



Superior Court of California
 County of Santa Barbara
 1100 Anacapa Street, 2nd Fl
 Santa Barbara, CA 93101



REQUEST FOR PROPOSALS (RFP) NO. 2010-01

RFP NO: 2010-01

Date Issued: 02/09/10

From:

To: (Bidder to Complete)

Superior Court of California, County of Santa Barbara
 1100 Anacapa Street, 2nd Floor
 Santa Barbara, CA 93101

Bidder: _____

Address: _____

Submittal Contact: Ammon M. Hoenigman

Contact: _____

Submittal Phone: 805-882-4674

Phone: _____ Fax: _____

Email: sbsolicitation@sbcourts.org

E-mail: _____

Acceptable Delivery Methods: Mail or Express Delivery: Hand Delivery: Facsimile:

THIS IS NOT AN ORDER

Bid Submittal Deadline: Friday, March 5, 2010, 4:00 p.m. Pacific Standard Time

Description of Requested Service

The Superior Court of California, County of Santa Barbara is requesting proposals from highly qualified vendors to provide a Laserfiche document imaging solution . The products and services provided shall be in accordance with the General Terms and Conditions and Statement of Work set forth herein. Court intends to make an award to one bidder.

Evaluation Criteria – Bids will be evaluated to determine the bid that offers the best value to Court. Although some factors are weighted more than others, all are considered necessary, and a bid must be technically acceptable in each area to be eligible for award. With regards to cost, Court reserves the right, in its sole discretion, to reject any bid whose price is outside of the competitive range. **The evaluation will be based upon the following criteria, listed in no particular order:**

- **Cost/Pricing Factors**
- **Technical Approach and Implementation Plan**
- **Timeliness of Delivery**
- **Customer Service (Level of Service and Methodology)**
- **Experience and Past Performance**
- **References**

Bid Valid Through: _____

Federal Tax ID: _____

Bidder Signature: _____ Date: _____

Printed Name: _____ Title: _____

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BID INSTRUCTIONS

1. PROCUREMENT SCHEDULE

Court has developed the following list of key events from RFP issuance through notice of contract award. All deadlines are subject to change at Court's discretion.

No.	Key Events	Key Dates and Times
1	Issue RFP (Request for Proposal)	Tuesday February 9, 2010
2	Deadline for Vendor Requests for Questions, Clarifications or Modifications	Monday February 22, 2010
3	Addendum for Answers, Clarifications, or Modifications	Friday February 26 by 5:00 p.m. Pacific Standard Time
4	Proposal Due Date	Friday March 5, 2010 No Later than 4:00 p.m. Pacific Standard Time
5	Negotiations (estimate)	Week of March 8, 2010
6	Notice of Intent to Award (estimate)	Week of March 15, 2010
7	Notice of Award (estimate)	Week of March 22, 2010

1.2. Intentionally Left Blank:

2. BID SUBMITTAL REQUIREMENTS AND RESERVATION OF RIGHTS

Bidders must submit three copies and 1 original of the following documents in the **exact** following order to the Submittal Contact **via U.S. mail or express delivery with a receipt requested** to the address indicated on page 1 of this RFP so that the Submittal Contact **receives** the bid no later than the bid submittal deadline (**fax or email submittals will not be accepted**):

2.1. Required Proposal Forms

- Page One of this RFP
- Vendor Acceptance Form (Attachment A- submit with proposal)
- Proposal (including Pricing Sheet(s) – Section A), sealed in a separate envelope
- Section B – Representations and Certifications and Vendor Certification Forms

2.2. Pricing Proposal

2.2.1 Government Rates

It is expected that all Vendors responding to this solicitation will offer (at a minimum) the Vendor's government or comparable favorable rates.

2.2.2 Pricing and Price Adjustments

The Vendor must submit pricing as required by Section A Pricing Sheet. Pricing shall include all anticipated charges, including but not limited to, freight and delivery, cost of materials and products, overhead, profits, other costs or expenses incidental to the Vendor's performance and opportunities for price reductions during the term of any resulting agreement.

The Vendor shall propose a standard discount for items that Vendor is able to provide under the terms of any Agreement that results from this RFP. The Court is exempt from federal excise taxes and no payment will be made for any taxes levied on Vendor's or any subcontractor's employees' wages. The Court will pay for any

applicable State of California or local sales or use taxes on the products provided or the services rendered. Taxes shall be included as a separate line item on a Vendor's invoice.

The prices proposed in Vendor's response will be valid for a minimum of 6 months after any resulting agreement is signed. Vendor's cost proposal must describe how future price increases (if applicable) will be minimized and capped and how both increases and decreases will be passed on to the court if the agreement is renewed after the initial term. The Vendor must explain the proposed process to implement price changes.

2.3 Executive Summary

The Vendor must provide an Executive Summary of its proposal. The Executive Summary should be a "high-level", general overview of how the vendor proposes to accomplish the requirements of this RFP. The Executive Summary should demonstrate the Vendors' understanding of the requirements and a description of how you propose to meet the requirements of the Statement of Work, Section C. Include a timeline in your project plan.

2.4 Company Background Information

The Court requires the Vendor to be a reputable company of strong financial standing and experience in the related industry. The Vendor's proposal must provide the information requested below. If a Vendor is a joint venture, information about the prime Vendor and the subcontractor must be submitted separately. The information to be provided is as follows:

- a. Complete name and address.
- b. Federal tax identification number.
- c. If incorporated, name the state in which incorporated.
- d. A short narrative description of Vendor's organization, including organization charts and indication of company officer where applicable.
- e. Principal type of business.
- f. Total number of years in business.
- g. Number of years providing products and services similar in size and scope to those requested in the RFP.
- h. An audited profit and loss statement and balance sheet for Vendor's last 3 fiscal years. If a company is privately owned, this information will be kept confidential by the Court. These financial statements must be contained in a separate volume.
- i. Significant transactional events in the past 5 years, such as: bankruptcies, mergers, acquisitions, initial public offerings (IPO's).
- j. Annual contract value of Vendor's 3 largest contracts for similar products and services in the past 3 years.
- k. Percent of turnover of key service staff for each of the last 3 years in Vendor's organization that will be responsible for providing products and services described in this RFP (e.g., Account Manager, Customer Service personnel, etc.).
- l. If subcontractors are proposed for this RFP, describe Vendor's contract management process for subcontractors included in Vendor's proposal and provide copies of signed formal agreements (e.g., teaming agreements or any other legally binding document), if any exist, between Vendor and each proposed subcontractor.

2.4.1 Subcontractors

If subcontractors are proposed for this RFP, provide the following information for each subcontractor.

- a. Subcontractor name and address.
- b. Federal identification and/or social security number.
- c. If incorporated, name the state in which incorporated.
- d. A short narrative of the subcontractor's organization, including organization charts and indication of company officers where applicable.
- e. Principle type of business.
- f. Total number of years in business.
- g. Number of years providing services similar in size and scope to those requested in this RFP.

- h. An audited profit and loss statement and balance sheet for the subcontractor's last 3 fiscal years. If a company is privately owned, this information will be kept confidential by the Court. These financial statements must be contained in a separate volume.
- i. Significant transactional events in the past 5 years such as: bankruptcies, mergers, acquisitions, initial public offerings (IPO's).
- j. Percent of turnover of key service staff for each of the last 3 years in the subcontractor's organization that will be responsible for providing services described in this RFP (e.g., Account Manager, Customer Service personnel, etc.).

2.5 Company Profile and California Locations

The Vendor shall provide a short description of its company. In addition, Vendor shall list all of its California locations and shall include a statement as to whether it can provide products and services in the County of Santa Barbara.

2.6 Prior Experience and References

The Court requires the Vendor and its subcontractors to have prior experience in all aspects of the products and services described in this RFP for customers similar to or with relevance in the size, complexity and scope of this RFP.

Vendor Shall:

- Describe Vendor's experience as it pertains to providing products and services similar in size, complexity and scope to those required under this RFP and in the manner required pursuant to this RFP.
- Provide the names, addresses, and telephone numbers for a minimum of 5 customers for whom Vendor has provided similar products and services within the last 18 months.
- Include a brief description of the scope of products and services provided to the customer and the duration of the contract.

The Court may contact some or all of the references provided in order to determine Vendor's performance record. The Court reserves the right to contact references other than those provided in the proposal and to use the information gained from them in the evaluation process.

- If Vendor intends to subcontract, describe Vendor's experience with each of the proposed subcontractors. For each proposed subcontractor provide names, addresses, and telephone numbers for a minimum of 3 customer references, for products and services similar to those described in this RFP. Vendor shall include a brief description of the scope of products and services provided to the customer and the duration of the contract.

2.7 Technical Approach and Methodology

2.7.1 Work Plan and Methodology

The Vendor shall provide a project plan that describes how the Vendor intends to implement the program. Specifically, Vendor shall provide the information regarding methodologies and organization, such as how the program will be implemented. The description shall include, but is not limited to, the following:

- Account Team structure and role (including description of sales contact process, Account Team support, and periodic account review process)
- Communication process with the Court
- Time schedule
- Program evaluation

2.7.2 Customer Service

Describe the level of customer service that will be provided, including procedures that will ensure consistency and problem escalation and resolution. The description should include, but is not limited to:

- Customer service organizational structure
- Contact procedure (phone, email, fax, etc.)
- Follow up process
- Process to handle back ordered or out-of-stock products
- Internal procedures to track customer service contact resolution
- Escalation process

2.8 Intentionally Left Blank

2.9 RECEIPT OF PROPOSAL

Proposals must be submitted and received no later than 4:00 p.m., Pacific Time, Friday, March 5, 2010, in order to be considered. Late proposals will be returned unopened. Each offeror shall submit an original and three (3) copies. Proposals are to be submitted, in writing, to:

Superior Court of California, County of Santa Barbara
Procurement Specialist, Fiscal Services
1100 Anacapa Street, 2ND Floor
Santa Barbara, CA 93101
RFP NO. 2010-01

A complete proposal consists of the return of this request signed by an authorized official, attachments, certifications and enclosures herein, properly and legibly executed, and responses to the informational, technical and cost sections of this Request for Proposal.

3. RFP ADDENDA

Court may modify this RFP prior to submittal deadline by providing notice to interested bidders by posting an Addendum to the original bid and/or via email. If any potential bidders determine that an addendum unnecessarily restricts its ability to bid, it must notify Court no later than three (3) business days following the date the addendum was provided. **Pricing shall reflect all addenda issued by Court. Failure to do so will permit Court to interpret the bid to include all addenda issued in any resulting Agreement.**

4. REQUEST FOR CLARIFICATIONS OR MODIFICATIONS

Bidders interested in responding to this solicitation must submit ALL questions on procedural matters related to the RFP or requests for clarification or modification of this RFP via email (including this RFP number) to sbsolicitation@sbcourts.org by the date and time indicated in the Key Events table in this RFP. 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 will not be answered. Without disclosing the source of the questions or request, a copy of all submitted questions and the Court's respective responses will be posted on the Court's website at www.sbcourts.org.

Any explanation desired by a Contractor regarding the meaning or interpretation of the solicitation must be requested in writing with sufficient time allowed for the reply to reach Contractors before the submission of their proposals. Oral explanations or instructions will not be binding upon the Court. Any information provided to any prospective Contractor concerning the solicitation will be furnished to all prospective Contractors in an amendment to this RFP.

5. AMBIGUITY, DISCREPANCIES, OMISSIONS

If a bidder submitting a bid discovers any ambiguity, conflict, discrepancy, omission or other error in this RFP, the bidder shall immediately provide notice of the problem and request that the RFP be clarified or modified. Notice shall be submitted via email to sbsolicitation@sbcourts.org.

If prior to the bid submittal deadline a bidder submitting a bid knows of or should have known of an error in the RFP but fails to provide notice of error, the bidder shall submit a bid at its own risk, and if the bidder is awarded the purchase, the bidder shall not be entitled to additional compensation or time by reason of the error or its later correction.

6. CONTACT WITH COURT

All questions or comments regarding this RFP must be submitted as described above in Section 4 – Request for Clarifications or Modifications. At no time and under absolutely no circumstance shall bidders contact any other Court personnel or anyone else in the State of California Judicial Branch prior to an award. Unauthorized contact regarding this solicitation with Court personnel or anyone else in the State of California Judicial Branch regarding this project may be cause for rejection of the bidder's response.

7. ACCEPTANCE OF TERMS

The requested services will be provided pursuant to this RFP's General Terms and Conditions. Submittal of a quotation indicates that the bidder accepts these General Terms and Conditions. The Superior Court General Terms and Conditions are contained in Section D. These provisions will, by reference, become a part of any agreement resulting from this solicitation

The Vendor's proposal must include a statement as to whether the vendor accepts the General Conditions/Exceptions/Attachments in this RFP's General Provisions. Vendor will be deemed to have accepted such terms and conditions, except as are expressly called out in the Vendor's proposal. If exceptions are taken, Vendor must submit a "redlined" version of the term or condition showing all modifications proposed by Vendor. The Vendor must provide an explanation as to why the modification is required. The Vendor's willingness to accept the General Provisions with minor clarifications shall be an affirmative factor in the evaluation of the Vendor's proposal.

Although the Court will consider alternate language proposed by a Vendor, the Court will not be bound by contract language received as part of a prospective Vendor's response. If the Vendor requires that the Court be bound by some or all of Vendor's proposed contract language, the proposal may be considered non-responsive and may be rejected.

8. CONFIDENTIAL OR PROPRIETARY INFORMATION

All materials submitted in response to this solicitation will become the property of Court and will be returned only at Court's option and at the expense of the bidder submitting the bid. One copy of the submitted bid will be retained for official files and become a public record. Any material that a bidder considers as confidential but does not meet the disclosure exemption requirements of the California Public Records Act should not be included in the bidder's quotation as it may be made available to the public.

9. ERROR IN SUBMITTED BID

If an error is discovered in bidder's bid, Court may at its sole option retain the bid and allow the bidder to submit certain arithmetic corrections. In determining if a correction will be allowed, Court will consider the conformance of the bid to the format and content required by the solicitation, the significance and magnitude of the correction and any unusual complexity of the format and content required by the solicitation. If prior to an award, a bidder discovers a mistake in their bid that renders the bidder unwilling to perform under any resulting Agreement, the bidder must immediately provide notice via email to sbsolicitation@sbcourts.org. It shall be solely within Court's discretion as to whether withdrawal will be permitted.

10. EVALUATION OF PROPOSALS

The following criteria, listed in no particular order, will be considered in the evaluation of vendor proposals. Each proposal must provide clear and sufficient detail as to enable evaluation based on these factors. Although some factors are weighted more than others, all are considered necessary, and the proposal must be technically acceptable in each area to be eligible for award.

- 10.1. Cost/Pricing Factors**
- 10.2. Technical Approach and Implementation Plan**
- 10.3. Timeliness of Delivery**
- 10.4. Customer Service (Level of Service and Methodology)**
- 10.5. Experience and Past Performance**
- 10.6. References**

Award will be made to the offeror who, in the opinion of the Court, will provide the best service to the Court in the most efficient and effective manner, and who will provide the best rates and terms.

THIS REQUEST FOR PROPOSALS DOES NOT COMMIT THE COURT TO AWARD A CONTRACT, TO DEFRAY COSTS INCURRED IN THE PREPARATION OF ANY RESPONSE TO THE RFP, OR TO PROCURE OR CONTRACT FOR WORK

11. NON-CONFORMING PROPOSALS

Any proposal which does not comply with the requirements of this Request for Proposal (RFP) may be considered non-conforming and ineligible for consideration.

The Court may reject any or all proposals, or where provided for in the RFP, portions of proposals. The Court may reject proposals failing to conform to requirements set forth in the RFP. The Court shall reject the response of any Bidder who received any form of consideration from the Court for the preparation of the RFP, or any portion thereof. The Court shall document the Contract Record regarding any decisions to reject all proposals, indicating why rejection is in the best interest of the Court.

This RFP does not commit the Court to award a contract, to pay any costs incurred in the preparation of a proposal to this request, or to procure or contract for services and supplies. The Court reserves the right to accept or reject any or all proposals if it is in the best interest of the Court to do so. The Court will notify all Bidders, in writing, if the Court rejects all proposals.

12. INTERVIEWS AND NEGOTIATIONS

12.1 Requests for Additional Information

The Court reserves the right to seek clarification or additional information from any Vendor throughout the solicitation process. The Court may require a Vendor's representative to answer questions during the evaluation process with regard to the Vendors' proposal. Failure of a Vendor to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

12.2 Interviews

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

12.3 Negotiations

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

13. AWARD

The Superior Court reserves the right to make an award without negotiations. Therefore, all offerors should submit their best price initially. The Superior Court also reserves the right to award a contract to those offerors determined to be most advantageous and determined to be in the Court's best interest, cost and other factors considered.

The Evaluation Committee will make a final recommendation for award of the contract. Upon award, the successful Vendor(s) will be required to execute an Agreement in accordance with the Statement of Work in Section C, Pricing Sheet in Section A, and the General Terms and Conditions in Section D. The successful Vendor(s) will also be required to provide a Certificate of Insurance in conformance with the requirements set forth in the General Terms and Conditions upon award of contract. The period for execution of the Agreement may be changed by mutual agreement of the parties. Agreements are not effective until signed by both parties.

14. SELECTION FOR AWARD

Firms selected for negotiation shall have demonstrated competence and professional qualifications necessary for the satisfactory performance of the required services.

14.1 Brand Names

Any reference to brand names and/or numbers in the solicitation is intended to be descriptive, but not restrictive, unless otherwise specified. Proposals offering equivalent items meeting the standards of quality specified will be considered, unless otherwise specified, providing the proposal clearly describes the article offered and how it differs from the referenced brand. Unless a Vendor indicates otherwise, it is understood that the Vendor is offering the referenced brand item as specified in the solicitation. The Court reserves the right to determine whether a substitute offer is equivalent to and meets the standards of quality indicated by the brand name references, and the Court may require additional descriptive material and a sample.

14.2 Samples

Samples of goods may be required prior to award to determine the Vendor's responsiveness to the RFP's technical requirements. If requested, such samples must be provided at no cost and delivered to the address specified within the time frame identified in the notification. Failure to submit samples as specified may be grounds for rejection of the Vendor's proposal. Unless expressly set forth in the solicitation, the sample of goods furnished must be identical in all respects to the product or products being offered.

Vendors offering products of a different manufacturer and model number other than those specified in the solicitation may be required to submit samples for inspection and specification compliance testing in order for the Court to determine if the item offered is equivalent to and meets the minimum standards of quality acceptable to the Court as indicated by the manufacturer and model number specified in the solicitation. Samples, if not destroyed by test, may, upon request by the vendor at the time the sample is furnished, be returned at vendor's expense.

15. APPEAL PROCEDURES

Only proposers may appeal the recommended award. Any appeal must be in writing, contain the RFP number, and be submitted within ten (10) calendar days of the date on the Notification of Intent to Award. All appeals must be submitted to:

Superior Court of California, County of Santa Barbara
Court Executive Office
ATTN: RFP 2010-01
1100 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101

SECTION A PRICING SHEET

Individual pricing for

The Court requires payment of Prevailing Wages. Prevailing Wage information and instructions are available on the internet at www.workitout.ca.gov.

Use additional pages as necessary.

System Pricing

Item	Personnel Name and Title – attach qualifications and experience information (add additional page as needed)	Hours	Billing Rate	Estimated Project Total
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Available Start Date: _____ Anticipated Completion Time Line: _____

Submit Separately

Materials: \$ _____ Tax: \$ _____ Labor: \$ _____ Total: \$ _____

Maintenance Plan Year 1: \$ _____ Year 2: \$ _____ Year 3: \$ _____
Court Option to Renew Maintenance Plan for two additional years

Not to Exceed Project Total: \$ _____ (Required With Separate Pricing Proposal)

The Court will be billed for actual costs only, and only up to the Not to Exceed Amount

SECTION B REPRESENTATIONS AND CERTIFICATIONS

The following representations and certifications are to be completed, signed and returned with price responses.

1.1 CERTIFICATE OF CURRENT COST OR PRICING

"This is to certify that, to the best of my knowledge and belief, cost and/or pricing data submitted with this proposal, or specifically identified by reference if actual submission of the data is impracticable, is/are accurate, complete, and current as of

(date) _____."

1.2 CERTIFICATE OF INDEPENDENT PRICING

(1) By submission of this bid or proposal, each bidder or offeror certifies, and in the case of a joint bid or proposal, each party thereto certifies as to its own organization, that in relation to this procurement:

(2) The prices in this bid or proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with other bidder or offeror; with any competitor; or with any County employee(s) or consultant(s) involved in this or related procurements.

(3) Unless otherwise required by law, the prices which have been quoted in this bid or proposal have not been knowingly disclosed by the bidder or offeror and will not knowingly be disclosed by the bidder or offeror prior to opening, in the case of a bid, or prior to award, in the case of a proposal, directly or indirectly to any other bidder or offeror or to any competitor; and

(4) No attempt has been made or will be made by the bidder or offeror to induce any other person or firm to submit or not to submit a bid or proposal for the purpose of restricting competition.

CERTIFICATION:

The information furnished in Paragraph 1.1 and 1.2 is certified to be factual and correct as of the date submitted.

Name: _____

Title: _____

Signature: _____

Date: _____

SECTION C

STATEMENT OF WORK

1. Background

The Superior Court of Santa Barbara County faces an on-going challenge regarding the preservation and storage of records. The court needs to efficiently store older or inactive cases in order to make room for the new case filings.

The Superior Court North County Operations has not had a comprehensive means of preserving records eligible for archiving and destruction for over ten years. The Court deals with the issues of limited space, the need for easy access, and storage for older cases in order to make room for the new. The files are physically stored in "banker's boxes," stacked 4 or 5 high. The current retrieval method involves staff physically moving boxes in order to pull needed files. This is labor intensive and inefficient.

The Court desires to utilize Laserfiche enterprise content management as the records preservation solution. This solution will protect the security of case files, provide comprehensive public service and improve customer satisfaction. Laserfiche will allow the Court the ability to efficiently scan, store and retrieve all documents in a case file with ease. Records staff once burdened with moving boxes in remote locations in order to fetch documents would be able to retrieve the documents from their desktop.

In addition, client workstations for the public would be used at each north county court location allowing non-staff who need to view these records to do so without the time-consuming physical labor of staff. Patrons would print the documents that they need at a networked printer located in the staff area. With proper security settings for the public, Laserfiche will prevent the potential unauthorized viewing of confidential documents. There are 3 courthouse locations in the north county that will utilize Laserfiche. Santa Maria (criminal and civil divisions), Lompoc and Solvang. Lompoc is 27 miles from Santa Maria, and Solvang is 35 miles from Santa Maria.

2. Summary of Work

A. The vendor shall, within the time frames established by the Court:

- i. Provide a detailed written proposal for the scanning system to be used in conjunction with the Laserfiche software. The scanning equipment must be a high speed two-sided (duplexing) high production scanner capable of a minimum of 80 pages per minute with a high quality paper feeder. Explain in detail the paper handling capabilities and any and all intelligent productivity enhancement features. Include the Scanner Warranty information and service options.
- ii. Provide Laserfiche digital document management software and ten (10) user licenses. Describe the types of licensing recommended (i.e., read vs. read-write, etc.).
- iii. Explain in detail the deployment of the document management solution and what options will be available to meet the court's diverse needs. This should include addressing the court's security needs to protect confidential documents from unauthorized viewing or printing in any manner.
- iv. Install, configure, and test scanning equipment and software. Consult and schedule with the Court Project Manager and IT Department regarding all phases of deployment.
- v. Provide a description of the training plan and staff/non-staff set-up and implementation.
- vi. Provide a detailed description of on-going support and maintenance/maintenance agreement. Include telephonic, electronic, and in-person response times for any issues that may arise with the system or software.

B. Administratively, Contractor's Project Lead shall:

- i. Be responsible for managing the end result and day-to-day project management;
- ii. Serve as the Contractor's primary contact;
- iii. Work closely with Court Project Manager;
- iv. Provide on-going status reports and all software upgrades to Court, consistent with the Maintenance Agreement;
- v. Manage, prepare, and refine the Agreement's end results;
- vi. Proactively assist with resolution of issues with any respect of the Work;
- vii. Proactively anticipate project deviations and take immediate corrective action;
- viii. Work with Court Project Manager to manage/coordinate work and knowledge transfer; and
- ix. Be responsible for managing project budget within constraints of Work requirements.

C. Acceptance Criteria, which authorizes payment after invoice submission:

- Task 1: Task 1: Ordering of all equipment/software from manufacturers/distributors.
Task 2: Installation of the equipment at the Court's Santa Maria operation.
Task 3: Completion of configuration and testing.
Task 4: Successful User Acceptance Testing.
Task 5: Completion of User and IT Training.

End of Section C - Statement of Work

SECTION D GENERAL TERMS & CONDITIONS

1. ENTIRE AGREEMENT

This agreement constitutes the entire agreement and final understanding of the parties with respect to the subject matter hereof and supersedes and terminates any and all prior and/or contemporaneous negotiations, representations, understandings, discussions, offers, bids, or agreements between the parties, whether written or oral, express or implied, relating in any way to the subject matter hereof. This Agreement is of no force or effect until signed by both parties. Contractor shall not perform any of its obligations under this Agreement, until this Agreement is fully executed.

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

This Agreement was negotiated between the parties, and neither party "prepared" this Agreement for purposes of California Civil Code § 1654. Any ambiguity will not be construed against the drafter, but rather the terms and provisions will be given a reasonable interpretation.

2. ACCOUNTING

The Vendor will maintain a system of accounting and internal controls that meets Generally Accepted Accounting Principles (U.S.GAAP)

3. PERMITS, LAWS, AND REGULATIONS

A. Contractor must observe and comply with all applicable laws, rules, and regulations affecting the Work. During the term of this Agreement, Contractor will obtain and keep in full force and effect, all permits and licenses necessary to perform the Work. Such permits and licenses will be made available to Court, upon request.

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

4. REPRESENTATIONS AND WARRANTIES

4.1. Contractor represents and warrants that the following statements are true:

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

b. No conflict of Interest. Contractor has no interest that would constitute a conflict of interest under California Government Code section 1090 et seq., or section 87100 et seq., or under California Rules of Court 6.103 or 6.104, which restrict employees and former employees from contracting with Court or any other employee of the Judicial Branch of the State of California. Contractor further agrees that Contractor has no interest that would directly or indirectly conflict in any manner with its ability to fully and completely perform the Work.

c. Drug-free Workplace. Contractor and Subcontractors will provide a drug-free workplace as required by Calif. Gov. Code, § 8355-8357.

d. Labor/Collective Bargaining. Contractor and Subcontractors will provide Notice of their obligations under the foregoing provisions to labor organizations with which it or they have collective bargaining agreements, prior to execution of this Agreement.

e. National Labor Relations Board (NLRB) Certification. Within the immediately preceding two-year period, no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor because of Contractor's failure to comply with an order of

the National Labor Relations Board.

f. Prohibition Against Hiring Court Employees. Contractor certifies and will require all Subcontractors to certify the following: "Former Court employees will not be offered employment position for two years from the date of separation, if that employee participated in the decision-making process relevant to this Agreement, or for one year from the date of separation if that employee was in a policy-making position in the same general subject area as the proposed agreement, within the prior twelve-month period of Court employment."

g. The Vendor warrants and represents that the work and all deliverables furnished will conform to the requirements of this Agreement and such work and deliverables will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship, and, to the extent not manufactured pursuant to detailed designs furnished by Court, free from defects in design. Court's approval of designs or specifications furnished by vendor will not relieve Vendor of its obligations under this warranty.

h. Non-infringement. The Vendor represents and warrants to Court that it is and will either own, or be authorized to use for its own and the Court's benefit, all intellectual property rights used and to be used in connection with providing and/or performing the work.

i. All warranties will inure the Court, its successors, assignees, customer agencies, and users of the work provided hereunder.

j. Unless otherwise specified, the warranties set forth in this Section 3 commence after work has been approved and accepted by Court.

4.2. Compliance with Laws.

a. General. Contractor is in compliance in all material respects with all laws, rules and regulations applicable to Contractor's business and Contractor pays all undisputed debts when they come due.

b. Specific.

1. ADA. Contractor and Subcontractors comply with applicable provisions of the Americans with Disabilities Act ("ADA") of 1990 (42 U.S.C. Sections 12101 et seq.), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.

2. FEHA. Contractor and Subcontractors comply with all applicable provisions of the Fair Employment and Housing Act, Calif. Gov. Code, § 12990 et seq., and all applicable regulations promulgated under Calif. Code of Regulations, title 2, § 7285 et seq. Contractor and Subcontractors will not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin ancestry, disability, marital status, age (over 40), sex, or sexual orientation. Contractor will ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and Subcontractors will not unlawfully harass, including sexually harass, any persons with whom Contractor or Subcontractors interact in the performance of this Work. Contractor and Subcontractors will take all reasonable steps to prevent such harassment.

4.3 Personnel Requirements.

a. The Vendor will use adequate numbers of qualified individuals with suitable training, education, experience, and skill to perform the work. For continuity, Vendor will endeavor to retain the same individuals identified in the proposal during the entire performance of work.

b. The Court reserves the right to disapprove Vendor's personnel, if dissatisfied with its performance. Upon receipt of such Notice, Vendor will immediately assign replacement personnel, with equivalent or greater experience and skills, who are acceptable to the Project Manager.

c. The Vendor will be responsible for all costs associated with replacing personnel, including additional costs to familiarize replacement personnel with the work. If Vendor does not promptly furnish replacement personnel acceptable to the Project Manager, Court may terminate this Agreement for cause.

4.4 Background Checks

a. For Vendor's employees, subcontractors, or agents performing work, and with access to Court's systems (on site or remotely) in the performance of their work under this Agreement, Court will have the right, but not the obligation, to request or conduct a background check, before granting access to Court's premises or systems or at any other time. Vendor will cooperate with Court in performing any background checks, will provide prompt Notice to Court of (i) any person refusing to

undergo such background check, and will immediately remove such person from the project, and (ii) the results of any background check as requested by Court. Vendor will obtain all releases, waivers, or permissions required for the release of such information to court. Any additional costs will be borne by Vendor.

4.5. Standard of Performance.

a. The Vendor will perform all work with the requisite skill and diligence consistent with professional standards for the industry and type of work performed under the Agreement, and pursuant to the governing rules and regulations of the industry. Vendor understands that court relies on the accuracy, competence, and completeness of Vendor's services.

Representations and Warranties Remain True. During the term of this Agreement, Contractor will not take an action, or omit to perform any act, that may result in a representation and warranty becoming untrue. Contractor will promptly notify Court if any representation and warranty becomes untrue.

5. ASSIGNMENT OF RIGHTS, TITLE & INTEREST

In submitting a proposal to a public purchasing body, the offeror offers and agrees that if the proposal is accepted, it will assign to the purchasing body 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 1 (commencing with Section 16700) of Part 2 of Division 7 of the California Business and Professions Code), arising from purchases of goods, materials, or services by the offeror for sale to the purchasing body pursuant to the proposal. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the contractor.

6. TERMINATION

6.1 Termination for Cause.

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

6.2. Termination for Default.

The Court may, by written notice of default to the vendor, terminate any resulting order in whole or in part should the vendor fail to make satisfactory progress, fail to deliver within time specified therein or fail to deliver in strict conformance to specifications and requirements set forth therein. In the event of such termination, the Court reserves the right to purchase or obtain the supplies or services elsewhere, and the defaulting vendor shall be liable for the difference between the prices set forth in the terminated order and the actual cost thereof. The prevailing market price shall be considered the fair repurchase price.

a. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Court, be the same as if the notice of termination had been issued pursuant to such clause.

b. The rights and remedies of the Court provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under resulting order.

6.3. Termination for Convenience.

The Court may, by written notice stating the extent and effective date, terminate any resulting order for convenience in whole or in part, at any time. The Court shall pay the vendor as full compensation for performance until the effective date of such termination:

a. The unit or pro rata price for the delivered and accepted portion.

b. A reasonable amount, as costs of termination, not otherwise recoverable from other sources by the vendor, as approved by the Court, with respect to the undelivered or unaccepted portion of the order, provided compensation hereunder shall in no event exceed the total agreement price.

c. In no event shall the Court be liable for any loss of profits on the resulting portion thereof so terminated.

6.4 Termination due to fund Appropriation and Availability.

a. The Court's obligations under this Agreement are subject to the availability of funds authorized for this work. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the current Appropriation Year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement.

b. Upon notice, Court may terminate this Agreement in whole or in part, without prejudice to any right or remedy of Court, for lack of appropriation of funds. Upon termination, Court will pay Vendor for the fair value of work satisfactorily performed prior to the termination, not to exceed the total Agreement amount.

6.5 Effect of Termination

a. Upon any expiration or termination, Court will have the right to take possession of any materials, equipment, deliverables, and other work including partially completed work. Vendor will immediately assign to Court all of the Vendor's right, title, and interest in and to such work and related materials and work product, and any and all intellectual property rights.

b. Upon termination of any kind, Court may withhold from payment any sum that Court determines to be owed to Court by Vendor, or necessary to protect Court against loss due to outstanding liens or claims of former lien holders.

7. **FORCE MAJEURE**

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

- i. catastrophic acts of nature, or public enemy;
- ii. civil disorder;
- iii. fire or other casualty for which a party is not responsible; and
- iv. quarantine or epidemic.

B. The party asserting a Force Majeure event will immediately provide written Notice to the other party of the occurrence and nature of the Force Majeure event, and its expected impact on schedule. The party claiming Force Majeure will use commercially reasonable efforts to continue or resume performance, including alternate sources or means. Contractor will have no right to additional payment for costs incurred as a result of a Force Majeure event.

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

8. **DISPUTES**

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

8.1. Except as otherwise provided in this contract, any disputes concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer who shall furnish the decision to the Contractor in writing. The decision of the Contracting Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as to imply bad faith. The Contractor shall proceed diligently with the performance of the contract pending the Contracting Officer's decision.

8.2. The "Disputes" clause does not preclude consideration of legal questions in connection with decisions provided for in paragraph (8.1) above. Nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

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

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

9. CHANGES

The Contracting Officer may at any time, by written order, make changes within the general scope of this contract, in the definition of services to be performed, and the time (i.e., hours of the day, days of the week, etc.) and place of performance thereof. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change; provided however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

10. STOP WORK

10.1 The Court may, at any time, by delivery of a written Stop Work Order to Vendor, require Vendor to stop any or all of the Work, for 90 days after the Stop Work Order is delivered to Vendor, and for any further period to which the parties may agree.

10.2 Upon receipt of the Stop Work Order, Vendor will immediately comply with its terms and take all reasonable steps to minimize the costs incurred to Court during the applicable Stop Work period. Within 90 days after a Stop Work Order is delivered to Vendor, and for any mutually agreed extension of that period, Court will either cancel the Stop Work or terminate the Work, as provided in Sections 5 and 6 (Termination).

10.3 If a Stop Work Order is cancelled, or the period of the Stop Work Order or any extension thereof expires, Vendor will resume Work. Court may make an equitable adjustment in the delivery schedule, the Contract Amount, or both, if (a) the Stop Work Order increases Vendor's costs or the time required for performance; and (b) Vendor asserts its right to an equitable adjustment within 30 days after the end of the applicable Stop Work period.

10.4 If a Stop Work order is not cancelled and the Work covered by the Stop Work Order is terminated other than for cause, Court may allow reasonable costs resulting from the Stop Work Order.

10.5 The Court will not be liable to Vendor for loss of profits because of any Stop Work Order.

11. INDEPENDENT CONTRACTOR, SUBCONTRACTS AND ASSIGNMENTS

The Contractor is, for all purposes arising out of this contract, an independent Contractor and shall not be deemed an employee of the Court. It is expressly understood and agreed that the Contractor shall in no event, as a result of this contract, be entitled to any benefits to which the Court employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits.

Subcontracts and Assignments. During the term of this Agreement, Contractor shall make no subcontract or other assignment without prior written consent of Court. When consent is granted, it shall not relieve Contractor of any obligation to Court. Contractor warrants and represents that all Subcontractors will be subject to and bound by the same terms and conditions applicable to Contractor under this Agreement. Contractor will be liable for all acts or omissions for employees, Subcontractors or other Third Party performing service under this Agreement, including any and all indemnity obligations.

12. ASSIGNABILITY

The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the Court thereto.

13. INDEMNITY AGREEMENT

Indemnification. CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS COURT AND ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL LOSSES, COSTS (INCLUDING REASONABLE ATTORNEYS' FEES), LIABILITIES, DAMAGES, AND EXPENSES, INCLUDING INTEREST,

PENALTIES AND SETTLEMENT AMOUNTS ENTERED INTO, IN EACH CASE WITH RESPECT TO ANY AND ALL THIRD PARTY CLAIMS CAUSED BY, ARISING OUT OF OR RESULTING IN ANY WAY FROM ANY DEFECT, WHETHER LATENT OR PATENT, IN THE GOODS OR SERVICES PURCHASED HEREUNDER OR FROM ANY ACT OR OMISSION BY CONTRACTOR, ITS AGENTS OR EMPLOYEES, INDEPENDENT CONTRACTORS OR SUBCONTRACTORS. THIS INDEMNIFICATION SHALL BE IN ADDITION TO THE WARRANTY OR OTHER OBLIGATIONS OF CONTRACTOR AND SHALL APPLY WITHOUT REGARD TO WHETHER THE CLAIM, DAMAGE, LOSS, LIABILITY, COST OR EXPENSE IS BASED ON BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY. THIS INDEMNITY SHALL SURVIVE DELIVERY AND ACCEPTANCE OF GOODS OR SERVICES.

14. INTEREST OF CONTRACTOR

The Contractor covenants that it presently has no interest, including but not limited to other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. The Contractor further covenants that in the performance of this contract, no person having any such interest shall be employed or retained by it.

15. CONDUCT OF CONTRACTOR

- 15.1. The Contractor agrees to inform the Court of all the Contractor's interests, if any, which are or which the Contractor believes to be incompatible with any interests of the Court.
- 15.2. The Contractor shall not, under circumstances which might reasonably be interpreted as an attempt to influence the recipient in the conduct of his duties, accept any gratuity or special favor from individuals or organizations with whom the Contractor is doing business or proposing to do business, in accomplishing the work under the contract.
- 15.3. The Contractor shall not use for personal gain or make other improper use of privileged information which is acquired in connection with his employment. In this connection, the term "privileged information" includes, but is not limited to, unpublished information relating to technological and scientific development; medical, personnel, or security records of the individuals; anticipated materials requirements or pricing actions; and knowledge of selections of contractors or subcontractors in advance of official announcement.
- 15.4. The Contractor or employees thereof shall not offer gifts, gratuity, favors, or entertainment either directly or indirectly to Court employees.

16. AUDIT & INSPECTION OF RECORDS

- 16.1. General. The Court shall have the audit and inspection rights described in this section.
- 16.2. Cost or pricing data. If the Contractor submitted cost or pricing data in connection with the pricing of this contract or any changes or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities of the general public, or prices set by law or regulation, the Contracting Officer or his representatives who are employees of the Court or its agents shall have the right to examine all books, records, documents and other data of the Contractor related to the negotiation pricing or performance of such contract, change or modification, for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted.
- 16.3. Availability. The materials described above shall be made available at the office of the Contractor, at all reasonable times, for inspection, audit or reproduction, until the expiration of four (4) years from the date of final payment under this contract, or by 16.4 and 16.5 below:
- 16.4. Record Retention After Contract Termination. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for a period of four (4) years from the date of any resulting final settlement.
- 16.5. Record Retention Relating to Appeal from "Disputes" Clause. Records which relate to appeals under the "Disputes" clause of this contract, or litigation or the settlement of claims arising out of the performance of this contract, shall be made available until such appeals, litigation, or claims have been disposed of, or three years after contract completion, whichever is longer.
- 16.6. Subcontractor Clause. The Contractor shall insert a clause containing all the provisions of this entire clause in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the contracting officer under the Court's prime contract.

17. CONFIDENTIAL INFORMATION, PUBLICITY

- A. Confidential Information. Contractor agrees to hold in confidence the following confidential information:
 - i. The terms and conditions of this Agreement until this Agreement is fully executed;
 - ii. All information that Court discloses to Contractor; and
 - iii. All information to which Contractor gains access while providing the Work. Confidential Information does not include any information that Contractor can demonstrate has been made available to the public (other than through a breach of this Agreement). As between Contractor and Court, Court owns the Confidential Information, and Court authorizes Contractor to use it only for purposes of performing this Agreement. For example, Contractor may give Confidential Information on a “need-to-know” basis to Contractor’s professional services providers or employees who have also executed confidentiality agreements that protect Court’s Confidential Information to the same extent as this Section 17. Contractor may also disclose Court’s Confidential Information to the extent necessary to comply with law, provided Contractor provides Court with advance written Notice.
- B. Publicity. Contractor will not make any public announcement or press release about this Agreement without Court’s written approval.
- C. Specific Performance. Contractor understands a default under this Section 17 may result in irreparable damage for which no adequate remedy may be available. Accordingly, injunctive or other equitable relief will be a remedy available to Court, all without need to post bond of any nature.

18. PUBLICATION, REPRODUCTION & USE OF MATERIAL

No material produced, in whole or in part, under this Agreement shall be subject to copyright in the United States or in any other country. The Court shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement. All reports, data and other materials prepared under this Agreement shall be the property of the Court upon completion of this Agreement.

19. RIGHT TO ACQUIRE EQUIPMENT & SERVICES

Nothing in this Agreement shall prohibit the Court from acquiring the same type or equivalent equipment and/or service from other sources, when deemed by the Court to be in its best interest.

20. NOTICE

Notices. Notices under this Agreement must be in writing. Notices can be delivered in person, via a reputable express carrier, or by registered or certified mail (postage pre-paid) to the address provided in the signature section at the beginning of this Agreement. Either party may change its address for receipt of Notice by giving Notice at any time to the other party in the manner permitted by this paragraph.

- A. Under this, the Project Manager shall monitor and evaluate Contractor’s performance. All requests and communications concerning this agreement shall be made through the Project Manager. Notice to the Project Manager must be in writing and shall be delivered to the appropriate following address by depositing in the U.S. mail or commercial express mail, first-class and pre-paid with return receipt requested:

Ellen F. H. Scott
Project Manager
Superior Court of California, County of Santa Barbara
Cook Division
312 E Cook Street
Santa Maria, CA 93454

- B. The Project Manager will be the primary contact for the Work to be performed.
- C. Notice to Contractor must be in writing and shall be delivered to the following address by depositing in the U.S. Mail or commercial express mail, first-class and pre-paid with return receipt requested:

D. Notice is effective on receipt; however, any correctly addressed written Notice that is refused, unclaimed, or undeliverable because of an act or omission of the party notified will be deemed effective as of the first date that the Notice was refused, unclaimed or deemed undeliverable.

21. CUSTODY OF RECORDS

The Court, at its option, may take custody of Contractors client records upon contract termination. The Court agrees that such custody will conform to applicable confidentiality provisions of State and Federal law. Said records shall be kept by the Court in an accessible location within Santa Barbara Superior Court and shall be available to Contractor for examination and inspection.

22. TIME IS OF THE ESSENCE

Time of performance is of the essence in the performance of services by Vendor and under this Agreement.

23. WAIVER; SEVERABILITY

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

24. CONFLICT IN TERMS

A contract resulting from this Request for Proposal will include all specifications, terms and conditions. The Court's terms and conditions will take precedence over other terms and conditions.

25. GOVERNING LAW; JURISDICTION AND VENUE

The information, interpretation and performance of this Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions. Venue for all litigation relative to the information, interpretation and performance of this Agreement shall be in the state or federal courts of California.

The Vendor irrevocably consents to the exclusive jurisdiction and venue of the state and federal courts located in San Francisco, California in any legal action concerning or relating to this Agreement.

26. INSPECTION AND ACCEPTANCE

By performing the requested Work, Contractor agrees to the specification, terms, and conditions specified in the Agreement and any referenced documents. Contractor's additional or different terms and conditions are expressly excluded from this Agreement and Court does not agree to such terms or conditions. This Agreement's terms and conditions may only be varied by a writing signed by Court's duly authorized representative. Contractor may not alter, add to, or otherwise modify these terms and conditions.

All reports and/or services required under this solicitation are subject to final inspection and acceptance at destination by the Court. Such final inspection and acceptance shall be made within a reasonable time after the initial delivery or performance by the consultant. If the reports or services are found not to conform to the requirements of this solicitation, they are subject to rejection and replacement by the consultant at consultant's own expense.

27. CONSIDERATION

The consideration paid to Contractor is the entire compensation for all Work performed under this Agreement, including all of the Contractor's expenses incurred, such as travel and per diem expenses, unless otherwise

expressly provided, as set forth in Payment Terms. **COURT DOES NOT MAKE ANY ADVANCE PAYMENT FOR GOODS OR SERVICES.**

- A. **Payment Does Not Imply Acceptance of Work.** The Court's payment will not relieve Vendor from its obligation to replace unsatisfactory work, even if the unsatisfactory character of such work may have been apparent or detected at the time such payment was made. Work, data, or components that do not conform to requirements of this Agreement will be rejected, and will be replaced by Vendor, without delay or additional cost to the Court.
- B. **Disallowance.** If Vendor receives payment from the court for a service or reimbursement that is later disallowed or rejected by the Court, Vendor will promptly refund the disallowed amount to the Court upon the Court's request. At its option, the Court may offset the amount disallowed from any payment due to the Vendor, under this Agreement or any other Agreement.

28. POSSESSORY INTEREST TAX

Contractor shall be responsible for paying any possessory interest tax owed as a result of this contract.

29. INSURANCE REQUIREMENTS

Insurance Requirements. Contractor shall maintain the following insurance coverage. Contractor is also responsible for its Subcontractors maintaining sufficient limits of the same insurance coverage.

- A. Workers' Compensation and Employers' Liability.
 - i. Workers' Compensation insurance or self-insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, where Contractor performs the Work.
 - ii. Employers' Liability insurance shall not be less than \$1,000,000 for injury or death each accident.
- B. Commercial General Liability.
 - i. Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.
 - ii. The limit shall not be less than \$1,000,000 each occurrence for bodily injury, property damage and personal injury. If coverage is subject to a general aggregate limit, this aggregate limit shall be twice the occurrence limit.
 - iii. Coverage shall: a) By "Additional Insured" endorsement add as insured's the Court, its directors, officers, agents and employees with respect to liability arising out of the Work performed by or for Contractor; b) be endorsed to specify that Contractor's insurance is primary and that any insurance or self-insurance maintained by Court shall not contribute with it.
- C. Business Auto.
 - i. Coverage shall be at least as broad as Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, Code 1 "any auto."
 - ii. The limit shall not be less than \$1,000,000 each accident for bodily injury and property damage.
- D. Additional Insurance Provisions.
 - i. Before commencing performance of the Work, Contractor shall furnish Court with certificates of insurance and endorsements of all required insurance for Contractor.
 - ii. The documentation shall state that coverage shall not be cancelled except after thirty (30) days prior written Notice has been given to Court.
 - iii. The documentation must be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be submitted to:

Superior Court of California, County of Santa Barbara
1100 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101
Attention: Ammon M. Hoenigman

- iv. Court may inspect the original policies or require complete certified copies, at any time.
- v. Upon request, Contractor shall furnish Court the same evidence of insurance for its

Subcontractors as Court requires of Contractor.

A. General Liability Insurance

1) **Comprehensive General Liability Insurance**. A policy of Comprehensive General Liability Insurance with a combined single limit (CSL) per occurrence of not less than one million dollars (\$1,000,000) per occurrence;

OR

2) **Commercial General Liability Insurance**. A policy of Commercial General Liability Insurance which provides limits of not less than:

a) Per Occurrence:	\$1,000,000
b) General Aggregate:	\$2,000,000
c) Products/Completed Operations:	\$1,000,000
d) Personal & Advertising Injury limit:	\$1,000,000

For either type of insurance, deductibles shall be declared to and approved by the Court's Executive Officer.

3) **Required General Liability Policy Coverage**. Any general liability policy provided by Contractor hereunder shall include the following coverage:

- a) Premises and Operations
- b) Contractual Liability expressly including liability assumed under the Agreement.

4) **Additional Insured Endorsement**. Any general liability policy provided by Contractor hereunder shall contain an endorsement which applies its coverage to the Court, and the officers, agents, employees and volunteers of the Court, individually and collectively, as additional insured's.

5) **Form of General Liability Insurance Policies**. All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Contractor of that part of the indemnity agreement contained in the Agreement relating to liability for injury to or death of persons and damage to property. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, the Court may require additional coverage to be purchased by Contractor to restore the required limits. Contractor may combine primary, umbrella and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the Additional Insured Endorsement described above.

6) **Waiver of Subrogation**. Contractor and Court release each other, and their respective authorized representatives, from any Claims (as defined in the Article entitled "Indemnity" of the Agreement), but only to the extent that the proceeds received from any policy of liability insurance carried by Court or Contractor, other than any self-insurance, covers any such Claim or damage. Included in any policy or policies of liability insurance provided by Contractor hereunder shall be a standard waiver of rights of subrogation against the Court by the insurance company issuing said policy or policies.

B. Comprehensive Automobile Liability Insurance. Contractor shall procure Comprehensive Automobile Liability Insurance written for bodily injury, including death, and property damage, however occasioned, occurring during the policy term, in the amount of not less than One Million Dollars (\$1,000,000), combined single limit per occurrence, applicable to all owned, non-owned and hired vehicles.

C. Statutory Workers' Compensation and Employer's Liability Insurance. Unless the Contractor is a sole proprietorship, Contractor shall maintain a policy of California Workers' Compensation coverage in statutory amount and Employer's Liability coverage for no less than one million dollars (\$1,000,000) per occurrence for all employees of Contractor engaged in services or operations under the Agreement. Coverage shall include a waiver

of subrogation in favor of the Court of Santa Barbara, a copy of which shall be provided to the Court.

D. Professional Errors and Omissions Liability Insurance. If contractor provides and/or engages the services of any type of professional, including, but not limited to, engineers and architects, whose failure due to a mistake or deficiency in design, formula, plan, specifications, advisory, technical or other services could result in liability, Contractor shall obtain professional errors and omissions liability insurance in an amount of not less than One Million Dollars (\$1,000,000) per claim, with an aggregate limit of not less than Two Million Dollars (\$2,000,000). If this policy contains a self retained limit, it shall not be greater than Twenty Five Thousand Dollars (\$25,000) per occurrence/event. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, the Court may require additional coverage to be purchased by Contractor to restore the required limits. The policy shall include limited contractual liability coverage. This coverage shall be maintained for a minimum of two (2) years following termination or completion of Contractor's work pursuant to the Contract.

E. Subcontractors' Insurance. Contractor shall make certain that any and all Subcontractors hired by Contractor are insured in accordance with this Agreement. If any Subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold Court harmless of and from any damage, loss, cost or expense, including attorneys' fees, incurred by Court as a result thereof.

F. Fidelity Bond. Before receiving compensation under this agreement, Contractor will furnish the Court evidence that all Contractor's officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a Blanket Fidelity Bond in an amount of at least One Million Dollars (\$1,000,000). Coverage will include: Employee Dishonesty, Forgery, Alteration, Theft, Disappearance, and Computer Fraud. If such bond is canceled or reduced, Contractor will notify the Court immediately, and Court may withhold further payment to Contractor until property coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of Court.

30. GENERAL INSURANCE PROVISIONS

1) **Evidence of Insurance.** Contractor shall, as soon as practicable following the placement of insurance required hereunder, but in no event later than the effective date of the Agreement, deliver to Court certificates of insurance evidencing the same, together with appropriate separate endorsements thereto, evidencing that Contractor has obtained such coverage for the period of the Agreement. Contractor shall deliver certified copies of the actual insurance policies specified herein, within thirty days after commencement of work. Thereafter, copies of renewal policies, or certificates and appropriate separate endorsements thereof, shall be delivered to the Court within thirty (30) days prior to the expiration of the term of any policy required herein. Contractor shall permit the Court at all reasonable times to inspect any policies of insurance of Contractor which Contractor has not delivered to the Court.

2) **Claims Made Coverage.** If coverage is written on a "claims made" basis, the Certificate of Insurance shall clearly so state. In addition to the coverage requirements specified above, such policy shall provide that:

a) The policy retroactive date coincides with or precedes Contractor's commencement of work under the Agreement (including subsequent policies purchased as renewals or replacements).

b) Contractor will make every effort to maintain similar insurance during the required extended period of coverage following expiration of the Agreement, including the requirement of adding all additional insured's.

c) If insurance is terminated for any reason, Contractor shall purchase an extended reporting provision of at least two years to report claims arising in connection with the Agreement.

d) The policy allows for reporting of circumstances or incidents that might give rise to future claims.

3) **Failure to Obtain or Maintain Insurance; Court's Remedies.** Contractor's failure to procure the insurance

specified herein, or failure to deliver certified copies or appropriate certificates of such insurance, or failure to make the premium payments required by such insurance, shall constitute a material breach of the Agreement, and Court may, at its option, terminate the Agreement for any such default by Contractor.

4) **No Limitation of Obligations**. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor, and any approval of said insurance by the Court or its insurance Contractor(s), are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to the Agreement, including, but not limited to, the provisions concerning indemnification.

5) **Notice of Cancellation or Change of Coverage**. All certificates of insurance provided by Contractor must evidence that the insurer providing the policy will give the Court thirty (30) days' written notice, at the address shown in the section of the Agreement entitled "Notices," in advance of any cancellation, lapse, reduction or other adverse change respecting such insurance.

6) **Qualifying Insurers**. All policies of insurance required hereby shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current policy holder's alphabetic and financial size category rating of not less than A, VII according to the current Best's Key Rating Guide, or a company of equal financial stability that is approved in writing by the Court Executive Officer.

7) **Review of Coverage**. Court shall retain the right at any time to review the coverage, form and amount of insurance required herein and may require Contractor to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

8) **Self-Insurance**. Contractor may, with the prior written consent of the Court Executive Officer, fulfill some or all of the insurance requirements contained in the Agreement under a plan of self-insurance. Contractor shall only be permitted to utilize such self-insurance, however, if, in the opinion of the Court Executive Officer, Contractor's (I) net worth, and (II) reserves for payment of claims of liability against Contractor, are sufficient to adequately compensate for the lack of other insurance coverage required by the Agreement. Contractor's utilization of self-insurance shall not in any way limit liabilities assumed by Contractor under the Agreement.

31. GENERAL REQUIREMENTS

A. Contractor shall provide sufficient labor and supervision at all times to carry out the Work satisfactorily, and shall ensure that only competent workers who are skilled in the type of Work specified are employed. If Court determines that a person is incompetent or unsuitable, Contractor shall immediately remove such person from performing any further service and make sure that all keys, badges, and any other items that belong to Court are returned to Court within 24 hours.

B. The Court's normal business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The hours of work under any resulting Agreement shall be in accordance with, and subject to, the provisions of the State of California labor code. Court reserves the right to reschedule Contractor's hours of work

C. Court Holidays Observed:

- January 1, New Year's Day
- The third Monday in January, Martin Luther King Day
- January 20, Court Closure Furlough Day
- February 12, Lincoln's Birthday.
- February 15, Washington's Birthday
- February 17, Court Closure Furlough Day
- March 17, Court Closure Furlough Day
- March 31, Cesar' Chavez Day
- April 21, Court Closure Furlough Day
- May 19, Court Closure Furlough Day

- The last Monday in May, Memorial Day
- June 16, Court Closure Furlough Day
- July 5, Observance of Independence Day
- The first Monday in September, Labor Day
- The second Monday in October, Columbus Day
- November 11, Veterans Day
- The fourth Thursday in November, Thanksgiving Day
- The day after Thanksgiving Day
- December 25, Christmas Day

Contractor is responsible for obtaining a schedule of holidays from Court. Court reserves the right to change holidays and will provide Contractor with reasonable Notice regarding any date changes.

32. LIMITATION OF LIABILITY

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

33. SURVIVAL

Terms that will survive termination of this Agreement include, but are not limited to Section 11, Independent Contractor, Subcontracts and Assignments; Section 16, Audit and Inspection of Records; Section 13 Indemnity Agreement; and Section 32, Limitation of Liability.

SECTION E DEFINITIONS

1. Terms defined below and elsewhere shall apply to the Agreement as defined.

1.1 "Agreement": entire integrated agreement, including all Agreement documents, exhibits, attachments, and amendments incorporated therein, signed by Court and Contractor, for performance of the Work.

1.2 "Agreement Amount": total dollar amount of the Agreement.

1.3 "Amendment": written document signed by both Contractor and Court, modifying the Agreement and identifying any of the following: (1) change in the Work; (2) change in Agreement Amount; (3) change in schedule for delivery and performance of the Work; or (4) any change to other terms and conditions.

1.4 "Confidential Information": (i) any financial, statistical, personal, technical, or other data or information that is designated confidential by a party to this Agreement, (ii) all information related to the business of Court that may be obtained orally, in writing, or from any source, or on any Court mainframe, Court or judicial branch computer network or workstation, and all software, whether owned or licensed by Court and whether accessed by Contractor by direct or remote access method, (iii) any information relating to the methods, processes, financial data, lists, apparatus, statistics, programs, research, development, or related information of Court concerning services to Court, and (iv) information relating to Court personnel and Court users. Confidential Information does not include: (i) information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information generally and lawfully available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement; (iii) information independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully receives from a Third Party free of any obligation of confidentiality.

1.5 "Consultant" shall mean the same as **"Offeror"** or **"Contractor."**

1.6 "Contractor": individual or entity, contracting with Court to do the agreed Work. Contractor is a party to this Agreement.

1.7 "Court": The Superior Court of California, County of Santa Barbara. Court is a party to this Agreement.

1.8 "Deliverable": documentation, services or other items, specified in the Agreement, that Contractor shall complete and deliver or submit to Court.

1.9 "Material": all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication hardware and software.

1.10 "Notice": written document signed by an authorized representative of either party to this Agreement, providing formal notification and sent by either: depositing in the U. S. Mail or commercial express mail, first-class and prepaid with return-receipt requested, to the address of the authorized representative of the other party. Such Notice will be effective on the post-marked date; or hand-delivery to the other party's authorized representative, as set forth in the Agreement. Such Notice shall be effective on the date of receipt.

1.11 "Offeror" shall mean any person, firm, partnership, or corporation submitting a proposal to the Court in response to this solicitation.

1.12 "Project Manager": Ellen F. H. Scott

1.13 "Subcontractor": a person or business entity that has an Agreement (as an "Independent Contractor" and not an employee) with Contractor to provide some portion of the Work of this Agreement.

1.14 "Task": one or more functions, services, or actions, as specified in the Agreement, to be performed by Contractor for Court.

1.15 "Third Party": any individual or entity not a party to the Agreement.

1.16 "Vendor" shall mean the same as contractor.

1.17 "Work": any or all labor, services, deliverables, equipment, supplies, Materials, Tasks, and any other items or activities necessary for the performance and completion of Contractor's obligations in compliance with the requirements of the Statement of Work.

1.18 The pronouns, "he" and "she" or other gender identifiers, as used in these terms and conditions shall be treated as equivalent terms.

End of Section F – Definitions

Attachment A

**Vendor Acceptance Form
(Submit Completed Form with Proposal)**

Company:

Address:

(P.O. Box/Street)

(City)

(State)

(Zip)

Contact Person:

(Name)

(Title)

(Phone Number)

Business License.

Vendor shall provide proof of an appropriate business license showing principle place of business or store front facility at primary place of business.

Business License Number: _____ Expiration Date: _____

Local Business License No: _____ City & State of Issue: _____
(If Applicable)

The undersigned hereby certifies that he/she is a duly authorized official of their organization and has authority to sign on behalf of the organization and assures that all statements made in the proposal are true, agrees to furnish the item(s) and/or service(s) stipulated in Superior Court of California's Request for Proposals at the price stated herein, and will comply with all terms and conditions set forth, unless otherwise so stipulated.

_____ Stipulations to Terms and Conditions (attach detail and submit with proposal).

Name

Title

Signature

Date

End of Attachment A – Vendor Acceptance Form