

Request for Proposal (RFP)
RFP # HM24006

**2025 Commencement Lighting/
Audio Visual**

**CalPoly
Pomona**

RFP DUE DATE:
Thursday, December 19th, 2024

2:00 P.M. (PST)

RFP SUBMITTAL LOCATION:

Procurement Services – Bldg. 75
2740 S. Campus Dr.
Pomona, CA 91768

RFP Coordinator: Hector Muniz, Procurement Services Lead
California State Polytechnic University, Pomona
Procurement Services
Phone: (909) 869-4298 Email: hmuniz@cpp.edu

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

PROPOSAL DATA

RFP Number: HM24006

Title 2025 Commencement Lighting/Audio Visual

Issue Date: Wednesday, November 13th, 2024

CPP Contact: Hector Muniz, Procurement Lead
Phone: (909) 869-4298
E-Mail: hmuniz@cpp.edu or

RFP DUE DATE

Date/Time: Thursday, December 19th, 2024
2:00 P.M. (PST)

Mailing Address: Procurement Services
Attn: Hector Muniz, Procurement Services Lead
California State Polytechnic University, Pomona
3801 W. Temple Ave.
Pomona, CA 91768

PROPOSAL CONTENTS

Section I	Introduction and General Provisions
Section II	Schedule of Events
Section III	Scope of Work
Section IV	BID Proposal Form
Section V	Evaluation & Selection Criteria
Section VI	Proposal Instructions and Format

ATTACHMENTS

Attachment A	CSU Terms & Conditions of Purchase
Attachment B	Small Business Preference & Certification
Attachment C	DVBE Participation Requirements
Attachment D	Pictures

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

SECTION I
INTRODUCTION AND GENERAL PROVISIONS

1.1 INTRODUCTION AND BACKGROUND

California State Polytechnic University, Pomona (University) is seeking bids from a single service provider to plan, manage, coordinate, and oversee all aspects of Lighting/Audio Visual Services for the 2025 Commencement Ceremonies as noted in Section III Scope of Work. The lighting/audio visual company must have no less than five (5) years' experience in higher education.

The University hosts annual Commencement ceremonies, consisting of multiple ceremonies at one (1) site, over a three (3) day period in May 2025. Commencement is scheduled for Friday, May 16th, 2025, Saturday, May 17th, 2025, and Sunday, May 18th, 2025 (Please see the following link for more details on the 2025 Commencement Schedule for graduation ceremonies: [Commencement](#))

Participation at the University's Commencement has grown significantly over the years. Attendance is expected to reach approximately 8,500 guests per ceremony set for a total of four (4) sets, across three (3) days of Commencement. The University's objective is to provide graduates, their guests, and all attendees a safe and dignified Commencement. The University anticipates twelve (12) ceremonies in one (1) venue and events to begin at 8:00 a.m., 12:00 p.m., 3:00 p.m., and 7:30 p.m., on Friday, May 16th, and at 8:00 a.m., 12:00 p.m., 4:00 p.m., and 7:30 p.m., Saturday & Sunday, for all students graduating on those particular days.

1.2 CAL POLY POMONA BACKGROUND

Cal Poly Pomona is part of the 23-campus California State University (CSU), the largest four-year comprehensive public higher education system in the world. We are an economic engine in California, adding more than 100,000 graduates annually to the skilled workforce and providing more than 150,000 jobs.

CPP has been part of the CSU's rich history since 1938, when we opened in San Dimas with an all-male enrollment of 110 as the Voorhis Unit of California State Polytechnic College. Students had three majors from which to choose: citrus production, ornamental horticulture and agricultural inspection. After W.K. Kellogg deeded his winter residence to the state, the campus moved to Pomona, inheriting the cereal magnate's land and buildings, as well as his beautiful herd of Arabian horses.

Today, CPP has a diverse student population exceeding 29,000. Nearly 55% are the first in their family to attend college, 75% receive financial aid and 43% qualify as Pell-eligible. The student body identifies as 53% Latinx, 22% Asian, 13% white, 3% Black, 2% non-resident alien, 4% two or more races, 3% unknown, less than 1% Native Hawaiian or Other Pacific Islander and less than 1% American Indian or Alaskan Native. STEM majors are nearly 50% of the student body, with the top enrolled programs including mechanical engineering, computer science, civil engineering, and psychology.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

In U.S. News release for [2022-2023 Best College](#) rankings; Cal Poly Pomona was ranked #2 best public university in the west, No. 4 innovative university, and No. 6 for best undergraduate teaching in the west. Cal Poly Pomona is the #1 polytechnic university for diversity and economic mobility. Cal Poly Pomona's commitment to mentorship and a culture of care supports students from all backgrounds as they learn in applied, hands-on situations, solve real-world problems, and forge their own unique paths to success. Cal Poly Pomona is the place where careers begin, leaders learn to lead, and today's students start shaping the innovation and economic vitality of tomorrow.

The University offers more than 100 degrees through eight colleges, with signature programs in architecture, engineering, business administration, hospitality management and more. Our emphasis on learning in many ways (multidimensional), across many majors (cross-disciplinary) and through work and in the world (experiential) helps ensure that graduates are ready for the evolving future of work. *The New York Times* reported that the University is among the 10 best at helping students rise from the bottom fifth of the economic ladder to the top fifth. Times columnist David Leonhardt described the Top 10 universities as "deeply impressive institutions that continue to push many Americans into the middle class and beyond — many more, in fact, than elite colleges that receive far more attention." Our campus' unique, pastoral setting is nestled in the beautiful San Gabriel Valley less than 30 miles east of downtown Los Angeles at the intersection of Los Angeles, Orange, Riverside and San Bernardino counties. It is within an hour's drive of beaches, mountains and deserts. More information about Cal Poly Pomona can be found at www.cpp.edu.

1.3 TERM OF SERVICES

The term of services shall be from receipt of a Fully Executed Agreement for three (3) years with 2 1-year options.

1.4 QUESTIONS

Any questions, interpretations, or requests for clarifications, of either an administrative or technical nature regarding this RFP must be submitted to hmuniz@cpp.edu and with a reference to "RFP HM24006 – RFI" in the subject header and be received prior to the Question Deadline in order to be considered. Questions received prior to the Question Deadline which do not reference "RFP HM24006 - RFI" in the subject_header may not receive a response. Questions received after the Question Deadline will not receive a response. If a question contains the appropriate header reference, is received before the Question Deadline stated herein, and is deemed to require a response which is more than simply a reference to an item contained in the RFP, it will be addressed publicly in writing via written addendum and posted <https://fiscal.ca.gov/>. Any oral statement concerning the meaning or intent of the contents of this RFP by any person is both unauthorized and invalid. **The Question Deadline for receipt of all questions is noted in Section II Schedule of Events.**

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

1.5 SUBMITTAL OF PROPOSALS

Proposals can be submitted electronically to hmuniz@cpp.edu or paper no later than the time and date indicated in this RFP solicitation with the Subject Heading: **RFP HM24006 - 2025 Commencement Lighting/Audio Visual**.

It is the Proposer's responsibility to ensure that the proposals are received at the correct time and place. Mistakes or delays in the mail or other means of delivery employed by the Proposer are the responsibility of the Proposer. **LATE SUBMITTALS WILL NOT BE ACCEPTED.**

1.6 WITHDRAWAL OF PROPOSALS

A proposal package may be withdrawn after its submission by written request signed by the Proposer or authorized representative, prior to the time and date specified for proposal submission. Proposals may be withdrawn and resubmitted in the same manner if done so before the proposal submission deadline. Withdrawal or modification offered in any other manner will not be considered.

1.7 COMPLETION OF PROPOSALS

Proposals shall be completed in all respects as required by the RFP provisions. A proposal may be rejected if conditional or incomplete. Proposals that contain false or misleading statements, or that provide references that do not support an attribute(s) or condition(s) claimed by the Proposer, may be rejected. All statements made by a Proposer shall also be without ambiguity and with adequate elaboration where necessary for clear understanding.

1.8 ADDENDA

The University may modify this Request for Proposal or any of its contents or attachments, prior to the date fixed for submission of proposals by issuance of an addendum posted on <https://fiscal.ca.gov/>. Addenda will be numbered consecutively.

1.9 ALTERNATIVE PROPOSALS

Only one proposal consisting of separate technical and cost packages/envelopes is allowed per Proposer. Multiple proposals will result in the rejection of all proposals submitted by the Proposer.

1.10 COST OF PROPOSALS

Costs for developing proposals are entirely the responsibility of the Proposer and shall not be chargeable to California State Polytechnic University, Pomona.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

1.11 REJECTION OF PROPOSALS

The University reserves the right to reject any or all proposals and to waive informalities and minor irregularities in proposals received. The University's waiver of an immaterial defect shall in no way modify the RFP documents or excuse the Proposer from full compliance with the specifications if Proposer is awarded an Agreement. Proposals which include terms and conditions other than the University's terms and conditions, may be rejected as being non-responsive.

The University may make investigations as deemed necessary to determine the ability of the Proposer to perform the work, and the Proposer shall furnish all such information and data for this purpose as requested by the University.

The University reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Proposer fails to satisfy the University that such Proposer is properly qualified to carry out the obligations of the Agreement and to complete the work as specified.

1.12 CANCELLATION OF RFP

This solicitation does not obligate California State Polytechnic University, Pomona, to enter into an Agreement. The University reserves the right to cancel this RFP at any time, for any reason deemed in the best interests of the University. No obligation either expressed or implied, exists on the part of the University to make an award or to pay any cost incurred in the preparation or submission of a proposal.

1.13 CONFIDENTIALITY AND DISPOSITION OF PROPOSALS

Proposers are advised that the University is a public agency subject to public disclosure laws. A bid document becomes a public record once it is opened, and a determination of the lowest responsible and responsive bidder has been made. (Pub. Cont. Code § 10780).

Proposals received in response to this RFP shall be held in the strictest confidence until an Agreement is authorized. Once an Agreement has been authorized, the University reserves the right to make use of any information and/or ideas contained in the submitted proposal(s) except that which would legally qualify as confidential or proprietary data.

In the event that this RFP is cancelled, the University may elect to either return all proposals or to destroy all proposal documents, at its sole discretion.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

1.14 NON-ENDORSEMENT

Once a proposal is accepted and an award is made, the successful Proposer shall not issue any news releases or other statements pertaining to the award or servicing of the agreement which state or imply CSU endorsement of Proposer's services.

1.15 NON-COLLUSION AFFIDAVIT

By signing the proposal Cover Letter, Proposer hereby certifies that: 1) the proposal is not made in the interest of, or on behalf of, any undisclosed party; 2) the proposal is genuine and not collusive, false or sham; 3) the Proposer has not directly or indirectly induced or solicited any other Proposer to submit a false or sham proposal and has not directly or indirectly agreed with any Proposer or anyone else to submit a false or sham proposal, or to refrain from bidding; and 4) the Proposer has not in any manner, directly or indirectly, sought to fix any overhead, profit, or cost element of the RFP, or that of any other Proposer, or to secure any advantage against the public body awarding the Contract.

1.16 CSU TERMS & CONDITIONS AND INSURANCE

Proposer agrees to provide services in accordance with the CSU Terms and Conditions of Purchase, attached herein as Attachment A. Receipt of documentation of compliant insurance coverage in the amounts and of the types indicated in Attachment A #18 will be required prior to authorization of any Contract that results from this RFP.

1.17 REMEDIES FOR NON-PERFORMANCE

If, in the opinion of the University, the Contractor is either non-compliant with Contract specifications or demonstrates non-performance of a specific assignment or assignments as described in the Contract, the Contractor shall immediately remedy such non-performance upon notification by the University or be subject to termination in accordance with Contract provisions.

1.18 SMALL BUSINESS PREFERENCE

The State of California requires agencies to provide a five percent (5%) preference when awarding agreements to small businesses or a non-small business that commits twenty-five percent (25%) of the agreement value to a certified small business. The five percent (5%) certified small business preference shall not exceed \$50,000.00 in accordance with G.C. 14835 et seq. Only small businesses certified by the Office of Small Business and DVBE Services (OSDS) are eligible to receive the preference.

In solicitations where an award is to be made to the lowest responsive bidder, the preference is applied by factoring 5 percent (5%) of a non-small business low bid total and subtracting this amount from the small business bid total.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

Proposers wishing to claim the Small Business Preference must comply with and complete the Small Business Preference Form (Attachment B).

1.19 DISABLED VETERAN BUSINESS ENTERPRISE (DVBE)

California state law requires that its state agencies achieve a minimum of three percent (3%) participation for disabled veteran business enterprises (DVBE) in state agreements. For this RFP solicitation, **the minimum three percent (3%) is required.** Proposer is referred to Attachment C, Disabled Veteran Business Enterprise documentation package. The following DVBE incentives are offered.

Proposed DVBE Participation Level	DVBE Incentive %
4% to 4.99%	1%
5% to 5.99%	2%
6% to 6.99%	3%

The minimum incentive a qualifying Proposer can receive is one percent (1%). The combination of preferences with a DVBE incentive cannot exceed ten percent (10%) or \$100,000, whichever is less. A non- small business cannot displace a California certified small business from the top-ranked position due to application of preferences or incentive.

1.20 DISPUTES, FAIR COMPETITION, ERRORS AND OMISSIONS

The University encourages all Proposers to resolve issues regarding the requirements of this RFP or the procurement process through written correspondence and discussions. The University strives to foster cooperative relationships and to reach fair and objective resolutions in a timely manner.

In the event a Proposer believes this RFP solicitation is either unfairly restrictive, ambiguous, or contains conflicting provisions, discrepancies, omissions, or other errors, Proposer is required to immediately notify the University of such concern in writing, including email, prior to the RFP Deadline. As previously noted, modifications to RFP requirements and responses to valid questions, if any, will be issued via written addendum/a and publicly posted at <https://fiscal.ca.gov/>.

A failure of the Proposer to notify the University of any concerns relating to the RFP requirements or any addendum/a prior to the RFP Deadline will be deemed a waiver of the Proposer's right to protest the requirements of the RFP and Proposer shall submit a proposal at its own risk. Upon finalization of an Agreement, no Proposer shall be entitled to either additional compensation or time by reason of any error or its later correction.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

1.21 PROTESTS

A Proposer wishing to submit a protest after the Notice of Intent to Award has posted shall express its intent to do so within five (5) business days upon issuance and posting of such notice on <https://fiscal.ca.gov/>. Within ten (10) calendar days after expressing its intent to protest the award of a contract, the protesting Proposer must submit a full and complete written statement specifying the grounds for the protest and the facts in support thereof. Protest must be sent by certified or registered mail or delivered in person to the Director Procurement Services, or designee, to California State Polytechnic University, Pomona, 3801 W. Temple Ave., Pomona, CA 91768. Authority to protest is limited to Proposers who have submitted a qualified proposal.

The Director of Contracts and Procurement or designee shall perform a complete review of the protest and render a decision in writing to the protesting Proposer within a reasonable period of time following the receipt of the detailed statement of protest. **THE DECISION OF THE UNIVERSITY IS FINAL.**

1.22 EXECUTION OF AGREEMENT

An Agreement, if issued, shall be signed by the awarded Proposer and returned, along with the required attachments to the University within ten (10) calendar days from receipt of Agreement package. The period for execution may be changed by mutual agreement of the parties. Agreements are not effective until approved by the appropriate University officials. Any work performed prior to receipt of a fully executed Agreement shall be at the Proposer's own risk.

1.23 TARGET AREA CONTRACT PREFERENCE ACT (TACPA)

It is the policy of the CSU to grant preference to California-based companies submitting bids or proposals to the State for goods to be produced or services performed at worksites in distressed (as defined in Government Code 4532) areas by persons with a high risk of unemployment when the contract is for goods or services in excess of \$100,000. The 5% preference is applicable only to contracts awarded on the basis of lowest responsible bidder meeting specifications.

1.24 THE CONGO- SECURITIES EXCHANGE ACT

PCC § 10490 establishes restrictions on contracting for certain goods and services relating to compliance with the Securities Exchange Act of 1934. The University will not accept proposals from or contract for goods or services related to products or services from companies designated as a "scrutinized company," by the Federal Government. **By submitting a proposal, Proposer certifies that it is not a scrutinized company as defined herein.** False certifications shall cause the proposal to be invalidated. For purposes of this section, a "scrutinized company" is a person who has been found to be in violation of Section 13(p) of the Securities Exchange Act of 1934 by final judgment or settlement entered in a civil or administrative action brought by the Securities and

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

Exchange Commission and the person has not remedied or cured the violation in a manner accepted by the commission on or before final judgment or settlement.

1.25 CERTIFICATION OF COMPLIANCE WITH IRAN CONTRACTING ACT

PCC sections 2202 et seq., the Iran Contracting Act of 2010, establish restrictions against contracting with any Proposer that provides specified levels of goods or services or other investment activities, as defined, in the energy sector of Iran. If Proposer is submitting a proposal in excess of \$1 million, Proposer certifies that it is not a financial institution extending credit to an ineligible vendor on the list published by the California Department of General Services on the web site: file:

<https://www.dgs.ca.gov/PD/About/Page-Content/PD-Branch-Intro-Accordion-List/Policy-Training-and-Customer-Service/Office-of-Policies-Procedures-and-Legislation>.

(PCC § 2204); the Act includes certain exceptions (PCC § 2203(c)).

1.26 DARFUR CONTRACTING ACT - SCRUTINIZED COMPANY

PCC sections 10475 et seq., the Darfur Contracting Act of 2008, established restrictions against contracting with any Proposer conducting certain types of business in Sudan. The Act sets forth criteria to determine if a Proposer is a “scrutinized company” as defined therein and any such company would then be ineligible to bid on or submit a proposal for State contracts.

By submitting a proposal, a Proposer that has conducted business activities outside of the United States within the previous three years certifies either that Proposer is not a scrutinized company, as defined, or that Proposer has demonstrated that Proposer obtained permission under the statute (PCC § 10478, § 10477(b)). False certifications shall cause the proposal to be voided/rejected (PCC § 10479).

1.27 AWARD AND EXECUTION OF AGREEMENT

An award, if any, will be made to the Proposer whose submittal best complies with all the requirements of this RFP, any Addenda, and the highest number of points awarded at the end of the evaluation. Evaluation methodology and basis for award are outlined in Section VI, Evaluation and Selection Criteria.

A Notice of Intent to Award will be publicly posted for five (5) consecutive business days on <https://fiscal.ca.gov/> prior to initiation of Agreement. Individual written notification may not be made to unsuccessful Proposers.

An Agreement, if issued, shall be signed by an authorized agent of the Awarded Proposer and returned, along with the required attachments, to the University within

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

ten (10) calendar days from receipt of the Agreement package. The period for return of the appropriately authorized Agreement package may be modified by mutual agreement of the University and Awarded Proposer. Agreements are not effective until approved by the appropriate University official(s). Any billable work performed by Awarded Proposer prior to receipt of a fully authorized Contract shall be at the Awarded Proposer's own risk.

**CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006**

**SECTION II
SCHEDULE OF EVENTS**

<u>ACTION OR DEADLINE</u>	<u>Date</u>
Release of Request for Proposal (RFP)	Wednesday, November 13 th , 2024
Schedule Optional Virtual Site Review	Monday, December 2 nd , 2024, or Tuesday, December 3 rd , 2024 9-11 AM, or 1-3 PM, PST
Last Day to Submit Questions (RFI)	Thursday, December 5 th , 2024 5:00 PM, PST
Last Day to Post Addendum	Tuesday, December 10 th , 2024 5:00 PM, PST
RFP Due Date	Thursday, December 19 th , 2024 2:00 PM, PST

Notice of Intent to Award	Friday, January 10 th , 2025
Contract Award	Tuesday, January 21 st , 2025
Commencement of Services	Monday, January 27 th , 2025

Notes:

Dates up to and including the RFP Deadline may be adjusted upon advance written notice posted to <https://fiscal.ca.gov/>

Any adjustment to Dates listed after the RFP Deadline may occur without written or posted notice.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

SECTION III
SCOPE OF WORK

3.1 Scope for Venue – University Quad

- Venue lighting to support walkways and grad seating during evening hours and or dusk environment
 - Approximate six (8) light towers
- Bldg.6 lighting on “Cal Poly Pomona” sign (located on building ledge)
- Bldg. 8 column up lighting
- Main stage lighting to support day and evening speaking events with two podiums
- Right and left stage décor up-lighting
- Main stage seal spotlight
- Main event LED Screen to showcase all ceremonies, and stage activity
 - 12’h x 21’w (7.5mm lightweight screen)
 - Appropriate trussing to support LED Screen; Trussing must be covered with black sleeves (clean look)
 - ****CPP will provide university banner to be placed at top of LED Screen trussing***
- Additional row of LED tiles for ADA closed caption strip (requirements: 1’8”h x 21’w 7.5mm)
- Processor for content (content will be provided by client)
- Provide 200KW generator with fuel for 4 days, to support all lighting and LED Screen over four days of ceremonies
- Collaborate with university media vision, and support video feed for the LED Screen
- Load-In four-five days prior to main event
- Test focus lighting and video feed on LED screen prior to first event
- Two (2) Lighting Techs and One
- One (1) Video LED Tech to cover all 12 ceremonies/4 days
- One (1) Video, LED Tech to cover two (2) days of install/strike only
- One (1) CAD Drawing
- Four (4) Local stagehands for install and strike days
- ADA cable bridges 10’ length for cable safety as needed
- Video control power run – 350’ long
- All trussing needed for equipment required
 - To include ground support for sound system (provided by separate company)
 - 11 – 20.5” Box truss – 10’
 - 4 – 20.5” x 20.5 CB 6 Way
 - 5 – ½ ton chain hoist @16FPM - Complete
- **Provide a Current – Certificate of Liability Insurance or Event (to cover load in dates, event dates, and strike dates)**
- **All additional tech supplies or tools to support the technical equipment listed above**

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

3.2 Schedule

- Site Visits – **Date TBD**
 - First virtual meeting to review event needs, and quad venue map
 - Optional Onsite walkthrough with Commencement Leads and Media Vision Team to review event needs and/or specifics
- Ceremony dates May 16-18, 2025 - **Daily schedule below:**

Friday, May 16, 2025 (4 ceremonies each day)	Saturday, May 17 and Sunday, May 18, 2025 (4 ceremonies each day)
SCHEDULE 6:00 a.m. Arrival/Briefing 7:00 a.m. At posts/Gates open 8:00 a.m. Ceremony begins 10:00 a.m. Ceremony ends 11:00 a.m. At posts/Gates open 12:00 p.m. Ceremony begins 1:15 p.m. Ceremony ends 2:00 p.m. At posts/Gates open 3:00 p.m. Ceremony begins 5:00 p.m. Ceremony ends 6:30 p.m. At posts/Gates open 7:30 p.m. Ceremony begins 9:00 p.m. Ceremony ends <i>*Only day with a 3pm ceremony</i>	SCHEDULE 6:00 a.m. Arrival/Briefing 7:00 a.m. At posts/Gates open 8:00 a.m. Ceremony begins 10:00 a.m. Ceremony ends 11:00 a.m. At posts/Gates open 12:00 p.m. Ceremony begins 2:00 p.m. Ceremony ends 3:00 p.m. At posts/Gates open 4:00 p.m. Ceremony begins 5:30 p.m. Ceremony ends 6:30 p.m. At posts/Gates open 7:30 p.m. Ceremony begins 9:00 p.m. Ceremony ends

3.3 Staff Needs

- Certified Staff
- (2) Event Lighting Techs daily at all ceremonies
- (1) LED Tech daily at all ceremonies

3.4 Event Information

- Guest capacity: 8500 per ceremony (guests and graduates)
- Ceremony length – 90 mins. to 2 hours each
- 12 ceremonies across three (3) days

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

SECTION IV
BID PROPOSAL FORM

4.1 BID PROPOSAL FORM

This Bid Proposal Form shall reflect costs necessary to successfully complete the Scope of Work including all Deliverables as defined in Section III, Scope of Work, of this RFP. All costs shall be firm and fixed for the duration of the project. The estimated budget amount should encompass all costs for providing Lighting Systems, LED Screen, & Ground Support as specified in the Section III, Scope of Work, for a large-scale event. The proposed cost should be entered on the **Bid Proposal Form** below and shall be made in U.S. dollars.

- The total cost associated with providing lighting & audio-visual services and deliverables from Section III, Scope of Work, should be for all days, including additional services, that may be needed. Fees not stated in the proposal will not be paid.
- Proposer's costs shall include, but are not limited to the following: labor, materials, overhead and profit, equipment, travel between Proposer's office and the University, parking on campus, postage, printing, computer, communications (including email), phone, fax, reimbursable allowances and cost of insurance. No separate charges for included fees (e.g., reimbursable or insurance) shall be listed.
- Proposer's **Bid Proposal Form** submittal will be included in calculating the Cost points as identified in Section V, Evaluation and Selection Criteria.
- This **Bid Proposal Form** must be used; any deviations from or changes to the form will be grounds for disqualification. No add-ons will be permitted. An incomplete Bid Proposal Form shall be grounds for disqualification.
- **Please use numerical values only when completing the Bid Proposal Form – no percentages.**
- The University will not reimburse travel costs associated with performance of services resulting from this RFP.

Costs shall include all components referenced in this RFP solicitation whether or not specifically included in Proposer's proposal.

4.2 ADDENDA ACKNOWLEDGMENT

We acknowledge the receipt of addenda number(s)

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

4.3 PROPOSAL COST CERTIFICATION

I hereby certify that the Bid Proposal Form included in this proposal are both valid and complete for performance of the work set forth in the above referenced Request for Proposal, and that such work will be carried out in accordance with the established terms and conditions upon issuance and acceptance of an Agreement.

TOTAL AMOUNT OF BASE BID: \$ _____
(Base Bid amount must be valid for Ninety (90) calendar days)

Print Name Title

Signature Date

Official Company Name Year Federal Tax I.D. Number
Est.

Company Address City State Zip code

Email Address Telephone Number

Organization Type (check one):

Corporation (any type) _____ Partnership* _____ Sole Proprietor _____

*Please make copies of this page and include a completed, signed page for each partner. The Cover Letter must include all partner names in order for the proposal to be considered.

**CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006**

**SECTION V
EVALUATION AND SELECTION CRITERIA**

5.1 GENERAL

An evaluation committee comprised of university personnel will be assigned to review and evaluate all proposals and assign points according to the selection criteria categories outlined in this section. Accepted proposals shall be reviewed to verify that all RFP requirements have been met. Proposals that have not followed the prescribed format, do not meet minimum content and quality standards, or take unacceptable exceptions to the CSU General Provisions, will be identified as being non-responsive and will not be considered for evaluation or selection.

Cal Poly Pomona may elect to choose up to five (5) Finalists from among the Proposers with the highest-scoring proposals. In the case where Finalists are chosen, these firms and organizations, or partnership groups, may be selected for an interview and presentation and will be notified of the interview date and time.

Firms and organizations or partnership groups selected for an interview must present both the Project Manager (dedicated/lead point of contact) for the project and the Contractor representative with financial decision-making authority for the project.

5.2 EVALUATION AND SCORING CRITERIA

Each qualified proposal shall be evaluated and scored according to the categories listed below. Significant consideration will be given to Proposers that specialize in the services specified in the Scope of Work. Award shall be made to the Proposer receiving the highest total number of assigned points. For each Proposer, a maximum total of **100 points** is available for the Proposal stage.

5.3 POINT SCORING SCHEDULE

Venue Lighting- 20 Points

- Demonstrated qualifications and experience to provide Venue Lighting to support walkways, grad seating areas (at dusk), main stage lighting & spotlight, and equipment/supplies to support these services, as specified in Section III, Scope of Work.

LED Screen/Tiles - 20 Points

- Demonstrated qualifications and experience to provide main stage LED Screen, Led Tiles, generator, processors, equipment & supplies to support these services, as specified in Section III, Scope of Work.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

Schedule - 20 Points

- Ability to adhere to the schedule for the 12 ceremonies beginning Friday, May 16th through Sunday, May 18th, 2025.
- Demonstrated detailed ability to perform all Venue Lighting & LED Screen services while adhering to the schedule as specified in Section III, Scope of Work

Timeliness and Feasibility of Implementation - 10 Points

- Articulated ability to provide the Venue Lighting & LED Screen services including, tech supplies, tools & equipment, Lighting Techs, Video Techs, Local Stagehands, all committed to the specific job assignments and requirements as specified in Section III, Scope of Work.

Cost - 30 Points

- Pricing structure, including hours, rates & costs for all Venue Lighting & LED Screen Services & Personnel.
- Demonstrated in Section IV, Bid Proposal Form.

This category awards points based on the total Cost to provide Venue Lighting & LED Screen Services, with appropriate technical supplies, equipment & Personnel, as indicated in Section IV, Bid Proposal Form. The proposal with the lowest total Cost shall receive the maximum number of points in this category. Points shall be determined by dividing the lowest proposal price by the relative proposal price and multiplying by the maximum points available as follows:

$\frac{\text{Lowest Proposal Price}}{\text{Proposal Price}} \times 15 = \text{Points Awarded}$
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5.4 AWARD

An award will be made to the Proposer receiving highest evaluation proposal and interview points and whose submittal best complies with all the requirements of this RFP, and any Addenda. **THE DECISION OF THE UNIVERSITY IS FINAL.**

**CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006**

**SECTION VI
PROPOSAL INSTRUCTIONS & FORMAT**

6.1 INSTRUCTIONS

Proposer must respond completely to all information requested and proposals should be prepared in such a way as to provide straightforward, concise delineation of capabilities to satisfy the requirements of the RFP. The proposal, not including the Appendices, should not exceed forty (40) pages in length, utilizing 8.5" x 11" pages with one-inch margins. Font size should be no smaller than 12 point, double spaced for text. Responses should emphasize Proposer's demonstrated capability to perform the work.

6.2 NUMBER OF COPIES

Proposer shall provide one electronic copy on USB or via email to hmuniz@cpp.edu with subject heading: **RFP HM24006 2025 Commencement Lighting/Audio Visual**

6.3 DELIVERY OF PROPOSALS (Mailed or *E-mailed)

All **mailed** proposals must be sent in, sealed & secured, and must be received in the *CPP Procurement Office* no later than the date and time specified in Section II, Schedule of Events. All ***e-mailed** proposals must be submitted to either e-mail listed below and must be received no later than the date and the time specified in Section II, Schedule of Events.

LATE PROPOSALS WILL NOT BE ACCEPTED.

**Mailed Bids shall be labeled and submitted to:
2025 Commencement Lighting/Audio Visual
RFP HM24006**

Hector Muniz, Procurement Lead
California State Polytechnic University, Pomona
Procurement Services
3801 W. Temple Ave. Building 75
Pomona, CA 91768

***For E-mailed Bid Submittals**

Subject Line Shall Read:

RFP HM24006 2025 Commencement Lighting/Audio Visual

Submit To: Hector Muniz, hmuniz@cpp.edu

Proposals must be completed and delivered in sufficient time to avoid disqualification for lateness due to difficulties in delivery. Delays due to various methods used to transmit the proposal, including delays by university internal mailing system, will be the responsibility of the Proposer. Delays due to inaccurate directions given, even if by university staff, shall also be the responsibility of the Proposer. **LATE PROPOSALS WILL NOT BE ACCEPTED.**

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

6.4 PROPOSALS BECOME THE PROPERTY OF *California State Polytechnic University, Pomona*

Proposals become the property of *California State Polytechnic University, Pomona* and information contained therein shall become public documents subject to disclosure laws after Notice of Intent to Award. *California State Polytechnic University, Pomona* reserves the right to make use of any information or ideas contained in the Proposal. Proposals may be returned only at *California State Polytechnic University, Pomona's* option and at the Bidder's expense. One copy shall be retained for official files. Responses to this RFP and any other information that is currently or may become available as an outcome of the RFP process may be used by *California State Polytechnic University, Pomona* to structure an RFP or other solicitation. If the Proposer fails to notify *California State Polytechnic University, Pomona* of a known error or an error that reasonably should have been known prior to the final filing date for submission, the Proposer shall assume the risk. If awarded the contract, the Proposer(s) shall not be entitled to additional compensation or time by reason of error or its late correction.

6.5 CONFIDENTIAL MATERIAL

Bidder must notify *California State Polytechnic University, Pomona* in advance of any proprietary or confidential materials contained in the Proposal and provide justification for not making such material public. *California State Polytechnic University, Pomona* shall have sole discretion to disclose or not disclose such material subject to any protective order that Bidder may obtain.

Final bids are public upon award of contract; however, the contents of all proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a bidder's proposal shall be held in the strictest confidence until Notice of Intent to Award is issued.

The content of all working papers and discussions relating to the bidder's proposal shall be held confidential indefinitely unless the public interest is best served by an item's disclosure because of its direct pertinence to a decision, agreement or an evaluation of the bid.

Please refer to the California Public Records Act (GOVT. CODE §§ 6250 - 6276.48) for further information.

6.6 INSPECTION OF SOLICITATION DOCUMENTS

Bidder shall carefully review all documents referenced and made a part of this solicitation to ensure that all information required to properly respond to the solicitation has been received or made available and all requirements are priced in the proposal. Failure to examine any document, drawing, specification, or instruction will be at the Bidder's sole risk. It is the Bidder's responsibility to provide *California State Polytechnic University, Pomona* with current contact information and to update *California State Polytechnic University, Pomona* immediately of any changes.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

6.7 PROPOSAL CONTENT

To be considered responsive to this RFP, Bidder must submit proposals in the format identified in this section. All requirements and questions in the RFP must be addressed and all requested data must be supplied. *California State Polytechnic University, Pomona* reserves the right to request additional information that in *California State Polytechnic University, Pomona's* opinion is necessary to assure that the Bidder's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the contract requirements.

6.8 PROPOSAL FORMAT

All Bidders are also required to complete the RFP Submittals. Proposals shall adhere to the following format for organization and content. Proposals must be divided into the individual indexed tabbed sections listed below.

6.8.1 Cover Letter

The Cover Letter shall include a brief statement of intent to perform the services, qualifications for selection and signature of an authorized officer of the firm who has legal authority in such transactions.

The cover letter must, at a minimum, contain the following:

- a) Identification of Proposer firm including name, address, telephone, email address, fax number and Federal ID number
- b) A brief statement of intent to perform the services proposed.
- c) Signature of an authorized officer of the organization who has legal authority in such transactions.
- d) Full contact information (overnight mailing address, phone, fax, e-mail, etc.) for the individual designated as the contact on this RFP and a secondary contact.
- e) Name, title, address, email address and telephone number of contact person during period of proposal evaluation
- f) **Acknowledgement receipt of any and all RFP addenda issued**
- g) A statement to the effect that the offer shall remain valid for a period of not less than 60 days from the date of submittal Signature of a person authorized to bind firm to the terms of the proposal.
- h) Expressly state that, should the Bidder's proposal be accepted, the Bidder agrees to enter into a contract under the terms and conditions as set forth herein.

Proposals with unsigned cover letters shall be rejected.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

6.8.2 Table of Contents (Tab 1)

Provide a table of contents identifying the contents of the proposal in a format consistent with the proposal requirements and format set forth herein.

6.8.3 Exceptions and Confidential Material (Tab 2)

Any and all exceptions to the RFP must be listed on an item-by-item basis and cross-referenced with the RFP document. If there are no exceptions, Bidder must expressly state that no exceptions are taken. Please Note: Taking exceptions to proposal requirements may render a Bidder's proposal non-responsive and rejected from further consideration.

Also in this section, Bidders shall identify any proprietary or confidential materials contained in the proposal and provide justification for not making such material public record.

6.8.4 Qualifications (Tab 3)

Response shall include all verifiable evidence that your organization and personnel meet the requirements as stated in Section III, Scope of Services.

6.8.5 Services Offered-Methodology/Approach (Tab 4)

This category will consider Proposer's overall methodology and demonstration for achieving expected outcomes and meeting all main objectives as stated in Section III, Scope of Services.

6.8.6 Personnel (Tab 5)

Responses shall provide description of the professional experience, background, qualifications, and expertise of Proposer's staff that will be involved in this project and provide brief resume(s) or bios for "key" personnel. Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without prior written concurrence of the University. Every effort shall be made to have the key personnel who will be working on this project attend the optional interviews. Furnish list of proposed subcontractors (if any) who may be assigned to this project.

6.8.7 Cost (Tab 6)

Proposer must include the completed Bid Proposal Form found in Section IV. Should there be any deviations of the form; may be grounds for disqualification. The rate evaluation is intended to provide an equitable basis for comparison between proposals and an evaluation of the effect of programs on rates. Only rate information as submitted by Proposers will be used in this evaluation. The proposals will be reviewed to verify that the proposed Service Recipient Rates are consistent with the activities described in the proposal and the Proposer's work plans, and

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006

as part of the evaluation the University may require that Proposers provide detailed assumptions made in developing their rate proposal.

6.8.8 Small Business and DVBE Documentation (Tab 7)

Proposer's Small Business and DVBE Documentation shall be inserted under this Tab.

6.8.9 Appendices (Tab 8)

Information considered by the Proposer to be pertinent to this project, which has not been specifically solicited in any of the above-mentioned sections may be placed in a separate appendix for possible consideration by the University.

6.9.9 Legal Action (Tab 9)

Identify any pending legal actions or legal actions completed within the last five (5) years involving your company that relate to services performed. Specifically, describe any actions related to failure to perform, breach of contract, satisfaction of warranty claims or license violations or right to use. If there are none, please state.

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA
REQUEST FOR PROPOSAL HM24006 -Attachment A

CALIFORNIA STATE UNIVERSITY
TERMS AND CONDITIONS OF
PURCHASE

Contract Number: HM24006

1. Contract

These California State University Terms and Conditions of Purchase ("Terms and Conditions") are made part of that certain Contract for Purchase of Goods, Software, or Services with the contract number written above ("Contract"), made by and between the contractor named in such Contract ("Contractor") and The Trustees of the California State University ("CSU" or "University"). CSU and Contractor are individually referred to herein as a "Party", and together referred to as the "Parties". Terms that are Capitalized in these Terms and Conditions shall have the same meaning as those terms are defined in the Contract. If no contract number is written above, the equipment, material, or supplies ("Goods"), software, software as a service, platform as a service, or online subscriptions ("Software") or services ("Services") furnished by Contractor, and covered by a CSU Purchase Order or other agreement, are governed by these Terms and Conditions, which shall take precedence over any other terms and conditions.

Written acceptance or shipment of all or any portion of the Goods or Software, or the performance of all or any portion of the Services, will constitute Contractor's unqualified acceptance of the Terms and Conditions. Unless otherwise agreed in writing, the terms of any proposal referred to in the Contract are included and made a part of the Contract only to the extent the proposal specifies the Goods, Software, or Services ordered, the price, and the terms of delivery, and then only to the extent that those terms are consistent with the terms and conditions of the Contract.

2. General

2.1 Commencement of Work

Contractor shall not commence work under the Contract until Contractor has received a fully executed Contract and been given written approval by CSU to proceed. Any work performed by Contractor prior to the date of written approval shall be performed at Contractor's own risk and as a volunteer.

2.2 Entire Contract

This Contract, together with its riders, attachments, and exhibits, constitutes the entire agreement between the Parties with respect to the subject matter hereof and shall govern the respective rights and obligations of each Party. All prior agreements, representations, inducements, and negotiations, and any and all existing contracts previously executed between the parties with respect to this subject matter, are superseded hereby. This Contract also supersedes all click-through, click-wrap, shrink-wrap, Terms of Use, Terms of Service, or other End User License Agreements, all of which are null and void. CSU rejects any different or additional terms without prior written consent from an authorized CSU officer or employee.

2.3 No Oral Modifications or Understandings

No alteration or modification of the Contract shall be valid unless made in writing and signed by the Parties, and no oral understanding or agreement not incorporated in writing in the Contract shall be binding on any of the Parties.

2.4 Severability

Contractor and CSU agree that the terms of this Contract are severable. If any provision of this Contract is found to be illegal or unenforceable, such provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Any Party having knowledge of such provision shall promptly inform the other of the presumed non-enforceability of such provision. Should such illegal or unenforceable provision be a material or essential term of the Contract, the Contract shall be terminated in a manner commensurate with the interests of the Parties, to the maximum extent reasonable.

2.5 Governing Law and Choice of Venue

This Contract shall be construed in accordance with and governed by the laws of the State of California. Any action brought by any Party hereto shall be brought in a court of competent jurisdiction within the State of California.

2.6 Independent Status

Contractor and its employees, agents, and subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers, employees, or agents of CSU or the State of California. While Contractor may be required by this Contract to carry Workers Compensation Insurance, in no event shall Contractor or its employees, agents, or subcontractors be entitled to unemployment or workers' compensation benefits from CSU.

2.7 Personnel

Contractor maintains the sole right to determine the assignment of its employees to keep all phases of work under its control. If an employee of Contractor is unable to perform due to illness, resignation, or other factors beyond Contractor's control, Contractor shall use its best effort to provide suitable substitute personnel. If services are provided under this Contract, Contractor warrants that its staff, which is assigned to performing work under this Contract, is legally able to perform such duties in the country where the work is being performed.

2.8 Assignments

Neither Party shall assign this Contract, in whole or in part, without the other Party's written consent, which shall not be unreasonably withheld.

2.9 No Waiver of Rights

Any action or inaction by a Party or the failure of a Party on any occasion to enforce any right or provision of this Contract shall not be deemed a waiver by such Party of its rights hereunder, and shall not prevent such Party from enforcing such provision or right on any future occasion. A Party's rights and remedies provided in this Contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

2.10 Time

Time is of the essence in the performance of this Contract.

2.11 Material Change of Circumstances

The terms of this Contract are based on conditions in existence on the date that Contractor commences performance. In the event of a material change in the conditions that adversely affects the ability of Contractor to perform its obligations, Contractor shall reasonably cooperate with CSU to minimize the impact from such change in conditions on Contractor's performance and shall, if requested by CSU, negotiate in good faith to adjust the terms of this Contract on a mutually agreeable basis to address the impact of such material change in conditions. This provision shall not limit CSU's ability to avail itself of any rights or remedies provided to CSU by law, equity, or any other term of this Contract.

2.12 Prevailing Wage

In the event that prevailing wage requirements apply to the Contracted Work, Contractor shall pay employees the current prevailing rate wages for any work performed under this Contract in accordance with California Labor Code section 1720.

2.13 Contractor's Power and Authority

Contractor represents and warrants it has full power and authority to enter into this Contract and will hold CSU harmless from and against any and all loss, cost, liability, or expense (including reasonable attorney fees) arising out of any breach of this representation and warranty. Further, Contractor shall not enter into any arrangement, agreement, or contract with any third party that might abridge any rights of CSU under this Contract.

2.14 Sovereign Immunity

Notwithstanding anything herein to the contrary, nothing in this Contract shall be deemed a waiver of sovereign immunity of the State of California or of CSU.

2.15 Headings

Headings in this document are for convenience of reference only, and shall not be used in the interpretation of this Contract.

3. Termination and Remedies

3.1 Termination for Convenience

CSU may terminate this Contract at any time for any or no reason and without future financial obligation upon thirty (30) days written notice to Contractor. Upon notice of termination pursuant to this section, if directed by CSU Contractor shall immediately stop all work and cause its suppliers and/or subcontractors to immediately cease their work related to this Contract. Contractor shall be paid for Contracted Work performed in accordance with the Contract, prior to the notice of termination or such date that CSU has directed to stop work. In no event shall Contractor be paid for costs incurred or Services performed after receipt of notice of termination, or, if later, the date Contractor is directed to stop work.

3.2 Termination for Default

CSU may terminate the Contract and be relieved of the payment of any consideration to Contractor if Contractor fails to comply with any material term or condition of the Contract. Late performance, or delivery of Contracted Work that is defective or does not conform to the requirements of the Contract, shall, without limitation, be causes allowing CSU to terminate for default. In the event of such termination, CSU may proceed with the Contracted Work in any manner deemed proper by CSU. The cost to CSU of procuring substitute goods, services, or software shall be deducted from any sum due to the Contractor under the Contract for Contractor's prior satisfactory performance.

3.3 CSU's Rights and Remedies for Contractor's Default

- (a) **Defective Contracted Work.** In the event any Contracted Work provided by Contractor in the performance of this Contract fails to conform to the requirements herein, CSU may reject the same. It shall thereupon become Contractor's duty forthwith to reclaim and remove all nonconforming deliverables and correct the performance of Services at no expense to CSU, and to immediately replace all such rejected items and/or work with others conforming to the requirements of this Contract. Should Contractor fail, neglect, or refuse to do so, CSU shall thereupon have the right, but not the obligation, to purchase in the open market, in lieu thereof, a corresponding quantity of any such items or services, and to deduct the cost of such cover from any moneys due or that may thereafter become due to Contractor; or, if applicable, CSU shall have the right to complete all or any part of the Statement of Work, and charge its expense of completing the service/work to Contractor and to deduct from any moneys due or that may thereafter become due to Contractor the difference between the price named in the Contract and the actual cost to CSU.
- (b) **Late Delivery.** In the event Contractor fails to make prompt delivery of any Good, Software, or Service as specified in this Contract, CSU shall have the same rights, but not obligations, as set forth in subsection (a)

above to purchase replacement items or services in the open market and to deduct the cost of such cover from any moneys due or that may thereafter become due to Contractor.

- (c) **Termination for Default.** In the event that CSU terminates this Contract, either in whole or in part, for Contractor's default or breach, Contractor shall compensate CSU, in addition to any other remedy that CSU may have available to it, for any loss or damage sustained and cost incurred by CSU in procuring any items or services that Contractor agreed to supply.
- (d) **Rights and Remedies Not Exclusive.** CSU's rights and remedies provided in this section shall not be exclusive and shall be in addition to any other rights and remedies provided by law, equity, or this Contract.

3.4 Dispute

Any dispute arising under or resulting from this Contract that is not resolved within sixty (60) days by authorized representatives of Contractor and CSU shall be brought to the attention of Contractor's Chief Executive Officer (or designee) and CSU's Chief Business Officer (or designee) for resolution. Either Contractor or CSU may request that the CSU Vice Chancellor, Business and Finance (or designee) participate in the dispute resolution process to provide advice regarding CSU contracting policies and procedures. If this informal dispute resolution process is unsuccessful, the Parties may pursue all remedies not inconsistent with this Contract. Despite an unresolved dispute, Contractor shall continue without delay in performing its responsibilities under this Contract. Contractor shall accurately and adequately document all service it has performed under this Contract.

3.5 Force Majeure

- (a) **Liability.** Neither Party shall be liable for any failure to perform its obligations under this Contract for the period of time that it is prevented, hindered, or delayed in performing those obligations by circumstances beyond its control, including, but not limited to, fire, strike, war, riots, acts of terrorism, disaster, acts of God, acts of any governmental authority, communicable disease outbreak, epidemic or pandemic, quarantines, unavailability or shortages of labor, materials, or equipment, disruption of transportation, or any other comparable event beyond the control of the Party whose performance is affected (each, a "Force Majeure Event."). For the avoidance of doubt, Force Majeure shall not include (a) financial distress or the inability of either party to make a profit or avoid a financial loss, (b) changes in market prices or conditions, or (c) a party's financial inability to perform its obligations hereunder.
- (b) **Notice.** The Party claiming Force Majeure shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event, provide written notice to the other Party of the nature, extent, and expected duration of the Force Majeure Event and use its diligent efforts to mitigate the effects of the Force Majeure Event upon such Party's performance under this Contract, it being understood that upon completion of the Force Majeure Event, the Party whose performance was affected must, as soon as reasonably practicable, recommence the performance of its obligations under this Contract.
- (c) **Force Majeure Remedies.** Notwithstanding any other term in this Contract, including, but not limited to, the foregoing subsections of this term, during the period of a Force Majeure Event affecting performance by Contractor, in addition to any other remedies permitted by law or this Contract, CSU may elect to do all or any of the following:
 - (1) suspend the Contract between CSU and Contractor for the duration of the Force Majeure Event and be relieved of any payment obligation for Contracted Work not delivered or accepted due to the Force Majeure Event;
 - (1) obtain elsewhere the Contracted Work not delivered or accepted due to the Force Majeure Event;
 - (2) extend the time for Contractor's performance by a period equal to the duration of the Force Majeure Event; or
 - (3) terminate the Contract between CSU and Contractor as to any Contracted Work not already received

with no further financial obligation if the Force Majeure Event continues to exist for more than thirty (30) days.

4. Indemnity

4.1 General Indemnity

Contractor shall indemnify, defend, and hold harmless the State of California, CSU, and their respective officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation related to, arising out of or resulting from Contractor's performance of this Contract.

4.2 Patent, Copyright, and Trade Secret Indemnity

- (a) **Indemnification.** Contractor shall indemnify, defend, and hold harmless the State of California, CSU, and their respective officers, agents, and employees (collectively referred to as Indemnitees), from any and all third-party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any intellectual property right, domestic or foreign, by any product or service provided hereunder. With respect to claims arising from computer hardware or software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to Indemnitees, in addition to the foregoing provision, such indemnity rights as it receives from such third party ("Third-Party Obligation") and will cooperate in enforcing them; provided that if the third-party manufacturer fails to honor the Third-Party Obligation, Contractor will provide Indemnitees with indemnity protection.
- (b) **Notice and Defense.** Indemnitees will notify Contractor of such claim in writing and tender their defense within a reasonable time. Contractor will control the defense of any action on such claim and all negotiations for its settlement or compromise, except when substantial principles of government or public law are involved, when litigation might create precedent affecting future Indemnitees' operations or liability, or when involvement of the Indemnitees is otherwise mandated by law. In such case, no settlement shall be entered into on behalf of Indemnitees without Indemnitees' written approval.
- (c) **Bond.** Contractor may be required to furnish Indemnitees a bond against any and all loss, damage, costs, expenses, claims and liability for patent, copyright, and trade secret infringement.
- (d) **Substitution.** Should the Contracted Work, or the operation of the Contracted Work, become, or in Contractor's opinion be likely to become, the subject of a claim of infringement or violation of an intellectual property right, whether domestic or foreign, Indemnitees shall permit Contractor at its option and expense either to procure for Indemnitees the right to continue using the Contracted Work or to replace or modify the same so they become non-infringing, provided they comply with Contract and performance requirements and expectations. If neither option is reasonably practicable or if the use of such Contracted Work by Indemnitees shall be prevented by injunction, Contractor agrees to take back such Contracted Work and use its best effort to assist Indemnitees in procuring substitute Contracted Work at Contractor's cost and expense. If, in the sole opinion of Indemnitees, the return of such infringing Contracted Work makes the retention of other deliverables or software acquired from Contractor under this Contract impracticable, Indemnitees shall then have the option of terminating this Contract, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such Contracted Work and refund any sums Indemnitees paid Contractor less any reasonable amount for use or damage.
- (e) **Controls.** Contractor certifies it has appropriate systems and controls in place to ensure State funds will not be used in the performance of this Contract for the acquisition, operation, or maintenance of

computer software in violation of copyright laws.

5. Warranty

5.1 Free from Defect

Contractor warrants that (i) the Contracted Work furnished hereunder will conform to the requirements of this Contract (including, without limitation, all descriptions, specifications, and drawings identified in any specific Statement of Work between Contractor and CSU), and (ii) the Contracted Work will be free from fault and defects in design, materials, and workmanship. Where the Parties have agreed to design specifications in a Statement of Work, if any, directly or by reference, Contractor warrants the Contracted Work shall provide all functionality required thereby, and Contracted Work shall be new and of industry standard quality in the trade and in accordance with the approved and agreed-to design and specifications. CSU's approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.

5.2 Permits

Contractor warrants that it will procure all permits, licenses, and authorizations necessary to properly perform its obligations under this Contract in accordance with all applicable laws, regulations and ordinances.

5.3 Software

In addition to the other warranties set forth herein, where the Contract calls for delivery of commercial software, Contractor warrants that such software shall perform in accordance with its license and accompanying documentation. Contractor further warrants that, at the time of delivery, any deliverables consisting of software (i) shall be free of harmful code (i.e., computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or software); and (ii) shall not infringe or violate any third-party's intellectual property right. Without limiting the generality of the foregoing, if CSU believes harmful code may be present in any commercial software delivered by Contractor, Contractor shall, upon CSU's request, provide a master copy of the software for comparison and correction.

5.4 Warranty Pass-Through

Unless otherwise specified in the Statement of Work, where Contractor resells hardware or software it purchased from a third party and such third party offers additional or more advantageous warranties than those set forth herein, Contractor shall pass through any such warranties to CSU and shall cooperate in enforcing them. Such warranty pass-through shall be supplemental to, and shall not relieve Contractor from, Contractor's warranty obligations set forth above.

5.5 Inure to CSU

All warranties, including special warranties specified elsewhere herein, shall inure to CSU, its successors, assigns, CSU agencies, and other governmental users of the deliverables or services.

6. Operational

6.1 Safety and Accident Prevention

In the event this Contract requires Contractor to perform work on premises owned or controlled by CSU ("CSU Premises"), Contractor shall conform to all specific safety requirements contained in this Contract and/or as required by law, regulation, or CSU policies, plans, and procedures, including, but not limited to, the campus Workplace Violence Prevention Plan applicable to the CSU Premises at which work is performed. Contractor shall take all additional precautions as CSU may reasonably require for safety and accident prevention purposes.

Contractor's violation of such rules and requirements, unless promptly corrected, shall constitute a material breach of this Contract.

6.2 Protection/Restoration of Facilities

If the Contract involves performing work on CSU's Premises, Contractor shall properly and adequately protect from damage all of CSU's property, including, but not limited to, land, structures, equipment, and utilities while providing goods or services on CSU's premises. Contractor shall comply with all facility, safety and security rules and regulations, and other instructions of CSU, when performing work at CSU's Premises, and shall conduct its work at CSU's Premises in such a manner as to avoid endangering the safety, or interfering with the convenience of, CSU employees, students, or members of the public. If any of CSU's property is damaged, altered or disturbed in any way during the performance of this Contract, whether by Contractor, sub-Contractor, or anyone acting on behalf of Contractor, Contractor shall promptly restore CSU's property to the condition it was in immediately before the damage or alteration at Contractor's sole cost and expense. If Contractor is unable or unwilling to restore CSU's property, CSU may restore such property at Contractor's sole cost and expense, and CSU shall be entitled to promptly recover from Contractor the cost and expense of such restoration.

6.3 Cleaning and Removal of Debris/Salvage

If the Contract involves performing work on CSU's Premises, Contractor shall remove at the end of each workday all dirt, debris, waste, rubbish, equipment, and obstacles to CSU pedestrian or vehicular traffic, as directed by CSU. Contractor shall thoroughly clean (vacuum, wet mop, etc.) any dust, soot or similar construction generated materials and contaminants at the end of each workday. Contractor shall not allow debris, waste, or unused construction material to accumulate under, in, or about the work site, nor shall such materials be used in backfilling. Contractor shall not ask any employee, volunteer, or CSU student for assistance in work or use of equipment, tools, or supplies. Upon completion of work, Contractor shall thoroughly clean the work area, including all fixtures, equipment, floors, and hardware, and shall remove all plaster spots, stains, paint spots, and accumulated dust and dirt. This shall include thorough cleaning of all roofs, sidewalks, or other surfaces where debris may have collected. Additionally, Contractor shall remove all scaffolding, planking, surplus materials, temporary structures, waste materials and rubbish around the equipment or upon the site and dispose of any such items in safe and legal fashion. Absolutely no materials shall be left on CSU's Premises. All salvage items removed in connection with any work remain the property of CSU and shall be deliverable to the location designated by the authorized representative of CSU.

6.4 Invoices

- (a) **Submission.** Contractor shall submit invoices to CSU for payment of goods and/or services rendered under this Contract. Such invoices shall be submitted in arrears to the address provided in the Contract. In the event that the Contracted Work is of a continuing nature, such invoices shall be submitted in arrears upon completion of each phase. Each invoice must contain the Contract number and Contractor's Identification number. The final invoice shall be marked as such.
- (b) **Payment.** Unless otherwise specified, CSU shall pay properly submitted invoices not more than 45 days after the latest of:
 - (1) CSU's acceptance of goods conforming to the Contract;
 - (2) Contractor's satisfactory completion of services conforming to the Contract; or
 - (3) CSU's receipt of an undisputed invoice.
- (c) **Late Payment.** Late payment penalties shall not apply to this Contract.
- (d) **Full Compensation.** The consideration to be paid Contractor, as described within the Contract, shall be in full compensation for all of Contractor's expenses incurred in the performance of this Contract, including travel and travel-related expenses, unless otherwise expressly so provided. Any of Contractor's travel or travel-related expenses that CSU agrees to reimburse shall be reimbursed only in accordance with CSU

policy.

6.5 Document Referencing

All correspondence, invoices, bills of lading, shipping memos, packages, and other documentation exchanged pursuant to the Contract shall contain the Contract number. If factory shipment, the factory must be advised by Contractor to comply. Invoices not properly identified with the Contract number and Contractor identification number may be returned to Contractor and may cause delay in payment.

6.6 Packing and Shipment of Goods

- (a) **Containers.** Should Goods be provided under this Contract, all Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
 - (1) Show the number of the container and the total number of containers in the shipment; and
 - (2) The number of the container in which the packing sheet has been enclosed.
- (b) **Packing Sheets.** All shipments of Goods by Contractor or its subcontractors must include packing sheets identifying: the contract number; item number; quantity and unit of measure; part number and description of the goods shipped; and appropriate evidence of inspection, if required. Goods for different contracts shall be listed on separate packing sheets.

6.7 Delivery

Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, CSU shall not be required to make any payment for the excess deliverables and may return them to Contractor at Contractor's expense or utilize any other rights available to CSU at law or in equity.

6.8 Substitutions

Contractor may not tender substitute items for any Goods or Software to be provided under this Contract without advance written consent of CSU. Contractor shall not use any specification in lieu of those contained in the Contract without written consent of CSU.

6.9 Inspection, Acceptance and Rejection

Unless otherwise specified in a Statement of Work, all Contracted Work may be subject to inspection and test by CSU. CSU shall not be deemed to have accepted Contracted Work until it has had a reasonable period to inspect it following delivery or completion of performance. Contractor shall be liable to correct all deficiencies at its own expense. Notwithstanding any prior payment or inspection, CSU will also have the right to reject Contracted Work as though it had not been accepted after any latent defect has become apparent.

6.10 Taxes, Delivery, and Permits

- (a) **Taxes.** Contractor certifies that it shall comply with all California Sale and Use Tax requirements. Articles sold to CSU may be exempt from certain Federal Excise Taxes. CSU will furnish an exemption certificate on request.
- (b) **FOB.** Unless otherwise specified, FOB shall be destination.
- (c) **Charges.** Prices quoted shall include all required and applicable taxes, and applicable delivery or freight charges, insurance, license fees, permits, and costs of bonds. If Contract includes a charge for freight, Contractor shall provide supporting documentation for any charge over \$50. If Contract includes a charge for handling, it must be itemized separately from any charge for shipping.
- (d) **Prohibited Charges.** No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other related purpose will be paid by CSU unless expressly included and itemized in the Contract.

- (e) **Permits.** Contractor certifies that it will immediately advise CSU of any change in its retail seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration.

6.11 Electronic Software Tax Liability

If Software is provided under the terms of this Contract, Contractor agrees to deliver Software solely in an intangible form and via electronic means. Contractor shall be responsible for ensuring that the Software is not delivered to CSU in tangible form and shall defend and indemnify CSU for any and all tax liability resulting from Contractor's failure to deliver Software as required by this Contract.

6.12 Rights in Contracted Work

- (a) **Work Made for Hire.** Unless CSU indicates that the Contracted Work does not involve work made for hire, Contractor acknowledges and agrees that all inventions, discoveries, intellectual property, technical communications, and records originated or prepared by Contractor pursuant to this Contract, including papers, reports, charts, computer programs, and other documentation or improvements thereto, and including Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be the exclusive property of CSU. The Work Product shall be considered "work made for hire" under U.S. copyright law and all right, title, and interest to and in such Work Product including, but not limited to, any and all copyrights or trademarks, will be owned by CSU. In the event that it is determined that CSU is not the owner of such Work Product under the "work made for hire" doctrine of U.S. copyright law, Contractor hereby irrevocably assigns to CSU all right, title, and interest to and in such Work Product and any copyrights or trademarks thereto.
- (b) **Noninfringement.** Contractor warrants that it has the complete right and title to sell, license, or convey all parts of the Contracted Work, and has obtained any and all necessary permissions from third parties to sell, license, or convey the Contracted Work, and that use of the Contracted Work shall not infringe the intellectual property or any other property rights of any third party. Contractor shall indemnify and hold CSU and authorized users of the Contracted Work harmless for any losses, claims, damages, awards, penalties, or injuries incurred which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the use of the Contracted Work by CSU or any authorized user in accordance with the terms of this Contract.

6.13 Use of Name or Marks, and Endorsement

Neither Party shall use the other Party's name, trade names, trademarks, service marks, logos, or domain names without the prior written agreement of the other Party. Nothing contained in this Contract shall be construed as conferring on any Party any right to use the other Party's name or mark as an endorsement of any product or service or to advertise, promote or otherwise market any product or service without the prior written consent of the other Party. Furthermore, nothing in this Contract shall be construed as the endorsement of any commercial product or service by CSU.

7. Insurance

Contractor shall not commence the Contracted Work until it has obtained all the insurance required by this Contract, and such insurance has been approved by CSU.

7.1 Policies and Coverage

- (a) **Required.** Contractor shall obtain and maintain the following policies and coverage:
- (1) Comprehensive or Commercial General Liability Insurance, on an occurrence basis, covering Contracted Work done or to be done by or on behalf of the Contractor and providing insurance for bodily injury, personal injury, property damage, and contractual liability. CSU may require the aggregate limit to apply specifically to the Contracted Work in certain circumstances, and will notify

Contractor of this requirement.

- (2) Business Automobile Liability Insurance on an occurrence basis, covering owned, hired, and non-owned automobiles used by or on behalf of Contractor and providing insurance for bodily injury, property damage, and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists.
 - (3) Worker's Compensation, including Employers Liability Insurance as required by law.
- (b) **Additional.** Contractor shall also be required to obtain and maintain the following policies and coverage to the extent indicated below:
- (1) Environmental Impairment Liability or Pollution Liability Insurance in the event that the Contracted Work involves hazardous materials which could result in any loss, cost or expense arising out of any requirement to clean up, remove, contain, treat, detoxify or in any way respond to pollutants or injury or damage resulting therefrom. This includes, but is not limited to, Contracted Work involving asbestos, lead, fuel storage or pipes, sewage, industrial waste, and hazardous chemicals (such as pesticides, carcinogens, trichloroethylene (TCE), or polychlorinated biphenyls (PCBs).
 - (2) Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability Insurance in the event that the Contracted Work involves access to or storage of Protected Data. For purposes of this Contract, "Protected Data" has the same meaning as defined in the [CSU Information Security Policy and Standards, section VI](#) (which, for clarification, includes both "Level 1 - Confidential" data and "[Level 2 - Internal Use](#)" data). Such insurance shall cover liabilities for financial loss, damages, and/or costs incurred as a result of any confirmed or suspected data security breach or loss of Protected Data (including personally identifiable information) due to the acts, omissions, and/or intentional misconduct of Contractor, its officers, employees, agents, sub-contractors, or anyone acting on behalf of Contractor in connection with the performance of this Contract. Such coverage shall include without limitation, all of the following:
 - (A) Costs to notify persons whose data were lost or compromised
 - (B) Costs to provide credit monitoring and credit restoration services to persons whose data were lost or compromised
 - (C) Costs associated with third party claims arising from a confirmed or suspected data security breach or loss of CSU confidential data, including litigation costs and settlement costs
 - (D) Any investigation, enforcement, fines and penalties, or similar miscellaneous costs arising from a confirmed or suspected data security breach or loss of CSU confidential data
 - (E) Any payment made to a third party as a result of extortion related to a confirmed or suspected data security breach or loss of CSU confidential data
 - (3) Professional Liability Insurance if the Contracted Work involves professional services involving specialized skill or training, including but not limited to:
 - (A) preparation of any map, shop drawing, opinion, report, survey, field order, change order, design, drawing, specification, recommendation, warning, permit application, payment request, manual or inspection;
 - (B) supervision, inspection, quality control, architectural, engineering or surveying activity or service;
 - (C) job site safety;
 - (D) construction contracting, construction administration, or construction management;
 - (E) computer consulting or design, software development or programming service;
 - (F) selection of a contractor or subcontractor;
 - (G) real estate, legal, medical, employment, investment, or management services;

- (H) monitoring, testing, or sampling services; or
- (I) if otherwise directed by CSU in writing.
- (4) Other insurance as agreed upon by CSU and Contractor.
- (c) **Verification of Coverage.** Contractor shall submit original certificates of insurance and endorsements to the policies of insurance required by the Contract to CSU as evidence of the insurance coverage. Renewal certifications and endorsements shall be timely filed by Contractor for all coverage until the Contracted Work is accepted as complete. CSU reserves the right to require Contractor to furnish CSU complete, certified copies of all required insurance policies.
- (d) **Required Provisions.** Nothing in these insurance provisions shall be deemed to alter the indemnification provisions in this Contract. The insurance policies shall contain, or be endorsed to contain, the following provisions.
 - (1) The general and automobile liability policies shall name the State of California, CSU, the Trustees of the California State University, and their officers, employees, representatives, volunteers, and agents as additional insureds. Such endorsement shall be documents on an ACCORD or similar form for this purpose; a statement on the certificate itself does not satisfy this requirement.
 - (2) For any claims related to the Contracted Work, Contractor's insurance coverage shall be primary insurance as respects the State of California, CSU the Trustees of the California State University, and their officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the State of California, CSU, the Trustees of the California State University, and their officers, employees, representatives, volunteers, and agents shall be in excess of Contractor's insurance and shall not contribute with it.
 - (3) Each insurance policy required by this section shall state that coverage shall not be canceled by either Contractor or the insurance carrier, except after thirty (30) days prior written notice by certified mail, return receipt requested (or other written notice with proof of receipt), has been given to CSU.
 - (4) The State of California, CSU, the Trustees of the California State University, and their officers, employees, representatives, volunteers, and agents shall not by reason of their inclusion as additional insureds incur liability to the insurance carriers for payment of premiums for such insurance.
 - (5) Each insurance policy required by this section shall contain an endorsement providing a waiver of transfer of rights of recovery against others (waiver of subrogation) as to the State of California, CSU, the Trustees of the California State University, and their officers, employees, representatives, volunteers, and agents.

7.2 Amount of Insurance

- (a) **Minimum Coverage.** The limits stated below are minimum required amounts of insurance coverage but do not serve to limit amounts recoverable by CSU. CSU is entitled to any valid and collectible insurance and any other sources of recovery. The insurance furnished by Contractor under this Contract shall provide coverage in amounts not less than the following:
 - (1) Comprehensive or Commercial General Liability Insurance—Limits of Liability
 - (A) \$4,000,000 General Aggregate
 - (B) \$2,000,000 Each Occurrence—combined single limit for bodily injury and property damage.
 - (C) \$2,000,000 Each Person/Entity for personal liability
 - (D) \$2,000,000 for contractual liability
 - (2) Business Automobile Liability Insurance—Limits of Liability
 - (A) \$1,000,000 Each Accident—combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.

- (3) Workers' Compensation—limits as required by law with Employers Liability limits of \$1,000,000.
- (b) **Hazardous Materials.** For Contracts involving hazardous materials, Contractor shall provide additional coverage in amounts not less than the following, unless a different amount is agreed upon in writing signed by Contractor and CSU:
 - (1) Environmental Impairment or Pollution Liability Insurance—Limits of Liability
 - (A) \$10,000,000 General Aggregate
 - (B) \$5,000,000 Each Occurrence—combined single limit for bodily injury and property damage, including cleanup costs.
 - (2) In addition to the above-referenced coverage for Business Automobile Liability Insurance, Contractor shall obtain for hazardous material transporter services:
 - (A) MCS-90 endorsement
 - (B) Sudden & Accidental Pollution coverage endorsement—Limits of Liability*
 - \$2,000,000 Each Occurrence
 - \$2,000,000 General Aggregate
- *A higher limit on the MCS-90 endorsement required by law must be matched by the Sudden & Accidental Pollution Insurance.
- (3) With CSU's approval, Contractor may delegate the responsibility to provide the additional coverage required under this subsection (2) to its hazardous materials subcontractor. In the event that Contractor has obtained CSU's permission to delegate such responsibility to its hazardous materials subcontractor, Contractor shall provide CSU a letter within thirty (30) days of executing this Contract stating that Contractor is requiring its hazardous materials subcontractor to provide the additional coverage required under this subsection (2), if applicable. Contractor shall affirm in this letter that the hazardous materials subcontractor's certificate of insurance shall adhere to all of the requirements of this Contract. Further, this letter will provide that the subcontractor's certificate of insurance will be provided to CSU as soon as Contractor fully executes its subcontract with the hazardous materials subcontractor, or within thirty (30) days of the Notice to Proceed, whichever is less.
- (c) **Cyber.** For Contracts involving Contractor access to or storage of Protected Data, Contractor shall obtain the additional coverage in amounts not less than the following, unless a different amount is agreed upon in writing signed by Contractor and CSU:
 - (1) Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability Insurance – Limits of Liability
 - (A) \$20,000,000 General Aggregate
 - (B) \$20,000,000 Each Occurrence
- (d) **Professional Services.** For Contracts involving professional services, Contractor shall obtain the additional coverage in amounts not less than the following, unless a different amount is agreed upon in writing signed by Contractor and CSU:
 - (1) Professional Liability Insurance – Limits of Liability
 - (A) \$5,000,000 General Aggregate
 - (B) \$5,000,000 Each Claim

7.3 Acceptability of Insurers

Insurers shall be licensed by the State of California to transact insurance and shall hold a current A.M. Best's rating of A:VII, or shall be a carrier otherwise acceptable to CSU.

7.4 Subcontractor's Insurance

Contractor shall ensure that its subcontractors are covered by insurance of the types required by this Contract, and that the amount of insurance for each subcontractor is appropriate for that subcontractor's work as relates to this Contract. Contractor shall not allow any subcontractor to commence work on its subcontract until the insurance has been obtained and approved by CSU. Only the Contractor and its hazardous materials subcontractor(s) are required to have the coverage for projects involving hazardous materials.

7.5 Miscellaneous

- (a) Any deductible under any policy of insurance required in this Contract shall be Contractor's liability.
- (b) Acceptance of certificates of insurance by CSU shall not limit Contractor's liability under the Contract.
- (c) In the event Contractor does not comply with these insurance requirements, CSU may, at its option, provide insurance coverage to protect CSU. The cost of the insurance shall be paid by Contractor and, if prompt payment is not received, may be deducted from Contract sums otherwise due the Contractor.
- (d) If CSU is damaged by Contractor's failure to provide or maintain the required insurance, Contractor shall pay CSU for all such damages.
- (e) Except as specifically provided for in contracts involving hazardous materials, Contractor's obligations to obtain and maintain all required insurance are non-delegable duties under this Contract.

8. University Data

8.1 California Consumer Privacy Act (CCPA)

Contractor warrants that it complies with the CCPA and other California laws regarding data privacy. For purposes of this section only, "personal information" shall have the same meaning as that term is defined in the CCPA. If Contractor meets the definition of a "Business" under the CCPA, Contractor shall comply with the following obligations:

- (a) **Personal Information.** Contractor will only collect, use, retain, or disclose personal information for the contracted business purposes.
- (b) **Use.** Contractor will not collect, use, retain, disclose, sell, or otherwise make personal information available for Contractor's own commercial purposes or in a way that does not comply with the CCPA. If a law requires the Contractor to disclose personal information for a purpose unrelated to the contracted business purpose, the Contractor must first inform CSU of the legal requirement and give CSU an opportunity to object or challenge the requirement, unless the law prohibits such notice.
- (c) **Purpose.** Contractor shall limit personal information collection, use, retention, and disclosure to activities reasonably necessary and proportionate to achieve the contracted business purposes or another compatible operational purpose.
- (d) **Prompt Response.** Contractor shall promptly comply with any request or instruction from a software user or from CSU requiring the Contractor to provide, amend, transfer, or delete the personal information, or to stop, mitigate, or remedy any unauthorized processing.
- (e) **Notice.** If the contracted business purposes require the collection of personal information from individuals on CSU's behalf, Contractor will always provide a CCPA-compliant notice addressing use and collection methods.

8.2 Permissible Use of Data

- (a) **License to Use CSU Data.** All rights, including all intellectual property rights, in and to University Data shall remain the exclusive property of CSU, and Contractor has a limited, nonexclusive license to use such data as provided in this Contract solely for the purpose of performing its obligations pursuant to the

Contract, and only to the extent necessary to carry out its obligations to CSU under the terms of the Contract.

- (b) **No Pecuniary Gain.** Contractor shall not utilize any University Data for pecuniary gain not contemplated by this Contract, regardless of whether Contractor is or is not under contract at the time such gain is realized.
- (c) **Disclosure of Data.** Contractor may disclose University Data only to the extent necessary to carry out its obligations to CSU under the terms of the Contract, and shall not share such data with or disclose it to any third party without the prior written consent of CSU, except as required by law or permitted in this Contract. Contractor may only disclose University Data to affiliates or subcontractors for the purposes set forth in this Contract and only after the affiliates or subcontractors agree in writing to be bound by the same restrictions, conditions, and requirements that apply to Contractor under this Contract.

8.3 Confidentiality of Data

- (a) **Duty of Confidentiality.** Contractor shall maintain the confidentiality and privacy of Personal Information, Protected Data, and all other information designated “confidential” by CSU, to which Contractor has access, during the Term and after termination of the Contract. For purposes of this Contract, “Personal Information” shall have the same meaning as that term is defined in the Information Practices Act (California Civil Code, § 1798 *et seq.*) (the “IPA”), and “Protected Data” shall have the same meaning as defined in the [CSU Information Security Policy and Standards, section VI](#) (which, for clarification, includes both “Level 1 - [Confidential](#)” data and “[Level 2 - Internal Use](#)” data). Collectively, Personal Information, Protected Data, and all other information designated “confidential” by CSU, and to which Contractor has access, are collectively referred to in this Contract as “University Data”. Contractor acknowledges the privacy rights of individuals to their personal information that are expressed in the IPA and in California Constitution Article 1, Section 1.
- (b) **Level of Care.** Contractor will store and process University Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures shall be no less protective than Contractor uses or would use in good faith to secure its own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved.
- (c) **Statutory Compliance.** Contractor shall comply with applicable state, Federal, and non-U.S. privacy laws, including but not limited to the Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)) (“GLBA”), the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) (“FERPA”), the IPA, the Health Insurance Portability and Accountability Act (110 Stat. 1936) (“HIPAA”), and the California Consumer Privacy Act (CA Civil Code 1798.100 *et seq.*). Contractor shall use best efforts, consistent with guidance from the Federal Trade Commission, the California Office of the Attorney General, the California Privacy Protection Agency, and other applicable guidance, to protect University Data from identity theft, fraud and unauthorized use. Contractor shall comply with all requirements governing redisclosure of education records, as that term is defined in FERPA.
- (d) **Exceptions to Confidentiality.** The obligations of confidentiality of this section shall not apply to any information that:
 - (1) Contractor rightfully has in its possession when disclosed to it, free of obligation to CSU to maintain its confidentiality;
 - (2) Contractor independently develops without access to University Data;
 - (3) Is or becomes known to the public other than by breach of this Contract;
 - (4) CSU or its agent releases without restriction; or
 - (5) Contractor rightfully receives from a third party without the obligation of confidentiality.

Any combination of University Data disclosed with information not so classified shall not be deemed to be within such exclusions because individual portions of such combination are free of any confidentiality obligation or are separately known in the public domain.

- (e) **Geographical Restriction.** Any access, transmission, processing, or storage of University Data outside the United States shall require prior written authorization by CSU. This requirement is a material term of this Contract.
- (f) **Notice of Subpoenas.** Except as otherwise expressly prohibited by law, Contractor shall:
 - (1) immediately notify CSU in writing of any threatened or actual subpoenas, warrants, or other legal orders, demands or request received by Contractor seeking University Data, and
 - (2) Before making any disclosure of University Data, cooperate with CSU's requests in connection with efforts by CSU to intervene and quash or modify the legal order, demand, or request.
- (g) **Return or Destruction of Data.** Within thirty (30) days of termination or expiration of this Contract, or at any time upon the request of CSU, Contractor and its agents and subcontractors shall:
 - (1) provide CSU staff with the opportunity and ability to download /export University Data for records retention purposes;
 - (2) return or destroy all University Data received from CSU and/or any retained by any of its affiliates, agents, representatives, or subcontractors, in any form, and delete from any computer system, retaining no copies of such information; and
 - (3) Provide written certification to CSU that these actions have been completed.Contractor agrees that all paper, film, or other hard copy media shall be shredded or destroyed such that it may not be reconstructed, and University Data shall be purged or destroyed in accordance with NIST Guidelines for media sanitization (<https://csrc.nist.gov/>). If Contractor determines that return or destruction of University Data is not feasible, Contractor shall extend the protections of this Addendum to such information, and shall limit further uses and disclosures to those purposes that make the return or destruction of the University Data infeasible; and Contractor's obligations under this Addendum shall survive the termination of the Contract.
- (h) **Material Breach.** Contractor's failure to comply with any provision of this Section shall constitute a material breach of this Contract.

8.4 Unauthorized Disclosure of Data

- (a) **Report to CSU.** Contractor shall report, in writing, to csuciso@calstate.edu any use or disclosure of University Data not authorized by this Contract or in writing by CSU ("Security Incident"), including any reasonable belief that an unauthorized individual has accessed University Data. This report shall:
 - (1) be made not later than within twenty-four (24) hours after discovery, if information was, or is reasonably believed to have been, acquired by an unauthorized person;
 - (2) include details relating to any known or suspected security breach of Contractor's system or facilities which contain University Data, or any other breach of University Data relating to this Contract; and
 - (3) identify:
 - (A) the nature of the unauthorized use or disclosure,
 - (B) the time and date of incident,
 - (C) a description of University Data used or disclosed,
 - (D) who made the unauthorized use or received the unauthorized disclosure,
 - (E) the actions Contractor has taken or will take to mitigate any potentially harmful effect of the unauthorized use or disclosure,
 - (F) the corrective action Contractor has taken or shall take to prevent future similar unauthorized

use or disclosure, and

(G) such other information in the written report as reasonably requested by CSU.

- (b) **Cooperation.** Contractor shall cooperate with CSU and its agents and provide reasonable information in its possession or in the possession of any of its affiliates and subcontractors to assist CSU in meeting its obligations to investigate and respond to the Security Incident, including allowing CSU staff to access log information and other pertinent information related to any investigation related to such breach or unauthorized use or disclosure. Contractor shall cooperate with any litigation or investigation proceedings concerning University Data loss or other breach of Contractor's obligations under this Contract.
- (c) **Notice to Affected Parties.** Contractor shall fully cooperate with CSU with the preparation and transmittal of any notice, that CSU may deem appropriate or required by law, to be sent to affected parties regarding the known or suspected Security Incident. If directed by CSU, Contractor shall be administratively responsible for providing such notification in the most expedient time possible, consistent with the methods prescribed in California Civil Code §§ 1798.29 and 1798.82.
- (d) **Financial Responsibility.** Contractor shall reimburse CSU in full for all costs incurred by CSU in investigation and remediation of a Security Incident, including but not limited to providing notification to individuals whose Personal Information was compromised, and to regulatory agencies or other entities as required by law or contract; providing one year's credit monitoring to the affected individuals if University Data exposed during the breach could be used to commit identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the security breach. Contractor shall be financially responsible for any notice to affected parties resulting from Contractor's, its Representatives', its Affiliates', or its Subcontractors' acts or omissions with regard to the data security requirements of this Contract.
- (e) **Remedial Action.** In the event of an unauthorized disclosure of data, Contractor shall take appropriate remedial action with respect to the integrity of its security systems and processes.
- (f) **Indemnification.** In addition to any other remedies available to CSU under law or equity, Contractor shall indemnify (to the extent permitted by applicable law), reimburse, and hold CSU, its affiliates, regents, directors, officers, employees, agents and, if applicable, students (the "Indemnified Parties") harmless from and against all claims, actions, causes of action, demands, liabilities, judgments, fines, assessments, penalties, awards, or other costs and/or expenses, of any kind or nature, including without limitation, those associated with: (i) providing notice to the individuals whose personal information may be impacted by a Security Incident; (ii) providing any applicable credit monitoring that CSU may elect in its sole discretion, depending upon the severity of the incident, to provide to the affected individuals; and (iii) legal fees, audit costs, fines and other fees imposed upon any of the Indemnified Parties by regulatory agencies or contracting partners, relating to or arising out of any breach or alleged breach of this Contract by Contractor, its affiliates or subcontractors.

8.5 Artificial Intelligence.

Contractor shall disclose to CSU, on an ongoing basis, if it uses or has used AI systems, including generative artificial intelligence, in the creation or delivery of the Contracted Work. Contractor use of AI systems with University Data is not permitted except with prior written consent of CSU. "AI system" has the meaning provided in NIST AI RMF 1.0, as may be amended from time to time.

9. Statutory Requirements

9.1 Examination and Audit

For contracts in excess of \$10,000, this Contract and Contractor shall be subject to examination and audit by:

- (a) the CSU Office of the University Auditor, or its designated agent, and by the California State Auditor, or its designated agent, for a period of three (3) years after final payment under the Contract. Such examinations and audits shall be confined to those matters connected with the performance of the Contract, including, but not limited to, the costs of administering the Contract.
- (b) the Comptroller General of the United States or designated federal authority for a period of up to five (5) years after final payment under the contract in the event the underlying contract is paid for in whole or in part by a federal contract or grant.

9.2 Conflict of Interest

CSU requires a Statement of Economic Interests (California Form 700) to be filed by any Contractor who is involved in the making or participates in the making of decisions which may foreseeably have a material effect on any financial interest of CSU.

9.3 Appropriation of Funds

If the term of this Contract continues into fiscal years subsequent to the fiscal year in which it is approved, such continuation is subject to the appropriation of funds for such purpose by the state legislature. If funds to continue payment are not appropriated, Contractor agrees to take back any commodities furnished under the Contract and not yet paid for by CSU, terminate any future services and/or commodities to be supplied to CSU under the Contract, and to relieve CSU of any further obligation.

9.4 Follow-On Contracts

No person, firm, or subsidiary thereof who has been awarded a contract for Consulting and Direction (as defined in this section) shall be awarded a contract for the provision of services, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.

- (a) If Contractor or its affiliates provides Consulting and Direction, Contractor, and its affiliates:
 - (1) shall not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for, or in connection with, any subject of such Consulting and Direction; and
 - (2) shall not act as consultant to any person or entity that does receive a Contract described in subsection (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Consulting and Direction, whichever is later.
- (b) "Consulting and Direction" means services for which Contractor received compensation from CSU includes:
 - (1) development of, or assistance in the development, of work statements, specifications, solicitations, or feasibility studies;
 - (2) development or design of test requirements;
 - (3) evaluation of test data;
 - (4) direction of or evaluation of another contractor;
 - (5) provision of formal recommendations regarding the acquisition of products or services; or
 - (6) provisions of formal recommendations regarding any of the above.
- (c) For purposes of this Section, "affiliates" means employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with Contractor; control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other

managing authority.

(d) Except as prohibited by law, the restrictions of this Section will not apply:

- (1) to follow-on advice given by vendors of commercial off-the-shelf products, including software and hardware, on the operation, integration, repair, or maintenance of such products after sale; or
- (2) where CSU has entered into a Contract for software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.

(e) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

9.5 Covenant Against Gratuities

Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of CSU with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, CSU shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by CSU in procuring on the open market any items that Contractor agreed to supply shall be borne and paid for solely by Contractor. CSU's rights and remedies provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under the Contract.

9.6 Nondiscrimination

- (a) **Nondiscrimination.** During the performance of this Contract, Contractor and its subcontractors shall not deny the Contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decisionmaking, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- (b) **Compliance.** Contractor shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § [11000](#) et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code, §§ 11135- 11139.8), and the regulations or standards adopted by CSU to implement such article.
- (c) **Access.** Contractor shall permit access by representatives of the Civil Rights Department and CSU upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or CSU shall require to ascertain compliance with this clause.
- (d) **Notice to labor organizations.** Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (e) **Subcontracts.** Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

9.7 Compliance with NLRB Orders

Contractor declares under penalty of perjury under the laws of the State of California that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court to comply with an order of the National Labor Relations Board.

9.8 Drug-Free Workplace Certification

Except in the case of credit card purchase of goods of \$2,500 or less, Contractor certifies that Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 and shall provide a drug-free workplace by taking all of the following actions:

- (a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- (b) Establish a Drug-Free Awareness Program to inform employees about all of the following:
 - (1) the dangers of drug abuse in the workplace;
 - (2) the person's or organization's policy of maintaining a drug-free workplace;
 - (3) any available counseling, rehabilitation, and employee assistance programs; and
 - (4) penalties that may be imposed upon employees for drug abuse violations.
- (c) Require that each employee who works on the proposed or resulting Contract:
 - (1) will receive a copy of Contractor's drug-free policy statement; and
 - (2) agrees to abide by the terms of Contractor's statement as a condition of employment on the Contract.

9.9 Forced, Convict, Indentured and Child Labor

By accepting a contract with CSU, Contractor:

- (a) certifies that no equipment, materials, or supplies furnished to CSU pursuant to this Contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further certifies it will adhere to the Sweat-free Code of Conduct as set forth on the California Department of Industrial Relations website located at <https://www.dir.ca.gov/sweatfreecode.htm>, and Public Contract Code section 6108.
- (b) agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (A).

9.10 Recycled Content Certification

Contractor shall certify in writing the minimum, if not exact, percentage of postconsumer material, as that term is defined in Public Contract Code section 12200, in products, materials, goods, or supplies offered or sold to CSU regardless whether the product meets the requirements of Public Contract Code section 12209. With respect to printer or duplication cartridges as defined in Public Contract Code section 12156(e)(1), the certification required by this subdivision shall specify that the cartridges so comply (Public Contract Code, section 12205).

9.11 Entertainment Event Certification

In accordance with CA Labor Code section 9250 *et seq.* (2022), for any contract for the production, set up, operation, or tear down of any live event, Contractor certifies all of the following:

- (a) All of Contractor's employees and any subcontractors or subcontractors' employees involved in the setting up, operation, or tearing down of a live event at the venue have completed the Cal/OSHA-10, the OSHA-10/General Entertainment Safety training, or the OSHA-10 as applicable to their occupation.
- (b) One of the following applies for all of Contractor's employees and any subcontractors or subcontractors' employees:
 - (1) Heads of departments and leads have completed the Cal/OSHA-30, the OSHA-30/General Entertainment safety training, or the OSHA-30, and are certified through the Entertainment Technician Certification Program relevant to the task or tasks they are supervising or performing, or another certification program, as specified by the division.
 - (2) Contractor's employees and any subcontractors' employees meet the conditions for a skilled and trained workforce.
- (c) Contractor certifies that Contractor has verified the training completion and certification requirements of all employees, and any subcontractor's employees, who will work on the setting up, operation, or tearing down of the event.

9.12 Child Support Compliance Act

For any contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code section 7110, that:

- (a) Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- (b) Contractor, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

9.13 Americans With Disabilities Act (ADA)

Contractor warrants that it complies with California and federal disabilities laws and regulations (including but not limited to the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq). Contractor hereby warrants the products or services it will provide under this Contract comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor shall ensure that any Contracted Work or deliverables are in compliance with the Web Content Accessibility Guidelines ("WCAG") 2.1 level AA, or a subsequent version, published by the Web Accessibility Initiative of the World Wide Web Consortium. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Contractor further agrees to indemnify and hold harmless CSU from any claims arising out of Contractor's failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of this Contract.

9.14 Debarment and Suspension

By accepting a contract with CSU, Contractor certifies neither it nor its principals or its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participating in this transaction by any federal department or agency, in accordance with the Office of Management and Budget guidelines at 2 C.F.R. Part 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235). The Contractor shall provide immediate written notice to CSU if, at any time, Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

9.15 Expatriate Corporations

Contractor declares and certifies that it is not an expatriate corporation and is not precluded from contracting with CSU by The California Taxpayer and Shareholder Protection Act of 2003, Public Contract Code Section 10286, et seq.

9.16 Citizenship and Public Benefits

If Contractor is a natural person, Contractor certifies he or she is a citizen or national of the United States or otherwise qualified to receive public benefits under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT. 2105, 2268-69).

9.17 Loss Leader

Contractor certifies and declares it is not engaged in business within this State of California to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code section 17030.

9.18 DVBE and Small Business Participation

- (a) If Contractor has committed to achieve small business (SB) participation, it shall, within sixty (60) days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract), report to CSU:
 - (1) the name and address of the SB(s) that participated in the performance of the Contract;
 - (2) the total amount the prime Contractor received under the Contract; and
 - (3) the amount each SB received from the prime Contractor. (Government Code, section 14841.)
- (b) If Contractor has committed to achieve disabled veteran business enterprise (DVBE) participation, it shall, within sixty (60) days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract), certify to CSU:
 - (1) the name and address of the DVBE(s) that participated in the performance of the Contract and the contract number;
 - (2) the total amount Contractor received under the Contract;
 - (3) the amount and percentage of work that Contractor committed to provide to each DVBE, and the amount each DVBE received from Contractor;
 - (4) the actual percentage of DVBE participation that was achieved for this Contract; and
 - (5) that all payments under the Contract have been made to each DVBE.

Contractor shall provide CSU with proof of payment made to each DVBE. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. Ten thousand dollars (\$10,000) (or the full final payment, if less than \$10,000) shall be withheld from final payment until the required certification and proofs of payment have been delivered to CSU. If Contractor fails to comply with the certification and proofs of payment requirement, after notice it may cure the defect. If after thirty (30) calendar days from the date of notice, Contractor does not comply with the certification and proofs of payment requirements, CSU shall permanently deduct ten thousand dollars (\$10,000) (or the full final payment, if less than \$10,000) from the final payment. Such penalty may be levied regardless of whether Contractor ultimately provides documentation indicating it has met the minimum participation obligations. (Military and Veterans Code, section 999.5(d); Government Code, section 14841.)



SMALL BUSINESS PREFERENCE AND CERTIFICATION REQUEST

(Bidders requesting a 5% Small Business Preference must sign below and enclose this form with their bid/proposal.

If your firm is not claiming the small business preference, do not submit this form with your bid/proposal.

Project No. _____

Project Name _____

The undersigned hereby requests the small business preference and further certifies under penalty of perjury, that the firm still meets the requirements of the California Code of Regulations, Title 2 section 1896 *et seq.*

NOTICE TO ALL BIDDERS: The California Government Code, section 14835 *et seq.* requires that a five percent preference be given to bidders who qualify as a small business. The rules and regulations of this law, including the definition of a small business for the delivery of service, are contained in California Code of Regulations, Title 2 section 1896, *et seq.* A copy of the regulations is available upon request. The small business preference is applied by either 1) factoring 5% if a non-small business low bid total, and subcontracting this amount from the small business total, not to exceed \$50,000, or 2) where award is to be made to the highest scoring bidder based on evaluation factors in addition to price, the preference shall be 5% of the highest responsible bidder's total score.

If your firm is a Small Business and wishes to claim the small business preference, which may not exceed \$50,000 for any bid, your firm must have its principal place of business located in California, have a complete application (including proof of annual receipts) on file with the Small Business & DVBE Services Branch, in the Procurement Division of the State of California Department of General Services, by 5:00 p.m. on the date bids are opened, and be verified by such office. **Please indicate by checking the box below whether your firm is claiming the preference and is a Small Business.**

☐ Small Business

OR

If your firm is a Non-Small Business and wishes to claim the small business preference, your firm must notify the Trustees by signing below, that your firm commits to subcontract at least 25% of its net bid price with one or more small businesses, submit a timely responsive bid, list the small business subcontractors and include name, address, phone number, portion of the work to be performed, and the dollar amount and percentage per subcontractor, and be determined a responsible bidder. **Please indicate by checking the box below whether your firm is claiming the preference and is a Non-Small Business.**

☐ Non-Small Business

Questions regarding the preference approval process should be directed to Small Business & DVBE Services, telephone (800) 559-5529 or (916) 375-4940, address: 707 Third Street, First Floor-Room 400, West Sacramento, CA 95605, or if by mail: P.O. Box 989052, West Sacramento, CA 95798-9052. You can also reach them via email (osdchelp@dgs.ca.gov) or on the Internet: www.pd.dgs.ca.gov/smbus.

IMPORTANT NOTICE *(Read before signing)*

The "Small Business Preference and Certification Request" **must be signed** in the same name style in which the bidder is licensed by the Contractors State License Board. Bidders bidding jointly or as a combination of several business organizations are specially cautioned that such bidders must be jointly licensed and approved in the same form and style in which the bid is executed.

Legal Name Style of Bidder(s): _____

Signature of Bidder: _____ Date _____

In the event the bidder has received assistance in obtaining bonding for this project, it shall set forth below the name and nature of the firm providing such assistance. Should the firm be listed as a subcontractor, bidder shall set forth the percentage of the contract to be performed by the subcontractor.

Name of Firm: _____

Is Firm a Listed Subcontractor? ☐ If Yes, indicate Percentage _____ or, ☐ No, if not a Listed Subcontractor

Special attention is directed to California Code of Regulations, Title 2 section 1896.16 for penalties for furnishing incorrect supporting information in obtaining preference.

**TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY
DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION REQUIREMENT**

I. STATEMENT OF DVBE PARTICIPATION REQUIREMENT

State law requires that state agencies make efforts to achieve a goal of three percent (3%) participation for disabled veteran business enterprises (DVBE) in state contracts. ***SUBMIT DOCUMENTATION AT THE TIME OF BID.***

READ THIS DOCUMENT CAREFULLY. FAILURE TO COMPLY WITH THE DVBE REQUIREMENT MAY CAUSE YOUR BID TO BE DEEMED NONRESPONSIVE AND YOUR FIRM INELIGIBLE FOR AWARD OF THIS INCENTIVE.

II. DEFINITIONS

The following definitions have general applicability throughout this document.

- A. **Trustees** as used herein, means the Board of Trustees of the California State University and includes any division or campus thereof which has been delegated the authority to enter into contracts on behalf of the Trustees, and any person acting under authority of such delegation.
- B. **Bidder** as used herein, means any person or entity making an offer or proposal competitively or non competitively, for the purpose of securing the awarding or letting of a contract by the Trustees.
- C. **Disabled Veteran** as used herein, means a veteran of the military, naval or air services of the United States with at least a 10 percent service-connected disability who is a resident of the State of California.
- D. **Disabled Veteran Business Enterprise (DVBE)** as used herein, means a business concern certified by the Office of Small Business and DVBE Services as meeting all of the following:
 - (1) The business is at least, 51 percent owned by one or more disabled veterans or in the case of a publicly owned business, at least 51 percent of its stock is owned by one or more disabled veterans; a subsidiary which is wholly owned by a parent corporation but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture's management and control and earnings are held by one or more disabled veterans.
 - (2) One or more disabled veterans manage and control the daily business operations. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern.
 - (3) A sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm or other foreign-based business.
- E. **Commercially Useful Function** as used herein, means any small business, microbusiness and DVBE must perform a "commercially useful function" in any contract they perform for the state. See:
http://www.documents.dgs.ca.gov/osp/sam/memos/MM05_03.pdf

III. SATISFACTION OF THE DVBE PARTICIPATION REQUIREMENT

A. DVBE PARTICIPATION ATTAINMENT

In order to satisfy and be responsive to this requirement, the bidder must meet the DVBE Participation Requirement as follows:

The three (3) percent Disabled Veteran Business Enterprise (DVBE) Participation Requirement is attained when:

- (a) The bidder is not a Disabled Veteran Business Enterprise and is committed to use DVBEs for not less than three (3) percent of the contract dollar amount; or
- (b) The bidder is a DVBE and committed to performing not less than three (3) percent of the contract dollar amount with its own forces or in combination with those of other DVBEs.

B. **APPROVED UTILIZATION PLAN**

1. **General**

In satisfaction of the DVBE participation requirement, State law permits bidders bidding on contracts for materials, supplies, or equipment, including electronic data processing (“EDP”) goods and services to submit a DVBE Utilization Plan that has been approved, prior to the final bid due date, by the State Department of General Services Procurement Division.

AN APPROVED UTILIZATION PLAN MAY NOT BE USED TO SATISFY THE DVBE PARTICIPATION REQUIREMENT FOR ANY PUBLIC WORKS CONTRACT.

2. **Utilization Plan Criteria and Approval**

(a) **Criteria**

At a minimum, the Utilization Plan must include all of the following information:

- (1) A statement of the vendor’s disabled veteran business enterprise utilization plan, including the primary objectives of the utilization plan.
- (2) An explanation showing sufficient business reasons why the vendor did not meet disabled veteran business enterprise participation requirements set forth in the vendor’s disabled veteran business utilization plan submitted to, and approved by, the Department of General Services in the previous year, if applicable. Further, if vendor did not meet the disabled veteran business participation requirements in the previous year, the vendor shall also identify remedial steps it will take to meet the requirements in the current utilization plan.
- (3) A statement of the vendor’s disabled veteran business utilization goals for the succeeding year. At a minimum these utilization goals shall be equal to the statewide participation goals set forth in subdivision (c) of Section 10115 of the Public Contract Code.
- (4) Estimated total dollars to be subcontracted by the vendor for sales within the United States for the succeeding year.
- (5) Estimated total dollars to be subcontracted by the vendor for sales within the State of California for the succeeding year.
- (6) Total dollars, as expressed as a percentage of the amount estimated pursuant to paragraph (5) intended to be subcontracted with disabled veteran-owned business enterprises.
- (7) A representative listing of the products and services that the vendor anticipates subcontracting, including an identification of the types of subcontracting planned for disabled veteran business enterprises.
- (8) The name of the individual employed by the vendor who will administer the vendor’s utilization plan, including a description of the duties of the individual.
- (9) A description of the efforts that the vendor will undertake to ensure that disabled veteran business enterprises will have an equitable opportunity to compete for contracts.
- (10) A listing of the records and reports that the vendor will maintain to demonstrate the practices and procedures that have been adopted to comply with the requirements and goals of the utilization plan.
- (11) Affirmation that the vendor met the statewide disabled veteran business enterprise utilization requirement for the previous year, if applicable.

(b) **Approval**

A business utilization plan shall be considered approved by the Department of General Services as of the date submitted to the Department of General Services so long as the plan meets the minimum criteria set forth in

paragraphs (1) to (11), inclusive, in Subsection (a) above.

IV. DVBE PARTICIPATION REQUIREMENT DOCUMENTATION

A. GENERAL

The bidder must document its effort to meet the DVBE participation requirement.

B. REQUIRED DOCUMENTATION

The DVBE documentation forms that must be completed are as follows and instructions for completing the required forms correctly are included to assist the bidder.

(1) DVBE Transmittal Form

Bidders must fill out and attach the DVBE transmittal form as a cover sheet to the required documents and submit it and the additional required documentation within the time frame specified in the bid solicitation, or if not specified therein, within a time frame otherwise designated by the Trustees. All requested DVBE documentation must be completed on the forms provided and submitted with the DVBE Transmittal Form.

(2) Summary of Disabled Veteran Owned Business Participation (Attachment 1)

Attachment 1, Summary of Disabled Veteran Owned Business Participation, must be completed showing the type of work and company proposed for DVBE participation, their subcontractors (if any) and other related information. Complete the form providing the information as follows:

(a) **Company Name** - list the name of the company proposed for DVBE participation. If the prime contractor is a DVBE, its name must also be listed to receive participation credit.

(b) **Nature of Work** - identify the proposed work or service to be provided by the listed company. Work shall have a commercially useful function.

(c) **Contracting With** - list the name of the department or company with which the company listed is contracting.

(d) **TIER** - the contracting tier should be indicated with the following level designations:

- 0 = Prime Contractor;
- 1 = First tier primary subcontractor/supplier;
- 2 = Second tier subcontractor/supplier of first tier subcontractor/supplier;
- 3 = Third tier subcontractor/supplier of second tier subcontractor/supplier, etc.

(e) **Claimed DVBE Value** - the total dollar amount of the value claimed by a disabled veteran business enterprise.

(f) **Percentage of Contract** - compute the percentage (%) the claimed DVBE value is of the total contract dollar amount.

(g) **DVBE Certification** - The bidder must include the certification number from the Office of Small Business Services and DVBE Services Certification Programs for each DVBE firm listed on the Summary of Disabled Veteran Owned Business Participation.

(3) Bidder's Certification (Attachment 2)

The bidder must sign and include the **Bidder's Certification**, certifying that each firm listed on the Summary of Disabled Veteran Owned Business Participation (Attachment 1) complies with the legal definition of DVBE.

C. TIME FRAME FOR SUBMITTING DOCUMENTATION

The DVBE participation documentation must be submitted within the timeframe specified in the bid solicitation, or if not specified therein, within a timeframe otherwise designated by the Trustees. Failure to submit full and accurate documentation within the specified or designated timeframe will result in your firm being deemed non-responsive, and thus ineligible for award of the contract.

V. **USE OF PROPOSED DVBE**

If awarded the contract, the successful bidder must use the DVBE subcontractors and/or suppliers proposed in its bid proposal unless it has requested substitution and has received approval of the Trustees in compliance with the Subletting and Subcontracting Fair Practices Act.

Failure to adhere to at least the DVBE participation proposed by the successful bidder may be cause for contract termination and recovery of damages under the rights and remedies due the Trustees under the default section of the contract.

VI. **CONTRACT AUDITS**

Contractor agrees that the Trustees or its delegate will have the right to obtain, review and copy all records pertaining to performance of the contract, including but not limited to reports of payments made to subcontractors during the term of a contract. Contractor agrees to provide the Trustees or its delegate with any relevant information requested and shall permit the Trustees or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. Contractor further agrees to maintain such records for a period of three (3) years after final payment under the contract.

VII. **CALIFORNIA DEPARTMENT OF GENERAL SERVICES**

Office of Small Business and DVBE Services (OSDS)

Certifies small businesses and DVBE's, provides business information to further participation in state contracting opportunities, and publishes a listing of certified DVBE's.

Physical Location
707 Third Street, 1st Floor, Room 400
West Sacramento CA 95605

Mailing Address
P.O. Box 989052
West Sacramento, CA 95798-9052

Receptionist: (916) 375-4940
Procurement Division Central Receptionist: (800) 559-5529
FAX #: (916) 375-4950
Email: osdshelp@dgs.ca.gov

Certified DVBE listing Internet address: <http://www.pd.dgs.ca.gov/pd/programs/osds.aspx>

VIII. **DVBE INCENTIVE PROGRAM**

CSU Policy Manual for Contracting and Procurement, Section 215, Special Consideration creates the DVBE incentive program.

BIDDERS WHO OBTAIN A 3% OR GREATER PARTICIPATION WILL RECEIVE A 5 % INCENTIVE

A combination of Small/Micro Business preference with DVBE incentive cannot exceed 10% or \$100,000 whichever is less.

- A. The incentive is applied during the evaluation process and is only applied for responsive bids from responsible bidders proposing the percentage(s) of DVBE participation for the incentive specified in the solicitation. Solicitations may provide an incentive scale under which bidders obtaining higher levels of participation qualify for greater incentives.
- B. For award based on low price, the incentive is applied by reducing the bid price by the amount of incentive as computed from the lowest responsive and responsible bid price. The computation is for evaluation purposes only. Application of the incentive shall not displace an award to a small business with a non-small business.
- C. For award based on high score, the incentive points are included in the sum of non-cost points. The incentive points cannot be used to achieve any applicable minimum point requirements.



DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION REQUIREMENT

DVBE TRANSMITTAL FORM

The DVBE Transmittal Form is to be attached and used as a cover sheet for the required DVBE documentation that must be submitted within 24 hours following the bid opening.

Campus: _____

Project Name: _____

Project Number: _____

Bid Date: _____

Name of Contractor Submitting Bid: _____

Please check off the following to insure you have included them in your documentation:

_____ Attachment 1: Summary of DVBE Participation

_____ Attachment 2: Bidder's Certification of DVBE Status of Subcontractors and Suppliers

_____ Disabled Veteran Business Enterprise Declarations, Form STD. 843

_____ Attachment of Any Additional Supporting Documentation

OFFICIAL CSU USE ONLY

Did Contractor meet 3% DVBE requirement? ☐ Yes ☐ No

DVBE Bid Incentive (attach abstract of bids)

Amount of DVBE Bid Incentive granted: _____%

Amount of DVBE Participation pledged: _____%

Signed: _____
DVBE Program Advocate Date

**Attachment 2****BIDDER'S CERTIFICATION****DISABLED VETERAN BUSINESS ENTERPRISE
STATUS OF SUBCONTRACTORS AND SUPPLIERS**

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a disabled veteran business enterprise complies with the relevant definition set forth in law. In making this certification, I am aware of Section 12650 *et seq.* of the Government Code providing for the imposition of treble damages for making false claims against the State, Section 10115.10 of the Public Contract Code making it a crime to intentionally make an untrue statement in this certificate, and the provisions of the Military and Veterans Code, Section 999.9.

Date

Signature of Authorized Agent

Title

DISABLED VETERAN BUSINESS ENTERPRISE DECLARATIONS

DGS PD 843 (Rev. 9/2019)

Formerly STD. 843

Instructions: The disabled veteran (DV) owner(s) and DV manager(s) of the Disabled Veteran Business Enterprise (DVBE) must complete this declaration when a DVBE contractor or subcontractor will provide materials, supplies, services or equipment [Military and Veterans Code Section 999.2]. Violations are misdemeanors and punishable by imprisonment or fine and violators are liable for civil penalties. All signatures are made under penalty of perjury.

SECTION 1

Name of certified DVBE: _____ DVBE Ref. Number: _____

Description (materials/supplies/services/equipment proposed): _____

Solicitation/Contract Number: _____ SCPRS Ref. Number: _____

(FOR STATE USE ONLY)

SECTION 2**APPLIES TO ALL DVBEs. Check only one box in Section 2 and provide original signatures.**

- ☐ I (we) declare that the DVBE is not a broker or agent, as defined in Military and Veterans Code Section 999.2 (b), of materials, supplies, services or equipment listed above. Also, complete Section 3 below if renting equipment.
- ☐ Pursuant to Military and Veterans Code Section 999.2 (f), I (we) declare that the DVBE is a broker or agent for the principal(s) listed below or on an attached sheet(s). *(Pursuant to Military and Veterans Code 999.2 (e), State funds expended for equipment rented from equipment brokers pursuant to contracts awarded under this section shall not be credited toward the 3-percent DVBE participation goal.)*

All DV owners and managers of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

(Printed Name of DV Owner/Manager) (Signature of DV Owner/ Manager) (Date Signed)_____
(Printed Name of DV Owner/Manager) (Signature of DV Owner/Manager) (Date Signed)Firm/Principal for whom the DVBE is acting as a broker or agent: _____
(If more than one firm, list on extra sheets.) (Print or Type Name)

Firm/Principal Phone: _____ Address: _____

SECTION 3**APPLIES TO ALL DVBEs THAT RENT EQUIPMENT AND DECLARE THE DVBE IS NOT A BROKER.**

- ☐ Pursuant to Military and Veterans Code Section 999.2 (c), (d) and (g), I am (we are) the DV(s) with at least 51% ownership of the DVBE, or a DV manager(s) of the DVBE. The DVBE maintains certification requirements in accordance with Military and Veterans Code Section 999 et. seq.
- ☐ The undersigned owner(s) own(s) at least 51% of the quantity and value of each piece of equipment that will be rented for use in the contract identified above. I (we), the DV owners of the equipment, have submitted to the administering agency my (our) personal federal tax return(s) at time of certification and annually thereafter as defined in *Military and Veterans Code 999.2*, subsections (c) and (g). *Failure by the disabled veteran equipment owner(s) to submit their personal federal tax return(s) to the administering agency as defined in Military and Veterans Code 999.2, subsections (c) and (g), will result in the DVBE being deemed an equipment broker.*

Disabled Veteran Owner(s) of the DVBE (attach additional pages with signature blocks for each person to sign):

(Printed Name) (Signature) (Date Signed)_____
(Address of Owner) (Telephone) (Tax Identification Number of Owner)

Disabled Veteran Manager(s) of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

(Printed Name of DV Manager) (Signature of DV Manager) (Date Signed)

Page ____ of ____

PRINT**CLEAR**







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