



# Superior Court of California, San Mateo County

400 County Center, 4<sup>th</sup> Floor; Redwood City, CA 94063  
www.sanmateocourt.org

## INVITATION FOR BID

IFB Number	Title	Issued	Due Date and Time
19-I001	Via Seating Task Chairs	Sept 27, 2018	Oct 18, 2018 @ 2:00pm
Contract Officer		Contact Information	
Mary Treanor		Procurement@sanmateocourt.org	

### Bidder Information:

Firm Address	
Phone	
Email	

In accordance with the following and in compliance with all terms and conditions, unless otherwise noted, the undersigned offers and agrees, if the bid is accepted, to furnish items or services for which prices are quoted, at the price set, delivered or furnished to designated points within the time specified. It is understood and agreed that with respect to all terms and conditions accepted by the court the items or services offered and accompanying attachments shall constitute a contract.

### Vendor's Legally Authorized Representative:

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**1. Background**

San Mateo Superior Court purchases office chairs for employees on an as needed basis throughout the year. Orders for chairs are generally on an individual basis to accommodate the specific individual.

**2. Description of Goods**

2.1. Task chairs purchased are generally in two models, Via Seating Brisbane Mid Back, and Via Seating Brisbane High Back.

2.2. Each chair purchased shall include: Advanced Ergonomic Control, Height Adjustable Arms, upholstered back shell, TB133 Fire Rating, and casters for carpeted floors.

2.3. The court places orders from the list of Grade 1 Hues, all Grade 1 Hue Options must be made available for each order.

2.4. All chairs must be delivered to the appropriate desk within the facility and professionally assembled. Vendor is responsible for coordinating delivery with the court.

**3. Length of Contract**

Any contract resulting from this solicitation will be valid for three (3) years from the date of execution with the option for two (2) one year renewals.

**4. Solicitation Timeline**

The following timeline lists key dates and times related to this solicitation. All dates are subject to change at the discretion of the Superior Court of California, San Mateo County.

<b>Event</b>	<b>Date</b>
IFB Issued	September 27, 2018
Deadline for Questions	October 2, 2018 @ 4pm
Questions and Answers Posted	October 4, 2018
Bids and Submissions Due	October 18, 2018 @ 2pm
Public Bid Opening	October 18, 2018 @ 2pm
Notice of Intent to Award	October 23, 2018
Contract Execution	October 30, 2018

## 5. Attachments

The following attachments are included and part of this solicitation:

Attachment	Description
Attachment 1: Pricing Schedule	This schedule indicates line item pricing.
Attachment 2: Administrative Rules Governing IFBs (Non-IT Goods)	These rules govern this solicitation.
Attachment 3: Standard Terms and Conditions	If selected, the person or entity submitting a bid must sign this standard form agreement.
Attachment 4: Bidder's Acceptance of the Terms and Conditions	On this form, the Bidder must indicate acceptance of the Terms and Conditions or identify exceptions to the Terms and Conditions.  <b>Notice:</b> Any material exception to the Terms and Conditions (addition, deletion, or other modification) will render a bid non-responsive.
Attachment 5: Darfur Contracting Act Certification	Bidder must complete the Darfur Contracting Act Certification and submit the completed certification with its bid.
Attachment 6: Payee Data Record Form	This form contains information the JBE requires in order to process payments and must be submitted with the bid.

## 6. Submission of Bids

6.1. All bid submissions shall be complete and concise. Incomplete submissions shall be deemed non-responsive.

6.2. All bid submissions shall be submitted in a sealed envelope, by no later than the date and time on the cover sheet, to the address below. Bids received by the Contract Officer in the Finance Division after the due date and time shall be deemed non-responsive, and will not be accepted. :

Superior Court of California, San Mateo County  
Attention: Finance Division - Procurement  
400 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94063

6.3. All submissions must include the cover sheet signed and dated by an authorized representative.

6.4. Only written or typed bids will be accepted. Submission is accepted by US Mail, Parcel Service, or Hand Delivery. Bids may not be transmitted or accepted by fax or email.

## 7. Contents of Bids

7.1. The following must be included in the non-cost information. A bid lacking any of the following may be deemed non-responsive.

- a. A completed cover page including the bidder's name, address, telephone number, and federal tax identification number. **Note:** If Bidder is a sole proprietor using his or her social security number, the social security number will be required before finalizing a contract.
- b. A completed Attachment 1 indicating Model number(s), specifications, or another description of the goods that the bidder proposes to supply to the court, delivered prices (unless otherwise indicated) and applicable warranty information.
- c. Acceptance of the Terms and Conditions.
  - i. On Attachment 4, the Bidder must either indicate acceptance of the Terms and Conditions.
  - ii. **Note:** Any material exception to the Terms and Conditions (addition, deletion, or other modification) will render a bid non-responsive.
- d. Certifications, Attachments, and other requirements
  - i. Bidder must include the following certifications in its bid:

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

Bidder certifies that either (i) it is not a scrutinized company as defined in PCC 10490(b), or (ii) the goods or services the Bidder would provide to the JBE are not related to products or services that are the reason the Bidder 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.")
  - ii. Bidder must submit with its bid, for itself and each of its affiliates that make sales for delivery into California, a copy of either (a) a California seller's permit issued under Revenue and Taxation Code section 6066 et seq. or (b) a certificate of registration issued under Revenue and Taxation Code section 6226.
  - iii. Bidder must complete the Darfur Contracting Act Certification (Attachment 5) and submit the completed certification with its bid.

- iv. If (i) Bidder is a corporation, limited liability company, or limited partnership, and (ii) the agreement resulting from this IFB will be performed in California, proof that Bidder is in good standing and qualified to conduct business in California.

**NOTICE:** 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.

#### **8. Offer Period**

A Bidder's bid is an irrevocable offer for ninety (90) days following the bid 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.

#### **9. Bid Opening**

Bids shall be publicly opened at the due date and time listed on the cover sheet of this solicitation. Bid openings are held at the location listed below:

Superior Court of California, San Mateo County  
Financial Division Conference Room  
400 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94063

#### **10. Evaluation of Bids**

- 10.1. The court will evaluate the bids as described in the Administrative Rules. Award, if made, will be to the lowest responsible bidder meeting specifications.
- 10.2. The court may conduct interviews with Bidders to clarify aspects of their bids. The interview process may 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 Bidders for any costs incurred in traveling to or from the interview location. The court will notify eligible Bidders regarding interview arrangements.
- 10.3. If a contract will be awarded, the court will post an intent to award notice at [www.sanmateocourt.org](http://www.sanmateocourt.org).

#### **11. Confidential or Proprietary Information**

One copy of each bid will be retained by the court for official files and will become a public record. The Public Contract Code requires that bids be publicly opened and made available for public inspection. Accordingly, Bidder should not include confidential or proprietary information in its bid.

#### **12. Disabled Veteran Business Enterprises**

The Court has waived the DVBE incentive in this solicitation.

#### **13. Protests**

Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contract Manual (see [www.courts.ca.gov/documents/jbcl-manual.pdf](http://www.courts.ca.gov/documents/jbcl-manual.pdf)). Failure of a Bidder to comply

with the protest procedures set forth in that chapter will render a protest inadequate and non-responsive, and will result in rejection of the protest. The deadline for the court to receive a solicitation specifications protest is three business days prior to the due date on the cover sheet.

Protests must be submitted either by mail to

Superior Court of California, San Mateo County  
Attention: Finance Division - Procurement  
400 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94063

Or electronically to the contract officer listed on the cover sheet.

Line:	Brand	Item	Unit Price	Estimated Quantity	Extended
<b>BRISBANE MID BACK CHAIR</b>					
<b>Other Specs:</b> Advanced Ergonomic Control, Height Adjustable Arms, Upholstered Back Shell, TB133 Fire Rating, Casters for Carpted Flooring					
<b>Fabric:</b> Grade 1 Hue, Colored as Ordered					
1	VIA Seating	<b>Standard 'A' Seat</b>	<input type="text"/>	10	<input type="text"/>
2	VIA Seating	<b>Standard 'B' Seat</b>	<input type="text"/>	10	<input type="text"/>
3	VIA Seating	<b>Standard 'C' Seat</b>	<input type="text"/>	10	<input type="text"/>
<b>BRISBANE HIGH BACK CHAIR</b>					
<b>Other Specs:</b> Advanced Ergonomic Control, Height Adjustable Arms, Upholstered Back Shell, TB133 Fire Rating, Casters for Carpted Flooring					
<b>Fabric:</b> Grade 1 Hue, Colored as Ordered					
4	VIA Seating	<b>Large 'A' Seat</b>	<input type="text"/>	5	<input type="text"/>
5	VIA Seating	<b>Large 'B' Seat</b>	<input type="text"/>	5	<input type="text"/>
6	VIA Seating	<b>Large 'C' Seat</b>	<input type="text"/>	5	<input type="text"/>
<b>DELIVERY AND INSTALLATION</b>					
All chairs must be delivered to the appropriate desk within the facility and professionally assembled. Vendor is responsible for coordinating delivery with the court.					
7		<b>Delivery and Installation per chair</b>	<input type="text"/>	45	<input type="text"/>
		Delivery Time from Order Date:	<input type="text"/>		
			<b>Extended Sub-total:</b> <input type="text"/>		
8		<b>Other VIA Seating Items</b>	<b>% Discount</b>		
		Discount for all other VIA Seating Items in vendor catalog	<input type="text"/>		

**ADMINISTRATIVE RULES GOVERNING IFBS  
(NON-IT GOODS)**

**1. COMMUNICATIONS REGARDING THIS IFB**

Except as specifically addressed elsewhere in the IFB, Bidders must send any communications regarding the IFB to the contract officer listed on the cover page of the IFB. Bidders must include the IFB Number and title in subject line of any communication.

**2. QUESTIONS REGARDING THE IFB**

- A. If a Bidder's question relates to a proprietary aspect of its bid and the question would expose proprietary information if disclosed to competitors, the Bidder may submit the question via email to the contract officer, listed on this solicitation's cover sheet, conspicuously marking it as "CONFIDENTIAL." With the question, the Bidder must submit a statement explaining why the question is sensitive. If the court concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the court does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the Bidder will be notified.
- B. Bidders interested in responding to the IFB may submit questions via email to the contract officer, listed on this solicitation's cover sheet, on procedural matters related to the IFB or requests for clarification or modification of the IFB no later than the deadline for questions listed in the timeline of the IFB. If the Bidder is requesting a change, the request must set forth the recommended change and the Bidder'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.

**3. ERRORS IN THE IFB**

- A. If, before the bid due date and time listed in the timeline of the IFB, a Bidder discovers any ambiguity, conflict, discrepancy, omission, or error in the IFB, the Bidder must immediately notify the court via email to the contract officer, listed on this solicitation's cover sheet, and request modification or clarification of the IFB. Without disclosing the source of the request, the court may modify the IFB before the bid due date and time by releasing an addendum to the solicitation.
- B. If a Bidder fails to notify the court of an error in the IFB known to Bidder, or an error that reasonably should have been known to Bidder, before the bid due date and time listed in the timeline of the IFB, Bidder shall bid at its own risk. Furthermore, if Bidder is awarded the contract, Bidder shall not be entitled to additional compensation or time by reason of the error or its later correction.
- C. If a Bidder has submitted a bid and discovers an error in the IFB after the bid due date and time listed in the timeline of the IFB but before the award of the contract, the Bidder may be allowed to withdraw its bid if the Bidder can demonstrate to the COURT's satisfaction: (i) an error exists in the IFB, (ii) the error materially affected the Bidder's bid, and (iii) the Bidder did not discover the error prior to submission of its bid.

**4. ADDENDA**

- A. The court may modify the IFB before the bid due date and time listed in the timeline of the IFB by issuing an addendum. Addendums will be posted electronically at

www.sanmateocourt.org. It is each Bidder's responsibility to inform itself of any addendum prior to its submission of a bid.

- B. If any Bidder determines that an addendum unnecessarily restricts its ability to bid, the Bidder shall immediately notify the court via email no later than one day following issuance of the addendum.

## 5. WITHDRAWAL AND RESUBMISSION/MODIFICATION OF BIDS

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

## 6. ERRORS IN THE BID

If errors are found in a bid, the court may reject the bid; 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 Bidder (if selected for the award of the contract), the Bidder will be informed of the errors and corrections thereof and will be given the option to abide by the corrected amount or withdraw the bid.

## 7. RIGHT TO REJECT BIDS

- A. Before the bid due date and time listed in the timeline of the IFB, the court may cancel the IFB for any or no reason. After the bid due date and time listed in the timeline of the IFB, the court may reject all bids and cancel the IFB if the court determines that: (i) the bids 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 bid. The court's waiver of an immaterial deviation or defect shall in no way modify the IFB or excuse a Bidder from full compliance with IFB specifications. Until a contract resulting from this IFB is signed, the court reserves the right to accept or reject any or all of the items in the bid, to award the contract in whole or in part and/or negotiate any or all items with individual Bidders 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 Bidder.
- C. The court reserves the right to issue similar IFBs in the future. The IFB 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 bid.
- D. **Bidders are specifically directed NOT to contact any court personnel or consultants for meetings, conferences, or discussions that are related to the IFB at any time between release of the IFB and any award and execution of a contract. Unauthorized contact with any court personnel or consultants may be cause for rejection of the Bidder's bid.**

## 8. EVALUATION PROCESS

- A. An evaluation team will review all bids that are received by the appropriate deadline to determine the extent to which they comply with IFB requirements.

- B. Bids 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 IFB.
- C. All figures entered on the cost information must be clearly legible.
- D. During the evaluation process, the court may require a Bidder's representative to answer questions with regard to the Bidder's bid. Failure of a Bidder to demonstrate that the claims made in its bid are in fact true may be sufficient cause for deeming a bid non-responsive.
- E. 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 Bidders, who may attend the coin toss at their own expense.

#### **9. DISPOSITION OF MATERIALS**

All materials submitted in response to the IFB will become the property of the court and will be returned only at the court's option and at the expense of the Bidder submitting the bid.

#### **10. PAYMENT**

- A. Payment terms will be specified in any contract that may ensue as a result of the IFB.
- B. Unless otherwise specified, payment is due 30 days after the later of (i) the completion of work or the receipt of goods to the court's acceptance, or (ii) the receipt of a proper invoice.
- B. **THE COURT DOES NOT MAKE ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provided in the contract between the court and the selected Bidder. 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 contract between the court and the selected Bidder.

#### **11. AWARD AND EXECUTION OF CONTRACT**

- A. Award of contract, if made, will be in accordance with the IFB to a responsible Bidder submitting a bid compliant with all the requirements of the IFB and any addenda thereto (including any administrative or technical requirements), except for such immaterial defects as may be waived by the court.
- B. A Bidder submitting a bid must be prepared to use a standard court contract form rather than its own contract form.
- C. Upon award of the contract, the contract shall be signed by the Bidder 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 contract form or prior to the end of June if award is at fiscal year-end. Contracts are not effective until executed by both parties and approved by the appropriate court officials. Any work performed before receipt of a fully-executed contract shall be at Bidder's own risk.

#### **12. FAILURE TO EXECUTE THE CONTRACT**

The period for execution set forth in Section 11 ("Award and Execution of Contract") may only be changed by mutual agreement of the parties. Failure to execute the contract 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 contract. If the successful Bidder

refuses or fails to execute the contract, the court may award the contract to the next qualified Bidder.

**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 Contract Officer or their designee.

**14. ANTI-TRUST CLAIMS**

- A. In submitting a bid to the court, the Bidder offers and agrees that if the bid is accepted, Bidder 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 Bidder 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 Bidder. (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 Bidder 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 Bidder, the court shall, within one year from such demand, reassign the cause of action assigned under this section if the Bidder 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 Bidders should be directed to George Antrea at (650) 261-5035 or [GAntrea@sanmateocourt.org](mailto:GAntrea@sanmateocourt.org).

**1. Provisions Applicable to Services**

- 1.1 Qualifications.** Contractor shall assign to this project only persons who have sufficient training, education, and experience to successfully perform Contractor's duties. If the Court is dissatisfied with any of Contractor's personnel, for any or no reason, Contractor shall replace them with qualified personnel.
- 1.2 Turnover.** Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to perform Services.
- 1.3 Background Checks.** Contractor shall cooperate with the Court if the Court wishes to perform any background checks on Contractor's personnel by obtaining, at no additional cost, all releases, waivers, and permissions the Court may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Court of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Court and performed by Contractor. Contractor shall ensure that the following persons are not assigned to perform services for the Court: (a) any person refusing to undergo such background checks, and (b) any person whose background check results are unacceptable to Contractor or that, after disclosure to the Court, the Court advises are unacceptable to the Court.

**2. Contractor Certification Clauses.** Contractor certifies that the following representations and warranties are true. Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly notify the Court if any representation and warranty becomes untrue. Contractor represents and warrants as follows:

- 2.1 Authority.** Contractor has authority to enter into and perform its obligations under this Agreement, and Contractor's signatory has authority to bind Contractor to this Agreement.
- 2.2 Not an Expatriate Corporation.** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC 10286.1, and is eligible to contract with the Court.
- 2.3 No Gratuities.** Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement.
- 2.4 No Conflict of Interest.** Contractor has no interest that would constitute a conflict of interest under PCC 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.
- 2.5 No Interference with Other Contracts.** To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest or default under any of Contractor's other contracts.
- 2.6 No Litigation.** No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened that may adversely affect Contractor's ability to perform the Services.
- 2.7 Compliance with Laws Generally.** Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor's business and services.
- 2.8 Drug Free Workplace.** Contractor provides a drug free workplace as required by California Government Code sections 8355 through 8357.
- 2.9 No Harassment.** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring.
- 2.10 Noninfringement.** The Goods, Services, Deliverables, and Contractor's performance under this Agreement do not infringe, or constitute an infringement, misappropriation or violation of, any third party's intellectual property right.
- 2.11 Nondiscrimination.** 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 will notify in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of nondiscrimination.

**2.12 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. Insurance

**3.1 Basic Coverage.** Contractor shall provide and maintain at the Court's discretion and Contractor's expense the following insurance during the Term:

**3.2 Commercial General Liability.** The policy must be at least as broad as the Insurance Services Office (ISO) Commercial General Liability "occurrence" form, with coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. The policy must provide limits of at least \$1,000,000 per occurrence and annual aggregate.

**3.3 Workers Compensation and Employer's Liability.** The policy is required only if Contractor has employees. The policy 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 \$1,000,000 per accident or disease.

**3.4 Automobile Liability.** This policy is required only if Contractor uses an automobile or other vehicle in the performance of this Agreement. The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in Contractor's performance of this Agreement whether owned, non-owned, leased, or hired. The policy must provide combined single limits of at least \$1,000,000 per occurrence.

**3.5 Professional Liability.** This policy is required only if Contractor performs professional services under this Agreement. The policy must cover liability resulting from any act, error, or omission committed in Contractor's performance of Services under this Agreement, at minimum limits of \$1,000,000 per occurrence and annual aggregate. If the policy is written on a "claims made" form, Contractor shall maintain such coverage continuously throughout the Term and, without lapse, for a period of three (3) years beyond the termination and acceptance of all Services provided under this Agreement. The retroactive date or "prior acts inclusion date" of any such "claims made" policy must be no later than the date that activities commence pursuant to this Agreement.

**3.6 Commercial Crime Insurance.** This policy is required only 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; and fraudulent transfer of money, securities, and property. The minimum liability limit must be \$[Dollar amount].

**3.7 Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.

**3.8 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 (2) times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.

**3.9 Deductibles and Self-Insured Retentions.** Contractor shall declare to the Court all deductibles and self-insured retentions that exceed \$100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to the Court's approval. Deductibles and self-insured retentions do not limit Contractor's liability.

**3.10 Additional Insured Endorsements.** Contractor's commercial general liability policy, automobile liability policy, and, if applicable, umbrella policy must be endorsed to name the following as additional insureds with respect to liabilities arising out of the performance of this Agreement: the Court, the State of California, the Judicial Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees.

**3.11 Certificates of Insurance.** Before Contractor begins performing Services, Contractor shall give the Court certificates of insurance attesting to the existence of coverage. Contractor shall provide prompt written notice to the Court in the event that insurance coverage is cancelled or materially changed from the coverage set forth in the current certificate of insurance provided to the Court.

**3.12 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.

- 3.13 Required Policy Provisions.** Each policy must provide, as follows: (i) the policy is primary and noncontributory with any insurance or self-insurance maintained by Judicial Branch Entities and Judicial Branch Personnel, and the basic coverage insurer waives any and all rights of subrogation against Judicial Branch Entities and Judicial Branch Personnel; (ii) the insurance applies separately to each insured against whom a claim is made or a lawsuit is brought, to the limits of the insurer's liability; and (iii) each insurer waives any right of recovery or subrogation it may have against the Court, the State of California, the Judicial Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees for loss or damage.
- 3.14 Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either (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.
- 3.15 Consequence 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.
- 4. Indemnity.** Contractor will defend (with counsel satisfactory to the Court or its designee), indemnify and hold harmless the Judicial Branch Entities and the Judicial Branch Personnel against all claims, losses, and expenses, including attorneys' fees and costs, that arise out of or in connection with (i) a latent or patent defect in any Goods, (ii) an act or omission of Contractor, its agents, employees, independent contractors, or subcontractors in the performance of this Agreement, (iii) a breach of a representation, warranty, or other provision of this Agreement, and (iv) infringement of any trade secret, patent, copyright or other third party intellectual property. This indemnity applies regardless of the theory of liability on which a claim is made or a loss occurs. This indemnity will survive the expiration or termination of this Agreement, and acceptance of any Goods, Services, or Deliverables. 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.
- 5. Option Term.** Unless Section 2 of the Coversheet indicates that an Option Term is not applicable, the Court may, at its sole option, extend this Agreement for a single one-year term, at the end of which Option Term this Agreement shall expire. In order to exercise this Option Term, the Court must send Notice to Contractor at least thirty (30) days prior to the end of the Initial Term. The exercise of an Option Term will be effective without Contractor's signature.
- 6. Tax Delinquency.** Contractor must provide notice to the Court immediately if Contractor has reason to believe it may be placed 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. The Court may terminate this Agreement immediately "for cause" pursuant to Section 7.2 below if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.
- 7. Termination**
- 7.1 Termination for Convenience.** The Court may terminate, in whole or in part, this Agreement for convenience upon thirty (30) days prior Notice. After receipt of such Notice, and except as otherwise directed by the Court, Contractor shall immediately: (a) stop Services as specified in the Notice; and (b) stop the delivery or manufacture of Goods as specified in the Notice.
- 7.2 Termination for Cause.** The Court may terminate this Agreement, in whole or in part, immediately "for cause" if (i) Contractor fails or is unable to meet or perform any of its duties under this Agreement, and this failure is not cured within ten (10) days following Notice of default (or in the opinion of the Court, is not capable of being cured within this cure period); (ii) Contractor or Contractor's creditors file a petition as to Contractor's bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business; or (iii) Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading.
- 7.3 Termination upon Death.** This entire Agreement will terminate immediately without further action of the parties upon the death of a natural person who is a party to this Agreement, or a general partner of a partnership that is a party to this Agreement.

- 7.4 Termination for Changes in Budget or Law.** The Court's payment obligations under this Agreement are subject to annual appropriation and the availability of funds. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the current appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement. The Court may terminate this Agreement or limit Contractor's Services (and reduce proportionately Contractor's fees) upon Notice to Contractor without prejudice to any right or remedy of the Court if: (i) expected or actual funding to compensate 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.
- 7.5 Rights and Remedies of the Court.**
- A. Nonexclusive Remedies.** All remedies provided 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 nonbinding 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. Replacement.** If the Court terminates this Agreement 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 Court for such goods and services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Court. Contractor shall continue any Services not terminated hereunder.
- C. Delivery of Materials.** In the event of any expiration or termination of this Agreement, Contractor shall promptly provide the Court with all originals and copies of the Deliverables, including any partially-completed Deliverables-related work product or materials, and any Court-provided materials in its possession, custody, or control. In the event of any termination of this Agreement, 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 for cause, the Court shall pay any fees due under this Agreement for Services performed or Deliverables completed and accepted as of the date of the Court's termination Notice.
- 7.6 Survival.** Termination or expiration of this Agreement shall not affect the rights and obligations of the parties which arose prior to any such termination or expiration (unless otherwise provided herein) and such rights and obligations shall survive any such termination or expiration. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including any section of this Agreement that states it shall survive such termination or expiration.
- 8. Assignment and Subcontracting.** Contractor may not assign or subcontract its rights or duties under this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the Court. Consent may be withheld for any reason or no reason. Any assignment or subcontract 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.
- 9. Notices.** Notices must be sent to address and recipient in Section 6 of the Standard Agreement Coversheet above. Either party may change its address for Notices by giving the other party 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) days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.
- 10. Provisions Applicable to Certain Agreements.** The provisions in this section are applicable only to the types of orders specified in the first sentence of each subsection. If this Agreement is not of the type described in the first sentence of a subsection, then that subsection does not apply to the Agreement.
- 10.1 Union Activities Restrictions.** If the Contract Amount is over \$50,000, this section is applicable. Contractor agrees that no Court funds received under this Agreement will be used to assist, promote or deter union organizing during the Term. 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. Contractor will provide those records to the Attorney General upon request.

- 10.2 Domestic Partners, Spouses, Gender, and Gender Identity Discrimination.** If the Contract Amount is \$100,000 or more, this section is applicable. Contractor is in compliance with, and throughout the Term will remain in compliance with, (i) PCC 10295.3 which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) PCC 10295.35, which places limitations on contracts with contractors that discriminate in the provision of benefits on the basis of an employee's or dependent's actual or perceived gender identity.
- 10.3 Child Support Compliance Act.** If the Contract Amount is \$100,000 or more, this section is applicable. Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the Term) all applicable state and federal laws relating to child and family support enforcement, including disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq. Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 10.4 Priority Hiring.** If the Contract Amount is over \$200,000 and this Agreement is for services (other than Consulting Services), this section is applicable. 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.
- 10.5 Iran Contracting Act.** If the Contract Amount is \$1,000,000 or more and Contractor did not provide to Court an Iran Contracting Act certification as part of the solicitation process, this section is applicable. 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 forty-five (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).
- 10.6 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.
- 10.7 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.
- 10.8 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 Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://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.
- 10.9 Federal Funding Requirements.** If this Agreement is funded in whole or in part by the federal government, this section is applicable. 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 this Agreement were executed after that determination was made. This Agreement is valid and enforceable only if sufficient funds are made available to the Court by the United State Government for the fiscal year in which they are due and consistent with any stated programmatic purpose, and 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. 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. The Court may invalidate this Agreement under the termination for convenience or cancellation clause (providing for no more than thirty (30) days' Notice of termination or cancellation), or amend this Agreement to reflect any reduction in funds.

- 10.10 DVBE Commitment.** This section is applicable if Contractor received a disabled veteran business enterprise ("DVBE") incentive in connection with this Agreement. Contractor's failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of the Agreement. If Contractor used DVBE subcontractor(s) in connection with this Agreement: (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the Court approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must within sixty (60) days of receiving final payment under this Agreement certify in a report to the Court: (1) the total amount of money Contractor received under the Agreement; (2) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Agreement; (3) the amount each DVBE subcontractor received from Contractor in connection with the Agreement; and (4) that all payments under the Agreement have been made to the applicable DVBE subcontractors. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.
- 10.11 Antitrust Claims.** If this Agreement resulted from a competitive solicitation, this section is applicable. 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. Such assignment shall be made and become effective at the time the Court tenders final payment to Contractor. If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, 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 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. Upon demand in writing by Contractor, the Court shall, within one (1) year from such demand, reassign the cause of action assigned under this part if Contractor 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.
- 10.12 Legal Services.** If this Agreement is for legal services, this section is applicable. Contractor shall: (i) adhere to legal cost and billing guidelines designated by the Court; (ii) adhere to litigation plans designated by the Court, if applicable; (iii) adhere to case phasing of activities designated by the Court, if applicable; (iv) submit and adhere to legal budgets as designated by the Court; (v) maintain legal malpractice insurance in an amount not less than the amount designated by the Court; and (vi) submit to legal bill audits and law firm audits if so requested by the Court, whether conducted by employees or designees of the Court or by any legal cost-control provider retained by the Court for that purpose. Contractor may be required to submit to a legal cost and utilization review as determined by the Court. If (a) the Contract Amount is greater than \$50,000, (b) the legal services are not the legal representation of low- or middle-income persons, in either civil, criminal, or administrative matters, and (c) the legal services are to be performed within California, then Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services, or an equivalent amount of financial contributions to qualified legal services projects and support centers, as defined in section 6213 of the Business and Professions Code, during each year of the Agreement equal to the lesser of either (A) thirty (30) multiplied by the number of full time attorneys in the firm's offices in California, with the number of hours prorated on an actual day basis for any period of less than a full year or (B) the number of hours equal to ten percent (10%) of the Contract Amount divided by the average billing rate of the firm. Failure to make a good faith effort may be cause for nonrenewal of this Agreement or another judicial branch or other state contract for legal services, and may be taken into account when determining the award of future contracts with a Judicial Branch Entity for legal services.
- 10.13 Good Standing.** If Contractor is a corporation, limited liability company, or limited partnership, and this Agreement is performed in whole or in part in California, this section is applicable. Contractor is, and will remain for the Term, qualified to do business and in good standing in California.
- 10.14 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.

- 10.15 Four-Digit Date Compliance.** If this Agreement includes the purchase of systems, software, or instrumentation with imbedded chips, this section is applicable. Contractor represents and warrants that it will provide only Four-Digit Date Compliant deliverables and services to the Court. "Four-Digit Date Compliant" deliverables and services can accurately process, calculate, compare, and sequence date data, including date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Agreement and does not limit the generality of warranty obligations set forth elsewhere in this Agreement.
- 10.16 Janitorial Services or Building Maintenance Services.** If this Agreement is for janitorial or building maintenance services, this section is applicable. If this Agreement requires Contractor to perform Services at a new site, Contractor shall retain for sixty (60) days all employees currently employed at that site by any previous contractor that performed the same services at the site. Contractor shall provide upon request information sufficient to identify employees providing janitorial or building maintenance services at each site and to make the necessary notifications required under Labor Code section 1060 et seq.
- 10.17 Small Business Preference Commitment.** 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 within sixty (60) days 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.

## **11. Miscellaneous Provisions**

- 11.1 Independent Contractor.** Contractor is an independent contractor to the Court. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the Court. Contractor has no authority to bind or incur any obligation on behalf of the Court. If any governmental entity concludes that Contractor is not an independent contractor, the Court may terminate this Agreement immediately upon Notice.
- 11.2 GAAP Compliance.** Contractor maintains an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles.
- 11.3 Audit.** Contractor must allow the Court or its designees to review and audit Contractor's (and any subcontractors') documents and records relating to this Agreement, and Contractor (and its subcontractors) shall retain such documents and records for a period of four (4) years following final payment under this Agreement. If an audit determines that Contractor (or any subcontractor) is not in compliance with this Agreement, Contractor shall correct errors and deficiencies by the twentieth (20th) day of the month following the review or audit. If an audit determines that Contractor has overcharged the Court five percent (5%) or more during the time period subject to audit, Contractor must reimburse the Court in an amount equal to the cost of such audit. This Agreement is subject to examinations and audit by the State Auditor for a period three (3) years after final payment.
- 11.4 Licenses and Permits.** Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by applicable law for the performance of the Services or the delivery of the Goods. 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.
- 11.5 Confidential Information.** 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 its employees or contractors who need to know that information in order to perform Services hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this section. The provisions of this section shall survive 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 the greater of 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. 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. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations under this section, that any such breach will likely result in irreparable harm, and 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.

- 11.6 Ownership of Deliverables.** Unless otherwise agreed in this Agreement, Contractor hereby assigns to the Court ownership of all Deliverables, any partially-completed Deliverables, and related work product or materials. Contractor agrees not to assert any rights at common law, or in equity, or establish a copyright claim in any of these materials. Contractor shall not publish or reproduce any Deliverable in whole or part, in any manner or form, or authorize others to do so, without the written consent of the Court.
- 11.7 Publicity.** Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the Court.
- 11.8 Choice of Law and Jurisdiction.** California law, without regard to its choice-of-law provisions, governs this Agreement. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. Jurisdiction for any legal action arising from this Agreement shall exclusively reside in state or federal courts located in California, and the parties hereby consent to the jurisdiction of such courts.
- 11.9 Negotiated Agreement.** 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.
- 11.10 Amendment and Waiver.** Except as otherwise specified in this Agreement, no amendment or change to this Agreement will be effective unless expressly agreed in writing by a duly authorized officer of the Court. A waiver of enforcement of any of this Agreement's terms or conditions by the Court is effective only if expressly agreed in writing by a duly authorized officer of the Court. 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.
- 11.11 Force Majeure.** Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by a force majeure. Force majeure, for purposes of this paragraph, is defined as follows: acts of war and acts of god, such as earthquakes, floods, and other natural disasters, such that performance is impossible.
- 11.12 Follow-On Contracting.** No person, firm, or subsidiary who has been awarded a Consulting Services agreement may submit a bid for, nor be awarded an agreement for, the providing of services, procuring goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of this Agreement.
- 11.13 Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.
- 11.14 Headings; Interpretation.** All headings are for reference purposes only and do not affect the interpretation of this Agreement. The word "including" means "including, without limitation." Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.
- 11.15 Time of the Essence.** Time is of the essence in Contractor's performance under this Agreement.
- 11.16 Counterparts.** This Agreement may be executed in counterparts, each of which is considered an original.

**ATTACHMENT 4  
BIDDER'S ACCEPTANCE OF TERMS AND CONDITIONS**

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

1. Bidder accepts Attachment 3: Court Standard Terms and Conditions ("Attachment 3") without exception.

**OR**

2. Bidder proposes exceptions or modifications to Attachment 3. Bidder must also submit (i) a red-lined version of Attachment 3 that clearly tracks proposed modifications, and (ii) a written explanation or rationale for each exception or proposed modification.

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

**ATTACHMENT 5  
DARFUR CONTRACTING ACT CERTIFICATION**

Pursuant to Public Contract Code (PCC) section 10478, if a bidder currently or within the previous three years has had business activities or other operations outside of the United States, it must either (i) certify that it is not a “scrutinized company” as defined in PCC 10476, or (ii) receive written permission from the court to submit a bid.

To submit a bid to the court, the bidder must insert its company name and Federal ID Number below and complete **ONLY ONE** of the following three paragraphs. To complete paragraph 1 or 2, simply check the corresponding box. To complete paragraph 3, check the corresponding box **and** complete the certification for paragraph 3.

<i>Company Name (Printed)</i>	<i>Federal ID Number</i>
<i>Printed Name and Title of Person Checking Box (for paragraph 1 or 2 below)</i>	

1. We do not currently have, and we have not had within the previous three years, business activities or other operations outside of the United States.

**OR**

2. We are a “scrutinized company” as defined in PCC 10476, but we have received written permission from the court to submit a bid pursuant to PCC 10477(b). *A copy of the written permission from the court is included with our bid.*

**OR**

3. We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we **certify below** that we are not a “scrutinized company” as defined in PCC 10476.

**CERTIFICATION FOR PARAGRAPH 3:**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the bidder to the clause in paragraph 3. 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>

**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

<b>1 Instructions</b>	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.
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**SECTIONS 2 THRU 5 TO BE COMPLETED BY VENDOR**

<b>2 Legal Name</b>	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

<b>3 Payee Entity Type  Complete One Box Only</b>	<b>ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)</b> _ _ - _ _ _ _ _ <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		
	<b>ENTER SOCIAL SECURITY NUMBER (SSN)</b> _ _ - _ _ - _ _ <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>		

<b>4 Resident Status</b> <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
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<b>5 Certification NOTE See instructions on page 2  Vendor Contact Information and signature</b>	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.  <b>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.</b>		
	VENDOR REPRESENTATIVE'S NAME (Type or Print)	TITLE	E-MAIL
	AUTHORIZED VENDOR SIGNATURE	DATE	TELEPHONE

**SECTION 6 TO BE COMPLETED BY COURT**

<b>6 Vendor Category</b>	<b>Please choose from the JCC Vendor category below to help us expedite payment</b> <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

<b>FOR JCC USE ONLY</b> (Form updated 2/8/2018)	
Assigned Vendor Number	Assigned By:

**Requirement to Complete Payee Data Record**

*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.*

**SECTIONS 2 THRU 5 TO BE FILLED OUT BY VENDOR**

<b>2</b>	<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>
<b>3</b>	<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>
<b>4</b>	<p><b>Are you a California resident or non-resident?</b></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: <a href="mailto:wscs.gen@ftb.ca.gov">wscs.gen@ftb.ca.gov</a>          For hearing impaired with TDD, call: 1-800-822-6268 Website: <a href="http://www.ftb.ca.gov">www.ftb.ca.gov</a></p>
<b>5</b>	<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 <a href="http://www.irs.gov/businesses/international/index.html">http://www.irs.gov/businesses/international/index.html</a> for additional information.</p>

**SECTION 6 TO BE FILLED OUT BY COURT**

<b>6</b>	<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. <b>Not including court contact information may delay processing the request.</b></p>
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**Privacy Statement:** Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.

It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes non-compliance penalties of up to \$20,000.

You have the right to access records containing your personal information, such as your SSN. To exercise the right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact that business.