data are located (e.g., cards, tapes, discs, and other storage mediums), and all Software Products and packages (together with related documentation, source codes, object codes, upgrades, revisions, and modifications thereto), which are utilized, prepared, or developed for and paid for by the Court and delivered to the Court shall be property of the Court. Contractor may not distribute or otherwise disclose to third parties any data inputted or uploaded by the Court in its use of any Software or Hardware Product.
- B. Right to Copy or Modify. Any Software Product provided by Contractor in machine-readable form may be copied, in whole or in part, in printed or machine-readable form for use by the Court to perform one-time benchmark tests, for archival or emergency restart purposes, to replace a worn copy, to understand the contents of such machine-readable material, or to modify the Software Product; provided, however, that no more than the number of printed copies and machine-readable copies as specified in the Agreement will be in existence at any one time without Contractor's prior written consent, not be unreasonably withheld. The Court may modify any non-personal computer Software Product, in machine-readable form, for its own use and merge it into other program material; provided that nothing in this subsection will be construed to contradict the terms of any separately applicable third party license agreement.

10. Rights in Work Product.

- A. Unless otherwise provided in the Agreement, Contractor shall be deemed the sole author and patent and/or copyright owner of all inventions, discoveries, intellectual property, or technical communications originated or prepared solely by Contractor pursuant to this Agreement including papers, reports, charts, computer programs, and other documentation or improvements thereto (collectively, the "Work Product").
- B. Software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Agreement ("Pre-Existing Materials") do not constitute Work Product. If Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Agreement constitute Work Product, but other elements do not. Nothing in this section will be construed to interfere with Contractor's or its affiliates' ownership of Pre-Existing Materials.
- C. Contractor grants and the Court hereby accepts Government Purpose Rights to the Work Product as furnished to the Court hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the Court for any Court or government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any Court or government purpose. Such recipients of the Work Product may include, without limitation, the Court's contractors, California state and local governments, the U.S. federal government, and the Court's Personnel. Government Purpose Rights do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.
- D. All inventions, discoveries, intellectual property, technical communications, ideas, concepts, know-how, techniques relating to data processing, and records developed, originated, or prepared during the course of this Agreement jointly by Contractor and the Court may be used by either party without obligation of notice or accounting.

11. Training; Technical Support.

- A. Training. Unless otherwise provided in the Agreement or in an implementation plan schedule agreed upon by the parties, Contractor shall provide technical and/or end user training (e.g., non-technical or functional) to enable Court Personnel to productively use the Goods or Services furnished under this Agreement. Contractor shall provide overview training prior to placing any Goods or Services into operational use and comprehensive user training upon installation and start-up in accordance with the Statement of Work or implementation plan schedule. All training shall be conducted by qualified Contractor personnel during regular business hours at Court locations or at mutually agreed-upon locations.

- B. Technical Support. Unless otherwise provided in the Agreement, Contractor shall also maintain and provide for the Court's unlimited use, a live "Helpdesk" that is available online or by phone for immediate troubleshooting, training, and/or diagnostics on issues affecting the Goods or Services. If the issue requires an on-site technician for repair, the Helpdesk shall gather the necessary information to promptly dispatch a qualified technician who is equipped to train and/or customize the system to the Court's needs.
- C. Unless otherwise provided in Exhibit B (Payment), all costs, including travel expenses, associated with the provision of such training or technical support are embedded in the total Agreement Amount.

12. Warranties (IT).

- A. General Warranty. Contractor warrants that the Work furnished hereunder will (i) substantially conform to the requirements of this Agreement (including without limitation all descriptions, specifications, and drawings identified); and (ii) be free from material defects in materials and workmanship. Contractor further warrants that Work shall be performed in a professional manner, in accordance with the highest applicable professional standards, using qualified personnel having a level of skill and experience in the area commensurate with the requirements of the Statement of Work, and in accordance with industry standards.
- B. Pass Through of Warranties. Where Contractor resells hardware or software it purchased from a third party, and such third party offers additional or more advantageous warranties than those set forth herein, Contractor will pass through any such warranties to the Court and will reasonably cooperate in enforcing them. Such warranty pass-through will be supplemental to, and not relieve Contractor from, Contractor's warranty obligations set forth in this Agreement.
- C. Scope of Warranties.
 - (1) All warranties, including special warranties specified elsewhere herein, shall inure to the Court, its successors, assigns, customer agencies, court users, and governmental users of the Goods or Services.
 - (2) Unless otherwise specified in the Agreement, the warranties in this section begin upon acceptance of the Work and end one (1) year thereafter.
- D. Special Warranty Provisions Relating to Software.
 - (1) In addition to the other warranties set forth herein, where the Agreement involves the furnishing of software (regardless of whether such software is installed on the Court's systems or accessible via an online interface), Contractor warrants that such software (i) is free of harmful code (e.g., viruses, worms) and will run without material interruption; (ii) will perform in accordance with its license and accompanying documentation; and (iii) will not cause any material fault, loss, or malfunction in the Court's existing systems. The Court's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.
 - (2) Contractor warrants that Contractor will not cause any unplanned interruption in the operations of, or accessibility to, any software furnished under this Agreement or any portion thereof through any device, method, or means including, without limitation, the use of any virus, worm, "lockup," "time bomb," or "key lock" device or program, or other disabling code, which (i) has the potential or capability of causing any unplanned interruption in the operations of, or accessibility of any Goods or Services or any portion thereof; (ii) could alter, destroy, or inhibit use of any Goods or Services or any portion thereof; or (iii) which could block access to or prevent use of any Goods or Services or any portion thereof by the Court or its users (collectively, "Disabling Device(s)"). Contractor further represents and warrants that it has not purposely placed, nor is it aware of, any Disabling Device on any portion of the Goods or Services furnished to the Court under this Agreement, nor shall Contractor knowingly permit any subsequently delivered portion of the Goods or Services to contain any Disabling Device. Without limiting the foregoing, if the Court believes that harmful code may be present in any software delivered hereunder, Contractor will, upon the Court's request, provide a master copy of the software for comparison and correction.

E. Other Warranties.

- (1) Contractor warrants that it has the full right and authority to grant all licenses, including perpetual licenses, set forth in this Agreement.
- (2) Additional warranties by Contractor are specified in other provisions of this Agreement.

F. Remedies.

- (1) Contractor shall indemnify, defend (with counsel satisfactory to the Court), and hold harmless the Court and Court Personnel from and against any and all claims, damages, losses, judgments, liabilities, expenses, and other costs, including court fees, litigation or settlement costs, and attorneys' fees, arising or resulting from or in connection with Contractor's breach of the warranties set forth in this Agreement.
- (2) If, during the warranty period, the Court discovers that the Work performed by Contractor under this Agreement has not been performed in accordance with the warranties herein and notifies the Contractor in writing of such faulty Work, then at the Court's option: (i) Contractor shall, without cost to the Court, perform any services necessary to correct the fault therein, including the repair or replacement of any nonconforming Goods or Services; or (ii) Contractor shall refund all amounts paid by the Court for the nonconforming Goods or Services and pay to the Court any amounts necessary to equal the Court's Cost to Cover.
- (3) The rights and remedies in the above warranty clauses are in addition to any other rights or remedies, provided in law, equity or under this Agreement.

13. Miscellaneous Provisions Applicable to Specific Contracting Situations.

A. IT Maintenance Agreements.

- (1) Contractor shall keep Equipment in good operating condition and shall always be responsive to the maintenance requirements of the Court.
- (2) Unless otherwise provided in the Agreement:
 - (a) Maintenance services shall include scheduled preventative maintenance and unscheduled, on-call remedial maintenance. Preventative maintenance shall be performed on a schedule which is mutually acceptable to the Court and Contractor, which is consistent with the Court's operating requirements, and which is based upon the specific needs of the Equipment as determined by the manufacturer of the Equipment. Remedial maintenance shall be commenced promptly after notification by the Court that the Equipment and/or software is inoperative or otherwise in need of maintenance.
 - (b) Maintenance parts shall be furnished by Contractor and shall be equivalent to new in performance when properly used. Replacement maintenance parts shall become property of the Court.
 - (c) Contractor shall not charge the Court for any travel expenses associated with the provision of maintenance services.
 - (d) Contractor shall grant a proportionate maintenance credit or a pro-rata refund of the Compensation paid under the Agreement on any Equipment that is inoperative for consecutive scheduled work periods totaling 24 hours from the time the Court notifies the Contractor the Equipment was inoperative or otherwise in need of maintenance, provided (i) the Equipment became inoperative or is in need of maintenance through no fault of the Court; and (ii) the breakdown was attributable to equipment failure.
 - (e) In the event the Equipment maintained under this Agreement is moved to another location within the County of Riverside, Contractor shall continue to maintain the Equipment at the new location

- (s) at no additional cost to the Court, with the exception of additional mileage expenses, which the Court will reimburse at rates that are mutually acceptable to both Parties. The Court may request Contractor to dismantle, pack, and re-install the Equipment at the new location(s) at rates that are mutually acceptable to both Parties.

END OF INFORMATION TECHNOLOGY (IT) DEFINITIONS, TERMS AND CONDITIONS



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.

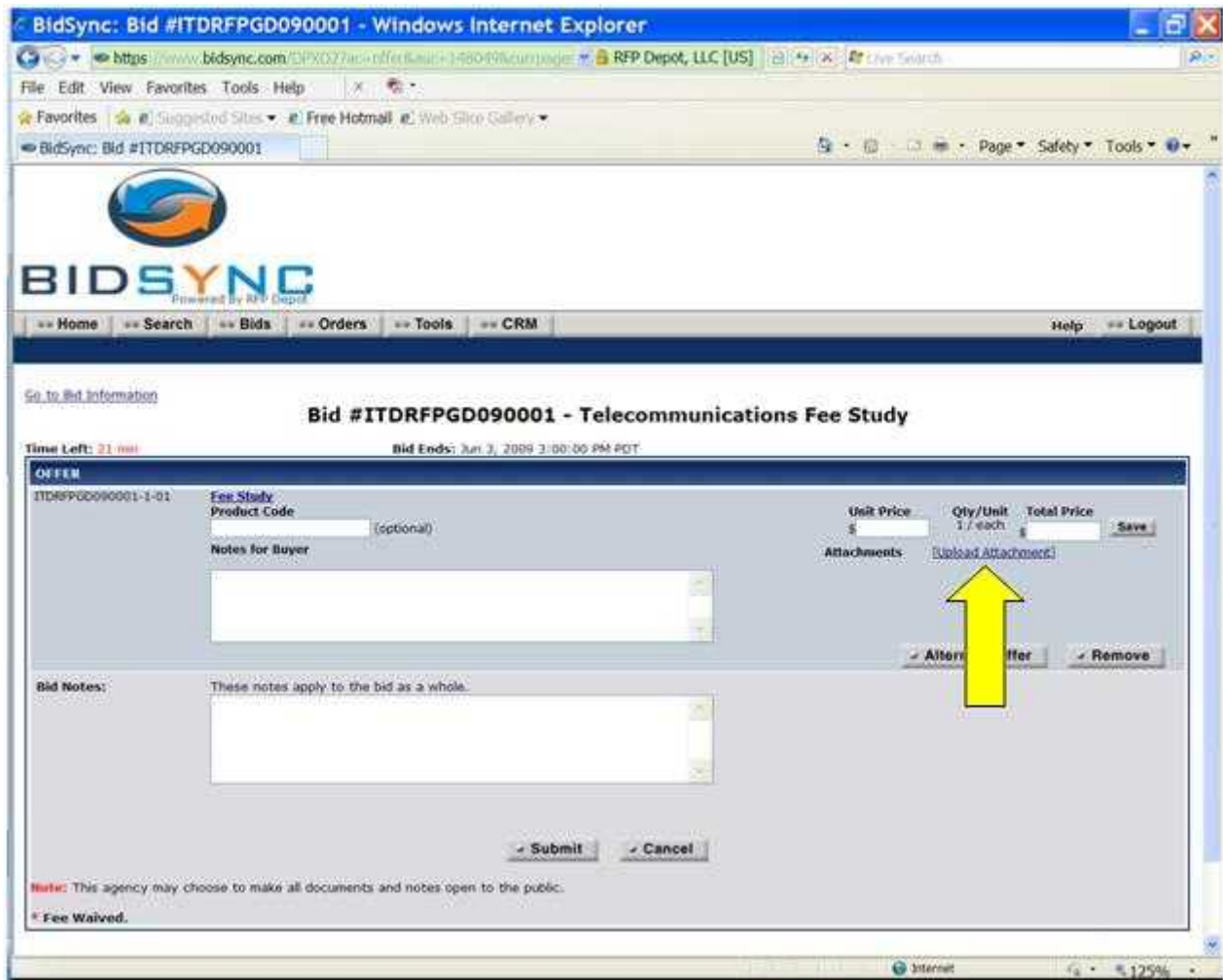
These directions show the vendor how to upload, attach, and submit, any type of documents.

The screenshot shows a web browser window with the following content:

- Page Title:** Yolo County, #ITDRFPGD090001 - Telecommunications Fee Study - Windows Internet Explorer
- URL:** https://www.bidsync.com/ITDRFPGD090001/attach
- Description:** Telecommunications fee study
- DOCUMENTS:**
 - 1. RFP-TELECOMMUNICATIONS-FEE-STUDY.doc [download] [PDF]
 - 2. InsuranceRequirements-EVA [download] Accepted
 - 3. CUSTOMER REFERENCES [download] Accepted
 - 4. EXHIBIT C TRANSMITTAL LETTER.doc [download] [PDF]
 - 5. Short Form Sample Agreement [download] Accepted
 - 6. TELECOM FEE SCHEDULE.pdf [download]
 - 7. Visio-ITD Org Chart by Position.pdf [download]
 - 8. EVALUATION COMPLETION DATE.doc [download]
- CHANGES MADE ON MAY 13, 2009 1:27:06 PM PDT:** New Documents: TELECOM FEE SCHEDULE.pdf
- CHANGES MADE ON MAY 20, 2009 11:37:34 AM PDT:** New Documents: Visio-ITD Org Chart by Position.pdf
- CHANGES MADE ON JUN 3, 2009 1:50:10 PM PDT:** New Documents: EVALUATION COMPLETION DATE.doc
- CONTRACTOR ADVERTISEMENTS:** Place Advertisement, View Full Advertisements
- Buttons:** Place Offer, Place "No Bid"

A yellow arrow points to the "Place Offer" button.

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

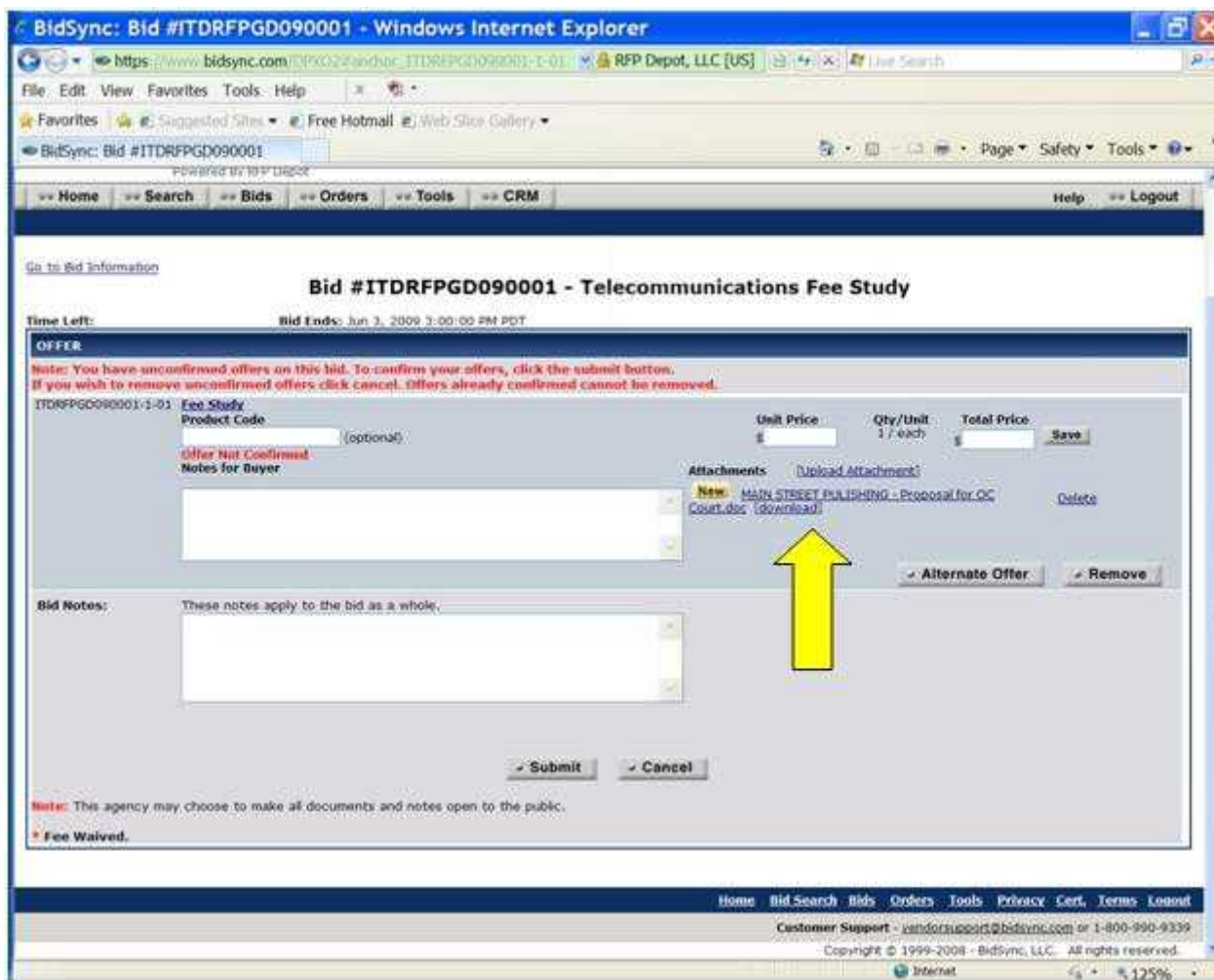


2. This screen is for the vendor to enter its price quote for Line Item #01.

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.



BIDDER/PROPOSER

CERTIFICATION OF ACCEPTANCE

In response to the Bid/RFP, I/we the undersigned hereby declare that I/we have carefully read, examined and is fully familiar with 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 undersigned hereby agrees that Court will not be responsible for any errors or omissions in these Bid/RFP Documents and Addenda.

The undersigned agrees to supply the services set forth and/or provide the goods/products in its submitted Bid/Proposal at the costs indicated within the time frame indicated if the Bid/Proposal is accepted. If recommended for Contract award, the undersigned agrees to execute a PO/Contract that will be prepared by Court for execution in timely fashion. 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.

CONTRACTOR - Mark your one appropriate choice, below:

The undersigned certifies that he/she has:

(A) read, understands, and accepts all terms and conditions and affirms all certifications contained in the Bid/RFP Documents which will govern any PO/Contract awarded under this Bid/RFP, and that the undersigned’s principal is fully bound and committed to the same;

OR

(B) read and understands all terms and conditions and all certifications contained in the Bid/RFP Documents which will govern any PO/Contract awarded under this Bid/RFP, but proposes certain exceptions. Such exceptions must be properly submitted in accordance with the Bid/RFP documents and directions. The undersigned acknowledges that any exceptions it takes may render a proposal non-responsive as determined in the Court’s sole discretion, and that any terms, conditions, and certifications that it does not specifically identify as excepted to shall be deemed to be accepted and affirmed by Bidder/Proposer.

The undersigned certifies that he/she has the legal capacity to sign on behalf of the Bidder/ Proposer listed above, and that this signature is a legally binding signature upon the Bidder/Proposer.

(Type or Print Name)

(Email)

(Title)

(Name of Company)



CERTIFICATION RE: INSURANCE

Contractor must procure and maintain insurance coverages indicated in the RFP documents, IFB documents, or other documents / information as posted on www.BidSync.com.

The PURCHASE ORDER TERMS AND CONDITIONS document and/or the MODEL CONTRACT document, included as part of this procurement on www.BidSync.com describe the Court's specific insurance requirements.

CONTRACTOR - Mark your one 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.

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.

OR

Contractor **takes exceptions** to the insurance requirements of this Bid/RFP and has provided an explanation of these exceptions per the directions below.

Question and Answers for Bid #1302-001 - IT Maintenance (2) NCR Check Readers Hardware & Software

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: Feb 13, 2013 7:00:00 AM PST