

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN MATEO**

**REQUEST FOR PROPOSAL**

**MANAGEMENT STRUCTURE REVIEW**



**REQUEST FOR PROPOSAL – RFP 2011-001**

**WRITTEN PROPOSALS DUE BY**

**Tuesday, May 23, 2011 - 5:00 PM**

The Superior Court of California, County of San Mateo is inviting competitive proposals to review and recommend changes to the Court's management structure as we continue to work toward a leaner, smaller management team that can best lead and respond to the organizational needs of our changing court workforce. This management review and the related change recommendations may include reclassifications, change in duties, reduction of positions (through attrition and choice, if at all possible) and potential creation of new positions, change in reporting and any other recommendations that would result in the most efficient, lean and productive management structure for our court. The following is a description of the scope of work, contractor selection process and proposed terms of the project. Contractor's submission of a Bid for this project will be considered contractor's agreement to comply with the terms and conditions as stated herein.

## **I. INTRODUCTION – SUMMARY OF THE PROJECT**

### **1.1 Issuing Body**

The Superior Court of California, County of San Mateo ("Court") is issuing this Request for Proposals ("RFP") to seek qualified proposers to review and recommend changes to the Court's current management structure.

### **1.2 Project Background**

The Superior Court of California, County of San Mateo is a trial court with five court facilities in San Mateo County. The Court recently has experienced an overall reduction in staffing from 2008 to present of approximately 23% (from approximately 400 to 310 total positions) due to ongoing loss in State revenue. The reduction has been equally experienced by both line staff and management positions. Anticipated future budget allocation reductions will likely require further position reductions in 2012 and 2013.

To prepare for deeper cuts, the Court believes it responsible and prudent to further evaluate the Court's administration and management structure in an objective and thorough manner to best determine potential savings, optimize structural and management efficiencies, maintain or improve management control and performance given a greatly reduced workforce, and justify a management structure that best serves the Court's essential functions, and recognizes the Court's future succession planning needs.

Attachments that show what the Court has accomplished to date regarding the staff reductions are as follows:

- Court's Short-, Mid-, Long-Term Vision
- Graph depicting position count beginning FY 2007-2008 through FY 2014-2015
- Current Organizational Chart

The Court intends to award a contract to a firm that is able to provide the review process and implementation assistance to the Court that will most closely meet the Court's needs as further described in Section IV of this RFP at a cost that is in line with budgetary constraints. However, the Court reserves the right to reject any or all Proposals, in whole or in part, submitted in response to this RFP. The Court further reserves the right to make no award and to modify or cancel, in whole or in part, this RFP.

### **1.3 Project Goal:**

The goal of this project is to receive the objective recommendations from professionals in the area of organizational development and change related to Court's management structure so that future changes will result in the most efficient and logical use

of management skills as they relate to the essential functions of the Court. If at all practicable, it is desired that the Court continue to reduce the number of management positions to maintain the 6% relationship to line staff positions.

#### 1.4 Project Objectives:

To achieve these goals, the Court is requesting Proposals from highly qualified consultants with expertise in position review, organizational development and review, and California Trial Court organizational structure. The end result will be:

- Job specifications that reflect the work being done.
- A structure that is appropriate for the size and culture of this Court.
- A flatter, but more productive, overall organizational structure.
- A structure that allows for professional growth and succession planning.
- Recommendations by January 2012 for the Court to review with the consultant.
- Ideally the consultant would work with the Court to facilitate implementation in early 2012.

#### 1.5 General Requirements and Features

- Starting at top (Executive Team level), review the Court's current reporting structure and suggest alternatives. Following initial structure suggestions at the top management levels, continue with sequential suggestions for the other management levels.
- Survey other courts comparable in size and/or business culture (Ventura, Santa Clara, Contra Costa and others as appropriate).
- Review the duties of the Court's current management positions and suggest alternative options.
- Identify clear lines of succession.

## II. PROCUREMENT AND EVALUATION PROCESS

### 2.1 Procurement Schedule and General Instructions

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

<u>No.</u>	<u>EVENTS</u>	<u>Key Dates</u>
1.	Request for Proposal is issued	April 22, 2011
2.	Deadline for Proposer Requests for Clarifications or Modifications	May 9, 2011 – 5:00 p.m.
3.	Proposal Due Date and Time	May 23, 2011 – 5:00 p.m.
4.	Notice of Award (estimated)	June 10, 2011

Any modifications to this RFP and any addenda that may be issued and responses to clarification inquiries will be made available to all potential proposers.

## 2.2 Contact List

Submittal Contact: Fran Doubleday (650) 599-1552

Written Proposals shall be sent to:

Superior Court of California, County of San Mateo  
Attn: Fran Doubleday – Human Resources  
400 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94063

Project Manager: Fran Doubleday, Court Human Resources (650) 599-1552

Contracting Officer: Timothy Gee, Contracts Administrator

Court Executive Officer: John C. Fitton

## 2.3 Disposition of Material and Confidential or Proprietary Information

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

Even though the Public Records Act (PRA) does not apply to the Court, the Court's policy is to look to the PRA for guidance in responding to request for documents. If a vendor's Proposal contains material noted or marked as confidential and/or proprietary that, in the Court's sole opinion, meets the disclosure exemption requirements of the PRA, then that information will not be disclosed pursuant to a written request for public documents. If the Court does not consider such material to be exempt from disclosure under the PRA, the material may be made available to the public, regardless of the notation or markings. If a vendor is unsure if its confidential and/or proprietary material meets the disclosure exemption requirements of the PRA, then it should not include such information in its Proposal because such information may be disclosed to the public.

## 2.4 Proposal Preparation Costs.

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

## 2.5 Pre-Submittal Process

**2.5.1 Request for Clarifications or Modifications.** Any requests for clarifications or modifications of the proposed general terms, the project specifications, or General Conditions of the proposed contract (Exhibit C) must be submitted to the Submittal contact listed in Section 2.2 no later than the date specified in the schedule. Questions or requests submitted after the due date will not be answered.

Without disclosing the source of the question or request, the Project Manager will provide a copy of the questions and corresponding responses to potential proposers. All inquiries and responses will be shared with all prospective proposers.

### 2.5.2 Ambiguity, Discrepancies, Omissions.

If a vendor submitting a Proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the vendor shall immediately provide the Submittal Contact listed in Section 2.2 written notice of the problem and request that the solicitation

document be clarified or modified. Without disclosing the source of the request, the Court may modify the solicitation document prior to the date fixed for submission of Proposals by providing an addendum to potential proposers.

If prior to the date fixed for submission of Proposals a vendor submitting a Proposal knows of or should have known of an error in the solicitation document but fails to notify the Court of the error, the vendor shall propose at its own risk, and if the vendor is awarded the contract, the vendor shall not be entitled to additional compensation or time by reason of the error or its later correction.

## 2.6 Minimum Qualifications

To be considered for full evaluation and possible award, proposers must first meet the threshold minimum qualification requirements listed in the following table (minimum requirements can be met by combining experience, expertise, and resources of contractor and any proposed subcontractors):

No.	Minimum Qualifications
1	Contractor must have proven experience working with and for California Trial Courts. Such proof will be in the form of names of Court Executive Officers, County, contact information and scope of work performed.
2	Contractor must have proven experience with governmental organization evaluation and restructure, preferably with courts or other justice related agencies.
3	Contractor must have all necessary insurance coverage as stated in the sample Agreement.
4	Neither contractor nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency and neither contractor nor any of its proposed subcontractors are tax delinquent with the State of California or Federal Government (reference <u>Attachment C</u> , Contractor Certification Form).

The contractor must state specifically in its Executive Summary (see Section 3.1) how it will comply with each minimum qualification specified above. Subject to the Court's right in its complete discretion to waive minor deviations or defects, only those Proposals that meet all of the foregoing minimum qualifications shall be considered for a full evaluation and a possible contract award.

**Contractors who fail to meet any of the listed minimum qualifications will be notified in writing, and will have three (3) business days from receipt of such notification to file proof that all such qualifications are met.**

## 2.7 Submission of Proposals.

### 2.7.1 Proposal Delivery

The following must be received no later than the Proposal Due Date and time specified in Section 2.1 (the "Proposal Closing Time") at the address listed in Section 2.2 for the Submittal Contact:

- Detailed Statement of Work that will be performed along with a detailed list of all associated costs that are included in the Proposal;
- List of references and experience
- Contractor Certificate (See Attachments);

- 504 Statement of Compliance (See Attachments);
- Certificate of Insurance with the Superior Court named in the endorsement.

### **2.7.2 Proposal Submittals**

- a) One original and 2 copies and a copy in an electronic “Word” document format (on cd or thumbdrive) of the Proposal and all supporting documents shall be submitted by the Proposal Closing Time.
- b) Proposals shall be submitted in sealed envelopes and will all be opened only after the Proposal Closing Time..

### **2.7.3 Amendment or Withdrawal of Proposals.**

A vendor may amend its Proposal prior to the Proposal Closing Time. All amendments must be in writing and received by the Court prior to the Proposal Closing Time.

A vendor may withdraw its Proposal at any time prior to the Proposal Closing Time by notifying the Submittal Contact listed in Section 2.2 in writing of its withdrawal. Amendments or withdrawals offered in any other manner, than described above will not be considered. Proposals cannot be amended or withdrawn after the Proposal Closing Time.

**2.7.3 Mistake in Proposal.** If prior to a contract award, a proposer discovers a mistake in their Proposal that renders the proposer unwilling to perform under any resulting contract, the proposer must immediately notify the Submittal Contact listed in Section 2.2 in writing and request to withdraw the Proposal. It shall be solely within the Court’s discretion as to whether withdrawal will be permitted.

**2.7.4 Error in Submitted Proposals.** If an error is discovered in a contractor’s Proposal, the Court may at its sole option retain the Proposal and allow the proposer to submit certain arithmetic corrections. The Court may, at its sole option, allow the proposer to correct obvious clerical errors. If the proposer’s intent is clearly established based on review of the complete Proposal submitted, the Court may, at its sole option, allow the proposer to correct an error based on that established intent.

**2.7.5 Authorized Signatures, Validity Period of Proposals.** Proposals must include the contractor name, address, telephone and facsimile numbers, e-mail address, and federal tax identification number. The Proposal must be signed by a duly authorized officer or employee of the contractor and include the name, title, address, e-mail address and telephone number of the individual who is the proposer’s designated representative.

Proposals will be valid for ninety (90) days after the Proposal Due Date specified in Section 2.1. In the event a final contract has not been awarded by the date specified in Section 2.1, the Court reserves the right to negotiate extensions to the Proposal Validity Date.

### **2.7.6 Knowledge of Requirements**

The vendor shall carefully review all documents referenced and made a part of the solicitation document to ensure that all information required to properly respond has been submitted or made available and all requirements are priced in the Proposal. Failure to examine any document, drawing, specification, or instruction will be at the proposer’s sole risk.

Proposers shall be responsible for knowledge of all items and conditions contained in their Proposals and in this RFP, including any Court issued clarifications, modifications,

amendments, or addenda. The Court will provide notice to perspective proposers or, if identified in [Section 2.1](#), post addenda and clarifications on the Court website; however, it is the proposer's responsibility to ascertain that the Proposal includes all addenda issued prior to the Proposal Due Date.

### **2.7.7 Independence of Proposal and Joint Proposals**

Unless a proposer is submitting a joint Proposal, the proposer represents and warrants that by submitting its Proposal it did not conspire with any other vendor to set prices in violation of anti-trust laws.

A Proposal submitted by two or more vendors participating jointly in one Proposal may be submitted, but one vendor must be identified as the prime contractor and the other as the subcontractor. The Court assumes no responsibility or obligation for the division of orders or purchases among joint subcontractors.

### **2.7.8 Covenant Against Gratuities**

Proposer warrants by signing its Proposal that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the proposer or any agent, director, or representative of the proposer, to any officer, official, agent, or employee of any Court with a view toward securing award of or securing favorable treatment with respect to any determinations concerning the performance of any resulting contract. For breach or violation of this warranty, the Court will have the right to terminate any resulting contract in whole or in part. The right and remedies of the Court provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the resulting contract.

## **2.8 Acceptance of Terms**

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

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

## **2.9 Overview of Evaluation Process**

### **2.9.1 Evaluation Committee**

The Court will conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. All Proposals received from vendors will be reviewed and evaluated by a committee of qualified personnel ("Evaluation Committee"). The name, units, or experience of the individual members will not be made available to any vendor. The Evaluation Committee will first review and screen all Proposals submitted, except for the cost Proposals, according to the minimum qualifications set forth in [Section 2.6](#).

Vendors satisfying the minimum qualifications will then be evaluated in accordance with the evaluation criteria set forth in Section 2.10.

### **2.9.2 Reservation of Rights**

The Court, in its complete discretion, may eliminate Proposals that have not met the minimum qualifications of Section 2.6, or have not scored adequately in relation to other Proposals to warrant further consideration. The Court reserves the right to reject any or all Proposals, in whole or in part, and may or may not waive any immaterial deviation or defect in a Proposal.

The Court's waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a vendor from full compliance with solicitation document specifications.

If a Proposal fails to meet a material solicitation document requirement, the Proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with the requirements of the solicitation document. Material deviations cannot be waived.

Unless otherwise specified in the solicitation, the Court may accept any item or combination of items as specified in the solicitation, of any Proposal unless the proposer expressly restricts an item or combination of items in its Proposal and conditions its response on receiving all items for which it provided a Proposal. In the event that the proposer so restricts its Proposal, the Court may consider the proposer's restriction and evaluate whether the award on such basis will result in the best value to the Court or may determine in its sole discretion that such restriction is non-responsive and renders the proposer ineligible for further evaluation.

The Court reserves the right to negotiate with proposers who have presented, in the opinion of the Evaluation Committee, the best Proposal in an attempt to reach a contract. If no contract is reached, the Court can negotiate with other proposers or make no award under this RFP. At any time the Evaluation Committee can reject all Proposals and make no award under this RFP. Moreover, the Court reserves the right to reconsider any Proposal submitted at any phase of the procurement. It also reserves the right to meet with vendors to gather additional information.

Proposals that contain false or misleading statements may be rejected if in the Court's opinion the information was intended to mislead the Court regarding a requirement of the solicitation document.

### **2.9.3 Requests for Additional Information**

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

## **2.10 Evaluation Criteria.**

Proposals will be evaluated to determine the Proposal or Proposals that offers the best value to the Court. The Court's consideration of the Proposals shall include, but not limited to: cost/pricing factors, reasonableness of cost projections, Contractor's experience, implementation plan, ability to meet project schedule requirements to complete the project, timeliness of delivery, and references.



## **2.11 Interview and Negotiations.**

### **2.11.1 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.

### **2.11.2 Negotiations**

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

**2.12 Payment.** Payment terms will be in accordance with the invoice provisions of section 4.3. **THE COURT DOES NOT MAKE ANY ADVANCE PAYMENT FOR GOODS OR SERVICES.**

**2.13 News Releases.** A contractor or subcontractor may not make news releases pertaining to the award of any contract resulting from this solicitation or of the nature of the services or resulting report provided under the contract without the prior written approval of the Court Executive Officer or designee.

**2.14 Award of Contract.** Upon award of the contract, the successful contractor will be required to execute a Contract in accordance with the Statement of Work in Section IV and the General Conditions in Section V, and provide a certificate of insurance in conformance with the requirements set forth in the General Conditions at time of signing of the Contract. The period for execution of the Contract may be changed by mutual contract of the parties. Contracts are not effective until signed by both parties.

## **2.15 Protest Procedures.**

**2.15.1** Protests to the award of the contract to the Contractor selected by the Court must be presented in writing and filed with the individual listed in the Submission of Proposal section of this RFP. In no event shall a protest be considered if the parties have executed the contract. The contractor who files the protest must have complied with section 2.5.

**2.15.2** A contractor submitting a Proposal may protest the award based on allegations of improprieties occurring during the Proposal evaluation or award period if it meets all of the following conditions:

- a. The **contractor** has submitted a Proposal that it believes to be responsive to the solicitation document.
- b. The **contractor** believes that its Proposal meets the administrative and technical requirements of the solicitation, proposes items and/or services of proven quality and performance, and offers a competitive cost; and

- c. The **contractor** believes that the Court has incorrectly selected another **contractor** submitting a Proposal for an award.

**2.15.3** Such protests must be received no later than five (5) business days after the protesting party receives a no-award notification.

**2.15.4** Form of Protest. A contractor who is qualified to protest should submit the protest to the individual listed in the Submission of Proposal section of this RFP who will forward the matter to the appropriate Contracting Officer.

- a. The protest must be in writing and sent by certified or registered mail or delivered personally to the address noted above. If the protest is hand-delivered, a receipt must be requested.
- b. The protest shall include the name, address, e-mail, telephone and facsimile numbers of the party protesting or their representative.
- c. The title of the solicitation document under which the protest is submitted shall be included.
- d. A detailed description of the specific legal and factual grounds of protest and any supporting documentation shall be included.
- d. The specific ruling or relief requested must be stated.

The Court's Executive Officer, on behalf of the Court may, at its discretion, make a decision regarding the protest without requesting further information or documents from the protestor. The decision of the Court Executive Officer shall constitute the Court's final action and decision.

### **III. PROPOSAL FORMAT AND CONTENT**

Responsive Proposals should provide straightforward, concise information that satisfies the requirements of this solicitation.

#### **3.1 Company Information**

The Court requires the contractor to be a reputable company of strong financial standing experienced in organizational development and California Court structure. The contractor's Proposal must provide the information requested below. If the contractor is a joint venture, information about the prime Contractor 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, include the state in which incorporated.
- d. Total number of years in business.
- e. Number of years providing services similar in scope to those requested in this RFP.
- f. If subcontractors are proposed for this RFP, describe the contractor's contract management process for subcontractors included in the contractor's Proposal and provide copies of signed formal contracts (e.g., teaming contracts or any other legally binding document), if any exist, between the contractor and each proposed subcontractor.
- g. A list of at least three (3) comparable court projects completed by contractors. Include the court, contact person, address, e-mail (if known), telephone number and description of initial project scope and final results. These courts may be contacted for references.

- h. A comprehensive timeline for each phase of the review process outlined in section IV.
- i. A breakdown of costs for each phase of the project as listed in 4.1.2.

## **3.2 Experience and Qualifications**

### **3.2.1 Prior Experience and References**

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

**3.2.1.1** Describe the contractor's experience as it pertains to providing services similar in size, complexity and scope to those required under this RFP and in the manner required pursuant to this RFP.

**3.2.1.2** Provide the names, addresses, and telephone numbers for a minimum of five (5) customers for whom the contractor has provided similar services within the last 18 months. The contractor should 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 the contractor'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.

### **3.2.2 Subcontracts**

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

## **3.3 Cost Proposal**

### **3.3.1 Government Rates**

It is expected that all contractors responding to this solicitation will offer the vendor's government or most favorable comparable rates.

### **3.3.2 Pricing and Price Adjustments**

Contractor must provide a detailed description of the pricing of services and state all that the pricing includes. Pricing shall include all anticipated charges, including but not limited to, freight and delivery, cost of materials and product, overhead, travel, if applicable, profits, and other costs or expenses incidental to the contractor's performance. If there is any travel involved in performance of this contract, contractor agrees to comply with the Court's guidelines on travel compensation. The Court is exempt from federal excise taxes and no payment will be made for any taxes levied on the contractor's or any Subcontractor's employee's wages. The Court will pay for any applicable State of California or local sales or use taxes on the services rendered. Taxes shall be included as a separate line item on a contractor's invoice.

**3.3.3** Contractor's Proposal and price does not (1) imply that court approves or adopts Contractor's plan, methods, or procedures required to perform the Work; nor (2) relieve

Contractor from sole responsibility for the accuracy of its estimate, and timely completion of the Work.

**3.3.4** Contractor shall not charge, nor shall Court pay any overtime pay unless otherwise agreed to in writing between the Contractor and Court.

### **3.4 Required Proposal Forms and Documents**

#### **3.4.1 Required Forms**

- a. Detailed Statement of Work that will be performed and all other associated costs that are included in the Proposal.
- b. Contractor Certificate (See Attachments)
- c. 504 Statement of Compliance (See Attachments)
- d. Certificate of Insurance (Note: The Court must be included on the policy as an endorsed party when the contract documents are executed)

#### **3.4.2 Acceptance of Terms**

The contractor's Proposal must include a statement as to whether the contractor accepts the General Conditions in Exhibit C of the attached proposed contract or whether the contractor takes any exception to those terms. The contractor will be deemed to have accepted such terms and conditions, except where expressly called out in the contractor's Proposal. If exceptions are taken, contractor must submit a "redlined" version of the term or condition showing all modifications proposed by the contractor (a MSWord version will be provided upon request for redlining). The contractor must provide an explanation as to why the modification is required. The contractor's willingness to accept the General Conditions, with minor clarifications, shall be an affirmative factor in the evaluation of the contractor's Proposal.

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

## **IV. STATEMENT OF WORK** Description of services to be provided

### **4.1 General Description**

The selected Contractor shall conduct a comprehensive review of the existing management structure. The Review shall include:

1. A survey of comparable courts' management structures;
2. An Analysis of the San Mateo Court's management duties, responsibilities, and reporting structure;
3. An analysis of spans of control;

4. Recommendations to modify, re-organize, and/or reduce the Court's management structure to enable the Court to manage its essential functions and reduced workforce in the most efficient way possible and results in the most optimal lean and productive management structure.
5. Recommendations on a management structure that emphasizes a cohesive management team and allows for future succession planning in the management ranks

The selected contractor shall facilitate the final implementation plan with the Court Executive Officer. Contractor shall include a breakdown of costs for each phase of the project as described in 4.1.1. With Court approval, Contractor may recommend comparable or additional methods, as necessary, to complete project within a reasonable timeframe.

#### **4.2 Scope of Work / Management Review Process**

The following project phase outline is provided to demonstrate what the Court anticipates the project will involve. The project manager and Court Executive Officer will be the Contractor's main points of contact. This outline will be further discussed and finalized with the awarded contractor.

1. Discovery and Analysis – Contractor will work closely with the Court to gather and confirm data related to current Court structure including reporting structure, classification specifications, actual job duties, comparisons from comparable courts, and any other data deemed necessary to complete the review and analysis.
2. Contractor will provide a report by January 3, 2011 that identifies recommendations for changes to reporting structure, classification specifications, position changes/reductions and job duties that allow for more efficient use of management as related to the essential functions of the Court. A continued, sequential reduction in the total number of management positions should be thoroughly considered so that the Court can meet the ongoing need to reduce total staff numbers. A clear line of succession must result from any recommendations implemented.
3. Post Recommendations Collaboration – Contractor will work with the Court to review and discuss the initial recommendations and facilitate the process of modifying the recommendations if necessary to best fit the needs and culture of the Court. Contractor shall be expected to present its findings and recommendations to the Court Executive Officer and Presiding Judge.

#### **4.3 General Requirements**

Contractor will provide the following services in conjunction with meeting the specifications as stated in 4.2 above:

1. Work with Court staff to identify current responsibilities, actual job duties and reporting structure.
2. Work with Court Executive Officer and others as designated to identify future needs.
3. Conduct surveys as relevant to the review.
4. Provide the Court with a report of findings and recommendations by January 3, 2012.
5. Work with Court to review and possibly modify recommendations.

#### **4.4 Invoicing**

**4.4.1** Contractor shall submit invoices after completion of requisite tasks to the satisfaction of the Court Executive Officer.

**4.4.2** An invoice shall contain a detail of services rendered, materials provided, the Court’s contract number and shall be signed by the contractor. Invoices will be submitted by contractor to:

Fran Doubleday, Court Human Resources Manager  
(with a copy to Neal Taniguchi, Financial Services Director)  
Superior Court of California, County of San Mateo  
400 County Center, 4<sup>th</sup> floor  
Redwood City, CA 94063

**V. ATTACHMENTS**

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# **ATTACHMENT A**

## **CONTRACT TERMS AND CONDITIONS**

**Attached are the terms of the standard contract between the Court and its vendors. By submitting a Proposal, you are agreeing to the terms of this contract for the services that you will be providing.**

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO Agreement**  
**AGREEMENT WITH (INSERT CONTRACTOR'S NAME) No. 41-11-D0\_\_\_\_\_**

Contractor Name and Address:

Telephone:

(Insert name of owner or president of company and title HERE)

It is agreed between the **Superior Court of California, County of San Mateo**, hereinafter called "**Court**" and **XXXXXX**, hereinafter called "**Contractor**", as follows:

**Background**

WHEREAS, ; and

WHEREAS, ; and

WHEREAS, COURT requires XXXX to ;

NOW, THEREFORE, pursuant to the representations and agreements contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby mutually covenant and agree as follows:

1. Services to be performed by Contractor. In consideration of the payments hereinafter set forth, Contractor shall perform services for the Court in accordance with the terms, conditions and specifications set forth herein and in Exhibits "A", "B", "C", "D" and "E" attached hereto and incorporated herein by reference. Contractor shall ensure compliance with all state, federal and local laws or rules applicable to performance of the work required under this contract.

2. Term and Effective Date of Agreement

This Agreement shall be effective from XXXXX, 2011 through XXX, 2012 unless otherwise terminated. 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.

3. Contract Amount

A. Payment Schedule and Liability.

In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibits "A" and "C", the Court shall make payment to Contractor in the manner specified herein and in Exhibit "B". The Court reserves the right to withhold payment if the Court determines that the quantity or quality of the work performed is unacceptable. In no event shall the Court's total fiscal obligation under this Agreement exceed **XXXX Thousand Dollars (\$XXXXXX.00)**.

B. Availability of Funds.



Payment for services provided pursuant to this Agreement is contingent upon the availability of Court, County, State, and Federal funds to finance this project. In the event that any of the entities listed above do not appropriate the necessary funds as part of their budgets, the Court shall not be liable for any payment whatsoever; including, but not limited to, payments that are based on Court funds. The Court may terminate this agreement for unavailability of Federal, State, County or Court funds at anytime. The Court reserves the right to withhold payment if the Court determines that the quantity or quality of the work performed is unacceptable.

**4. Contract Documents**

Incorporated into this Agreement are the following attachments (collectively, “the Contract Documents”):

- a. General Provisions
- b. Exhibit A – Statement of Work and Services
- c. Exhibit B - Schedule of Fees and Method of Payment
- d. Exhibit C – General Terms and Conditions
- e. Exhibit D – AOC Travel Guidelines

In the event of a conflict between the terms of the Contract Documents, the following order of precedence shall govern and shall determine which terms will prevail: The General Provisions and Exhibit “C”-General Terms and Conditions; Exhibit A - Statement of Work and Exhibit B – Schedule of Fees and Method of Payment. Any Amendments to this Agreement, starting with the most recent, shall take precedence over the existing Contract Documents. In the event of a conflict between an Amendment and the terms of any other Contract Document, the terms of the Amendment shall prevail.

**5. Representatives:**

**Notices:** Notices, as may be required in the Agreement, will be provided to the following:

<b>COURT:</b>	<b>CONTRACTOR:</b>
400 County Center	
Redwood City, California 94063	
Telephone:650-	Telephone:

## SIGNATURES

The undersigned, representing their respective parties to this Agreement, acknowledge and certify that they have the proper authority to do so.

<b>Superior Court of California, County of San Mateo</b>	
<i>Signature:</i> _____	<i>Signature:</i> _____
Name: _____	Name: _____
Title: Presiding Judge _____	Title: _____ _____
Date: _____	Date: _____

**ACKNOWLEDGEMENT:**

I hereby certify that the services requested are necessary, the selection process documentation is accurate, all applicable insurance certificates are on file in this office, that Risk Management has approved any reductions in contractor's insurance limits below \$1,000,000, and that no work will commence until this document is signed by the Court Executive Officer.

<i>Signature:</i>  _____	
Deputy Court Executive Officer	<i>Date:</i> _____

Received and Processed:

*Signature:*

_____	<i>Date:</i> _____
Court Finance Director	

Distribution: Original signed copy: Finance Director Copy to: Contractor, Contracts Administrator, Project Manager and Court Accounting  
Revised 03/2007

**EXHIBIT "A"**  
**STATEMENT OF WORK OR SERVICES**

In consideration for payment of the compensation by Court as specified in Exhibit "B" contractor will provide services, materials and labor as follows:

1. [Specifics for this Statement of Work will be inserted herein once the consultant is selected and negotiations of the terms of the services and payment are completed. The terms of services to be provided are stated in RFP above but will be refined during the negotiations.]

**EXHIBIT “B”**  
**SCHEDULE OF FEES AND METHOD OF PAYMENT**

1. In consideration for the services provided by Contractor as specified in Exhibit A, Court agrees to pay Contractor upon receipt and approval of invoices submitted by Contractor for services provided and according to the payment schedule in paragraph 3 below. Said invoice from Contractor shall include with specificity the work that was performed; the date the work was performed; the amount of time the work took; and the total amount of the invoice. The invoice shall be submitted within 5 business days after the end of the month within which the work was performed and shall be submitted to:

Superior Court of San Mateo County  
400 County Center  
Redwood City, CA 94063  
Attn: Tim Benton, Director of Court Information Technology

2. The maximum amount that the Court is obligated to pay, as specified in Section 3. A. of the Contract for Services attached is inclusive of all related expenses (transportation, accommodations, meals) incurred by Contractor. In no event shall the Court pay for any expenses not covered herein without the prior written consent of the Court Executive Officer or designee.
3. [Please note that additional terms in this section will be added once negotiations after selection are completed]
4. Travel Expenses
  - A. Reimbursable Travel Expenses: Contractor will submit a travel plan to Court for review and written approval prior to incurring expenses for travel that may be required in performance of this Agreement. The travel plan will include the date(s) for travel, reason travel is required, and an estimate of the potential expense. Court will compensate Contractor for authorized travel expenses in accordance with the approved travel plan, or any authorized changes to the travel plan that have been approved by the Court in writing (e.g., letter, e-mail, etc.), and the relevant sections of the *AOC Travel Rate Guidelines*. A copy of the AOC Travel Rate Guidelines are attached and incorporated into this Agreement.
  - B. Invoicing Requirements for Travel Reimbursement: Contractor will provide copies of receipts and invoices for reimbursement of travel expenses that have been incurred in accordance with the travel plan that has been approved by the Court, or any authorized changes to the travel plan that have been approved by the Court in writing (e.g., letter, e-mail, etc.). The Court will not pay travel expenses that have not been authorized in writing.
  - C. Total Travel Reimbursement Amount: The total amount that Court will reimburse Contractor for travel related expenses, pursuant to this provision, will not exceed \$\_\_\_\_\_, unless agreed to in a written amendment to this Agreement.

**EXHIBIT - C**  
**GENERAL TERMS AND CONDITIONS**

**1. Accounting.**

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

**2. Audit; Retention of Records**

**A. Audit.** Upon reasonable notice, Contractor will provide to Court, to any federal or state entity with monitoring or reviewing authority, or to Court's authorized representatives, access to and the right to examine and audit all records and documents relating to performance and billing under this Agreement, and, as necessary, to determine compliance with relevant federal, state, and local statutes, rules, and regulations. Contractor agrees to provide Court with all relevant information requested, and will permit access to its premises at reasonable times, for the purpose of interviewing employees and inspecting and copying any relevant records.

**B. Retention of Records.** Contractor will maintain all financial Data, supporting documents, and all other records relating to performance and billing under this Agreement for a period in accordance with state and federal law. The minimum retention period will be four years from the date of the submission of the final payment request or until audit findings are resolved, whichever is later.

**3. Assignment**

Contractor will not assign its rights or obligations under this Agreement, either in whole or in part, without the prior written consent of Court, in the form of an Amendment.

**4. Choice of Law; Jurisdiction and Venue**

**A. Choice of Law.** This Agreement and performance under it will be exclusively governed by the laws of the State of California without regard to its conflict of law provisions.

**B. Jurisdiction and Venue.** Contractor irrevocably consents to the exclusive jurisdiction and venue of the State court located in Redwood City, California and federal court located in San Francisco, California in any legal action concerning or relating to this Agreement.

**5. Certifications and Representations**

Contractor's signature on the cover page shall also serve as certification for the following paragraphs, A-F.

**A. ADA Compliance.** Contractor certifies that it and its

Subcontractors comply with applicable provisions of the Americans with Disabilities Act ("ADA") of 1990 (42 U.S.C. Sections 012101 *et seq.*), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.

**B. FEHA Compliance.** Contractor certifies that it and its 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 certifies that it and its 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 certifies that it and its Subcontractors will not unlawfully harass, including sexually harass, any persons with whom Contractor or its Subcontractors interact in the performance of this Work. Contractor and its Subcontractors will take all reasonable steps to prevent such harassment.

**C. Drug-free Workplace.** Contractor certifies that it and its Subcontractors will provide a drug-free workplace as required by Calif. Gov. Code, § 8355-8357.

**D. Labor/Collective Bargaining.** Contractor certifies that it and its 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.** Contractor certifies that, 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 to the following:

“Former Court employees will not be offered employment position for two years from the date of separation, if that employee participated in the decision-making process relevant to the Agreement, or for one year from the date of separation if that employee was in a policy-making position in the same general subject area as the proposed Agreement, within the prior twelve-month period of Court employment.”

## **6. Changes in Work; Stop Work**

### **A. Changes in Work.**

- A.1. Court reserves the right to require Contractor to make changes in the Work, as set forth in Exhibit A, Statement of Work, which may include additions, deletions, or modifications to the Work, or changes in the timing or level of effort for the Work.
- A.2. For any change proposed by Court or Contractor, Contractor will submit in writing:
  - a) a description of the proposed change and the reasons for the change;
  - b) a summary of the total compensation to be paid Contractor with a breakdown of tasks and costs, including any reduction in work or costs resulting from the change; and
  - c) a statement of the expected impact on schedule.
- A.3. If Court and Contractor agree on a change, Court will issue an Amendment documenting the change, for the parties' execution.
- A.4. If the parties cannot agree to the terms of a change, Contractor will proceed diligently with Work unless otherwise directed by Court, and any continuing disagreement will follow the process set forth in the provisions entitled “Dispute Resolution.” Contractor should not proceed with any change prior to receiving a written directive or Amendment from Court. All costs for changes performed by Contractor without Court's prior written approval will be at Contractor's sole risk and expense.

### **B. Stop Work.**

- B.1. Court may, at any time, by delivery of a written Stop Work Order to Contractor, require Contractor to stop any or all of the Work, for ninety days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree.
- B.2. Upon receipt of the Stop Work Order, Contractor will immediately comply with its terms and take

all reasonable steps to minimize the costs incurred to Court during the applicable Stop Work period. Within ninety days after a Stop Work Order is delivered to Contractor, or within any mutually agreed extension of that period, Court will either cancel the Stop Work Order or terminate the Work, as provided in Section 21 (Termination).

- B.3. If a Stop Work Order is cancelled, or the period of the Stop Work Order or any extension thereof expires, Contractor 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 Contractor's costs or the time required for performance; and (b) Contractor asserts its right to an equitable adjustment within thirty days after the end of the applicable Stop Work period.
- B.4. If a Stop Work Order is not canceled 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.
- B.5. Court will not be liable to Contractor for loss of profits because of any Stop Work Order.

## **7. Confidential Information**

- A. **Requirements of Strict Confidence.** While performing Work under this Agreement, Contractor and its Subcontractors may gain access to Confidential Information that, if disclosed to Third Parties, may be damaging to Court, its personnel, court users, or other government entity. Neither Contractor nor its Subcontractors acquires any right or title to the Confidential Information, and Contractor and its Subcontractors agree not to disclose any Confidential Information to any Third Party. All Confidential Information disclosed to Contractor or its Subcontractor will be held in strict confidence and used only in performance of Work under this Agreement. In the event of any unauthorized disclosure or loss of Confidential Information, Contractor will immediately provide Notice to Court, with pertinent details of the unauthorized disclosure or loss, and any remedial measures taken.
- B. **Permissible Disclosures.** Contractor may disclose Court's Confidential Information on a “need to know” basis to Contractor's employees and Subcontractors and any representatives of Court that are working on the project. Additionally, Contractor may disclose the Confidential Information, to the extent necessary

to (i) comply with any applicable law, rule, regulation, or ruling; (ii) respond to any enforceable summons or subpoena; or (iii) enforce its rights under this Agreement.

## **8. Conflict of Interest;**

### **Prohibition Against Gratuities**

#### **A. Conflict of Interest.**

A.1 Contractor covenants that it and its Subcontractors presently have no interest, and will acquire no interest, which would directly or indirectly conflict in any manner or to any degree, with the full and complete performance required under this Agreement. Contractor further agrees to submit full disclosure statements, if required by law to do so, pursuant to the requirements of the California Fair Political Practices Act or any other applicable federal or state law, regulation, or conflict of interest code.

A.2 Contractor and its Subcontractors and employees will not participate in proceedings that involve the use of Court funds or that are sponsored by Court if the Contractor, its Subcontractors, or their employees, principals, partners, family members, or organizations have a financial interest in the outcome of the proceedings.

A.3 Contractor and its Subcontractors and employees will not engage in actions resulting in, or creating the appearance of:

- a) use of an official position with the government for private gain;
- b) preferential treatment to any particular person associated with this Work or Agreement;
- c) impairment of Court's independence or impartiality;
- d) a decision made outside official channels; or
- e) adverse effects on the confidence of the public in the integrity of Court.

#### **B. Prohibition Against Gratuities.**

B.1 Contractor covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by Contractor or any agent, director, or representative of Contractor, to any officer, official, agent, or employee of Court, in an effort to secure the Agreement or favorable treatment with respect to any determinations concerning the performance of the Agreement.

B.2. For any breach or violation of this covenant, Court has the right to terminate the Agreement for cause, wither whole or in part. Any loss or damage sustained by Court in procuring, on the open market, replacement goods or services that Contractor agreed to provide, will be borne and

paid for by Contractor. Court's rights and remedies under this provision are in addition to any other rights and remedies provided by law or under this Agreement.

## **9. Consideration**

The consideration paid to Contractor is the entire compensation for all Work performed under this Agreement, including all of Contractor's expenses incurred, such as travel and per diem expenses, unless otherwise expressly provided, as set forth in Exhibit B (Payment).

#### **A. Payment Does Not Imply Acceptance of Work.**

Court's payment will not relieve Contractor from its obligation to replace unsatisfactory Work, even if the unsatisfactory character of such Work may have been apparent or detected at the time such payment was made. Work, Data, or components that do not conform to requirements of this Agreement will be rejected, and will be replaced by Contractor, without delay or additional cost to Court.

B. **Disallowance.** If Contractor receives payment from Court for a service or reimbursement that is later disallowed or rejected by the Court, Contractor will promptly refund the disallowed amount to Court upon Court's request. At its option, Court may offset the amount disallowed from any payment due to Contractor, under this Agreement or any other agreement.

## **10. Contractor Status**

#### **A. Independent Contractor.**

A.1 Contractor, Subcontractors, and their officers, agents, employees, and all others acting on behalf of Contractor for this Work, act as independent contractors and not as Court agents, officers or employees. Contractor has no authority to bind or incur any obligation on behalf of Court. Except as expressly provided in Exhibit D (Statement of Work), Contractor has no authority or responsibility to exercise any rights or power vested in Court.

A.2 This Agreement will not be considered under any circumstance to create a joint-venture relationship.

A.3 If any governmental entity concludes that Contractor is not an independent contractor, Court may terminate this Agreement immediately upon Notice. Alternatively, Contractor may agree to a reduction in Court's financial liability, so that Court's total costs under this Agreement do not exceed the originally contemplated amount.

#### **B. Contractor's Employees.**

B.1 Contractor's employees will be entirely and exclusively under the direction, supervision, and

control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring, and termination, or any other employment issues or requirements of law, will be determined by Contractor.

- B.2 Contractor will issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's employees, consultants, and independent contractors.
- B.3 If the Internal Revenue Service or any other federal or state governmental entity should investigate or challenge Contractor's independent status with respect to Court, the parties agree that (i) each will inform the other party of such investigation or challenge; and (ii) Court will have the right, but not the obligation, to participate in any discussion or negotiation occurring with the federal or state entity, regardless who initiates such discussions or negotiations.
- B.4 Contractor will indemnify and hold Court harmless from all claims, costs, and liabilities resulting from third-party actions alleging an employment relationship between Court and any Contractor or Subcontractor personnel.
- C. **Exclusive Control of Means and Method of Performance.** Contractor will determine the method, details, and means of performing or supplying the Work under this Agreement. Contractor will be responsible to Court only for the requirements and results specified in this Agreement and more particularly as set forth in Exhibit D – Statement of Work, and will not be subjected to Court's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor will have the “right to control” and bear the sole responsibility for the job site conditions and safety.
- D. **Permits, Laws, and Regulations.**
- D.1 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 accomplish the Work. Such permits and licenses will be made available to Court, upon request.
- D.2 Contractor will promptly provide 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.

- E. **Subcontracting.**
- E.1 Contractor will not engage a Subcontractor to perform any portion of this Work, without the express written consent of Court. Any subcontracting without Court's written consent is a material breach of this Agreement.
- E.2 Contractor warrants and represents that all Subcontractors will be subject to the same terms and conditions applicable to Contractor under this Agreement. Contractor will incorporate this Agreement as the prime agreement in any subcontracting relationship. Contractor will be liable for all Subcontractor acts or omissions, including indemnity obligations.
- F. **Signature Authority.** Contractor has all requisite power and authority to conduct its business, and to execute and perform the Agreement.

## **11. Dispute Resolution**

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

- A. **Escalation.**
- A.1 If a dispute remains unresolved following Notice by either party, each party's Chief Executive Officer (“CEO”) or designated representative will meet to exchange information and attempt resolution within fifteen days of the effective date of the Notice.
- A.2 If the matter is not resolved as set forth in section 11.A.1, the aggrieved party will submit a second Notice which will:
- provide detailed factual information;
  - identify the specific provisions in this Agreement on which any demand is based;
  - advise if the demand involves a cost adjustment and, if so, provide the exact amount, accompanied by all supporting records; and
  - attach a declaration that the demand is made in good faith, the supporting data are accurate and complete, and the amount requested properly reflects the necessary adjustment. Notice will be signed by an authorized representative of the aggrieved party.
- A.3 Each party will comply with reasonable requests for additional information. Any additional information will be provided within fifteen days



after receipt of a written request, unless otherwise agreed.

- B. Confidentiality During Dispute Resolution.
- B.1 All dispute resolution negotiations are considered confidential, and will be treated as compromise and settlement negotiations, to which California Evidence Code § 1152 applies.
- B.2 Pending final resolution of any dispute, Contractor agrees to proceed diligently with the performance of the Work, including Work associated with the dispute, unless otherwise directed by Court. Contractor's failure to diligently proceed in accordance with Court's instructions will be considered a material breach of the Agreement.

## 12. Force Majeure

- A. Force Majeure events include, but are not limited to:
  1. catastrophic acts of nature, or public enemy;
  2. civil disorder;
  3. fire or other casualty for which a party is not responsible; and
  4. quarantine or epidemic.

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

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

## 13. Indemnification

- A. **To the fullest extent permitted by law, Contractor will indemnify, hold harmless, and defend (with counsel satisfactory to the Court) Court and its agents, officers, and employees from and against any and all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorneys' fees, arising or resulting from, or in connection with, the performance or breach of this Agreement by Contractor or its officers, employees, agents, representatives, or Subcontractors. Such indemnification will not include loss, damage, or expense arising from the sole negligence or willful misconduct of Court or its agents, officers, and employees.**

- B. For Contractor's acts, errors, or omissions which are covered by Contractor's Professional Liability insurance, Contractor will provide the above indemnification for that proportion of damages, costs, and liabilities that are attributed to Contractor, or any of its Subcontractors, but not for Court's proportionate share of liability.
- C. Contractor's obligation to defend, indemnify, and hold Court and its agents, officers, and employees harmless is not limited to, or restricted by, any requirement in this Agreement that Contractor procure and maintain a policy of insurance.

## 14. Insurance

- A. **General Insurance Requirements.** Contractor will obtain and maintain the minimum insurance set forth in subparagraph B, below. By requiring such minimum insurance, Court will not be deemed or construed to have assessed the risks applicable to Contractor. Contractor will assess its own risks, and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. For full coverage, each insurance policy shall be written on an "occurrence" form; excepting that insurance for professional liability, when required, may be acceptable on a "claims made" form. If coverage is approved and purchased on a "claims made" basis, Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, for three years from the date of completion of the Work.
- B. **Minimum Scope & Limits of Coverage.** Contractor will maintain the following coverages:
  1. Workers' Compensation at statutory requirements of the state of residency.
  2. Employers' Liability with minimum limits of **\$1,000,000.00** for each accident.
  3. Commercial General Liability Insurance with minimum limits of **\$1,000,000.00** for each occurrence, Combined Single Bodily Injury and Property Damage and Personal Injury. If coverage is subject to an aggregate limit, that aggregate limit will be twice the occurrence limit.
  4. Business Automobile Liability Insurance with minimum limits of **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired automobile coverage, as applicable.
  5. Excess coverage, at the same limits specified for Comprehensive General Liability:

Contractual Liability, Independent Contractor, Broadform Property Damage, Personal Injury, Product, and Completed Operation coverage.

C. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to, and approved by, Court. The deductible and/or self-insured retentions will not limit or apply to Contractor's liability to Court and will be the sole responsibility of Contractor.

D. **Endorsements; Additional Insureds.** The General Liability policy will contain, or be endorsed to contain, the following provisions:

1. Court, its officers, officials, employees
2. To the extent of Contractor's negligence, Contractor's insurance coverage will be primary insurance as respects Court, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by Court, its officers, officials, employees or agents will not contribute with the insurance, or benefit Contractor in any way;
3. Contractor's insurance will apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability;
4. Contractor will provide Court certificates of insurance satisfactory to Court, evidencing all required coverages before Contractor begins any Work, and complete copies of each policy upon Court's request;
5. If at any time, the foregoing policies become unsatisfactory to Court, as to form or substance, or if a company issuing any such policy becomes unsatisfactory to Court, Contractor will, upon Notice from Court, promptly obtain a new policy, and submit the same to Court, with the appropriate certificates and endorsements, for approval;
6. All of Contractor's policies will be endorsed to provide Notice to Court of cancellation, nonrenewal, and reduction in coverage, within fifteen days, mailed to the Court's representative for Notices named on the Contract Cover Sheet. Such notice will reference the relevant project, and contract number.

E. **Waiver of subrogation.** Contractor and its insurance carrier waive any and all rights of subrogation against the Judicial Branch Entities. This waiver will be reflected on the Certificate of Insurance, provided by Contractor. If Contractor

fails to obtain the appropriate waivers of subrogation, additional insured status, or certificates of insurance from carrier, Contractor will indemnify Court from all costs and liability caused by Contractor's breach.

#### **15. 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.

#### **16. Modification.**

No modification or change to this Agreement will be valid without written approval by Court, in the form of an Amendment, including any changes to Exhibit D (Statement of Work).

#### **17. Prohibited Bids for End Product of this Agreement**

No person, firm, or subsidiary thereof which has been awarded a consulting services agreement may submit a bid for, or be awarded an agreement for, the provision of services, procurement of Materials or Data, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of this Agreement. This provision will not apply to any person, firm, or subsidiary thereof, which is awarded a subcontract under this Agreement in an amount no more than ten percent of the total monetary value of this Agreement.

#### **18. Public Contract Code References**

References to the Public Contract Code are provided for convenience only. The Public Contract Code does not apply to Court, but is referenced to clarify Contractor's obligations, if specific code sections are cited.

#### **19. Scope of Work; Acceptance**

A. **Scope of Work.** Contractor will perform and complete all Work described in Exhibit D – Statement of Work, in compliance with the requirements of this Agreement, and to the satisfaction of Court.

B. **Acceptance.**

B.1 All Work provided by Contractor under this Agreement is subject to written acknowledgement and acceptance by Court's Project Manager. The Court's Project Manager will apply the acceptance criteria set forth in Exhibit D – Statement of Work,

(including timeliness, completeness, technical accuracy and conformance to statistical, industry or marketplace standards) to determine acceptance or non-acceptance of the Work..

- B.2 Project Manager shall use the Acceptance and Sign-off Form (in the form provided as Attachment 1) to notify the Contractor of acceptance or non-acceptance.
- B.3 If the Work is not acceptable, Project Manager shall detail its failure to meet the acceptance criteria. Contractor shall have ten business days from receipt of Acceptance and Sign-Off Form to correct the failure(s) to conform to the acceptance criteria. Contractor will re-submit the Work and the Project Manager shall re-apply the acceptance criteria to determine its acceptance or non-acceptance. Thereafter, the parties shall repeat the process set forth in this Section 18 until Contractor's receipt of Court's written acceptance of such corrected Work; provided, however, that if Court rejects any Work on at least two (2) occasions, Court may terminate that portion of this Agreement which relates to the rejected Work at no expense to Court.
- C. **Prior Work.** Prior work, performed by Contractor pursuant to Court's authorization, but before execution of this Agreement, will be considered as having been performed subject to the provisions of this Agreement.
- D. **Non-Exclusivity.** This is a non-exclusive agreement. Court reserves the right to perform, or have others perform the Work of this Agreement. Court reserves the right to bid the Work to others or procure the Work by other means.

## 20. Standard of Performance; Warranties

- A. **Standard of Performance.** Contractor will perform all Work with the requisite skill and diligence consistent with professional standards for the industry and type of work performed under the Agreement, and pursuant to the governing rules and regulations of the industry. Contractor understands that Court relies on the accuracy, competence, and completeness of Contractor's services.
- B. **Warranties.**
- B.1 Contractor 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 Contractor will not relieve Contractor of its obligations under this warranty.

- B.2 **Non-Infringement.** Contractor represents and warrants to Court that it is and will be 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.
- B.3 All warranties will inure to Court, its successors, assigns, customer agencies, and users of the Work provided hereunder.
- B.4 Unless otherwise specified, the warranties set forth in this Section 19 commence after Work has been approved and accepted by Court.

## C. Personnel Requirements.

- C.1 Contractor will use adequate numbers of qualified individuals with suitable training, education, experience, and skill to perform the Work. For continuity, Contractor will endeavor to retain the same individuals (listed in Exhibit. E: Attachments) during the performance of Work.
- C.2 Court reserves the right to disapprove Contractor's personnel, if dissatisfied with their performance. Upon receipt of such Notice, Contractor will immediately assign replacement personnel, with equivalent or greater experience and skills, who are acceptable to the Project Manager.
- C.3 Contractor will be responsible for all costs associated with replacing personnel, including additional costs to familiarize replacement personnel with the Work. If Contractor does not promptly furnish replacement personnel acceptable to the Project Manager, Court may terminate this Agreement for cause.
- D. **Background Checks.** For Contractor'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. Contractor 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. Contractor will obtain all releases, waivers, or permissions required for the

release of such information to Court. Any additional costs will be borne by Contractor.

## **21. Survival.**

Terms that will survive termination or expiration of this Agreement include, but are not limited to: Assignment, Audit Rights and Retention of Records, Confidentiality, Indemnification, Limitation of Liability, Warranties .

## **22. Termination**

**A. Termination for Cause.** Court may terminate this Agreement, in whole or in part, and be relieved of any payments, if Contractor 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 Contractor's default, including costs to complete or correct the Work, will be deducted from any sum due Contractor. Contractor will not be entitled to recover overhead or profit on the uncompleted portions of the Work.

### **B. Termination for Convenience.**

**B.1** Court may terminate this Agreement, in whole or in part, at any time and for any reason, upon at least ten days Notice to Contractor. Upon receipt of the termination Notice, Contractor will promptly discontinue Work as specified in the Notice.

**B.2** If Court terminates all or part of this Agreement other than for cause, the Court will pay Contractor for the Work satisfactorily performed prior to the termination. Contractor will not recover overhead or profit on the uncompleted portions of the Work.

**C.** Termination due to Fund Appropriation and Availability.

**C.1** 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.

**C.2** 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 Contractor for the fair value of Work satisfactorily performed prior to the termination, not to exceed the total Agreement amount.

### **D. Effect of Termination.**

**D.1** 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. Contractor will immediately assign to Court all of Contractor's right, title, and interest in and to such Work and related materials and work product, and any and all intellectual property rights.

**D.2** Upon termination of any kind, Court may withhold from payment any sum that Court determines to be owed to Court by Contractor, or necessary to protect Court against loss due to outstanding liens or claims of former lien holders.

**23. Time is of the Essence.** Time of performance is of the essence in the performance of services by Contractor under this Agreement.

## **24. 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.

## **25. Entire Agreement**

**A.** 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.

**B.** 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.

**C.** This Agreement constitutes the entire and final understanding of the parties regarding this matter, and supersedes and terminates any and all prior or contemporaneous negotiations, representations, understandings, discussions, offers, proposals, or agreements between the parties, whether written or oral, express or implied, relating in any way to the this matter.



**EXHIBIT “D”**  
**ADMINISTRATIVE OFFICE OF THE COURTS**  
**CONTRACTOR’S TRAVEL EXPENSES GUIDELINES**

The AOC’s policy and limits on reimbursable travel-related expenses are listed below. To be eligible for lodging and/or meal reimbursement, expenses must be incurred in excess of 25 miles from headquarters.

**Lodging** – Receipts are required and each day of lodging claimed must be listed separately on the reimbursement claim form. Maximum rates are listed below. Exceptions may be considered on a case-by-case basis, and for centrally booked conferences or meetings. Receipts for hotel lodging charges must be on a pre-printed bill head with a zero balance shown. The hotel express check-out or receipt from a third-party provider for lodging booked via the internet are not valid receipts. In some instances, a hotel may decline to issue a receipt on their pre-printed bill head for lodging booked via the internet.

1. In-state - Actual costs are reimbursable up to a maximum of \$110 per day, plus tax and energy surcharge. Within the counties of Alameda, San Francisco, San Mateo, and Santa Clara, the maximum rate is \$140, plus tax and energy surcharge.
2. Out-of-state – Actual costs are reimbursable with appropriate prior approval.

**Meals** – Actual costs are reimbursable up to the limits stated below for continuous travel of more than 24 hours.

1. Breakfast – Up to \$6
2. Lunch – Up to \$10
3. Dinner – Up to \$18

Meal reimbursement for one-day trips is taxable and reportable income unless travel included an overnight stay. For continuous travel of less than 24 hours, actual expenses up to the above limits may be reimbursable if:

1. Travel begins one hour before normal work hours – Breakfast may be claimed.
2. Travel ends one hour after normal work hours – Dinner may be claimed.  
Lunch may not be claimed on trips of less than 24 hours.

**Incidental Expenses** – Up to \$6 per day. Incidentals are not reimbursable for one-day trips; they may only be claimed after 24 hours.

**Transportation** – The actual cost of tickets for air, rail, bus, rental car, or other forms of public transportation is reimbursable. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler’s itinerary may be submitted in lieu of a receipt.

1. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of \$3.50 or more.
2. Mileage – Personal vehicle mileage is reimbursable at a rate of 51.5 cents per mile
3. Employees who earn travel premiums (Frequent Flier Miles/Points) while traveling on official state business may use these travel premiums for their personal use.

**Other Business Expenses** – Actual cost is reimbursable. Receipts are required for all other business expenses, regardless of the amount claimed.

In the event receipts cannot be obtained or have been lost, a statement to that effect and the reason provided shall be noted in the expense account. In the absence of a satisfactory explanation, the amount involved shall not be allowed. Further, a statement explaining that a receipt has been lost shall not be accepted for lodging, airfare, rental car, or business expenses.

Receipts for telephone or telegraph charges related to court business of \$2.50 or less are not required. However, claims for phone calls must include the place and party called.

(Effective 2007)

**EXHIBIT "E"**

**ASSURANCE OF COMPLIANCE WITH  
SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED**

The undersigned (hereinafter called the "Contractor") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation and all guidelines and interpretations issued pursuant thereto.

The Contractor gives this assurance in consideration for the purpose of obtaining contracts after the date of this assurance. The Contractor recognizes and agrees that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor.

The Contractor:

\_\_\_\_\_ employs fewer than 15 persons

\_\_\_\_\_ employs 15 or more persons and, pursuant to section 84.7(a) of the regulation (45 C.F.R. 84.7(a)), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

\_\_\_\_\_  
Name of 504 person:

\_\_\_\_\_  
Name of Contractor:

I certify that the above information is complete and correct to the best of my knowledge.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature and Title of Authorized Official

\* Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a handicapped person seeking its services, there is no method of complying with (the facility accessibility regulations)... other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

**ATTACHMENT C  
CONTRACTOR CERTIFICATION FORM**

**I certify that neither \_\_\_\_\_ (Proposer) nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency, and that neither Proposer nor any of its proposed subcontractors are tax delinquent with the State of California. I have listed all contracts with courts, government or other governmental agencies during the two years preceding submission of this Proposal.**

**I acknowledge that if Proposer or any of its subcontractors subsequently are placed under suspension or debarment by a local, state or federal government entity, or if Proposer or any of its subcontractors subsequently become delinquent in California taxes, our Proposal may be disqualified.**

**Signature** \_\_\_\_\_

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

**Title** \_\_\_\_\_

**Date** \_\_\_\_\_



**ATTACHMENT D**

**Court's Short-, Mid-, Long-Term Vision  
[See Next 3 Pages]**

## Short Term Vision (6 months - 1 year)

✓	Focus on responding with integrity, excellence and innovation to our essential workload (public services, partner agency services and support to our judiciary) - delay or don't do non-essential work - and effectively determine the difference
✓	Stabilize our organization, ensure budget accuracy and move towards a balanced, sustainable budget (recognizing that State funding is outside our control)
✓	Do all we can to avoid any more layoffs
✓	Plan now to effectively adapt to any additional budget cuts and/or unavoidable cost increases
✓	Maximize efficiencies and reorganization efforts to reduce costs and stress on our reduced workforce, better balance workload and best accomplish essential services
✓	Identify cost-savings programs to achieve significant results in 1-2yrs.
✓	Effectively control what we can and influence what we don't control

## Mid Term Vision (1- 2 years)

✓	Continue efforts listed above to reduce costs, balance workload and provide maximum support to public, judiciary and employees
✓	Strategically spend down our reserves to avoid more layoffs - good till last \$2 million
✓	Through attrition, continue to reduce workforce by 20-25 more positions (7-8% from where we are now, 25% from 2007) to eliminate structural deficit by 2012



## Long Term Vision (2 - 5 years)

	Continue efforts listed above to reduce costs, balance workload and provide maximum support to public, judiciary and employees
	Achieve stable funding (contingent on State allocations)
	Continue partnership and consolidation efforts
*	Significantly fewer non-essential services and (potentially) locations available to the public
	Job security maintained for all court employees
	COLA and equity increases restored – our employees and managers are well compensated
?	Maintain essential fund balance and re-build total fund balance to 20% of total budget

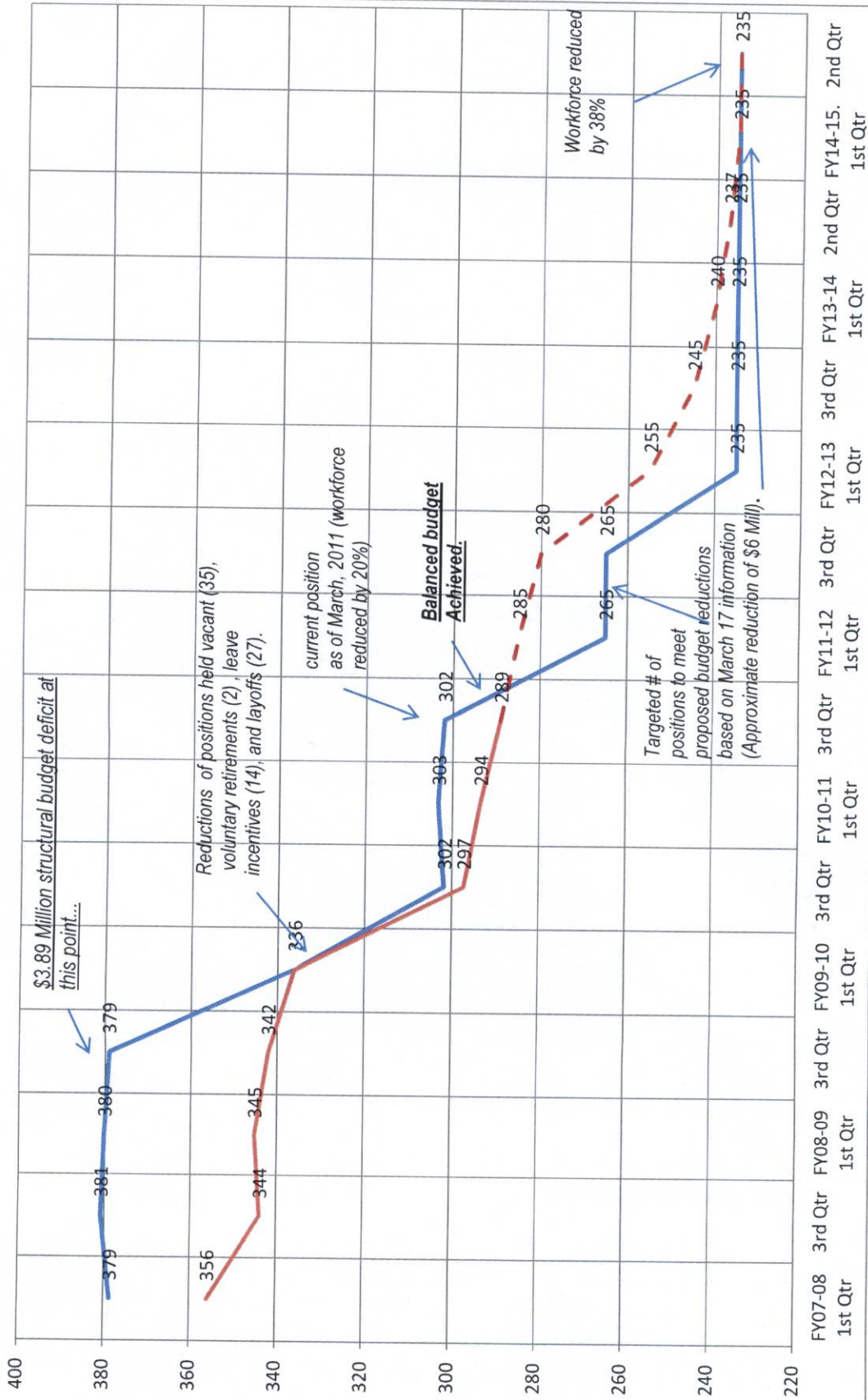
## **ATTACHMENT E**

**Graph depicting position count beginning  
FY 2007-2008 through FY 2014-2015 [1 Page]**

# Effect of Unprecedented State Trial Court Budget Reductions and Rising Benefit Costs on Staff Positions

Not Including judicial officer (26) and interpreter positions (15)

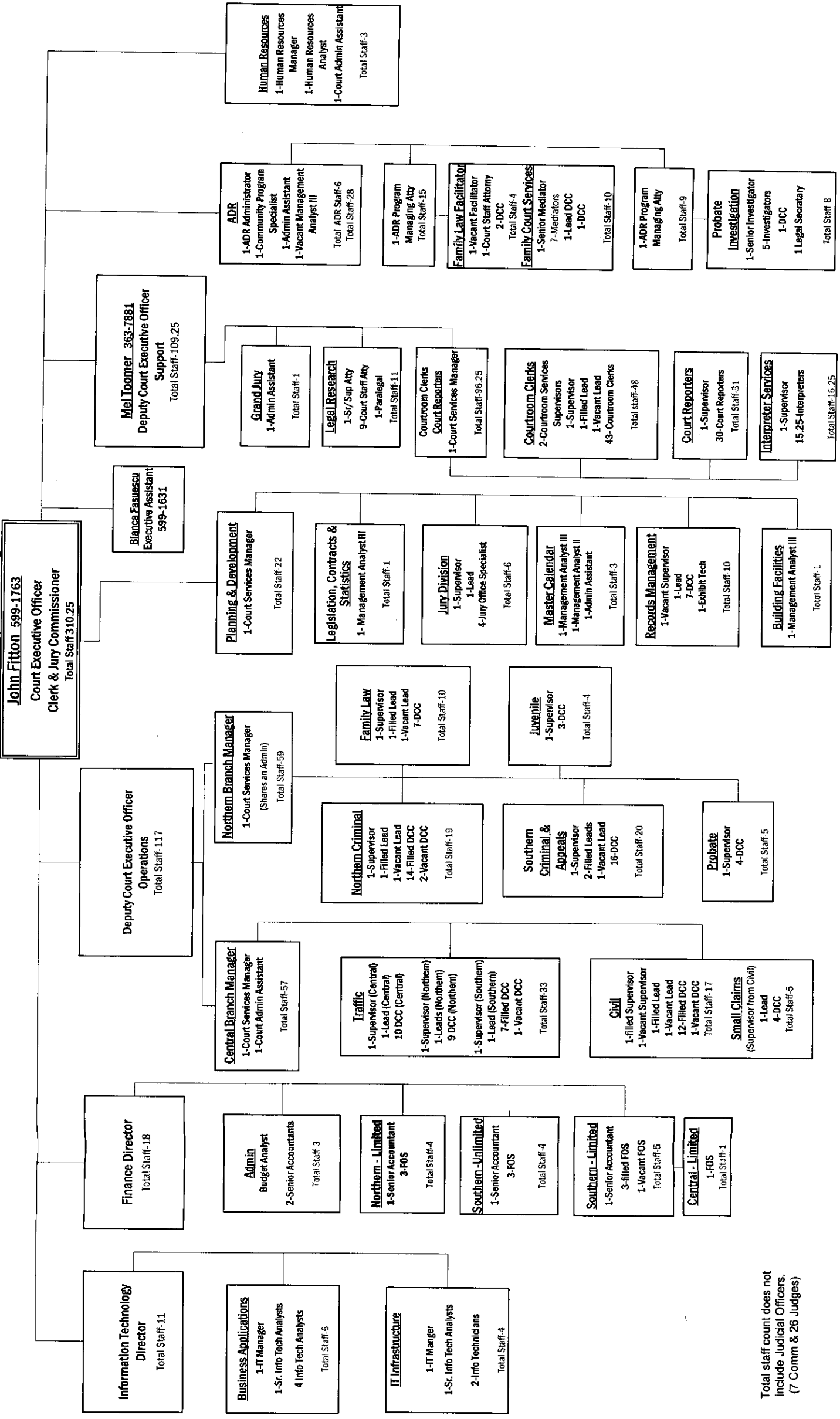
Authorized FTE — Filled pos — Projected Pos



# **ATTACHMENT F**

## **Current Organizational Chart [ 1 Page ]**

# Superior Court of California, County of San Mateo



Total staff count does not include Judicial Officers. (7 Comm & 26 Judges)