



REQUEST FOR PROPOSALS

***SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA***

REGARDING:

*Compute SAN refresh for the Superior Court
RFP 61424C*

PROPOSALS DUE:

June 14, 2024, NO LATER THAN 3:00 P.M. PACIFIC TIME

1.0 BACKGROUND INFORMATION

Santa Clara County Superior Court is seeking to replace its compute SAN environment.

2.0 DESCRIPTION OF GOODS AND/OR SERVICES

Santa Clara Superior Court utilizes a computer SAN environment to create and manage cases within its CMS (Case Management System) as well as providing compute functionality for services rendered to staff, judges, justice partners and the public.

Two identical SANs are required with the following capabilities and features for each:

- Dell Powerstore Family
- Fiber-channel based. All supporting Fiber devices included.
- All flash storage, hot swappable, supporting single drive adds.
- 400 TB effective capacity (after RAID, compression, and deduplication)
- Minimum guaranteed 3:1 Data Reduction - Native Active-Active replication between SAN units
- Scale-out capability to meet future growth needs.
- Data in place upgrade capable
- Data at Rest Encryption (D@RE) with Key Management
- Support for NVMe over Fabric – Fiber Channel and TCP
- 5 years 24/7 4-hour response support
- Professional Services – Installation and Training

3.0 TIMELINE FOR THIS RFP

The COURT has developed the following list of key events related to this RFP. All dates are subject to change at the discretion of the COURT.

EVENT	DATE
RFP issued	<i>June 7th, 2024</i>
Deadline for questions	<i>June 12th, 2024</i>
Questions and answers posted	<i>June 12th, 2024</i>
Latest date and time proposal may be submitted	<i>June 14th, 2024 at 3:00 pm PST</i>
Anticipated interview dates (<i>estimate only</i>)	<i>Week of June 17th, 2024</i>
Evaluation of proposals (<i>estimate only</i>)	<i>Week of June 17th, 2024</i>
Public opening of cost portion of proposals	<i>Week of June 17th, 2024</i>
Notice of Intent to Award (<i>estimate only</i>)	<i>June 24th, 2024</i>
Negotiations and execution of contract (<i>estimate only</i>)	<i>June 26th, 2024</i>
Contract start date (<i>estimate only</i>)	<i>June 30th, 2024</i>
Contract end date (<i>estimate only</i>)	<i>June 30th, 2029</i>

4.0 RFP ATTACHMENTS

The following attachments are included as part of this RFP:

ATTACHMENT	DESCRIPTION
Attachment 1: Administrative Rules Governing RFPs (IT Goods and Services)	These rules govern this solicitation.
Attachment 2: COURT Standard Terms and Conditions	<p>If selected, the person or entity submitting a proposal (the “Proposer”) must sign this COURT Standard Form agreement (the “Terms and Conditions”).</p> <p>The following provisions within the Terms and Conditions are minimum contract terms and conditions (“Minimum Terms”): _____.</p>
Attachment 3: Proposer’s Acceptance of Terms and Conditions	<p>On this form, the Proposer must indicate acceptance of the Terms and Conditions or identify exceptions to the Terms and Conditions.</p> <p>Note: A material exception to a Minimum Term will render a proposal non-responsive.</p>
Attachment 4: General Certifications Form	The Proposer must complete the General Certifications Form and submit the completed form with its proposal.
Attachment 5: Small Business Declaration	The Proposer must complete this form only if it wishes to claim the small business preference associated with this solicitation.
Attachment 6: Payee Data Record Form	This form contains information the COURT requires in order to process payments and must be submitted with the proposal.
<p>[Only for solicitations of \$1,000,000 or more]</p> <p>Attachment 7: Iran Contracting Act Certification</p>	The Proposer must complete the Iran Contracting Act Certification and submit the completed certification with its proposal.
<p>(Only for solicitations of \$100,000, or more)</p> <p>Attachment 8: Unruh and FEHA Certification</p>	The Proposer must complete the Unruh Civil Rights Act and California Fair Employment and Housing Act Certification.

5.0 PAYMENT INFORMATION

- *Standard payment is after the Court’s acceptance of work at the completion of each project free of punch list items.*
- *For complex projects that may require extended length of time, progress payment is negotiable. The court and contractor must determine and agree in writing the progressive payments on a project-by-project basis prior to commencement.*
- *Payments are subject to 10% payment withholding per invoice for inadequate work performance, incomplete deliverables, and incomplete punch list.*
- *Payment is net 30 days after acceptance of invoice.*

7.0 SUBMISSIONS OF PROPOSALS

- 7.1 Proposals should provide straightforward, concise information that satisfies the requirements of the “Proposal Contents” section below. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the RFP’s instructions and requirements, and completeness and clarity of content.
- 7.2 The Proposer must submit its proposal in two parts, the non-cost portion and the cost portion. The Proposer must include in the proposal.
- Years of experience
 - Two current clients of similar size and complexity for reference

The response must be signed by an authorized representative of the Proposer. The RFP title and number must be prominently displayed either at the top of the response or the cover page of the proposal.

- a. The Proposer must submit an electronic version of the entire proposal in PDF, Word, or Excel formats.

7.3 Proposals must be delivered by the date and time listed on the coversheet of this RFP to:

solicitationsmailbox@scscourt.org

7.4 Late proposals will not be accepted.

8.0 PROPOSAL CONTENTS

8.1 **Non-Cost Portion:** The following information must be included in the non-cost portion of the proposal. A proposal lacking any of the following information may be deemed non-responsive.

- a. The Proposer's name, address, telephone and fax numbers, and federal tax identification number. Note that if the Proposer is a sole proprietor using his or her social security number, the social security number will be required before finalizing a contract.
- b. Name, title, address, telephone number, and email address of the individual who will act as the Proposer's designated representative for purposes of this RFP.
- c. Model number(s), specifications, or other description of the goods the Proposer proposes to supply to the COURT, including warranty information.
- d. Names, addresses, and telephone numbers of a minimum of three (3) clients for whom the Proposer has provided similar goods. The COURT may check references listed by the Proposer.
- h. Acceptance of the Terms and Conditions.
 - (1) On Attachment 3, the Proposer must check the appropriate box and sign the form. If the Proposer marks the second box, it must provide the required additional materials. An "exception" includes any addition, deletion, or other modification.
 - (2) If exceptions are identified, the Proposer must also submit (a) a red-lined version of the Terms and Conditions that implements all proposed changes, and (b) a written explanation or rationale for each exception and/or proposed change.
- i. Certifications, Attachments, and other requirements.
 - (1) The Proposer must complete the General Certifications Form (Attachment 4) and submit the completed form with its proposal.
 - (2) If Contractor is a California corporation, limited liability company ("LLC"), limited partnership ("LP"), or limited liability partnership ("LLP"), proof that Contractor is in good standing in California. If Contractor is a foreign corporation, LLC, LP, or LLP, and Contractor conducts or will conduct (if awarded the contract) intrastate business in California, proof that Contractor is qualified to do business and in good standing in California. If Contractor is a foreign corporation, LLC, LP, or LLP, and Contractor does not (and will not if awarded the contract) conduct intrastate business in California, proof that Contractor is in good standing in its home jurisdiction.
 - (3) *[for solicitations of \$1,000,000 or more]* The Proposer must complete the Iran Contracting Act Certification (Attachment 7) and submit the completed certification with its proposal.
 - (4) *(for solicitations of \$100,000 or more)* The Proposer must complete the Unruh Civil Rights Act and California Fair Employment and Housing Act Certification (Attachment 8) and submit the completed certification with its bid.

8.2 **Cost Portion:** The following information must be included in the cost portion of the proposal.

IT Goods:

- a. The cost per unit for the goods described in the non-cost information.

IT Services:

- a. A detailed line-item budget showing total cost of the proposed services.

NOTE: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.

9.0 OFFER PERIOD

A Proposer's proposal is an irrevocable offer for ninety (90) days following the proposal due date. In the event a final contract has not been awarded within this period, the COURT reserves the right to negotiate extensions to this period.

10.0 EVALUATION OF PROPOSALS

The cost portion of proposals will be publicly opened at the date and time noted in Section 3.0.

USA Toll-Free: (877) 402-9753
 PARTICIPANT CODE: 8822758

The COURT will evaluate the proposals on a 100-point scale using the criteria set forth in the table below. Award, if made, will be to the highest-scored proposal.

If a contract will be awarded, the COURT will post an intent to award notice at http://www.sccourt.org/general_info/vendors/archive.shtml.

CRITERION	MAXIMUM NUMBER OF POINTS
<i>Quality of work plan submitted</i>	15
<i>Experience on similar assignments</i>	10
<i>Cost</i>	35
<i>Credentials of staff to be assigned to the project</i>	10
<i>Acceptance of the Terms and Conditions</i>	15
<i>Ability to meet timing requirements to complete the project</i>	15

11.0 INTERVIEWS

The COURT may conduct interviews with Proposers to clarify aspects set forth in their proposals or to assist in finalizing the ranking of top-ranked proposals. The interview process may require a demonstration. The interview may also require a demonstration of equivalence if a brand name is included in the specifications. The interviews may be conducted in person or by phone. If conducted in person, interviews will likely be held at the COURT's offices. The COURT will not reimburse Proposers for any costs incurred in traveling to or from the interview location. The COURT will notify eligible Proposers regarding interview arrangements.

12.0 CONFIDENTIAL OR PROPRIETARY INFORMATION

PROPOSALS ARE SUBJECT TO DISCLOSURE PURSUANT TO APPLICABLE PROVISIONS OF THE CALIFORNIA PUBLIC CONTRACT CODE AND RULE 10.500 OF THE CALIFORNIA RULES OF COURT. The COURT will not disclose (i) social security numbers, or (ii) balance sheets or income statements submitted by a Proposer that is not a publicly traded corporation. All other information in the proposals will be disclosed in response to applicable public records requests. Such disclosure will be made regardless of whether the proposal (or portions thereof) is marked “confidential,” “proprietary,” or otherwise, and regardless of any statement in the proposal (a) purporting to limit the COURT's right to disclose information in the proposal, or (b) requiring the COURT to inform or obtain the consent of the Proposer prior to the disclosure of the proposal (or portions thereof). Any proposal that is password protected, or contains portions that are password protected, may be rejected. Proposers are accordingly cautioned not to include confidential, proprietary, or privileged information in proposals.

13.0 DISABLED VETERAN BUSINESS ENTERPRISE INCENTIVE

A DVBE incentive of 3% is being offered to all DVBE (Disabled Veteran Business Enterprise) contractors participating in this solicitation. Contractor's applicable for the DVBE incentive, must complete [Attachment 10](#) (Bidder Declaration form) and [Attachment 11](#) (DVBE Declaration form). Please submit these forms along with your RFP for review. You can click on the links above for access to fillable forms, or go to our website at http://www.scsccourt.org/general_info/vendors/dvbe.shtml

14.0 SMALL BUSINESS PREFERENCE

Small business participation is not mandatory. Failure to qualify for the small business preference will not render a proposal non-responsive.

Eligibility for and application of the small business preference is governed by the COURT's Small Business Preference Procedures for the Procurement of Information Technology Goods and Services. The Proposer will receive a small business preference if, in the COURT's sole determination, the Proposer has met all applicable requirements. If the Proposer receives the small business preference, the score assigned to its proposal will be increased by an amount equal to 5% of the points assigned to the highest scored proposal. If a DVBE incentive is also offered in connection with this solicitation, additional rules regarding the interaction between the small business preference and the DVBE incentive apply.

To receive the small business preference, the Proposer must be either (i) a Department of General Services ("DGS") certified small business or microbusiness performing a commercially useful function, or (ii) a DGS-certified small business nonprofit veteran service agency.

If the Proposer wishes to seek the small business preference, the Proposer must complete and submit with its proposal the Small Business Declaration (Attachment 5). The Proposer must submit with the Small Business Declaration all materials required in the Small Business Declaration.

Failure to complete and submit the Small Business Declaration as required will result in the Proposer not receiving the small business preference. In addition, the COURT may request additional written clarifying information. Failure to provide this information as requested will result in the Proposer not receiving the small business preference.

If the Proposer receives the small business preference, (i) the Proposer will be required to complete a post-contract report; and (ii) failure to meet the small business commitment set forth in its proposal will constitute a breach of contract.

FRAUDULENT MIS-REPRESENTATION IN CONNECTION WITH THE SMALL BUSINESS PREFERENCE IS UNLAWFUL AND IS PUNISHABLE BY CIVIL PENALTIES. SEE GOVERNMENT CODE SECTION 14842.5.

15.0 PUBLIC WORKS – PREVAILING WAGE

Public works in general means:

- Construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds.
- It can include preconstruction and post-construction activities related to a public works project.
- For a full definition of public works refer to [Labor Code section 1720](#).

Anyone working on a public works project must be paid prevailing wages as determined by DIR. Projects of \$30,000 or more must meet DIR's apprenticeship requirements. Failure to comply with public works requirements can result in civil penalties, criminal prosecution, or both.

16.0 PROTESTS

Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contracting Manual (see www.courts.ca.gov/documents/jbcl-manual.pdf). Failure of a Proposer to comply with the protest procedures set forth in that chapter will render a protest inadequate and non-responsive and will result in

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rejection of the protest. The deadline for the COURT to receive a solicitation specifications protest is the proposal due date. Protests must be sent to:

***Superior Court of California
Santa Clara County
Attn: Procurement
191 North First Street
San José, California 95113***

**ATTACHMENT 1
ADMINISTRATIVE RULES GOVERNING RFPS
(IT SERVICES)**

1. COMMUNICATIONS WITH THE JUDICIAL BRANCH ENTITY (“COURT”) REGARDING THE RFP

Except as specifically addressed elsewhere in the RFP, Proposers must send any communications regarding the RFP to solicitationsmailbox@scscourt.org (the “Solicitations Mailbox”). Proposers must include the RFP Number in subject line of any communication.

2. QUESTIONS REGARDING THE RFP

Proposers interested in responding to the RFP may submit questions via email to the Solicitations Mailbox on procedural matters related to the RFP or requests for clarification or modification of the RFP no later than the deadline for questions listed in the timeline of the RFP. Once submitted, questions become part of the procurement file and are subject to disclosure; Proposers are accordingly cautioned not to include any proprietary or confidential information in questions. If the Proposer is requesting a change, the request must set forth the recommended change and the Proposer’s reasons for proposing the change. Questions or requests submitted after the deadline for questions will not be answered. Without disclosing the source of the question or request, a copy of the questions and the COURT’s responses will be made available prior to the proposal due date and time.

3. ERRORS IN THE RFP

- a. If, before the proposal due date and time listed in the timeline of the RFP, a Proposer discovers any ambiguity, conflict, discrepancy, omission, or error in the RFP, the Proposer must immediately notify the COURT via email to the Solicitations Mailbox and request modification or clarification of the RFP. Without disclosing the source of the request, the COURT may modify the RFP before the proposal due date and time by releasing an addendum to the solicitation.
- b. If a Proposer fails to notify the COURT of an error in the RFP known to the Proposer, or an error that reasonably should have been known to the Proposer, before the proposal due date and time listed in the timeline of the RFP, the Proposer shall propose at its own risk. Furthermore, if the Proposer is awarded the agreement, the Proposer shall not be entitled to additional compensation or time by reason of the error or its later correction.

4. ADDENDA

- a. The COURT may modify the RFP before the proposal due date and time listed in the timeline of the RFP by issuing an addendum. It is each Proposer’s responsibility to inform itself of any addendum prior to its submission of a proposal.
- b. If any Proposer determines that an addendum unnecessarily restricts its ability to propose, the Proposer shall immediately notify the COURT via email to the Solicitations Mailbox no later than one day following issuance of the addendum.

5. WITHDRAWAL AND RESUBMISSION/MODIFICATION OF PROPOSALS

A Proposer may withdraw its proposal at any time before the deadline for submitting proposals by notifying the COURT in writing of its withdrawal. The notice must be signed by the Proposer. The Proposer may thereafter submit a new or modified proposal, provided that it is received at the COURT no later than the proposal due date and time listed in the timeline of the RFP. Modifications offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed in the timeline of the RFP.

6. ERRORS IN THE PROPOSAL

If errors are found in a proposal, the COURT may reject the proposal; however, the COURT may, at its sole option, correct arithmetic or transposition errors or both on the basis that the lowest level of detail will prevail in any discrepancy. If these corrections result in significant changes in the amount of money to be paid to the Proposer (if selected for the award of the agreement), the Proposer will be informed of the errors and corrections thereof and will be given the option to abide by the corrected amount or withdraw the proposal.

7. RIGHT TO REJECT PROPOSALS

- a. Before the proposal due date and time listed in the timeline of the RFP, the COURT may cancel the RFP for any or no reason. After the proposal due date and time listed in the timeline of the RFP, the COURT may reject all proposals and cancel the RFP if the COURT determines that: (i) the proposals received do not reflect effective competition; (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.
- b. The COURT may or may not waive an immaterial deviation or defect in a proposal. The COURT’s waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a Proposer from full compliance with RFP specifications. Until a contract resulting from this RFP is signed, the COURT reserves the right to accept or reject any or all of the items in the proposal, to award the contract in whole or in part and/or negotiate any or all items with individual Proposers if it is deemed in the COURT’s best interest. A notice of intent to award does not constitute a contract, and confers no right of contract on any Proposer.
- c. The COURT reserves the right to issue similar RFPS in the future. The RFP is in no way an agreement, obligation, or contract and in no way is the COURT or the State of California responsible for the cost of preparing the proposal.
- d. Proposers are specifically directed **NOT** to contact any COURT personnel or consultants for meetings, conferences, or discussions that are related to the RFP at any time between release of the RFP and any award and execution of a contract. Unauthorized contact with any COURT personnel or consultants may be cause for rejection of the Proposer’s proposal.

8. EVALUATION PROCESS

- a. An evaluation team will review all proposals that are received by the appropriate deadline to determine the extent to which they comply with RFP requirements.
- b. Proposals that contain false or misleading statements may be rejected if in the COURT’s opinion the information was intended to mislead the evaluation team regarding a requirement of the RFP.
- c. During the evaluation process, the COURT may require a Proposer’s representative to answer questions with regard to the Proposer’s proposal. Failure of a Proposer to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

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- d. In the event of a tie, the contract will be awarded to the winner of a single coin toss. The coin toss will be witnessed by two COURT employees. The COURT will provide notice of the date and time of the coin toss to the affected Proposers, who may attend the coin toss at their own expense.

9. DISPOSITION OF MATERIALS

All materials submitted in response to the RFP will become the property of the COURT and will be returned only at the COURT's option and at the expense of the Proposer submitting the proposal.

10. PAYMENT

- a. Payment terms will be specified in any agreement that may ensue as a result of the RFP.
- b. **THE COURT DOES NOT MAKE ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provided in the agreement between the COURT and the selected Proposer. The COURT may withhold ten percent of each invoice until receipt and acceptance of the final deliverable. The amount of the withhold may depend upon the length of the project and the payment schedule provided in the agreement between the COURT and the selected Proposer.

11. AWARD AND EXECUTION OF AGREEMENT

- a. Award of contract, if made, will be in accordance with the RFP to a responsible Proposer submitting a proposal compliant with all the requirements of the RFP and any addenda thereto (including any administrative or technical requirements), except for such immaterial defects as may be waived by the COURT.
- b. A Proposer submitting a proposal must be prepared to use a standard COURT contract form rather than its own contract form.
- c. The COURT will make a reasonable effort to execute any contract based on the RFP within forty-five (45) days of selecting a proposal that best meets its requirements. However, exceptions taken by a Proposer may delay execution of a contract.
- d. Upon award of the agreement, the agreement shall be signed by the Proposer 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 agreement form or prior to the end of June if award is at fiscal year-end. Agreements are not effective until executed by both parties. Any work performed before receipt of a fully-executed agreement shall be at the Proposer's own risk.

12. FAILURE TO EXECUTE THE AGREEMENT

The period for execution set forth in Section 11 ("Award and Execution of Agreement") may only be changed by mutual agreement of the parties. Failure to execute the agreement within the time frame identified above constitutes sufficient cause for voiding the award. Failure to comply with other requirements within the set time constitutes failure to execute the agreement. If the successful Proposer refuses or fails to execute the agreement, the COURT may award the agreement to the next qualified Proposer.

13. NEWS RELEASES

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

14. ANTI-TRUST CLAIMS

- a. In submitting a proposal to the COURT, the Proposer offers and agrees that if the proposal is accepted, the Proposer will assign to the COURT all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the COURT pursuant to the proposal. Such assignment shall be made and become effective at the time the COURT tenders final payment to the Proposer. (See Government Code section 4552.)
- b. If the COURT receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Proposer 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.
- c. Upon demand in writing by the Proposer, the COURT shall, within one year from such demand, reassign the cause of action assigned under this section if the Proposer has been or may have been injured by the violation of law for which the cause of action arose and (a) the COURT has not been injured thereby, or (b) the COURT declines to file a court action for the cause of action. (See Government Code section 4554.)

15. AMERICANS WITH DISABILITIES ACT

The COURT complies with the Americans with Disabilities Act (ADA) and similar California statutes. Requests for accommodation of disabilities by Proposers should be directed to **Georgia Ku, ADA Coordinator**.

ATTACHMENT 2 TERMS AND CONDITIONS

General Terms and Conditions

1. Work

1.1 Work: Contractor shall provide the Work described in this Agreement, including the Statement of Work and the Specifications. Except as set forth in the Statement of Work, Contractor is responsible for providing all facilities, materials and resources (including personnel, equipment and software) necessary and appropriate for delivery of the Work and to meet Contractor's obligations under this Agreement.

1.2 Stop Work Orders

(a) **Effect:** The COURT may, at any time, by written stop work order to Contractor, require Contractor to stop all, or any part, of the Work for a period of up to ninety (90) days after the stop work order is delivered to Contractor, and for any further period to which the Parties may agree. Upon receipt of a stop work order, Contractor shall promptly comply with the terms of the stop work order and take all reasonable steps to end the incurrence of any costs, expenses or liabilities allocable to the Work covered by the stop work order during the period of work stoppage. Within ninety (90) days after a stop work order is delivered to Contractor, or within any extension of that period mutually agreed to by the Parties, the COURT shall either: (i) cancel the stop work order; or (ii) terminate the Work covered by the stop work order.

(b) **Expiration or Cancellation:** If a stop work order is canceled by the COURT or the period of the stop work order or any extension thereof expires, Contractor shall promptly resume the Work covered by such stop work order. The COURT shall make an equitable adjustment in the delivery schedule, and the applicable Statement of Work shall be modified, in writing, accordingly, if: (i) the stop work order directly and proximately results in an increase in the time required for the performance of any part of the Statement of Work; and (ii) Contractor asserts its right to such equitable adjustment within thirty (30) days after the end of the period of work stoppage.

1.3 Change Orders: From time to time during the term of this Agreement, the Parties may mutually agree on a change to the Work, which may require an extension or reduction in the schedule and/or an increase or decrease in the fees and expenses and/or the Work (each, a "Change"), including: (i) a change to the scope or functionality of the Deliverables; or (ii) a change to the scope of the Work. In the event the Parties agree on a Change, the Parties will seek to mutually agree on a change order identifying the impact and setting forth any applicable adjustments in the Statement of Work and/or payments to Contractor. An authorized representative of each Party shall promptly sign the mutually agreed upon change order to acknowledge the impact and to indicate that Party's agreement to the adjustments.

1.4 Third Party or COURT Services: Notwithstanding anything in this Agreement to the contrary, the COURT shall have the right to perform or contract with a Third Party to provide any services or goods within or outside the scope of the Work, including services to augment or supplement the Work or to interface with the IT Infrastructure of the Judicial Branch Entities or COURT Contractors. In the event the COURT performs or contracts with a Third Party to perform any such service, Contractor shall cooperate in good faith with the Judicial Branch Entities and any such Third Party, to the extent reasonably required by the COURT. Such cooperation shall include, without limitation, providing such information as a person with reasonable commercial skills and expertise would find reasonably necessary for the COURT or a Third Party to perform its services relating to the Work.

1.5 Data and Security

(a) **Safety and Security Procedures:** Contractor shall maintain and enforce, at the Contractor Work Locations, industry-standard safety and physical security policies and procedures. While at each COURT Work Location, Contractor shall comply with the safety and security policies and procedures in effect at such COURT Work Location.

(b) **Data Security:** Contractor shall comply with the Data Safeguards. Contractor personnel and Subcontractors shall not attempt to access, and shall not allow access to the COURT Data and other Confidential Information that is not required for providing the Work by such personnel or Subcontractors. In the event Contractor or a Subcontractor discovers or is notified of a breach or potential breach of security relating to the COURT Data or other Confidential Information, Contractor shall promptly, at its own expense: (i) notify the COURT Project Manager of such breach or potential breach; and (ii) if the applicable COURT Data or other Confidential Information was in the possession of Contractor or Subcontractors at the time of such breach or potential breach, Contractor shall (1) investigate and cure the breach or potential breach and (2) take measures satisfactory to the COURT to prevent such breach or potential breach from recurring.

(c) **Security Assessments:** At least once a year, or upon the COURT's request, Contractor shall, at its expense, perform, or cause to have performed an assessment of Contractor's compliance with the safety and security policies set forth in this Agreement or any Statement of Work. Contractor shall provide to the COURT the results, including any findings and recommendations made by Contractor's assessors, of such assessment, and, at its expense, take any corrective actions. The COURT and COURT Contractors may, at the COURT's expense, perform the assessments described in this Section and "snap" assessments (e.g., safety and data/physical security assessments) of the COURT Work Locations.

1.6 Project Staff

(a) **Contractor Project Manager:** The Contractor Project Manager shall serve, from the Effective Date, as the Contractor project manager and primary Contractor representative under this Agreement. The Contractor Project Manager shall (i) have overall responsibility for managing and coordinating the performance of Contractor's obligations under this Agreement, including the performance of all Subcontractors; and (ii) be authorized to act for and bind Contractor and Subcontractors in connection with all aspects of this Agreement. The Contractor Project Manager shall respond promptly and fully to all inquiries from the COURT Project Manager.

(b) **Contractor Key Personnel:** The COURT reserves the right to interview and approve proposed Contractor Key Personnel prior to their assignment to the COURT. Contractor shall not replace or reassign any Contractor Key Personnel unless the COURT consents in advance in writing or such Contractor Key Personnel (i) voluntarily resigns or takes a leave of absence from Contractor, (ii) has his/her employment, professional or other for-hire relationship terminated by Contractor, (iii) fails to perform his or her duties and responsibilities pursuant to this Agreement, or (iv) dies or is unable to work due to his or her disability. If Contractor needs to replace a Contractor Key Personnel for any of the foregoing reasons, Contractor shall (1) notify the COURT promptly, (2) provide resumes for proposed replacement Contractor Key Personnel within two (2) Business Days after so notifying the COURT, and (3) be responsible for all costs and expenses associated with any replacement of any Contractor Key Personnel member (including, without limitation, any costs and expenses associated with training, project orientation or knowledge transfer reasonably required for replacement personnel to provide the applicable Work).

(c) **Subcontractors:** Contractor shall not subcontract or delegate any of the obligations under this Agreement except as approved by the COURT in writing in advance. The COURT may withdraw its approval of a subcontractor if the COURT determines in good faith

that the subcontractor is, or will be, unable to effectively perform its responsibilities. If the COURT rejects any proposed subcontractor in writing,

Contractor will assume the proposed subcontractor's responsibilities. No subcontracting shall release Contractor from its responsibility for performance of its obligations under this Agreement. Contractor shall remain fully responsible for the performance of Subcontractors hereunder, including, without limitation, all work and activities of Subcontractors providing services to Contractor in connection with the Work. Contractor shall be the sole point of contact with Subcontractors under this Agreement, and Contractor shall be solely responsible for Subcontractors, including, without limitation, payment of any and all charges resulting from any subcontract. The COURT's consent to any subcontracting or delegation of Contractor's obligations will take effect only if there is a written agreement with the Subcontractor, stating that the Contractor and Subcontractor: (i) are jointly and severally liable to the COURT for performing the duties in this Agreement; (ii) affirm the rights granted in this Agreement to the COURT; (iii) make the representations and warranties made by the Contractor in this Agreement; (iv) appoint the COURT an intended third party beneficiary under Contractor's written agreement with the Subcontractor; and (v) shall comply with and be subject to the terms of this Agreement, including with respect to Intellectual Property Rights, Confidential Information and Data Safeguards.

- (d) **Project Staff:** Contractor shall appoint to the Project Staff: (i) individuals with suitable training and skills to provide the Work, and (ii) sufficient staffing to adequately provide the Work. Contractor shall make commercially reasonable efforts consistent with sound business practices to honor the specific request of the COURT with regard to assignment of its employees. The COURT may require Contractor to remove any personnel from the Project Staff that interact with any personnel of the Judicial Branch Entities or COURT Contractors (including, without limitation, the Contractor Project Manager) upon providing to Contractor a reason (permitted by law) for such removal. Contractor may, with the COURT's consent, continue to retain such member of the Project Staff in a role that does not interact with any personnel of the Judicial Branch Entities or COURT Contractors. The Contractor Project Manager and the COURT Project Manager shall work together to mitigate any impact on the schedule as set forth in a Statement of Work caused by any replacement of a Project Staff member. Contractor shall be responsible for all costs and expenses associated with any Project Staff replacement. Contractor shall assure an orderly and prompt succession for any Project Staff member who is replaced. If the Contract Amount is over \$200,000 (excluding Consulting Services), then Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.

(e) **Conduct of Project Staff**

- (i) **While at the COURT Work Locations, Contractor shall, and shall cause Subcontractors to: (1) comply with the requests, standard rules and regulations and policies and procedures of the Judicial Branch Entities regarding safety and health, security, personal and professional conduct generally applicable to such COURT Work Locations, and (2) otherwise conduct themselves in a businesslike manner.**
- (ii) **Contractor shall enter into an agreement with each of the members of the Project Staff, which assigns, transfers and conveys to Contractor all of such Project Staff member's right, title and interest in and to any Developed Materials, including all Intellectual Property Rights in and to Developed Materials.**
- (iii) **Contractor shall cooperate with the COURT if the COURT wishes to perform any background checks on Contractor's employees or contractors by obtaining, at no additional cost, all releases, waivers, and permissions the COURT may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the COURT of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the COURT and performed by Contractor. Contractor shall remove from the Project Staff any person refusing to undergo such background checks and any other person whose background check results are unacceptable to Contractor or that, after disclosure to the COURT, the COURT advises are unacceptable to the COURT or the Judicial Branch Entities.**

1.7 **Licenses and Approvals:** Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by Applicable Laws to provide the Work. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any Applicable Law.

1.8 **Progress Reports:** As directed by the COURT, Contractor must deliver progress reports or meet with COURT, personnel on a regular basis to allow: (i) the COURT, to determine whether the Contractor is on the right track and the project is on schedule, (ii) communication of interim findings, and (iii) opportunities for airing difficulties or special problems encountered so that remedies can be developed quickly.

2. **Delivery, Acceptance, and Payment**

2.2 **Delivery:** Contractor shall deliver to the COURT, the Deliverables in accordance with this Agreement, including the Statement of Work. Unless otherwise specified by the COURT, Contractor will deliver all equipment purchased by the COURT, "Free on Board Destination Freight Prepaid" to the COURT, at the address and location specified by the COURT. Title to all equipment purchased by the COURT, vests in the COURT, upon payment of the applicable purchase price. Contractor will bear the risk of loss for any Work being delivered until received by the COURT, at the proper location.

2.3 **Acceptance:** All Work is subject to written acceptance by the COURT. The COURT, may reject any Work that: (i) fails to meet applicable requirements, Specifications, or acceptance criteria, (ii) are not as warranted, (iii) are performed or delivered late, or not provided in accordance with this Agreement; or (iv) contain Defects. Payment does not imply acceptance of Contractor's invoice or Work. If the COURT, provides Contractor a notice of rejection for any Work, Contractor shall modify such rejected Work at no expense to the COURT, to correct the relevant deficiencies and shall redeliver such Work to the COURT, within ten Business Days after Contractor's receipt of such notice of rejection, unless otherwise agreed in writing by the Parties. 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 (each such COURT, written acceptance, an "Acceptance"); provided, however, that if the COURT, rejects any Work on at least two occasions, the COURT, may terminate that portion of this Agreement which relates to the rejected Work at no expense to the COURT,.

2.4 **Fees and Payment.** Subject to the terms of this Agreement, the Contractor shall invoice the COURT, and the COURT, shall compensate Contractor, as set forth in Appendix B. The fees to be paid to Contractor under this Agreement shall be the total and complete compensation to be paid to Contractor for its performance under this Agreement. Contractor shall bear, and the COURT, shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature that Contractor incurs.

3. **Representations and Warranties.** Contractor represents and warrants to the COURT, as follows:

3.1 **Authorization/Compliance with Laws:** (i) Contractor has full power and authority to enter into this Agreement, to grant the rights and licenses herein and to perform its obligations under this Agreement, and that Contractor's representative who signs this Agreement has the authority to bind Contractor to this Agreement; (ii) the execution, delivery and performance of this Agreement have been duly authorized by all requisite corporate action on the part of Contractor; (iii) Contractor shall not and shall cause Subcontractors not to enter

into any arrangement with any Third Party which could reasonably be expected to abridge any rights of the Judicial Branch Entities under

this Agreement; (iv) this Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms; (v) Contractor is qualified to do business and in good standing in the State of California; (vi) Contractor, its business, and its performance of its obligations under this Agreement comply with all Applicable Laws; and (vii) Contractor pays all undisputed debts when they come due.

- 3.2 **No Gratuities or Conflict of Interest:** Contractor: (i) 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 this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement; and (ii) has no interest that would constitute a conflict of interest under Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.
- 3.3 **No Litigation:** No Claim or governmental investigation is pending or threatened against or affecting Contractor or Contractor's business, financial condition, or ability to perform this Agreement.
- 3.4 **Not an Expatriate Corporation:** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1, and is eligible to contract with the COURT.
- 3.5 **No Interference:** To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest or breach under any of Contractor's other contracts.
- 3.6 **Drug Free Workplace:** Contractor provides a drug-free workplace as required by California Government Code sections 8355 through 8357.
- 3.7 **No Harassment / Non-discrimination:** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring. Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of non-discrimination.
- 3.8 **Domestic Partners, Spouses, and Gender Discrimination:** If the Contract Amount is \$100,000 or more, Contractor is in compliance with Public Contract Code section 10295.3, which places limitations on contracts with contractors whose benefits provisions discriminate between employees with spouses and employees with domestic partners.
- 3.9 **National Labor Relations Board Orders:** 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.
- 3.10 **Child Support Compliance Act:** If the Contract Amount is \$100,000 or more: (i) 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 (ii) Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 3.11 **Intellectual Property:** Contractor shall perform its obligations under this Agreement in a manner that the Work (including each Deliverable) and any portion thereof, does not infringe, or constitute an infringement, misappropriation or violation of, any Intellectual Property Right. Contractor has full Intellectual Property Rights and authority to perform all of its obligations under this Agreement, and Contractor is and will be either the owner of, or authorized to use for its own and the Judicial Branch Entities' benefit, all Contractor Materials, Third Party Materials, and Licensed Software used and to be used in connection with the Work.
- 3.12 **Work:** (i) the Work will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Work; (ii) Contractor will use efficiently the resources or services necessary to provide the Work; and provide the Work in the most cost efficient manner consistent with the required level of quality and performance; (iii) the Work will be provided free and clear of all liens, claims, and encumbrances; (iv) all Work will be free from all defects in materials and workmanship, and will be in accordance with Specifications, Documentation, Applicable Laws, and other requirements of this Agreement; and (v) all equipment purchased by the COURT from Contractor will be new. The foregoing representation and warranty in Section 3.12(iv) shall commence upon the COURT's Acceptance of the applicable Work and shall continue for a period of one following such Acceptance. In the event any Work does not conform to the foregoing provisions of this Section 3.12, Contractor shall promptly correct all non-conformities.
- 3.13 **Malicious Code:** No Work will contain any Malicious Code. The contractor shall immediately provide to the COURT written notice in reasonable detail upon becoming aware of the existence of any Malicious Code. Without limiting the foregoing, Contractor shall use best efforts and all necessary precautions to prevent the introduction and proliferation of any Malicious Code in the Judicial Branch Entities' IT Infrastructure or networks or in the Contractor systems used to provide Work. In the event Contractor or the COURT discovers the existence of any Malicious Code, Contractor shall use its best efforts, in cooperation with the COURT, to effect the prompt removal of the Malicious Code from the Work and the Judicial Branch Entities' IT Infrastructure and the repair of any files or data corrupted thereby, and the expenses associated with the removal of the Malicious Code and restoration of the data shall be borne by Contractor. In no event will Contractor or any Subcontractor invoke any Malicious Code.
- 3.14 **Four-Digit Date Compliance:** Contractor will provide only Four-Digit Date Compliant Work to the COURT. "Four-Digit Date Compliant" Work can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries.
- 3.15 **Conflict Minerals:** Contractor certifies either: (i) it is not a "scrutinized company" as defined in PCC 10490(b), or (ii) the goods or services the Contractor will provide to the COURT are not related to products or services that are the reason the Contractor must comply with Section 13(p) of the Securities Exchange Act of 1934
- 3.16 **Miscellaneous:** The rights and remedies of the COURT provided in this Section 3 will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. The representations and warranties that Contractor makes in this Section 3 shall be true and accurate as of the Effective Date, and shall remain true during the term of this Agreement and the Termination Assistance Period. Contractor shall promptly notify the COURT if any representation or warranty becomes untrue.

4. Intellectual Property

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

5. Confidentiality.

- 5.1 General Obligations:** During the Term and at all times thereafter, Contractor will: (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement, and (c) refrain from disclosing or permitting others to disclose any Confidential Information to any Third Party without obtaining the COURT's express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to Project Staff (including Subcontractors) with a need to know in order to provide the Work hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this Section 5. The provisions of this Section 5 shall survive beyond the expiration or termination of this Agreement. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than reasonable care and industry-standard care. The COURT owns all right, title and interest in the Confidential Information. Contractor will notify the COURT promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the COURT to protect such Confidential Information.
- 5.2 Removal; Return:** Contractor will not remove any Confidential Information from Judicial Branch Entities' facilities or premises without the COURT's express prior written consent. Upon the COURT's request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the COURT or, if so directed by the COURT, destroy all Confidential Information (in every form and medium), and (b) certify to the COURT in writing that Contractor has fully complied with the foregoing obligations.
- 5.3 Breach of Confidentiality:** Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations hereunder, that any such breach will likely result in irreparable harm, and therefore, that upon any breach or threatened breach of the confidentiality obligations, the COURT shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.

6. Indemnification

- 6.1 General Indemnity:** Contractor shall indemnify, defend (with counsel satisfactory to the COURT), and hold harmless Judicial Branch Entities and Judicial Branch Personnel against all Claims founded upon: (i) Contractor's provision of, or failure to provide, the Work (ii) any other breach by Contractor under this Agreement; or (iii) Third Party Claims relating to infringement or misappropriation of any Intellectual Property Right by Contractor or the Work, including software, services, systems, equipment, or other materials provided by Contractor or Subcontractors to Judicial Branch Entities (collectively, the "Covered Items"). Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the COURT's prior written consent, which consent shall not be unreasonably withheld; and the COURT shall have the right, at its option and expense, to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.
- 6.2 Certain Remedies:** If any Covered Item provided under this Agreement becomes, or in Contractor's or the COURT's reasonable opinion is likely to become, the subject of any Claim arising from or alleging infringement, misappropriation or other violation of, or in the event of any adjudication that such Covered Item infringes, misappropriates or otherwise violates any Intellectual Property Right of a Third Party, Contractor at its own expense shall take the following actions in the listed order of preference: (a) secure for the Judicial Branch Entities the right to continue using the applicable Covered Item; or (b) if commercially reasonable efforts are unavailing, replace or modify the infringing Covered Item to make it non-infringing; provided, however, that such modification or replacement shall not degrade the operation or performance of the Covered Item.

7 Insurance

- 7.1 Basic Coverage:** Contractor shall provide and maintain at Contractor's expense the following insurance during the Term:
- Workers Compensation and Employer's Liability:** The policy is required only if Contractor has employees. It must include workers' compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1 million per accident or disease;
- (a) **Commercial General Liability:** The policy must be written on an occurrence form with limits of not less than \$1 million per occurrence, and a \$1 million annual aggregate. Each policy must include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed in a contract; and
- (b) **Professional Liability:** The policy must cover Contractor's acts, errors and omissions committed or alleged to have been committed

which arise out of rendering or failure to render services provided under this Agreement. The policy shall provide limits of not less than \$1 million per occurrence and annual aggregate.

- (c) **Commercial Automobile Liability:** If an automobile is used in providing the Work, automobile liability insurance with limits of not less than \$1 million per accident. Such insurance must cover liability arising out of the operation of a motor vehicle, including owned, hired, and non-owned motor vehicles, assigned to or used in connection with providing the Work.
- (d) **Commercial Crime Insurance:** If Contractor handles or has regular access to the COURT's funds or property of significant value to the COURT, this policy must cover dishonest acts including loss due to theft of money, securities, and property; forgery, and alteration of documents; damage to COURT buildings, and property; and fraudulent transfer of money, securities, and property. The minimum liability limit must be \$N/A

7.2 **"Claims Made" Coverage:** If any required insurance is written on a "claims made" form, Contractor shall maintain the coverage continuously throughout the Term, and, without lapse, for three years beyond the termination or expiration of this Agreement and the COURT's acceptance of all Work provided under this Agreement. The retroactive date or "prior acts inclusion date" of any "claims made" policy must be no later than the date that Work commences under this Agreement.

7.3 **Umbrella Policies:** Contractor may satisfy basic coverage limits through any combination of primary, excess or umbrella insurance.

7.4 **Aggregate Limits of Liability:** 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 this Agreement.

7.5 **Deductibles and Self-Insured Retentions:** Contractor is responsible for and may not recover from the COURT, including Judicial Branch Personnel, any deductible or self-insured retention that is connected to the insurance required under this Section 7.

7.6 **Additional Insured Status:** With respect to commercial general liability and automobile liability insurance, the policies must be endorsed to include Judicial Branch Entities and Judicial Branch Personnel as additional insureds.

7.7 **Certificates of Insurance:** Before Contractor begins providing Work, Contractor shall give the COURT certificates of insurance attesting to the existence of coverage, and stating that the policies will not be canceled, terminated, or amended to reduce coverage without 30 or more days' prior written notice to the COURT. Any replacement certificates of insurance are subject to the approval of the COURT, and, without prejudice to the COURT, Contractor shall not provide Work before the COURT approves the certificates.

7.8 **Qualifying Insurers:** For insurance to satisfy the requirements of this section, all required insurance must be issued by an insurer with an A.M. Best rating of A - or better that is approved to do business in the State of California.

7.9 **Required Policy Provisions:** Each policy must provide, as follows:

- (a) **Insurance Primary; Waiver of Recovery:** With respect to commercial general liability and automobile liability insurance, the policies must be endorsed to be primary and non-contributory with any insurance or self-insurance programs maintained by Judicial Branch Entities and Judicial Branch Personnel. Contractor waives any right of recovery it may have, and will require that any insurer providing commercial general liability, workers compensation, and automobile liability to also waive any right of recovery it may have against Judicial Branch Entities and Judicial Branch Personnel for liability arising out of the Work; and
- (b) **Separation of Insureds:** The insurance 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.

7.10 **Partnerships:** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods: (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.

7.11 **Consequences of Lapse:** If required insurance lapses during the Term, the COURT is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

8. Term / Termination

8.1 **Term:** This Agreement shall commence on the Effective Date and continue until terminated in accordance with the terms of this Agreement.

8.2 **Termination for Convenience:** The COURT may terminate, in whole or in part, this Agreement and/or any Statement of Work for convenience (without cause) upon thirty (30) days prior written notice. The COURT's notice obligations under the foregoing sentence shall not apply to any stop work orders issued by the COURT under this Agreement or any Statement of Work. After receipt of such notice, and except as otherwise directed by the COURT, Contractor shall immediately: (a) stop Work as specified in the notice; and (b) place no further subcontracts, except as necessary to complete the continued portion of this Agreement.

8.3 **Early Termination:** The COURT may terminate, in whole or in part, this Agreement or any Statement of Work immediately "for cause" if Contractor is in Default. The COURT may also terminate this Agreement or limit Work (and proportionately, Contractor's fees) upon written notice to Contractor without prejudice to any right or remedy of the Judicial Branch Entities if: (i) expected or actual funding to compensate the Contractor is withdrawn, reduced or limited; or (ii) the COURT determines that Contractor's performance under this Agreement has become infeasible due to changes in Applicable Laws.

8.4 Rights and Remedies of the COURT

- a. **All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the COURT immediately if Contractor is in Default, or if a Third Party claim or dispute is brought or threatened that alleges facts that would constitute a Default under this Agreement. If Contractor is in Default, the COURT may do any of the following: (i) withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor; (ii) require Contractor to enter into non-binding mediation; (iii) exercise, following notice, the COURT's right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.**
- b. **If the COURT terminates this Agreement or any Statement of Work in whole or in part for cause, the COURT may acquire from third parties, under the terms and in the manner the COURT considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the COURT for any excess costs for those goods or services. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Judicial Branch Entities for such goods and services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the COURT or Judicial Branch Entities. Contractor shall continue the Work not terminated hereunder.**

c. In the event of any expiration or termination of this Agreement or the applicable Statement of Work, Contractor shall promptly provide the COURT with all originals and copies of the Deliverables (including: (i) any partially-completed Deliverables and related work product or materials; and (ii) any Contractor Materials, Third Party Materials, and Developed Materials comprising such Deliverables or partially-completed Deliverables), Confidential Information, COURT Data, COURT Materials, and all portions thereof, in its possession, custody, or control. In the event of any termination of this Agreement or a Statement of Work, the COURT shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the COURT's termination is not based on a Default, COURT shall pay any fees due under this Agreement for Deliverables completed and accepted as of the date of the COURT's termination notice.

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

8.6 **Survival:** Termination of this Agreement shall not affect the rights and/or obligations of the Parties which arose prior to any such termination (unless otherwise provided herein) and such rights and/or obligations shall survive any such expiration or termination. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including Sections 3 through 10 of these General Terms and Conditions, and Appendix E.

9. Special Provisions

9.1 **Agreements Providing for Compensation of \$50,000 or more; Union Activities Restrictions:** As required under Government Code sections 16645-16649, if the Contact Amount is \$50,000 or more, Contractor agrees that no COURT funds received under this agreement will be used to assist, promote or deter union organizing. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no COURT funds were used for those expenditures and no reimbursement from the COURT was sought for these costs. Contractor will provide those records to the Attorney General upon request.

9.2 **DVBE Participation Certification:** If Contractor made a commitment to achieve disabled veterans business enterprise (DVBE) participation, Contractor shall within 60 days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the COURT: (1) the total amount the prime Contractor received under the Agreement; (2) the name and address of any disabled veterans business enterprises that participated in the performance of this Agreement; (3) the amount each DVBE received from the Contractor; (4) that all payments under this Agreement have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

9.3 **Competitively Bid Contracts; Antitrust Claims:** If this Agreement resulted from a competitive bid, Contractor shall comply with the requirements of the Government Code sections set out below.

(a) Contractor shall assign to the COURT all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the COURT pursuant to the bid. Such assignment shall be made and become effective at the time the COURT tenders final payment to the Contractor. (GC 4552)

(b) If the COURT receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the COURT any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the COURT as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (GC 4553)

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

9.4 **Iran Contracting Act:** If the Contract Amount is \$1,000,000 or more, Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran ("Iran List") created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending \$20,000,000 or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the COURT to enter into this Agreement pursuant to PCC 2203(c).

9.5 **Loss Leader Prohibition:** If this Agreement involves the purchase of goods, this section is applicable. 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.

9.6 **Recycling.** If this Agreement provides for the purchase or use of goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods. Without limiting the foregoing, if this Agreement includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable. Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible. Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.

9.7 **Sweatshop Labor:** If this Agreement provides for the laundering of apparel, garments or corresponding accessories, or for furnishing equipment, materials, or supplies other than for public works, this section is applicable. Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the COURT under this Agreement have been laundered or

produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor adheres to the Sweat-free Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and PCC 6108. Contractor agrees to cooperate 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 this section and shall provide the same rights of access to the COURT.

- 9.8 **Federally-funded Agreements.** If this Agreement is funded in whole or in part by the federal government, then:
 - (a) It is mutually understood between the Parties that this 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 Agreement were executed after that determination was made.
 - (b) This Agreement 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, this 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 Agreement in any manner.
 - (c) The Parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement is intended to be paid, this Agreement shall be deemed amended without any further action of the Parties to reflect any reduction in funds.
 - (d) The Parties may amend the Agreement to reflect any reduction in funds.
- 9.9 **Equipment Purchases:** If this Agreement includes the purchase of equipment, this section is applicable. The COURT may, at its option, repair any damaged or replace any lost or stolen items and deduct the cost thereof from Contractor's invoice to the COURT, or require Contractor to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the COURT at no expense to the COURT. If a theft occurs, Contractor must file a police report immediately.
- 9.10 **Small Business Preference Contract Clause:** This section is applicable if Contractor received a small business preference in connection with this Agreement. Contractor's failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement. **Contractor must deliver to the COURT with its final invoice a report detailing the actual percentage of small/micro business participation that was achieved under this Agreement; the COURT will not pay Contractor's final invoice until this report is received.]** of receiving final payment under this Agreement report to the COURT the actual percentage of small/micro business participation that was achieved. If Contractor is a nonprofit veteran service agency ("NVSA"), Contractor must employ veterans receiving services from the NVSA for not less than 75 percent of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement.

10. General

- 10.1 **Audits:** Contractor shall allow the COURT and its designees to review and audit Contractor's documents and records relating to this Agreement, and Contractor shall retain such documents and records for a period of four years following final payment under this Agreement. Contractor shall correct errors and deficiencies by the 20th day of the month following the review or audit. Contractor shall provide to the Judicial Branch Entities and COURT Contractors, on Contractor's premises (or, if the audit is being performed of an Subcontractor, Subcontractor's premises if necessary), space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office-related equipment and duplicating services as the Judicial Branch Entities or such COURT Contractors may reasonably require to perform the audits described in this Section. Without limiting the foregoing, this Agreement is subject to examinations and audit by the State Auditor for a period three years after final payment.
- 10.2 **References:** In this Agreement and the Appendixes: (a) the Appendixes shall be incorporated into and deemed part of this Agreement and all references to this Agreement shall include the Appendixes; (b) the Article and Section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement; (c) references to and mentions of the word "including" or the phrase "e.g." means "including, without limitation" and (d) unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.
- 10.3 **Assignment:** This Agreement will not be assignable by Contractor in whole or in part (whether by operation of law or otherwise) without the prior written consent of the COURT. Any assignment made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the Parties and their permitted successors and assigns.
- 10.4 **Notices:** Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: (a) delivered in person, (b) sent by registered or certified mail, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient set forth below:

If to Contractor: [name, title, address]_____	If to the Court: Steve Gaul, IT Infrastructure Manager, 191 N. First Street, San Jose CA 95113
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Either Party may change its address for notification purposes by giving the other Party written notice of the new address in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, three (3) Business Days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.

- 10.5 **Independent Contractors:** Contractor and Subcontractors in the performance of this Agreement shall act in an independent capacity and not as officers or employees or agents of the Judicial Branch Entities or COURT Contractors. Neither the making of this Agreement nor the performance of its provisions shall be construed to constitute either of the Parties hereto as an agent, employee, partner, joint venture, or legal representative of the other, and the relationship of the Parties under this Agreement is that of independent contractors. Neither Party shall have any right, power or authority, express or implied, to bind the other.
- 10.6 **Covenant of Further Assurances:** Contractor covenants and agrees that, subsequent to the execution and delivery of this Agreement and without any additional consideration, Contractor shall execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Agreement.
- 10.7 **Publicity:** News releases and other public disclosures pertaining to this Agreement will not be made by Contractor without prior written approval of the COURT.
- 10.8 **Third Party Beneficiaries:** Except for the Judicial Branch Entities, each Party intends that this Agreement shall not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Parties. _____
- 10.9 **Governing Law; Jurisdiction; and Venue:** This Agreement and performance under it will be exclusively governed by the laws of the State of California without regard to its conflict of law provisions. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. Contractor hereby irrevocably submits to the exclusive jurisdiction and venue of the state and federal district courts located in California in any legal action concerning or relating to this Agreement.
- 10.10 **Follow-On Contracting:** Subject to certain exceptions, no person, firm, or subsidiary thereof who has been awarded a Consulting Services

contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the Consulting Services contract.

10.11 Order of Precedence: Any conflict among or between the documents making up this Agreement will be resolved in accordance with the following order of precedence (in descending order of precedence): (i) Appendix C - The General Terms and Conditions and Appendix D – Defined Terms; (ii) the Coversheet; (iii) Appendix B – Pricing and Payment; (iv) Appendix A – Statement of Work; (v) Appendix E – The Licensed Software; (vi) Appendix F – Maintenance and Support Services; and (vii) any exhibits to the Agreement.

10.12 Miscellaneous: This Agreement has been arrived at through negotiation between the Parties. Neither Party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654. No amendment to this Agreement will be effective unless in writing. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. If any part of this Agreement is held unenforceable, all other parts remain enforceable. A Party's waiver of enforcement of any of this Agreement's terms or conditions is effective only if in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. Time is of the essence regarding Contractor's performance of the Work. Unless otherwise approved by the COURT in writing in advance, Work may not be performed outside of the United States. The Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but taken together, all of which shall constitute one and the same Agreement.


ATTACHMENT 3 PROPOSER'S ACCEPTANCE OF TERMS AND CONDITIONS

Instructions: Mark the appropriate choice below and sign this attachment.

1. Proposer accepts Attachment 2: COURT Standard Terms and Conditions ("Attachment 2") without exception.

OR

2. Proposer proposes exceptions or changes to Attachment 2. Proposer must also submit (i) a red-lined version of Attachment 2 that implements all proposed changes, and (ii) a written explanation or rationale for each exception or proposed change.

BY (Authorized Signature) 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING
PWCR # (PUBLIC WORKS CONTRACTOR REGISTRATION)

ATTACHMENT 4 GENERAL CERTIFICATIONS FORM

Check the box below, if agreed, and sign this attachment. Please note that the COURT will reject a proposal from a Proposer that does not indicate acceptance of these clauses.


Conflict of Interest. Proposer has no interest that would constitute a conflict of interest under California Public Contract Code (PCC) sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with judicial branch entities.

Suspension or Debarment. Proposer certifies that neither Proposer nor any of Proposer’s intended subcontractors are on the California Department of General Services’ list of firms and persons that have been suspended or debarred from contracting with the state because of a violation of PCC 10115.10, regarding disabled veteran business enterprises.

Tax Delinquency. Proposer certifies that it is not on either (i) the California Franchise Tax Board’s list of 500 largest state income tax delinquencies, or (ii) the California Board of Equalization’s list of 500 largest delinquent sales and use tax accounts.

Conflict Minerals. Proposer certifies that either (i) it is not a scrutinized company as defined in PCC 10490(b), or (ii) the goods or services the Proposer would provide to the COURT are not related to products or services that are the reason the Proposer must comply with Section 13(p) of the Securities Exchange Act of 1934. (Note: PCC 10490(b) defines a “scrutinized company” as “a person that has been found to be in violation of Section 13(p) of the Securities Exchange Act of 1934 by final judgment or settlement entered in a civil or administrative action brought by the Securities and Exchange Commission and the person has not remedied or cured the violation in a manner accepted by the commission on or before final judgment or settlement.”)

Check box to indicate acceptance of the clauses above.

BY (Authorized Signature) 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING

ATTACHMENT 5
SMALL BUSINESS DECLARATION

Complete this form only if Bidder will claim the small business preference associated with this solicitation. Please review the "Small Business Declaration Instructions" before completing this form. If Bidder submits incomplete or inaccurate information, it will not receive the small business preference.

SECTION I. COMPLETE IF THE VENDOR IS A SMALL BUSINESS
(If the Vendor is not a Small Business, skip this section.)

1. DGS Supplier ID number: _____
2. Small Business Certification active from _____ to _____
3. Will the Vendor subcontract any portion of the contract work to subcontractors? _____

If yes:

- a. State the percentage of the contract work the Vendor will subcontract: _____
- b. Describe the goods and/or services to be provided by the Vendor itself in connection with the contract:

- c. Explain how the Vendor is performing a "commercially useful function" for purposes of this contract.
(Please see the instructions for the definition of "commercially useful function.")

4. Bidder must submit a copy of its Small Business certification approval letter along with this declaration.

SECTION II. COMPLETE IF THE VENDOR IS A NON-PROFIT VETERAN SERVICE AGENCY (NVSA)
(If Vendor is not an NVSA, skip this section.)

1. DGS Supplier ID number: _____
2. NVSA Certification active from _____ to _____
3. Bidder must submit a copy of its NVSA certification approval letter along with this declaration.

SECTION III. CERTIFICATION

I, the official named below, certify under penalty of perjury that the information provided in this form is true and correct. I am duly authorized to legally bind Bidder to this certification. This certification is made under the laws of the State of California.

<i>Company Name (Printed)</i>	<i>Tax ID Number</i>
<i>Address</i>	<i>Telephone Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of _____ in the State of _____</i>

General Instructions

In this form, (i) "DGS" refers to the Department of General Services, (ii) "Small Business" refers to an entity certified by DGS as a small business or a microbusiness, (iii) "Bidder" refers to a person or entity that submits a response to a competitive solicitation issued by the COURT, including both IFBs and RFPs; and (iv) "bid" refers to a response to a competitive solicitation issued by the COURT, including both IFBs and RFPs.

If Bidder will claim the small business preference in a solicitation where a small business preference is offered, it must complete the Small Business Declaration. If no small business preference is offered, or Bidder does not claim the small business preference, Bidder should not complete the Small Business Declaration.

The COURT will determine whether Bidder is eligible to receive the small business preference based on information provided in the Small Business Declaration. The COURT may, but is not obligated to, verify or seek clarification of any information set forth in the Small Business Declaration. If Bidder submits incomplete or inaccurate information, it will not receive the small business preference.

Instructions for Section I

(Skip this section if the Vendor is not itself a Small Business.)

1. Provide Bidder's DGS Supplier ID number. This number is in Bidder's DGS Supplier Profile, accessible at: <https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>
2. Provide the applicable dates. These dates are listed in Bidder's DGS Supplier Profile, accessible at: <https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>
3. If Bidder will subcontract any portion of the contract work, answer "yes" and complete subparts A-C. If Bidder will not subcontract any portion of the contract work, answer "no" and skip subparts A-C.

Subpart A: This percentage is equal to the amount to be paid by Bidder to all subcontractors divided by Bidder's total bid price, multiplied by 100. Enter a percentage; do not enter a dollar amount. For example, if the amount to be paid by Bidder to subcontractors is \$35,000 and Bidder's total bid price is \$125,000, enter "28%" ($35,000 \div 125,000 = 0.28$; $0.28 \times 100 = 28$).

Subpart B: Provide a detailed description of the goods and/or services the Bidder itself will provide for the contract. In other words, provide a detailed description of the goods and/or services that will not be subcontracted. Attach additional sheets if necessary.

Subpart C: Provide an explanation of how the Bidder's goods and/or services constitute a "commercially useful function" for purposes of the contract. Pursuant to Government Code section 14837, a business is deemed to perform a "commercially useful function" if the business does all of the following: (i) is responsible for the execution of a distinct element of the work of the contract; (ii) carries out its obligation by actually performing, managing, or supervising the work involved; (iii) performs work that is normal for its business services and functions; (iv) is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment; and (v) is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices. Note: a business will not be considered to perform a "commercially useful function" if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of Small Business participation. Attach additional sheets if necessary.

4. Each entity certified as a Small Business by DGS will have received a Small Business certification approval letter. Bidder must submit a copy of its Small Business certification approval letter.

Instructions for Section II

(Skip this section if the Vendor is not an NVSA.)

1. Provide Bidder's DGS Supplier ID number. This number is in Bidder's DGS Supplier Profile, accessible at: <https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>
2. Provide the applicable dates. These dates are listed in Bidder's DGS Supplier Profile, accessible at: <https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>
3. Each entity certified as an NVSA by DGS will have received a certification approval letter. Bidder must submit a copy of its certification approval letter.

Instructions for Section III

Provide Bidder's full legal name, tax ID number, address, and telephone number in the appropriate boxes. The certification must be signed by an authorized Bidder representative in the box labeled "*By (Authorized Signature)*." Provide the name and title of the authorized Bidder representative, and the date, county, and state where that person signed the certification, in the appropriate boxes.

ATTACHMENT 6

PAYEE DATA RECORD (in lieu of IRS W-9) Required in lieu of IRS W-9 form when receiving payments from the Judicial Council of California (JCC) on behalf of the Superior Courts of California			
1 Instructions	See page two for additional instructional information and Privacy Statement. Complete all information on this form, and sign, date. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used to prepare Information Returns (1099). Return this form to your court representative who will forward it to the Judicial Council of California.		
SECTIONS 2 THRU 5 TO BE COMPLETED BY VENDOR			
2 Legal Name	PAYEE'S LEGAL NAME - AS SHOWN ON FEDERAL INCOME TAX RETURN		
	BUSINESS NAME - IF DIFFERENT FROM ABOVE	E-MAIL ADDRESS	
	REMITTANCE MAILING ADDRESS	BUSINESS ADDRESS (if different from remittance mailing address)	
	CITY, STATE, ZIP CODE	CITY, STATE, ZIP CODE	
	PHONE NUMBER	FACSIMILE NUMBER	
3 Payee Entity Type Complete One Box Only <small>NOTE A taxpayer identification number is required</small>	ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN) _ _ - _ _ _ _ _ <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> EXEMPT (NON-PROFIT) <input type="checkbox"/> LIMITED LIABILITY COMPANY <input type="checkbox"/> CORPORATION – LEGAL <input type="checkbox"/> GOVERNMENT <input type="checkbox"/> CORPORATION – MEDICAL <input type="checkbox"/> OTHER – <input type="checkbox"/> ESTATE OR TRUST <input type="checkbox"/> INDIVIDUAL/SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER (SSN) _ _ - _ _ - _ _ <i>If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN; however, the IRS prefers that you use your SSN. An employee vendor is not required to provide a SSN.</i>		
4 Resident Status <small>check the appropriate box</small>	<input type="checkbox"/> California Resident - Qualified to do business in California or maintains place of business <input type="checkbox"/> California Nonresident (see reverse side) - Payments to non-resident for services may be subject to State Income Tax withholding. <input type="checkbox"/> No services performed in California <input type="checkbox"/> Copy of Franchise Tax Board waiver of State Withholding attached		
5 Certification <small>NOTE See instructions on page 2</small> Vendor Contact Information and signature	Under penalties of perjury, I certify that: 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. citizen or other U.S. person, as defined by the IRS. I hereby certify under the penalty of perjury that the information provided on this document is true and correct. Should my information change, I will promptly notify the JCC at the address listed in Section 1.		
	VENDOR REPRESENTATIVE'S NAME (Type or Print)	TITLE	
	AUTHORIZED VENDOR SIGNATURE	DATE	
		E-MAIL	
		TELEPHONE	
SECTION 6 TO BE COMPLETED BY COURT			
6 Vendor Category Court Contact	Please choose from the JCC Vendor category below to help us expedite payment		
	<input type="checkbox"/> ARBITRATOR <input type="checkbox"/> DECEASED FINAL PAYMENT <input type="checkbox"/> GRAND JURY <input type="checkbox"/> VOLUNTEER <input type="checkbox"/> CONTRACTOR <input type="checkbox"/> EMPLOYEE <input type="checkbox"/> MEDIATOR <input type="checkbox"/> OTHER (<i>description required</i>)		
	<input type="checkbox"/> COURT APPT. COUNSEL <input type="checkbox"/> GARNISHMENT TRUSTEE <input type="checkbox"/> RENT <input type="checkbox"/> COURT INTERPRETER: (<i>indicate language</i>) <input type="checkbox"/> RETIREE <input type="checkbox"/> COURT REPORTER <input type="checkbox"/> SETTLEMENTS/AWARDS		
	COURT CONTACT NAME	PHONE NUMBER	EMAIL
	FOR JCC USE ONLY (Form updated 2/8/2018)		
Assigned Vendor Number	Assigned By:		

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

ATTACHMENT 8 IRAN CONTRACTING ACT CERTIFICATION

Pursuant to Public Contract Code (PCC) section 2204, an Iran Contracting Act certification is required for solicitations of goods or services of \$1,000,000 or more.

To submit a proposal to the COURT, you must complete **ONLY ONE** of the following two paragraphs. To complete paragraph 1, check the corresponding box **AND** complete the certification for paragraph 1. To complete paragraph 2, simply check the corresponding box.

1. We are not on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (“DGS”) pursuant to PCC 2203(b), and we are not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

OR

2. We have received written permission from the COURT to submit a proposal pursuant to PCC 2203(c) or (d). *A copy of the written permission from the COURT is included with our proposal.*

CERTIFICATION FOR PARAGRAPH 1:

I, the official named below, certify that I am duly authorized to legally bind the proposer to the clause in paragraph 1. This certification is made under the laws of the State of California.

<i>Company Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of _____ in the State of _____</i>

ATTACHMENT 9
**UNRUH CIVIL RIGHTS ACT AND CALIFORNIA FAIR EMPLOYMENT
AND HOUSING ACT CERTIFICATION**

Pursuant to Public Contract Code (PCC) section 2010, the following certifications must be provided when (i) submitting a bid or proposal to the COURT for a solicitation of goods or services of \$100,000 or more, or (ii) entering into or renewing a contract with the COURT for the purchase of goods or services of \$100,000 or more.

CERTIFICATIONS:

1. We are in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);
2. We are in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of the Title 2 of the Government Code); **and**
3. We do not have any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, that is used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

The certifications made in this document are made under penalty of perjury under the laws of the State of California. I, the official named below, certify that I am duly authorized to legally bind the proposer/bidder/vendor to certifications made in this document.

<i>Company Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of _____ in the State of _____</i>