

RFP Title: **Digital Imaging, Data Entry, and Data processing Services**  
RFP Number: **RFP SC 3220.2019.1**

# REQUEST FOR PROPOSALS

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***SUPERIOR COURT OF CALIFORNIA, COUNTY OF  
ALAMEDA***

**REGARDING:**

**Digital Imaging, Data Entry, and Data Processing  
Services**

**RFP SC 3220.2019.1**

**PROPOSALS DUE:**

**MAY 24, 2019 NO LATER THAN 3:00 P.M. PACIFIC TIME**

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## **1.0 BACKGROUND INFORMATION**

- 1.1 The Superior Court of California, County of Alameda, hereinafter “Court”, is seeking qualified vendors with expertise in digital imaging, data entry, and data processing for Court documents (Traffic Citations), including courier transfer to and from the Court.
- 1.2 The initial contract will be for one (1) year period, starting July 1, 2019, and will be renewable at the option of the Court for up to four (4) additional one (1) year periods. Any contract awarded as a result of this Request for Proposal may be awarded whole, or in part, at the determination of the Court. The Court reserves the right to award multiple contractors with the intent to best meet the Court’s business needs.
- 1.3 No price increases will be permitted during the first year of any Agreement resulting from this bid. Any decreases in pricing will be automatically extended to the Court. Request for price increases must be submitted in writing to the Court’s Project Manager and Procurement Unit at least (30) days prior to any increase agreement. The request must include proof of the cost increases and the net dollar amount of profit will remain firm during the Agreement period. Adjustments increasing contractor’s profit will not be allowed.
- 1.4 In Fiscal Year 2017-2018, the Court had approximately 154,703 documents scanned and 147,811 traffic citations that needed to be entered for an expenditure of approximately \$206,575.44.

## **2.0 DESCRIPTION OF SERVICES AND DELIVERABLES**

- 2.1 The Court seeks the services of a person or entity with expertise in digital imaging, data entry, and data processing services for Court documents (Traffic Citations), including courier transfer of the source documents to and from the Court.
  - a. Contractor will provide pick-up and drop-off services for documents at specified Court locations within Alameda County.
  - b. Use a blind dual key data entry from image process to ensure a high rate of accuracy of the keystrokes entered. The images and metadata resulting from this process will be available to the Court, for use in their document management system by placing them on a secure FTP server in TIFF format.
  - c. The data resulting from the data entry process shall be delivered per the Court’s specification for import into the Court’s Case Management System. The Court will also provide data format specifications for delivery of SML data. Contractor shall complete development of the software required to meet these specifications within their operation.

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- d. Contractor shall successfully test the delivery of image and data files with the Court prior to the delivery of production data to that Court. A detailed process flow for the paper and data transfer process between the Court and Contractor shall be developed and accepted by the Court prior to the delivery of the production data.
- e. All data prepared, written, created, or developed pursuant to the specifications of the Court shall become the property of the Court and the Contractor has no interest in or claim to any of the documents. Further, the Court owns all title, right, and interest in all documents transferred to the Contractor and all data prepared, written, created, or developed pursuant to the specifications in this contract including the right to reproduce or distribute said material.
- f. The Court will periodically provide Contractor revised 'control tables' containing information on valid charge codes, officer badge numbers, etc. These control tables are incorporated into the internal software developed by Contractor for data entry and verification. The Contractor shall load revised control table data into their internal software within 48 hours of receipt.
- g. All citations are returned to the Court at the end of the month.
- h. Citations with fingerprints are returned to the Court no more than 48 hours following processing by the Contractor.
- i. Turnaround time from Contractor pick up at the Court until availability of the data and image on the Contractor FTP site shall be no more than 48 hours.
- j. Contractor's services under this Agreement will be considered complete when the services are rendered and final deliverable submitted and accepted by the Court.
- k. Contractor will provide a monthly log that includes all pertinent information/detail of the daily charges, citation numbers, defendant names, etc.
- l. Contractor agrees that any services provided under the terms of this Agreement shall not be performed outside of the United States.

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### **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.

<b>EVENT</b>	<b>DATE</b>
RFP issued	April 26, 2019
Deadline for questions	May 10, 2019 by 5:00 PM (PST)
Questions and answers posted	May 17, 2019
Latest date and time proposal may be submitted	May 24, 2019 by 3:00 PM (PST)
Evaluation of proposals ( <i>estimate only</i> )	May 28–31, 2019
Anticipated interview dates ( <i>estimate only</i> )	June 3–7, 2019
Notice of Intent to Award ( <i>estimate only</i> )	June 12, 2019
Negotiations and execution of contract ( <i>estimate only</i> )	June 17–26, 2019
Contract start date ( <i>estimate only</i> )	July 1, 2019
Contract end date ( <i>estimate only</i> )	Initial Term: June 30, 2020  First Option Term: June 30, 2021  Second Option Term: June 30, 2022  Third Option Term: June 30, 2023  Final Option Term: June 30, 2024

#### 4.0 RFP ATTACHMENTS

The following attachments are included as part of this RFP:

ATTACHMENT	DESCRIPTION
<b>Attachment 1:</b> Administrative Rules Governing RFPs (IT Services)	These rules govern this solicitation.
<b>Attachment 2:</b> Court Standard Terms and Conditions	If selected, the person or entity submitting a proposal (the “Prospective Bidder”) must sign a Court Standard Form Agreement containing these terms and conditions (the “Terms and Conditions”).
<b>Attachment 3:</b> Prospective Bidder’s Acceptance of Terms and Conditions	On this form, the Prospective Bidder must indicate acceptance of the Terms and Conditions or identify exceptions to the Terms and Conditions.
<b>Attachment 4:</b> General Certifications Form	The Prospective Bidder must complete the General Certifications Form and submit the completed form with its proposal.
<b>Attachment 5:</b> Small Business Declaration Form	Separate attachment found on the website where the RFP is posted. The Prospective Bidder must complete this form only if it wishes to claim small business preference associated with this solicitation.
<b>Attachment 6:</b> Payee Data Record Form	Separate attachment found on the website where the RFP is posted. This form contains information the Court requires in order to process payments and must be submitted with the proposal
<b>Attachment 7:</b> Bidder Declaration	Separate attachment found on the website where the RFP is posted. Form for Prospective Bidder claiming DVBE incentive.
<b>Attachment 8:</b> DVBE Declaration	Separate attachment found on the website where the RFP is posted. Form for Prospective Bidder claiming DVBE Declaration.
<b>Attachment 9:</b> Unruh and FEHA Certification	Separate attachment found on the website where the RFP is posted. The Prospective Bidder must complete the Unruh Civil Rights Act and California Fair Employment and Housing Act Certification only if bid is \$100,000 or more.
<b>Attachment 10:</b> Darfur Contracting Act Certification	Separate attachment found on the website where the RFP is posted. The Prospective Bidder must complete the Darfur Contracting Act Certification and submit the completed certification with its proposal.

<b>ATTACHMENT</b>	<b>DESCRIPTION</b>
<b>Attachment 11:</b> Questions and Answer Submission Form	Separate attachment found on the website where the RFP is posted. Form must be submitted when Prospective Bidder has a question regarding the RFP. Answers will be posted onto the Court’s website.
<b>Attachment 12:</b> Reference List	Separate attachment found on the website where the RFP is posted. Prospective Bidder’s list of references.
<b>Attachment 13:</b> Pricing Schedule	Separate attachment found on the website where the RFP is posted. Prospective Bidder must submit pricing schedule, using this sheet that reflects the estimated cost for the scope of work to be performed.
<b>Attachment 14:</b> RFP Checklist	Separate attachment found on the website where the RFP is posted. Prospective Bidder’s checklist detailing required/optional documents for RFP.

## **5.0 PAYMENT INFORMATION**

- 5.1 An invoice for the Court shall be generated at the beginning of each month for services performed during the previous month. Contractor shall submit one original invoice for payment for services rendered under this Agreement for approval by the Court. Preference will be given to vendors able to send their invoice electronically via email to the Court.
- 5.2 Court will not pay or reimburse the vendor, or their employees, for travel, or any other related expenses that are required as part of the Scope of Work.
- 5.3 Any requests made outside of the Contract Scope of Work will be considered a separate purchase order outside of the Contract purchase order and will be processed on a separate purchase order.
- 5.4 Vendor must provide written notice to Court of the specific excess charge and obtain Court’s consent prior to performing any additional service that would incur an excess charge.
- 5.5 Each monthly billing statement should contain the latest contact phone number to correct or update billing information
- 5.6 Payment terms will be specified in the Contract document that will be executed as a result of an award made under this RFP, however, Prospective Bidders are hereby advised that the Court payments are made by the State of California, and the State does not make any advance payment for services. Payment will be made based upon

completion of tasks as provided for in the Agreement between the Court and the selected Service Provider.

## **6.0 SUBMISSIONS OF PROPOSALS**

- 6.1 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.
- 6.2 The Prospective Bidder must submit its proposal in two parts, the technical proposal and the cost proposal.
- a. The Prospective Bidder must submit **one (1) original** technical proposal. The original must be signed by an authorized representative of the Prospective Bidder. The original technical proposal must be submitted to the Court in a single sealed envelope, separate from the cost proposal. The Prospective Bidder must write the RFP title and number on the outside of the sealed envelope.
  - b. The Prospective Bidder must submit **one (1) original** of the cost proposal. The original must be signed by an authorized representative of the Prospective Bidder. The original cost proposal must be submitted to the Court in a single sealed envelope, separate from the technical proposal. The Prospective Bidder must write the RFP title and number on the outside of the sealed envelope.
  - c. The Prospective Bidder must submit an **electronic version** of the **entire** proposal on USB memory stick/flash drive. The files must be in PDF, Word, or Excel formats. Please use the following naming convention for electronic files:

**Name of Company RFP SC 3220.2019.1**

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

Superior Court of California, County of Alameda  
Attention: Procurement, RFP SC 3220.2019.1  
1225 Fallon Street, Room 210  
Oakland, CA 94612

- 6.4 Late proposals will not be accepted. Any submittals received after the deadline will be rejected without review.



- 6.5 Incomplete submittals may be rejected without review.
- 6.6 Only written proposals will be accepted. Proposals must be sent by registered or certified mail, courier service (e.g. FedEx), or delivered by hand. Proposals may not be transmitted by fax or email.
- 6.7 Questions. Interested parties may submit a request for clarifications, modifications, or questions to the Court using the Question and Answer Submission Form, provided in **Attachment 11**. Requests shall be submitted via email to [bidquestions@alameda.courts.ca.gov](mailto:bidquestions@alameda.courts.ca.gov) no later than the date specified in the RFP timeline. Please indicate the RFP number and title in the subject line of the email. Contact with the Court shall be made only through the email address.
- 6.8 A vendor'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. In the event that the vendor with the highest scored Proposal refuses to execute a final contract for a Project within sixty (60) days of award, the Court reserves the right to award that Project to the vendor with the next highest scored proposal and execute a final contract with the vendor with the next highest scored proposal for the Project.
- 6.9 Telephone calls will not be accepted.

## **7.0 PROPOSAL CONTENTS**

- 7.1 **Technical Proposal.** The following information must be included in the technical proposal. A proposal lacking any of the following information may be deemed non-responsive.
  - a. **Cover letter:** That must be signed by an authorized representative of the Prospective Bidder which should be no more than one (1) page, including the following information:
    - i. The Prospective Bidder's name, address, telephone, email and fax numbers, and federal tax identification number.
    - ii. Note that if the Prospective Bidder is a sole proprietor using his or her social security number, the social security number will be required before finalizing a contract.
  - b. **Resume:** Describing the individual's background and experience, as well as the individual's ability and experience in conducting the proposed activities or similar assignments.

- c. **Reference:** Names, addresses, and telephone numbers of a minimum of (3) three clients for whom the Prospective Bidder has conducted similar services. The Court may check references listed by the Prospective Bidder.
- d. **Proposed Work Plan:** Explain your method on completing the task.
  - i. The evaluation team will be evaluating all proposals submitted based on their ability to provide all the products and services requested by the Court in this RFP. The vendor's ability to meet the requirements provided in **Section 2.0** Description of Services and Deliverables.
- e. Acceptance of the Terms and Conditions.
  - i. On **Attachment 3**, the Prospective Bidder must check the appropriate box and sign the form. If the Prospective Bidder marks the second box, it must provide the required additional materials. An "exception" includes any addition, deletion, or other modification.
  - ii. If exceptions are identified, the Prospective Bidder 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.
- f. Certifications, Attachments, and other requirements.
  - i. The Prospective Bidder must complete the General Certifications Form (**Attachment 4**) and submit the completed form with its proposal
  - ii. The Prospective Bidder must complete the Darfur Contracting Act Certification (**Attachment 10**) and submit the completed certification with its proposal.
  - iii. 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.
  - iv. The Prospective Bidder must complete the Payee Data Record Form (**Attachment 6**) and the DVBE Declaration Form (Attachment 7) and

submit the completed forms with its proposal, if the contractor is claiming DVBE incentive.

- v. Proof of financial solvency or stability (e.g., balance sheets and income statements).
- vi. The Prospective Bidder must complete the Unruh Civil Rights Act and California Fair Employment and Housing Act Certification (**Attachment 9**) and submit the completed certification with its bid.

7.2 **Cost Proposal.** The following information must be included in the cost proposal.

- a. A detailed line item budget showing total cost of proposed services.
- b. A full explanation of all budget line items in a narrative entitled “Budget Justification.”

**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.

## **8.0 OFFER PERIOD**

A Prospective Bidder'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.

## **9.0 EVALUATION OF PROPOSALS**

At the time proposals are opened, each proposal will be checked for the presence or absence of the required proposal contents.

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.alameda.courts.ca.gov/Pages.aspx/Contract-Opportunities>

<b>CRITERION</b>	<b>MAXIMUM NUMBER OF POINTS</b>
Quality of work plan submitted	30
Experience on similar assignments	20
Cost	30
Acceptance of the Terms and Conditions	10
Ability to meet timing requirements to complete the project	10

9.1 Criterion Details

- a. Quality of work plan submitted: **Section 2.0, 7.1, 7.2, 7.3, 7.4, and 7.5.**
- b. Experience on similar assignments: **Section 7.3**
- c. Cost: **Section 7.8**
- d. Acceptance of Terms and Conditions: **Section 7.6**
- e. Ability to meet timing requirements to complete the project: **Section 2.0 (a), (f), (g), (h), (i).**

**10.0 INTERVIEWS**

The Court may conduct interviews with Prospective Bidders to clarify aspects set forth in their proposals or to assist in finalizing the ranking of top-ranked proposals. 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 Prospective Bidders for any costs incurred in traveling to or from the interview location. The Court will notify eligible Prospective Bidders regarding interview arrangements.

**11.0 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 Prospective Bidder that is not a publicly-traded corporation. All other information in 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 Prospective Bidder 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. Prospective Bidders are accordingly cautioned not to include confidential, proprietary, or privileged information in proposals.

## **12.0 DISABLED VETERAN BUSINESS ENTERPRISE INCENTIVE**

Qualification for the DVBE incentive is not mandatory. Failure to qualify for the DVBE incentive will not render a proposal non-responsive.

Eligibility for and application of the DVBE incentive is governed by the Court’s DVBE Rules and Procedures. Prospective Bidder will receive a DVBE incentive if, in the Court’s sole determination, Prospective Bidder has met all applicable requirements. If Prospective Bidder receives the DVBE incentive, a number of points will be added to the score assigned to Prospective Bidder’s proposal. The number of points that will be added is specified in **Section 9.0** above.

A DVBE incentive of 3% is open to all DVBE (Disabled Veteran Business Enterprise) vendors participating in this solicitation. Vendor’s applicable for the DVBE incentive, must complete **Attachment 7** (Bidder’s Declaration form) and **Attachment 8** (DVBE Declaration). Please submit the form along with the RFP for review.

## **13.0 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 Prospective Bidder will receive a small business preference if, in the Court’s sole determination, the Prospective Bidder has met all applicable requirements. If the Prospective Bidder 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 Prospective Bidder 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 Prospective Bidder wishes to seek the small business preference, the Prospective Bidder must complete and submit with its proposal the Small Business Declaration (**Attachment 5**). The Prospective Bidder 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 Prospective Bidder 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 Prospective Bidder not receiving the small business preference.

If the Prospective Bidder receives the small business preference, (i) the Prospective Bidder 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 MISREPRESENTATION IN CONNECTION WITH THE SMALL BUSINESS PREFERENCE IS UNLAWFUL AND IS PUNISHABLE BY CIVIL PENALTIES. SEE GOVERNMENT CODE SECTION 14842.5.**

#### **14.0 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](http://www.courts.ca.gov/documents/jbcl-manual.pdf)). Failure of a Prospective 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 the proposal due date at 3:00pm. Protests must be sent to:

Laura Stine  
Superior Court of California, County of Alameda  
1225 Fallon Street, Room 210  
Oakland, CA 94612

The deadline to submit an Award Protest is five (5) business days after the Court posts the intent to award. Protests should be sent to:

Laura Stine  
Superior Court of California, County of Alameda  
1225 Fallon Street, Room 210  
Oakland, CA 94612

**ATTACHMENT 1**  
**ADMINISTRATIVE RULES GOVERNING RFPs**  
**(IT GOODS AND SERVICES)**

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

Except as specifically addressed elsewhere in the RFP, Propospective Bidders must send any communications regarding the RFP to [bidquestions@alameda.courts.ca.gov](mailto:bidquestions@alameda.courts.ca.gov) (the “Solicitations Mailbox”). Prospective Bidders must include the RFP Number in subject line of any communication.

**2. QUESTIONS REGARDING THE RFP**

Prospective Bidders 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. Prospective Bidders are accordingly cautioned not to include any proprietary or confidential information in questions. If the Prospective Bidder is requesting a change, the request must set forth the recommended change and the Prospective 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 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 Prospective Bidder discovers any ambiguity, conflict, discrepancy, omission, or error in the RFP, the Prospective Bidder 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 Prospective Bidder fails to notify the Court of an error in the RFP known to the Prospective Bidder, or an error that reasonably should have been known to the Prospective Bidder, before the proposal due date and time listed in the timeline of the RFP, the Prospective Bidder shall propose at its own risk. Furthermore, if the Prospective Bidder is awarded the agreement, the Prospective Bidder 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 Prospective Bidder's responsibility to inform itself of any addendum.
- B. If any Prospective Bidder determines that an addendum unnecessarily restricts its ability to propose, the Prospective Bidder shall immediately notify the Court via email to the Solicitations Mailbox no later than one day following issuance of the addendum.
- C. Addenda to the RFP will be posted  
<http://www.alameda.courts.ca.gov/Pages.aspx/Contract-Opportunities>

#### **5. WITHDRAWAL AND RESUBMISSION/MODIFICATION OF PROPOSALS**

A Prospective Bidder 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 Prospective Bidder. The Prospective Bidder 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. If these corrections result in significant changes in the amount of money to be paid to the Prospective Bidder (if selected for the award of the agreement), the Prospective Bidder will be informed of the errors and how they were corrected, and 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 Prospective Bidder 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 Prospective 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 Prospective Bidder.

- 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. Prospective Bidders 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 Prospective Bidder's proposal.

## **8. EVALUATION PROCESS**

- A. The Court will follow the following process in evaluating proposals.
  - 1. The Court will first open the non-cost portion of each proposal received by the appropriate deadline to confirm that it meets the format requirements specified in the RFP.
  - 2. The Court will complete its evaluation of the non-cost portions of all such proposals using the methods specified in the RFP.
  - 3. The Court will publish the results of the completed non-cost evaluation at the following location:  
<http://www.alameda.courts.ca.gov/Pages.aspx/Contract-Opportunities>. Because the small business preference and DVBE incentive cannot be properly applied until both the non-cost and cost portions of the proposals have been scored, these factors will be excluded when publishing the results of the completed non-cost evaluation.
  - 4. The Court will publicly open the cost portion of the proposals as specified in the RFP. The Court will not, however, open the cost portion of any proposal determined to have a material deviation in the non-cost portion.
  - 5. The Court will evaluate the cost portion of the proposals opened in item A.4 above. All figures entered on the cost portion must be clearly legible.
- 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 Prospective Bidder's representative to answer questions with regard to the Prospective Bidder's proposal. Failure of a Prospective Bidder to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.
- E. The Court's Small Business Preference Procedures for the Procurement of Information Technology Goods and Services ("Small Business Procedures")

address the resolution of certain ties involving the small business preference. In the event of a tie not addressed in the Small Business Procedures, 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 Prospective Bidders, 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 Prospective Bidder 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 Prospective 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 agreement between the Court and the selected Prospective Bidder.
- C. Upon a Prospective Bidder's timely request, the Court may consider a Prospective Bidder's "best financing alternative" (including lease or purchase alternatives). If the RFP is posted more than 30 days before the proposal due date and time listed in the timeline of the RFP, the Prospective Bidder's request must be received by the Court at least 30 days before the proposal due date and time. If the solicitation is posted less than 30 days before the proposal due date and time, the Prospective Bidder's request must be received by the Court by the day that is halfway between the posting date and the proposal due date. The Court may determine that a specific financing alternative should not be considered.

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

- A. Award of contract, if made, will be in accordance with the RFP to a responsible Prospective Bidder 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 Prospective Bidder 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 Prospective Bidder may delay execution of a contract.

- D. Upon award of the agreement, the agreement shall be signed by the Prospective 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 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 Prospective Bidder'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 Prospective Bidder refuses or fails to execute the agreement, the Court may award the agreement to the next qualified Prospective 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 Court Executive Officer.

## **14. ANTI-TRUST CLAIMS**

- A. In submitting a proposal to the Court, the Prospective Bidder offers and agrees that if the proposal is accepted, the Prospective 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 Prospective Bidder 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 Prospective 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 Prospective 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 Prospective Bidder, the Court shall, within one year from such demand, reassign the cause of action assigned under this section if the Prospective Bidder has been or may have been injured by the

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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 Prospective Bidders should be directed to Court Executive Officer

**16. FEASIBILITY STUDIES AND ACQUISITION RECOMMENDATIONS**

Proposals in response to procurements for assistance in the preparation of feasibility studies or the development of recommendations for the acquisition of IT goods and services must disclose any financial interests (e.g., service contracts, original equipment manufacturer (OEM) agreements, remarketing agreements) that may foreseeably allow the Prospective Bidder to benefit materially from the Court's adoption of a course of action recommended in the feasibility study or of the acquisition recommendations.

## **ATTACHMENT 2**

### **General Terms and Conditions**

#### **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:
  - A. *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.

- B. *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.
  - C. *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.
  - D. *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.
  - E. *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 \$500,000.
- 3.2 **Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.
- 3.3 **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.
- 3.4 **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.
- 3.5 **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.

- 3.6 Certificates of Insurance.** Before Contractor begins performing Services, 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 thirty (30) days' prior written notice to the Court.
- 3.7 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.
- 3.8 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.
- 3.9 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.
- 3.10 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 the following address and recipient:

<b>If to Contractor:</b>	<b>If to the Court:</b>
<u>[name, title, address]</u>	<u>[name, title, address]</u>
<u>With a copy to:</u>	<u>With a copy to:</u>

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, and Gender 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, PCC 10295.3 which places limitations on contracts with contractors who discriminate in the provision of benefits regarding marital or domestic partner status.

**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 3**  
**PROSPECTIVE BIDDER'S ACCEPTANCE OF TERMS AND CONDITIONS**

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

1. Prospective Bidder accepts Attachment 2: Court Standard Terms and Conditions ("Attachment 2") without exception.

***OR***

2. Prospective Bidder proposes exceptions or changes to Attachment 2. Prospective Bidder 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 ( <i>Authorized Signature</i> ) 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING

**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 Prospective Bidder that does not indicate acceptance of these clauses.

**Conflict of Interest.** Prospective Bidder 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.** Prospective Bidder certifies that neither Prospective Bidder nor any of Prospective Bidder's intended subcontractors is 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.** Prospective Bidder 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.** Prospective Bidder certifies that either (i) it is not a scrutinized company as defined in PCC 10490(b), or (ii) the goods or services the Prospective Bidder would provide to the Court are not related to products or services that are the reason the Prospective 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.")

- Check box to indicate acceptance of the clauses above.

RFP Title: **Digital Imaging, Data Entry, and Data processing Services**

RFP Number: **RFP SC 3220.2019.1**

BY ( <i>Authorized Signature</i> ) 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING