



CALIFORNIA STATE UNIVERSITY, EAST BAY
REQUEST FOR PROPOSAL
RFP NUMBER: C2219672
UNIVERSITY BRANDING

IT IS THE PROPOSER'S RESPONSIBILITY TO READ THE ENTIRE DOCUMENT AND TO COMPLY WITH ALL REQUIREMENTS LISTED HEREIN.

Issue Date: 12/05/2022

Proposal due Date & Time: 01/04/2023
(2:00 pm PST, late proposals will not be accepted)

Bhavesh Patel
Procurement and Support Services
California State University East Bay
25800 Carlos Bee Blvd
Hayward, CA 94542

**Request for Proposal
CAL STATE EAST BAY
Procurement & Support Services**

RFP No: C2219672

Title: University Branding

Due Date: 01/04/2023, **2:00 P.M. (Pacific Time); late submittals will not be accepted, no exception.**

The Proposal needs to be submitted electronically via CSUBUY.

<https://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=CalState>

Submission of proposals by e-mail or hard copy is NOT acceptable. All questions in regards to supplier support please email csubuy@calstate.edu.

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California State East Bay
Request for Proposal #: C2219672

University Branding

SECTION 1 – PURPOSE AND BACKGROUND

1. Purpose of Request for Proposal

The purpose of this Request for Proposal (RFP) is to solicit bids to provide California State University, East Bay (Cal State East Bay or CSUEB) the expertise, strategic guidance and deliverables for a completely new brand platform and identity to encompass our distinctive qualities as a university in order to improve awareness, enhance our reputation and to reflect our unique space in the crowded Bay Area higher education market. The university seeks a partner agency to perform primary research and review secondary research to develop a new brand platform for the university ; shape messaging and positioning strategy; realign, refresh, and enhance the university’s brand identity; and develop a framework for brand launch and implementation plan.

The University is soliciting sealed proposals for anticipated contractual period of one (1) year, subject to budgetary approval on a yearly basis to fulfill the needs for Cal State East Bay (CSUEB), in accordance with the terms, conditions, and requirements set forth in this Request for Proposal.

A vendor’s response to the RFP is to be inclusive of all collateral materials and labor necessary to support the project as described in the Scope of Work.

The University may choose to use other vendor’s services/products when the awarded vendor is unable to provide a necessary product or service or if the equipment offered by the awarded vendor does not meet the necessary standards (as deemed by the University) for the specific needs.

The RFP specifications, terms, conditions and Exhibits, RFP Addenda and Bidder’s proposal, may be incorporated into and made a part of any contract that maybe awarded as a result of this RFP.

2. Background – East Bay

Cal State East Bay has come a long way in the last 60 years — it’s had five presidents, gone by five different names and produced thousands of graduates who have entered the region’s workforce.

The university was originally named the State College for Alameda County when it was officially established by the California State Assembly in 1957. The first academic year

began in 1959 at Sunset High School in Cherryland with 25 faculty and 293 students. Groundbreaking ceremonies for the current Hayward Campus were held in February 1961 and the college moved to its permanent location in fall 1963.

A pioneering spirit pervaded campus in the idealistic months before President John F. Kennedy was assassinated in November 1963, born of identification with Kennedy's New Frontier programs. Hence the student body chose to call themselves Pioneers, and the first Pioneer mascot was an astronaut from NASA's Pioneer Space Program.

The campus expansions of the 1960s came to fruition in the early 1970s with several new buildings opening, including the Library and Administration buildings, the University Theatre and Robinson Hall in 1971, and the Student Health Center in 1973. Pioneer Heights, the first university-owned student housing on campus, opened its doors in 1987. Accommodating 400 students, Pioneer Heights would challenge the reputation of our university as a "commuter school" and provide a new nucleus of student life on campus.

The university expanded its reach to Contra Costa County in 1992, opening a satellite campus in Concord.

The university changed its name to California State University, East Bay in 2005 to reflect its new regional positioning. The university's three campuses — named the Hayward campus, the Concord campus and the Oakland Center — reinforced the regional influence of the university.

In the mid-2000's, new construction blossomed on the Hayward campus for the first time since the late 1960s and early 1970s. Due to seismic vulnerability, Warren Hall, which had been the university's signature building for decades, was demolished August 17, 2013.

As the university continues to grow, it is known in particular for its diversity. From 2015-2017, The Chronicle of Higher Education's Almanac designated the Cal State East Bay student body as the most diverse in the mainland United States.

Directions and Campus Maps can be found at: [Maps](#) Cal State East Bay reserves the right to add additional sites when deemed necessary.

3. Award of Agreement

The University reserves the right to reject any and all proposals. The University may negotiate the terms of the contract, including the award amount, with the selected Vendor prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring Vendor or Vendors, the University may negotiate a contract with successively lower scoring Vendors until a conclusion is reached or determination is made to make no award at all.

Award, if any, will be to the proposer(s) whose proposal(s) best meets the needs of the University, provides the University with the highest and best value for the services, and that complies with all of the requirements of the RFP documents and any addenda.

A “Notice of Intent to Award” will be publicly posted for five (5) consecutive working days prior to the award of a contract. Written e-mail notification will be made to unsuccessful proposers. Evaluation methodology and basis for award are described in *Section 5 – Evaluation and Selection Criteria*.

4. **Term of Agreement**

The anticipated contractual period will be for one (1) year, subject to budgetary approval on a yearly basis.

SECTION 2 - Schedule of Events

Release of RFP to Pre-Qualified Providers:	December 5, 2022
Deadline to Submit Written Questions via CSUBUY	December 13, 2022
It is anticipated that responses will be sent by:	December 19, 2022
Deadline for receipt of proposals:	January 4, 2023 @ 2:00 p.m. (PST)
Purchasing Distribute Proposals to committee members for review	January 5, 2023
Committee Review due back to Purchasing	January 18, 2023
Notify Successful Proposers	January 20, 2023
Finalist Presentations	January 26 to January 31, 2023
Successful Firm Selected / Notice of Intent Issued	TBD
Contracting Phase Commence	TBD

NOTE:

*All Questions in regards to this RFP have to be submitted within CSUBUY, any questions that are not submitted within the due date and time will not be answered.

The dates up to and including the "Deadline for Receipt of Proposals" date may be adjusted upon advance written notice from the university. Dates after the receipt of proposals maybe adjusted without written notice. Additional RFP steps may be included at the discretion of the university.

PROPOSALS NOT RECEIVED BY THE DATE AND TIME SPECIFIED WILL BE REJECTED.

SECTION 3 – PROPOSAL REQUIREMENTS and PROPOSER QUALIFICATIONS

1. INTRODUCTION

In addition to meeting all other requirements of this RFP, to be considered responsive, all responding proposers shall furnish verifiable evidence that their organization and personnel, at a minimum, meet the requirements below.

The information provided herein is intended to assist vendors to respond properly to this Request for Proposal. The University believes that this RFP provides interested vendors with sufficient information to submit proposals that meet minimum requirements. However, it is not intended to limit a proposal's content or to exclude any relevant or essential data. Vendors are encouraged to include additional information that will substantiate their service capabilities, product quality, and support commitment.

2. MINIMUM COMPANY REQUIREMENTS AND EXPERIENCE

The criteria listed below are considered mandatory to establish the responsibility and capability of vendors to meet the University's requirements. Please provide sufficient information regarding each of the items below so the Universities can thoroughly evaluate your vendor's qualifications and proposal.

- **Company profile/description.** The vendor shall provide a historical and contemporary overview of the company, particularly as it relates to the proposed services. Include company principals and their contact information. Include a history of managing similar operations to these proposed services and information on any subcontractors as well.
- **Experience.** Describe the vendor's expertise and experience with services of this type. Provide evidence of experience, performance and finance necessary to capably perform proposed services. Vendor will provide a list of other higher education institutions with whom they have worked and the length of time the vendor has worked with them. Vendor will provide a comprehensive list of service providers with each of their certifications, number of years certified, and number of years' experience interpreting in higher education.
- **References.** The University requires assurance that the offered products/services function properly. Vendors shall submit at least three (3) reference accounts/clients (including persons to contact and telephone numbers), preferably with Higher Education entities, whose contracts are similar in size and scope. Include the following information:
 - Institution name
 - Contact person
 - Address
 - Telephone number
 - Contract date, term
- **Practices and Procedures.** Provide licensing, marketing, promotions and operating information.

3. **PROPOSER'S ACCOUNT PERSONNEL**

- Possess the staff, time and resources to devote to the Scope of Work for the duration of the Contract. This includes periodic travel to the Cal State East Bay campus for meetings and presentations, as well as key personnel based within Pacific Standard Time Zone working hours.
- The proposer shall identify all personnel who will be assigned to this account. Information given shall include previous experience and qualifications of key personnel. The experience and qualifications for all proposed personnel should be directly applicable to the core purpose of this account.
- Proposer must be able to demonstrate that he/she can commit the support necessary to complete the required work within the contract period.
- Once the contract is awarded, any substitution of key project personnel shall be with the approval of the University.

4. **SPECIAL CONSIDERATIONS**

The following are mandatory requirements of this project and must be addressed in the proposal in order to be deemed a responsive bid.

- **Disabled Veteran Business Enterprise Participation Requirement (DVBE):** California state law requires state agencies to achieve three percent (3%) participation for disabled veteran business enterprises in state contracts. However, the requirements of this RFP may be such that the opportunity to subcontract is, at best, limited. **Therefore, the University has waived this requirement on this project.** The University does, however, encourage DVBE participation and will award incentive preference for proposal evaluation to those bidders achieving DVBE participation. Refer to Appendix B, *CSU Solicitation Provisions and Bidder Certifications*, and Appendix D, *DVBE Summary*, for additional information.

5. **RIGHT TO ACCEPT OR REJECT**

This solicitation does not commit the University to award a contract or pay any costs associated with the preparation of a proposal or subsequent contract. The Universities reserve the right to select one, several, or none of the proposals submitted. The Universities may award a contract based upon initial proposals received without further discussion of such proposals. Accordingly, each initial proposal should be submitted with the vendor's most favorable price and service capabilities. Further, the University reserve the right to accept or reject all or parts of any proposal received and to waive any informality or technicality in any proposal received. Price alone will not be the sole determining factor in the selection process. All proposals should be valid for a period of at least 180 days from the proposal due date. Any exceptions to this request must be addressed in the vendor proposal. The University reserves the sole right to determine what is considered "equivalent" or "equal." The University also reserves the right to request samples for testing and evaluation. Any request will be reasonable in quantity, as deemed by the University, so as not to cause any undue financial hardship or burden to the vendor, but any such request will not be billable to the University, and any vendor that fails to supply samples upon request may be excluded from further consideration.

SECTION 4 – SCOPE OF WORK

Cal State East Bay recently completed a strategic planning process that reaffirmed our values as a university community as we advance student success, serve as voices for social justice and improve our communities through engagement and innovation. One of the university's priorities as it implements the Future Directions initiative is to build connections with the region, state and nation through brand awareness, enhanced reputation and community, alumni and donor engagement. This is a new era for Cal State East Bay, as the university recently attained the prestigious Carnegie Classification R2: Doctoral Universities–High Research Activity. With our community-sourced vision, mission, and values, the university seeks a refreshed voice and brand to reflect our vibrancy and bold spirit.

The purpose of this Request for Proposal (RFP) is to solicit bids to provide California State University, East Bay (Cal State East Bay or CSUEB) the expertise, strategic guidance and deliverables for a completely new brand platform and identity to encompass our distinctive qualities as a university in order to improve awareness, enhance our reputation and to reflect our unique space in the crowded Bay Area higher education market. The university seeks a partner agency to perform primary research and review secondary research to develop a new brand platform for the university ; shape messaging and positioning strategy; realign, refresh, and enhance the university's brand identity; and develop a framework for brand launch and implementation plan.

Our audiences include students, prospective students, prospective employees, alumni, regional industry representatives, potential employers, donors, elected officials and community members in the greater Bay Area and throughout California.

1. Market Position Study/Discovery Research

This segment of the brand enhancement project will help Cal State East Bay determine current brand perceptions, competitive position, and communications preferences among stakeholders. Data points, derived from quantitative and qualitative efforts, will inform an exciting and innovative brand platform including strategy, voice, messaging, channels, and cadence.

- Quantitative research with key constituencies regarding Cal State East Bay's reputation as an academic institution, its role as a community partner, and its impact on a talented workforce. With the donor constituent sample, also include motivations for support/giving.
- Qualitative research to determine stakeholders' perceptions regarding Cal State East Bay and its programs, appeal, and impact. With the donor constituent sample, also include motivations for support/giving.
- Assess university branding and marketing materials from across the institution to better understand existing Cal State East Bay messaging in order to better align overall messages.

The partner agency will provide/support:

- Discovery sessions with key internal and external stakeholders
- Participant recruiting (when needed), scheduling and incentives

- Facilitation or moderation, including guides or scripts
- Research and platform coordination, to ensure that Cal State East Bay's privacy and data security standards are upheld
- Raw data sets for further consideration
- Analysis and summary of participants, data, and findings
- Other research methods as appropriate
- Report(s) summarizing findings and presentations to university leadership

2. **Messaging, Brand Strategy & Positioning**

Cal State East Bay seeks a distinctive voice and messaging that differentiate it from other university experiences. These elements should position the university to earn greater respect and recognition, and address enticing student recruitment marketing and sequence strategy, innovative digital efforts, engaging social media strategy, and a framework to increase earned media.

- Develop a brand platform that includes positioning, personality, differentiation, and value proposition that is unique to Cal State East Bay's vision and mission.
- Develop a university tagline to reflect the university's brand through an easily identifiable phrase.
- Develop core messaging and a messaging matrix that can be shared among university stakeholders to align Cal State East Bay's brand platform..
- Create target audience composites to demonstrate the primary characteristics of stakeholder groups.

The partner agency will provide/support:

- Messaging and branding training and summary materials to ensure longevity and consistency of the brand platform.
- Testing of messaging options with internal and external stakeholders, including newer channels that connect with the younger (Gen Z) demographic
- Work with Cal State East Bay leadership and University Communications & Marketing to refine the message set
- Brand book that outlines key voice, tone, phrases, message matrix, story and audience composites. Deliver in print and digital formats.

3. **Realign and Refresh Brand Identity**

This component will take the partner-developed brand strategy and existing brand identity to a next-level visual representation of the brand. This will bring the Cal State East Bay brand to life in digital and printed executions, and should have agility to appeal to a range of audiences in formal, standard, and casual formats.

- Develop creative concepts and signature elements for use in social media content, environmental branding, website, brochures, and other printed and online materials.
- Refresh the brand guide to reflect Cal State East Bay's new brand platform, identity, voice and tone and messaging
- Develop a secondary color palette, graphic elements, and affirm typography and photographic style.

- Realign the logo family to a cohesive system comprising the university logo/word mark and the athletics logo. This also includes sub-branding logo treatment for colleges, departments, and programs.
- Conduct discovery of a visual representation of the university’s mascot Pioneers (the first symbol was an astronaut and Cal State East Bay aligned with “space pioneers”; a later version cowboy-esque character was retired in 2019).

The partner agency will provide/support:

- Creation of a mood board that includes the expanded color palette, imagery, icons, fonts, typography, graphics, illustration styles, infographics and design elements for brand visual representation.
- Creation of a hierarchy of the logo family and sub-brand system, including guidelines.
- Creative templates—one in each format including formal, standard, and casual—to apply to a social media graphic, email newsletter, 8 ½” x 11” flyer, 2’ x 3’ poster, 11” x 17” poster, and PowerPoint template including at least 10 styles of slides. Deliver final concepts as editable art files.
- Creative templates for general university business including business cards, digital signature blocks, digital communicate headers, digital letterhead templates – two (2) for Word documents that can be customized for individuals, departments, colleges and for memos/general use. Deliver final concepts as editable art files.
- Creative templates for targeted audience print publications including fundraising proposals, recruitment brochure/viewbook, human resources recruiting, and residence halls.
- Update the brand identity guidelines to reflect the final concepts, including a style guide, and included in overall brand books.
- At least three (3) rounds of creative revisions.

4. Website Structure and Look

Cal State East Bay’s website is the most visited place on its campuses and is a visible and measurable communication channel. The university’s website was last redesigned in 2016 to incorporate responsive design; today more than 75% of the university’s web visits are through mobile or tablet devices. This component of the project will develop a visual design and optimized user experience (UX) that aligns with research, brand strategy recommendations, digital strategy recommendations, and audience needs. This segment of the project includes only design, structure, and flow; site build, coding, and development will be produced separately in fulfillment of these concepts.

- Propose homepage navigation and develop visual designs for web templates and web modules for top-level pages (home page, college pages, student services, and other key pages) to be in alignment with the updated brand guidelines.
- Propose content tone, proportions, and visual elements for sample pages.
- Recommend an integrated calendar and event system that carries the look and feel throughout the site and is easily embedded on college or departmental pages.

The partner agency will provide/support:

- Home page navigation and three (3) visual design concepts including color palette, photography, iconography
- Three (3) visual design concepts for top-level webpages including gateway webpage templates, college website templates, departmental page templates, faculty pages, news center, and calendar and events pages.

5. Brand Launch Campaign

As a final component, Cal State East Bay seeks the creation of a strategy, plan, concept, timeline, and assets to launch the updated brand to stakeholders in Fall 2023. This campaign will highlight the university's new direction, progress, and aspirations.

- Develop a pre-launch plan to preview the brand with select members of the campus community (students, employees, university leadership, alumni, donors, and key community stakeholders) to preview and provide feedback on the final concepts.
- Train brand ambassadors (50+ communicators across multiple divisions and alumni and donors who communicate on behalf of the university) on using the new brand.
- Develop strategies, tactics, and a timeline in an eight month (Academic Year 2023-24) campaign to introduce the new brand to stakeholders and the region. Recommend a budget for implementation.
- Recommend a regional media buy in digital, print and limited outdoor/site advertising (bus tails, existing airport OOH). The advertising strategy should encompass general brand awareness, enrollment periods, continuing education, athletics, and niche public-facing programs.
- Recommend milestone internal and external outreach to key stakeholder groups including current students, alumni, regional partners, and media.

The partner agency will provide/support:

- Brand launch campaign strategy plan including an 8-month calendar of themes, messaging and asset placement on the university's campuses, digital spaces, and print. The concepts should align with the university's existing milestone activities such as back to school, open enrollment, Forever Pioneer Week, commencement, etc.
- Campaign creative to include:
 - Three (3) fully-built targeted advertising concepts for prospective students, alumni, and regional stakeholders, each with 6-8 versions.
 - Two additional concepts built out in languages other than English
 - Social media graphic templates announcing the launch of the refreshed brand, including profile graphics
 - Storyboard for a brand video including one (1) to two (2) minute version, with 30-second and 10-second cut-downs
 - Design for light pole banners
 - Copywriting, design, and production, with input from key university leadership, for the above assets, excluding the brand video.

6. Comprehensive Fundraising Campaign Brand and Identity

Cal State East Bay is in the planning stages for its next comprehensive fundraising campaign. While priorities and goal amounts are under consideration, the effort will elevate the university's reputation as a student-supportive and innovative investment for donors. In this segment of the project, the university seeks a micro brand for the campaign that positions it as an exciting way for donors and other stakeholders to support the university through private support. This component includes strategic and creative support.

- Identify campaign messaging/branding that creates strong, consistent communication about the campaign and fundraising priorities and aligns with university brand/tagline.
- Develop a look and feel for the fundraising campaign, ensuring that it supports but does not eclipse the university's signature brand identity.
- Propose a content strategy that extends through the campaign lifecycle (silent phase to public launch to conclusion stewardship) to incorporate campaign messages and stories into existing Cal State East Bay communications vehicles such as publications, email newsletters, etc. Include a messaging toolkit for development officers including talking points, print collateral and videos that highlight fundraising priorities and stories of donor impact.
- Recommend digital strategy and timeline for the campaign lifecycle, including social, email and web.
- Recommend event strategy and creative for public launch, public thank you event, and other events throughout the campaign's public and conclusion phases.

The partner agency will provide/support:

- Develop a high-level case statement that positions the fundraising campaign as accessible and impactful, and provides a call to action for support.
- Develop a signature mark for the campaign that is compatible with the university's existing logo and sublogos (e.g., athletics, alumni association).
- Using the campaign visual look, build out templates as deliverables. Collateral should include templates for major gift proposals, case statement, web landing pages, one-page priority templates, digital assets for social media, event invitation templates and additional items/vehicles recommended in the content strategy.
- Storyboard an anthem video (2-3 minutes in length) that highlights campaign priorities, fosters a sense of urgency and creates enthusiasm for the campaign.
- Brand book that describes campaign priorities in exciting language that corresponds with the case statement and calls to action.
- Timelines and rollout points that inform content strategies and events for the silent, quiet, launch, public and conclusion phases of the campaign.

SECTION 5 – EVALUATION and SELECTION CRITERIA

- An initial screening of all submissions will be conducted to determine overall responsiveness. *Submissions determined to be incomplete or non-responsive may be disqualified.*
- Selection of the awarded vendor(s) shall be based solely on the Review Committee's evaluation of the submissions and the criteria set forth above.
- The University reserves the right to interview the respondents.
- The University reserves the right to negotiate the terms and conditions of the contract to obtain the most advantageous situation for Cal State East Bay.
- Cal State East Bay reserves the right to suspend or terminate the procurement process described in this RFP at any time (in its sole discretion). If terminated, Cal State East Bay may determine to commence a new procurement process or exercise any other rights provided under applicable law without any obligation to the Respondents.
- Submission of a Proposal against this RFP is your acknowledgement that subjective criteria will be used in the evaluation of proposals. Award shall be made to the responsible proposer who is determined to be the most advantageous to the University.
- By responding to this RFP, firms acknowledge and consent to the conditions set forth herein relative to the submission, review and consideration of your response.

Requests for Clarification by the University: The University may request that any proponent clarify or supplement any information contained in any Proposal. Proposers are required to provide a written response within two (2) business days of receipt of any request for clarification by the University.

The award of this RFP will be based upon a review and analysis of all proposals to determine which proposal/proposals best meet the University's needs. The contract award will be based on a points-earned matrix derived from a service and financial evaluation.

Scoring Guidelines

Proposals will be evaluated based on each Reviewer's determination of each criteria compared to the degree of compliance with RFP requirements. A weighted scoring methodology will be used to evaluate proposers. Raw scores as described below will be utilized by the evaluators. Those raw scores will be multiple by the weights listed below to achieve a total weighted score for each proposers. Scores will be assigned according to the following:

5 Exceptional

Fully compliant with RFP requirements and with desirable strengths or betterments; no errors, or risks, or weaknesses or omissions. There is a high probability of success.

4 Very Good

Fully compliant with RFP - Meets in all aspects and may in some cases exceed the critical requirements

3 Good

Generally compliant with RFP requirements; some minor errors, or risks, or weaknesses or omissions. Minor weaknesses can be readily corrected

2 Fair

Minimally compliant with RFP requirements; errors, or risks, or weaknesses or omissions; possible to correct and make acceptable.

1 Deficient

Non-compliant with RFP requirements; errors, or risks, or weaknesses or omissions; difficult to correct and make acceptable.

0 Unacceptable

Totally deficient and not in compliance with RFP requirements; demonstrates a lack of understanding of requirements; extremely difficult and time consuming to correct

Firms will be awarded points in the following categories:

Each of the following criteria will be scored in accordance with the points referenced below for a total of 100 Points.

Criteria	Description	Weight
Market Position Study/Discovery Research	This category will consider the demonstrated ability of the firm's plan to conduct qualitative and quantitative research, both primary and secondary, as well as detailed experience conducting research.	17
Creative Criteria	This category will consider the firm's ability to address the statement of work specifications outlined in the RFP. The Creative Criteria should include information about the strategy (or approach) and work plan process for the following components: strategy for the development of Messaging, Brand Strategy & Positioning; strategy for developing elements that will be included in the Realign and Refresh Brand Identity segment; strategy for identifying elements of the revised Website Structure and Look; strategy for the Brand Launch Campaign; and strategy for the development of a Comprehensive Fundraising Campaign Brand and Identity. Each element should include a timeline of project initiation, number of weeks/months in the phase, and overall projected timeline to research, ideate, create, and deliver the concepts and assets.	23
Business Criteria	This category will consider the qualifications of the firm's experience, organizational structure, the number of years in the industry, and experience in higher education.	11

	<ul style="list-style-type: none"> ● Provide the firm’s administrative organization and support structure. ● Provide names and bios for the key management team that will be assigned to the university’s project at all stages. ● Provide a list of the types of agencies and partners the firm expects to subcontract with during the contract period; if none will be used, notate that all work will be performed by direct employees of the firm. ● Copy of the firm’s most recent audited financial statement. 	
Case Studies		12
Cost of Services		12
Presentation	<p>During the presentation each finalist will be expected to provide an overview of research strategy creative ideation process, and provide examples from past or current clients of the types of findings and deliverables outlined in the RFP, including brand enhancement, launch, website, and fundraising campaign. Specific presentation details will be provided upon invitation to the finalist round.</p> <p>During the presentation each finalist will be expected to provide an overview of research strategy creative ideation process, and provide examples from past or current clients of the types of findings and deliverables outlined in the RFP, including brand enhancement, launch, website, and fundraising campaign. Specific presentation details will be provided upon invitation to the finalist round.</p>	25

Proposal
Page

The proposer states that he/she has carefully examined the specifications of having carefully examined the proposal documents and being familiar with the requirements therein, hereby submits their proposal to provide such services meeting the requirements outlined in this RFP.

Name	
Title	
Vendor Name	
Address	
Phone	
Email	

Signature	
------------------	--

Any and all changes made to this proposal page must be initialed and dated by the Proposer. No edit(s) will be accepted without Proposer's initials and date, next to any and all corrections.

Provide the name and contact information of the individual within your firm that the University should contact regarding questions about your submission. The contact information should include the name of individual, telephone number, and e-mail address

Point of Contact	
Phone	
Email	

SECTION 6 – RFP PROVISIONS AND PROPOSER CERTIFICATIONS

1. DEFINITIONS

Proposer, Service Provider, Vendor, or Contractor – An individual, corporation, or partnership submitting a proposal in response to this RFP.

University – California State University East Bay, also referred to as Trustees of The CSU.

CSU – California State University system.

Agreement or Contract – The negotiated agreement resulting from this RFP between the University and the Proposer.

2. UNIVERSITY CONTACT

All questions regarding this RFP have to be submitted within CSUBUY. All questions will be answered in writing and conveyed to all proposers within CSUBUY. Oral statements concerning the meaning or intent of the contents of this RFP by any person is unauthorized and invalid. All questions either technical or contractual shall be directed to:

Bhavesh Patel, Buyer II
California State University East Bay
Procurement & Support Services
25800 Carlos Bee Blvd.,
Hayward Ca 94542
Ph: 510-885-3842
Email: bhavesh.patel@csuesastbay.edu

All questions concerning this RFP must be submitted by the date specified in the Schedule of Events.

Firms that are found to be attempting to contact any members of the University's evaluation team, during the proposal review process period, for the purposes of discussing their proposal may be eliminated from consideration.

Once agreements are awarded, the University contact for this project will be:

Name: Evelyn Buchanan
California State University East Bay
VP, University Advancement
25800 Carlos Bee Blvd.,
Hayward CA 94542
Email: evelyn.buchanan@csuesastbay.edu

3. CONFIDENTIALITY

The proposer agrees to hold in confidence any and all data and information regarding Cal State East Bay which is disclosed to it or its employees as a result of the work to be performed. It is understood that the confidentiality obligation shall extend beyond the completion of the work and that unauthorized disclosure of such information may cause irreparable harm to the university involved.

All financial, statistical, personal, technical and other data information relating to Cal State East Bay operations which is designated confidential by Cal State East Bay and made available to the proposer in order to carry out this agreement, or which becomes available to the proposer in carrying out this agreement, shall be protected by the proposer from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to Cal State East Bay. The proposers shall not be required to keep confidential any data or information which is, or becomes publicly available, is already rightfully in the proposer's possession, is independently developed by the proposer outside the scope of this agreement, or is rightfully obtained from third parties.

Final proposals/bids are public upon opening; however, the contents of all proposals, draft bids, 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.

The contents 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.

4. INSPECTION OF RFP DOCUMENTS

The proposer shall carefully review all documents referenced and made a part of this RFP to ensure that all information required to properly respond to the RFP has been received or made available and all requirements are priced in the proposal.

If the proposer discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP or any of its attachments, he/she shall contact the university in writing and request modification or clarification to the document. Modifications will be made by the issuance of an addendum.

If a proposer fails to notify the University of an error in the RFP known to him/her prior to the date fixed for submission of proposals, the proposal shall bid at his/her own risk, and if awarded the agreement, he/she shall not be entitled to additional compensation of time by reason of the error or its later correction.

5. **ADDENDA**

The University may modify this RFP, any of its key action dates, or any of its attachments, prior to the bid submittal date by issuing an addendum. Any addendum will be numbered consecutively as a suffix to the RFP number. It is the Proposer's responsibility to ensure they have incorporated any/all addenda. Failure to acknowledge and incorporate addenda will not relieve the Proposer of the responsibility to meet all terms and conditions of the RFP and any subsequent addenda.

6. **REJECTION OF PROPOSALS**

The University may reject any or all proposals if in the best interest of the University. Proposals that include terms and conditions other than the University's terms and conditions or contain exceptions to the University's terms and conditions may be rejected as being non-responsive.

The University may make any and all investigations as deemed necessary to determine the ability of the proposer to perform the work, and the proposer shall furnish to the university all such information and data for this purpose as requested by the University. The University reserve the right to reject any proposal if the evidence submitted by, or investigation of, such proposer fails to satisfy the University that the proposer is properly qualified to carry out the obligations of the agreement and to complete the work specified.

7. **CONDITIONS OF PROPOSAL**

The University shall have the discretion to delete or make changes to any additional tasks or work submitted on the proposal that was not specifically requested in this RFP.

8. **AGREEMENT DOCUMENTS AND CONTRACT EXECUTION**

Any agreement resulting from this RFP shall be in the format and contain the terms and conditions as set forth in University Agreement.

Agreement documents will consist of the University agreement document. In the event of a conflict between documents, the following order of precedence shall apply:

- (a) University agreement (including the CSU General Provisions for Acquisition of Services
- (b) Cal State East Bay Request for Proposal, #:
- (c) Vendor's Proposal

The selected proposer and the University shall commit to execution of an agreement, in substantial accordance with the terms and conditions herein, including the University agreement and the CSU General Provisions for Acquisition of Goods (Appendix A). Should the parties be unable to reach final agreement within a reasonable amount of time as determined by the university, the university reserves the right to terminate negotiations and proceed with secondary and tertiary finalists.

DISPOSITIONS OF PROPOSALS

All materials, ideas, and formats submitted in response to this RFP will become the property of the University on receipt and may be returned only at the universities' option and at the proposer's expense. One copy shall be retained for official files.

Proposers should note that marking a document "Confidential" or "Proprietary" in the proposal will not keep that document from being released, after notice of intent to award, as part of the public record.

9. NON-ENDORSEMENT

If the proposal is accepted, the proposer shall not issue any news release or other statements pertaining to the award or servicing of the agreement that state or imply University endorsement of the proposer's services.

SECTION 7 – PROPOSAL COST SHEET

To successfully participate in the Request for Proposal (RFP) you must complete and include the below with your proposal.

This Proposal Cost Sheet shall reflect costs necessary to successfully complete the Scope of Work including all Deliverables as defined in Scope of Work of this RFP. All costs shall be firm and fixed for the duration of the Contract. The anticipated budget of this RFP is \$750,000 to \$800,000. The estimated budget amount should encompass all costs for items 1 - 6 in the table below. All entries should be made in U.S. dollars. We will expect all invoices to have itemized costs for campaign initiation and setup fees, management fees, markups or other fees.

Based on the Scope of Work, please provide your proposal and itemize the cost for the following:

Scope of Work	Labor Hours	Labor Rate per Hour	Total
Part 1 - Market Position Study/Discover Research			
Part 2 - Messaging, Brand Strategy & Positioning			
Part 3 - Realign & Refresh Brand Identity			
Part 4 - Website Structure & Look			
Part 5 - Brand Launch Campaign			
Part 6 - Comprehensive Fundraising Campaign Brand & Identity			
Total		N/A	

- Detail the total cost associated with providing project services and deliverables from Scope of Work for each part 1 - 6. Provide a rate sheet for additional services not included in project estimate. Fees not stated in the proposal will not be paid.
- Proposer's rates 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.

- Items 1 - 6 will be included in calculating the Cost points as identified in Section 5, Evaluation and Selection Criteria.
- This Proposal Cost Sheet must be used; any deviations from or changes to the form will be grounds for disqualification. No add-ons will be permitted. An incomplete Proposal Cost Sheet shall be grounds for disqualification.
- Please use numerical values only when completing the Proposal Cost Sheet - 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 the Proposer's proposal.

Vendor Billing Terms:

The undersigned hereby submits this bid, agrees to the terms and conditions thereof and certifies under penalty of perjury the accuracy of the information.

Name (Printed) / Title _____ Signature _____

Street Address /City/State/Zip Code

SECTION 8 – PROPOSAL INSTRUCTIONS AND FORMAT

1. COMPLETION OF PROPOSAL

To be considered responsive to this RFP, the proposer 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. Proposals shall be completed in all respects as required by this RFP. A proposal may be rejected if conditional or incomplete. Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the proposer, may be rejected. The University reserves the right to request additional information that, in the University's opinion, is necessary to assure that the proposer's competence, number of qualified employees, business organization and financial resources are adequate according to the agreement.

2. DELIVERY OF PROPOSALS

The Proposal needs to be submitted electronically via CSUBUY.

<https://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=CalState>

3. COPIES REQUIRED & PROPOSAL FORMAT

Bidder shall provide an electronic copy in PDF format via CSUBUY. Submittal of proposals by e-mail or hard copy are NOT acceptable. Proposals that are not received by the listed date and time will not be considered.

Each proposal shall include the following sections clearly marked:

Tab #1 Cover Letter

This section is to include the cover letter which should identify how the Contractor will meet requirements of Sections 1, 3, and 4.

Tab #2 Business Criteria

This section should highlight qualifications and experience as well as information about previous customers/projects that were similar in size and scope to the requirements stated in this RFP and summarize the firm's experience and number of years in the industry.

Tab#3 Proposal Cost Sheet

Include Section 7 Proposal cost and include all components

Tab #4 Miscellaneous Required Documents

1. DVBE summary (Appendix C)
2. Small Business Preference Form and Certification Request (Appendix D)
3. Key Personnel (Appendix E)
4. Drug Free Workplace Certification (Appendix F)
5. Non-Collusion Affidavit (Appendix G)
6. Non-discrimination Compliance Statement (Appendix H)
7. References (Appendix I)

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APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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 to proceed. Any work performed by Contractor prior to the date of approval shall be considered as having been performed at **Contractor's** own risk and as a volunteer.

2. Contract Alterations & Integration

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

3. Severability

Contractor and CSU agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either Party having knowledge of such term or provision shall promptly inform the other of its presumed non-applicability of such provision. Should the 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 both Parties, to the maximum extent reasonable.

4. Independent Status

Contractor and its employees and 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 Worker's Compensation Insurance, in no event shall Contractor and its employees and agents be entitled to unemployment or workers' compensation benefits from CSU.

5. Governing Law

To the extent not inconsistent with applicable federal law, this Contract shall be construed in accordance with and governed by the laws of the State of California.

6. Contractor's Power and Authority

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

7. Assignments

Contractor shall not assign this Contract, either in whole or in part, without CSU's written consent, which will not be unreasonably withheld.

8. Personnel

Contractor shall give its personal attention to the performance of the Contract and shall make every effort consistent with sound business practices to honor CSU's requests regarding Contractor's assignment of its employees. However, Contractor maintains the sole right to determine the assignment of its employees in order 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.

9. Waiver of Rights

Any action or inaction by CSU or the failure of CSU on any occasion to enforce any right or provision of this Contract shall not be a waiver by CSU of its rights hereunder and shall not prevent CSU from enforcing such provision or right on any future occasion. CSU'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.

10. Time

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

11. Entire Contract

This Contract sets forth the entire agreement between the Parties with respect to the subject matter hereof and shall govern the respective duties and obligations of each Party.

12. Appropriation of Funds

- (a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is subject to the appropriation of funds for such purpose by the Legislature. If funds to effect such continued 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 commodities to be supplied to the CSU under the Contract, and relieve the CSU of any further obligation therefore.
- (b) CSU agrees that if provision (a) above is involved, commodities shall be returned to Contractor in substantially the same condition in which they were delivered, subject to normal wear and tear. CSU further agrees to pay for packing, crating, transportation to Contractor's nearest facility and for reimbursement to Contractor for expenses incurred for its assistance in such packing and crating.

13. Cancellation

CSU has the right to cancel this Contract at any time and without future financial obligation upon thirty (30) days written notice to Contractor.

14. Termination for Default

CSU may terminate the Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the CSU may proceed with the work in any manner deemed proper by the CSU. The cost to the CSU shall be deducted from any sum due the Contractor under the Contract, and the balance, if any, shall be paid the Contractor upon demand.

15. Rights and Remedies of CSU for Default

- (a) In the event any Deliverables furnished or services provided by Contractor in the performance of this Contract should fail to conform to the requirements herein, or to the sample submitted by Contractor, CSU may reject the same, and it shall thereupon become Contractor's duty to forthwith reclaim and remove all nonconforming deliverables and correct the performance of services, without expense to the CSU, and to immediately replace all such rejected items with others conforming to the specifications or samples. 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 and to deduct the cost of such cover from any moneys due or that may thereafter become due to Contractor.
- (b) In the event Contractor fails to make prompt delivery of any item as specified in the Contract, the same conditions as to CSU's right, but not obligation, to purchase in the open market and receive reimbursement from Contractor, as set forth in (a), above shall apply.
- (c) In the 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 CSU may have available to it, for any loss or damage sustained and cost incurred by the CSU in procuring any items that Contractor agreed to supply.
- (d) CSU's rights and remedies provided above shall not be exclusive and shall be in addition to any other rights and remedies provided by law, equity or this Contract.

16. Warranty

Contractor warrants that

- (i) deliverables and services furnished hereunder will conform to the requirements of this Contract (including, without limitation, all descriptions, specifications, and drawings identified in the Statement of Work, if any), and
- (ii) the deliverables will be free from defects in materials and workmanship. Where the Parties have agreed to design specifications in the Statement of Work directly or by reference, Contractor warrants the deliverables shall provide all functionality required thereby.

17. Safety and Accident Prevention

In performing work under this Contract on CSU premises, Contractor shall conform to all specific safety requirements contained in this Contract or as required by law or regulation. Contractor shall take all additional precautions as the 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.

18. Insurance Requirements

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

(a) Policies and Coverage.

(1) The Contractor shall obtain and maintain the following policies and coverage:

- (i) Comprehensive or Commercial Form General Liability Insurance, on an occurrence basis, covering 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. The aggregate limit shall apply separately to the Work.
- (ii) Business Automobile Liability Insurance on an occurrence basis, covering owned, hired, and non-owned automobiles used by or on behalf of the Contractor and providing insurance for bodily injury, property damage, and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists
- (iii) Worker's Compensation including Employers Liability Insurance as required by law.

(2) The Contractor also may be required to obtain and maintain the following policies and coverage:

- (i) Environmental Impairment Liability Insurance should the Work involve hazardous materials, such as asbestos, lead, fuel storage tanks, and PCBs.
- (ii) Other Insurance by agreement between the Trustees and the Contractor.

(b) Verification of Coverage.

The Contractor shall submit original certificates of insurance and endorsements to the policies of insurance required by the Contract to the Trustees as evidence of the insurance coverage. Renewal certifications and endorsements shall be timely filed by the Contractor for all coverage until the Work is accepted as complete. The Trustees reserve the right to require the Contractor to furnish the Trustees complete, certified copies of all required insurance policies.

(c) Insurance Provisions.

Nothing in these insurance provisions shall be deemed to alter the indemnification provisions in this Agreement. The insurance policies shall contain, or be endorsed to contain, the following provisions.

- (1) For the general and automobile liability policies, the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents are to be covered as additional insureds.
- (2) For any claims related to the Work, the Contractor's insurance coverage shall be primary insurance as respects the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall be in excess of the 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 the Contractor or the insurance carrier, except after thirty (30) Days prior written notice by certified mail, return receipt requested, has been given to the Trustees.
- (4) The State of California, the Trustees of the California State University, the University, 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.

(d) Amount of Insurance.

- (1) For all projects, the insurance furnished by Contractor under this Agreement shall provide coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:
 - (i) Comprehensive or Commercial Form General Liability Insurance--Limits of Liability
\$2,000,000 General Aggregate
\$1,000,000 Each Occurrence--combined single limit for bodily injury and property damage.
 - (ii) Business Automobile Liability Insurance-Limits of Liability
\$1,000,000 Each Accident-- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.
 - (iii) Workers' Compensation limits as required by law with Employers Liability limits of \$1,000,000.
- (2) For projects involving hazardous materials, the Contractor shall provide additional coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:
 - (i) Environmental Impairment (pollution) Liability Insurance-Limits of Liability
\$10,000,000 General Aggregate
\$ 5,000,000 Each Occurrence-- combined single limit for bodily injury and property damage, including cleanup costs.
 - (ii) In addition to the coverage for Business Automobile Liability Insurance, the Contractor shall obtain for hazardous material transporter services:

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- (a) MCS-90 endorsement
- (b) Sudden & Accidental Pollution 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.

With the Trustees' approval, the Contractor may delegate the responsibility to provide this additional coverage to its hazardous materials subcontractor. When the Contractor returns its signed project construction phase agreement to the Trustees, the Contractor shall also provide the Trustees with a letter stating that it is requiring its hazardous materials

subcontractor to provide this additional coverage, if applicable. The Contractor shall affirm in this letter that the hazardous materials subcontractor's certificate of insurance shall also adhere to all CSU requirements. Further, this letter will provide that the subcontractor's certificate of insurance will be provided to the Trustees as soon as the Contractor fully executes its subcontract with the hazardous materials subcontractor, or within 30 Days of the Notice to Proceed, whichever is less.

(e) 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 the University.

(f) 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. Contractor shall not allow any subcontractor to commence Work on its subcontract until the insurance has been obtained, and approved by the CSU. Only the Contractor and its hazardous materials subcontractor(s) shall have the coverage for projects involving hazardous materials.

(g) Miscellaneous.

- (1) Any deductible under any policy of insurance required in this Contract shall be Contractor's liability.
- (2) Acceptance of certificates of insurance by the Trustees shall not limit the Contractor's liability under the Contract.
- (3) In the event the Contractor does not comply with these insurance requirements, the Trustees may, at its option, provide insurance coverage to protect the Trustees. The cost of the insurance shall be paid by the Contractor and, if prompt payment is not received, may be deducted from Contract sums otherwise due the Contractor.
- (4) If the Trustees are damaged by the failure of Contractor to provide or maintain the required insurance, the Contractor shall pay the Trustees for all such damages.
- (5) The Contractor's obligations to obtain and maintain all required insurance are non-delegable duties under this Contract.
- (6) The Contractor's liability for damages proximately caused by acts of God (as defined in Public Contract Code section 7105) and not involving Contractor negligence shall be limited to five percent of the Contract.

19. General Indemnity

Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, 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.

20. Invoices

Invoices shall be submitted, in arrears, to the address stipulated in the Contract. The Contract number must be included on the invoice. Final invoice shall be marked as such.

- (a) In the event that additional services are required, the Contractor shall submit invoices in accordance with provisions herein.
- (b) For work of a continuing nature, the Contractor shall submit invoices in arrears, upon completion of each phase. Contractor shall be reimbursed for travel, subsistence and business expenses necessary for the performance of services pursuant to the Contract in accordance with CSU policy.
- (c) Unless otherwise specified, the CSU shall pay properly submitted invoices not more than 45 days after
 - (i) the performance completion date of services; or
 - (ii) receipt of an undisputed invoice, whichever is later. Late payment penalties shall not apply to this Contract.
- (d) 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 hereof, including travel and per diem, unless otherwise

expressly so provided.

21. Document Referencing

All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show the Contract number. If factory shipment, the factory must be advised 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.

22. Use of Data

Contractor shall not utilize any non-public CSU information it may receive by reason of this Contract, for pecuniary gain not contemplated by this Contract, regardless whether Contractor is or is not under contract at the time such gain is realized. CSU specific information contained in the report, survey, or other product developed by Contractor pursuant to this Contract is the property of CSU, and shall not be used in any manner by Contractor unless authorized in writing by CSU.

23. Confidentiality of Data

- (a) Contractor acknowledges the privacy rights of individuals to their personal information that are expressed in the Information Practices Act (California Civil Code Section 1798 et seq.) and in California Constitution Article 1, Section 1. Contractor shall maintain the privacy of personal information and protected data as confidential information. Contractor shall not use, disclose, or release confidential information contained in CSU records without full compliance with applicable state and federal privacy laws, and this Contract. Contractor further acknowledges and agrees to comply with Federal privacy laws, such as the Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions, and the Family Educational Rights and Privacy Act (Title 20, United States Code, Section 1232g) applicable to student education records and information from student education records. Contractor shall maintain the privacy of confidential information and shall be financially responsible for any notifications to affected persons (after prompt consultation with CSU) whose personal information is disclosed by any security breach relating to confidential information resulting from Contractor's or its personnel's acts or omissions. Further, If so requested 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 1798.29g and 1798.82g.
- (b) Contractor further agrees that all financial, statistical, personal, technical and other data and information relating to CSU's operation designated "confidential" by CSU, and not otherwise subject to disclosure under the California Public Records Act, and made available to Contractor to perform this Contract or which become available to Contractor while performing this Contract, shall be protected by Contractor using the same level of care it takes to protect its own information of a similar nature, but in no event less than reasonable care. If required by a court of competent jurisdiction or an appropriate administrative body with legal authority to order the disclosure of confidential information or protected data, Contractor will notify CSU in writing prior to any such disclosure to give CSU an opportunity to oppose any such disclosure. Prior to any disclosure of confidential information as required by legal process, Contractor shall: (1) Notify CSU of any actual or threatened legal compulsion of disclosure, and any actual legal obligation of disclosure, immediately upon becoming so obligated; and
- (c) Contractor shall cooperate with any litigation or investigation proceedings concerning protected data loss or other breach of Contractor's obligations under this Contract. Any access, transmission, or storage of protected data outside the United States must be approved in writing by CSU in advance. Contractor's failure to comply with any provision of this Section shall constitute a material breach of the Contract.

24. Information Security Requirements

- (a) Contractor is required to comply with CSU Information Security Requirements as described in Rider A, Supplemental Provisions for General Provisions for Service Acquisitions, attached hereto and by reference made a part of this agreement.
- (b) Information Security Plan
Contractor is required to maintain an Information Security Plan sufficient to protect the sensitive and/or confidential CSU data to which they have access. Requirements for the Information Security Plan are described in Rider A.
- (c) Personal Security Requirements
Contractor shall require all its affiliates and subcontractors, as a condition to their engagement, to agree to be bound by provisions substantially the same as those included in this Agreement related to information security matters only. Contractor shall not knowingly permit a representative or subcontractor to have access to CSU records, confidential data, or premises of the CSU when such representative or subcontractor has been convicted of a felony.

25. Patent, Copyright, and Trade Secret Indemnity

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- (a) Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents, and employees (collectively referred to as CSU), 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 CSU, 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 CSU with indemnity protection.
- (i) CSU will notify Contractor of such claim in writing and tender its defense within a reasonable time; and
 - (ii) 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 CSU operations or liability, or when involvement of the CSU is otherwise mandated by law. In such case no settlement shall be entered into on behalf of CSU without CSU's written approval.
- (b) Contractor may be required to furnish CSU a bond against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
- (c) Should the Deliverables or Software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a Intellectual Property Right, whether domestic or foreign, CSU shall permit Contractor at its option and expense either to procure for CSU the right to continue using the Deliverables or Software or to replace or modify the same so they become non-infringing, provided they comply with Contract and performance requirements and/or expectations. If neither option can reasonably be practicable or if the use of such Deliverables or Software by CSU shall be prevented by injunction, Contractor agrees to take back such Deliverables or Software and use its best effort to assist CSU in procuring substitute Deliverables or Software at Contractor's cost and expense. If, in the sole opinion of CSU, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from Contractor under this Contract impracticable, CSU shall then have the option of terminating this Contract, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such Deliverables or Software and refund any sums CSU paid Contractor less any reasonable amount for use or damage.
- (d) 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.

26. Rights in Work Product

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 Contractor's exclusive property. The provisions of this section may be revised in a Statement of Work. The provisions of this sub-section a) may be revised in a Statement of Work. However, all finished product or deliverables required under this contract shall be the exclusive property of the CSU and may be used at CSU's discretion.

27. Examination and Audit

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

- (a) the Office of the University Auditor, and
- (b) the California State Auditor, for a period of three (3) years after final payment under the Contract. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the Contract. Note: Authority Cited: Government Code Section 8546.7; Education Code Section 89045 (c&d), respectively.

28. Dispute

Any dispute arising under or resulting from this Contract that is not resolved within 60 days of time 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.

29. Conflict of Interest

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

30. Follow-On Contracts

No person, firm, or subsidiary thereof who has been awarded a contract for Consulting Services or providing Direction (as provided below) may submit 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:
- (i) 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
 - (ii) shall not act as consultant to any person or entity that does receive a Contract described in sub-section (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 and includes:
- (i) development of, or assistance in the development, of work statements, specifications, solicitations, or feasibility studies;
 - (ii) development or design of test requirements;
 - (iii) evaluation of test data;
 - (iv) direction of or evaluation of another Contractor;
 - (v) provision of formal recommendations regarding the acquisition of products or services; or
 - (vi) provisions of formal recommendations regarding any of the above. For purposes of this Section, "affiliates" are 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.

- (c) Except as prohibited by law, the restrictions of this Section will not apply:
- (i) 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
 - (ii) 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.
- (d) 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.

31. Endorsement

Nothing contained in this Contract shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/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 endorsement of any commercial product or service by the CSU, its officers or employees.

32. Covenant Against Gratuities

Contractor shall warrant 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.

33. Nondiscrimination

- (a) During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition, age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- (b) Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. 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.
- (c) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

34. Compliance with NLRB Orders

Contractor declares under penalty of perjury under the laws of the State of California that no more than one final, unappeasable 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. Note: Cite Authority: PCC 10296

35. Drug-Free Workplace Certification

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 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:
 - (i) the dangers of drug abuse in the workplace;
 - (ii) the person's or organization's policy of maintaining a drug-free workplace;
 - (iii) any available counseling, rehabilitation and employee assistance programs; and,
 - (iv) penalties that may be imposed upon employees for drug abuse violations.
- (c) Provide that every employee who works on the proposed or resulting Contract:
 - (i) will receive a copy of the company's drug-free policy statement; and,
 - (ii) will agree to abide by the terms of the company's statement as a condition of employment on the Contract. Note: Authority Cited: Government Code Section 8350-8357

36. 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 <http://www.dir.ca.gov/>, 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).

37. Recycled Content Certification

To the extent that services involve the supply of post-consumer materials (see below) Contractor shall certify in writing the minimum, if not exact, percentage of post-consumer material, as 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 Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205).

38. 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.

39. Americans With Disabilities Act (ADA)

Contractor warrants that it complies with California and federal disabilities laws and regulations. (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 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.

40. Debarment and Suspension

By accepting a contract with the CSU, Contractor certifies neither it nor its principals or its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency ([2 Code Federal Regulations \[CFR\] 180.220](#), in accordance with the Office of Management and Budget guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235)).

41. 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.

42. 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 Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT.2105, 2268-69).

43. 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. Note: Authority Cite: (PCC 12104.5(b).)

44. DVBE and Small Business Participation

- (a) If Contractor has committed to achieve small business (SB) participation it shall, within 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) who 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. (Govt. Code § 14841.)

- (b) If Contractor has committed to achieve disabled veteran business enterprise (DVBE) participation, it shall, within 60 days

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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 DVBE(s) who participated in the performance of the Contract;
- (2) the total amount the prime Contractor received under the Contract; and
- (3) the amount each DVBE received from the prime Contractor. The Contractor shall also certify that all payments under the Contract have been made to the DVBE. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

45. Contractor's Staff

Contractor warrants that its staff assigned to performing work under this Contract are legally able to perform such duties in the country where the work is being performed.

46. Force Majeure

(a) 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, 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").

(b) 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) Notwithstanding any other term in this Contract, including, but not limited to, the foregoing subsections of this section, during the period of a Force Majeure Event affecting performance by Contractor, CSU may elect to do all or any of the following:

- (i) suspend the Contract for the duration of the Force Majeure Event and be relieved of any payment obligation for goods or services not delivered or accepted due to the Force Majeure Event;
- (ii) obtain elsewhere the goods or services not delivered or accepted due to the Force Majeure Event;
- (iii) extend the time for Contractor's performance by a period equal to the duration of the Force Majeure Event; and/or
- (iv) terminate the Contract as to any goods or services not already received with no further financial obligation if the Force Majeure Event continues to exist for more than thirty (30) days.

47. COVID-19

In the event that CSU considers it necessary or prudent to cancel this Contract due to circumstances related to COVID-19, or to any reoccurrence of the COVID-19 outbreak, CSU may do so and be relieved of any further financial obligation, risk, or other liability by providing seventy-two (72) hours prior written notice of cancellation to Contractor. CSU's right to cancel the Contract pursuant to this section shall not be limited or restricted in any manner by any other term or section of this Contract.

48. 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.

RIDER X
Supplemental Federal Procurement Provisions for Emergency Contracts

The following federally required contract terms shall be binding on the Parties in the event that this Contract constitutes an emergency purchase, to the degree that they are applicable to this Contract and legally required for CSU to secure public assistance and reimbursement pursuant to federal regulations and the Federal Emergency Management Agency (“FEMA”) or any other related Federal funding in relation to this Contract. In the event of any conflict between the terms in this Rider X and any other term(s) of this Contract, the terms in this Rider X shall prevail to the degree that they are applicable and legally required for the CSU to secure FEMA public assistance and reimbursement.

(2 C.F.R. § 200.326; 2 C.F.R., Part 200, Appendix II)

1. REMEDIES FOR CONTRACTOR’S BREACH (all contracts in excess of \$250,000)

- a. In the event any deliverables furnished or services provided by Contractor in the performance of this Contract should fail to conform to the requirements herein, or to the sample submitted by Contractor, CSU may reject the same, and it shall thereupon become Contractor’s duty to forthwith reclaim and remove all nonconforming deliverables and correct the performance of services, without expense to the CSU, and to immediately replace all such rejected items with others conforming to the specifications or samples. 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.
- b. In the event Contractor fails to make prompt delivery of any item or service as specified in the Contract, the same conditions as to CSU’s right, but not obligation, to purchase in the open market and receive reimbursement from Contractor, as set forth in (a) above shall apply.
- c. If the 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 CSU may have available to it, for any loss or damage sustained and cost incurred by the CSU in procuring any items or services that Contractor agreed to supply.
- d. CSU’s rights and remedies provided in this Section 1 (Remedies for Contractor’s Breach) shall not be exclusive and shall be in addition to any other rights and remedies provided by law, equity, or this Contract.

2. TERMINATION FOR CAUSE OR CONVENIENCE

- a. *Termination for Convenience.* CSU has the right to terminate this Contract at any time and without future financial obligation upon thirty (30) days written notice to Contractor.
- b. *Termination for Cause.* CSU may terminate the Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants contained in this Agreement at the time and in the manner provided in the Agreement. In the event of such termination, the CSU may proceed with the work in any manner deemed proper by the CSU. The cost to the CSU shall be deducted from any sum due the Contractor under the Contract, and the balance, if any, shall be paid the Contractor upon demand.

3. CLEAN AIR ACT (all contracts and subcontracts in excess \$150,000, including indefinite quantities where the amount is expected to exceed \$150,000 in any year)

- a. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*
- b. Contractor agrees to report each violation to the CSU and understands and agrees that the CSU will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. **FEDERAL WATER POLLUTION CONTROL ACT** (all contracts and subcontracts in excess \$150,000, including indefinite quantities where the amount is expected to exceed \$150,000 in any year)
- a. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*
 - b. Contractor agrees to report each violation to the CSU and understands and agrees that the CSU will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - c. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5. **DEBARMENT AND SUSPENSION**

- a. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by CSU. If it is later determined that Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to CSU, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. **PROCUREMENT OF RECOVERED MATERIALS** (all contracts for work involving the use of materials)

- a. In the performance of this Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements; or
 3. At a reasonable price.
- b. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- c. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

7. **ACCESS TO RECORDS**

The following access to records requirements applies to this Contract:

- a. Contractor agrees to provide CSU, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.
- d. In compliance with the Disaster Recovery Act of 2018, the CSU and the Contractor acknowledge and agree that no language in this

Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

8. DEPARTMENT OF HOMELAND SECURITY (DHS) SEAL, LOGO, AND FLAGS

Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

9. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Contract. Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

10. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.

11. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Contract

12. EQUAL EMPLOYMENT OPPORTUNITY

If the Agreement is for "Construction Work," defined as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services, the following provision shall apply.

During the performance of this Contract, Contractor agrees as follows:

- a. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for

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employment.

- e. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- i. CSU further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.
- j. CSU agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
- k. CSU further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, CSU agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

13. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

If the Agreement is for an amount in excess of \$100,000 and involves the employment of mechanics or laborers (e.g., a contract for construction services), the following provision shall apply.

- a. *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor

and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

- c. *Withholding for unpaid wages and liquidated damages.* CSU shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- d. *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

14. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (as amended)

- a. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.
- b. If the Agreement is for an amount in excess of \$100,000, Contractor must sign and submit to CSU the certification set forth in Attachment A:

ATTACHMENT A (EMERGENCY CONTRACTS)
APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

CSU Contractor Number

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

I. SOLICITATION PROVISIONS

1. Definitions:

- (a) The Trustees of the California State University are referred to as “CSU” or “University.”
- (b) The terms “bid” and “proposal” are synonymous and mean an offer made in response to a solicitation to perform a contract for work and labor or to supply goods at a specified price, whether or not it is considered a “seal bid” or results in award of a contract to a single or sole source.
- (c) “Bidder” or “Proposer” is used interchangeably and each shall apply to the business entity that submits a bid/proposal or is awarded a contract.

2. Preparation of Bids and Proposals:

- (a) Proposer 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 proposer’s sole risk.
- (b) All bids submitted, including electronic bids, must indicate unit prices for each separate line item quoted in addition to showing the totals. In case of discrepancy between the unit price and the extension set forth for the item, the unit price shall prevail; however, if the amount set forth as a unit price is ambiguous, unintelligible, or uncertain for any cause, or is omitted, the amount set forth in the "Extension" column shall be divided by the quantity for the item and the price thus obtained shall be the unit price. In case of discrepancy between the totals shown on the bid form and the actual sum of the item totals, the actual sum of all item totals shall prevail.
- (c) Brand names: Any reference to brand names and numbers in the bid solicitation is intended to be descriptive, but not restrictive, unless otherwise specified. Bids on equivalent items meeting the indicated standards of quality will be considered, unless otherwise specified, providing the bid clearly describes the article offered and how it differs from the reference brands.

Unless the bidder specifies otherwise in the bid, it is understood that the bidder is offering a referenced brand item as specified in the bid solicitation. The CSU reserves the right to determine whether a substitute offer is equivalent to and meets the standards of quality indicated by the brand name references; the CSU

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may require a bidder offering a substitute to supply additional descriptive material and a sample.

- (d) Time of delivery (whether a commodity or a service) is a part of the bid and must be strictly observed. Time, if stated as a number of days, shall mean calendar days.
- (e) Bids shall be completed in all respects as required by this solicitation. A bid may be rejected if conditional or incomplete, or if it contains any alterations or other irregularities of any kind, and will be rejected if any such defect or irregularity could have materially changed the quality of the bid. Bids which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Bidder, may be rejected. If, in the opinion of the evaluation committee, such information was intended to erroneously and fallaciously mislead the CSU in its evaluation of the bid, and the attribute, condition, or capability is a requirement of this solicitation, the bid will be rejected. Statements made by a bidder shall also be without ambiguity, and with adequate elaboration, where necessary, for clear understanding.

The CSU reserves the right to request additional information which in the CSU's opinion is necessary to assure that the proposer's competence, experience, number of qualified employees, business organization and financial resources are adequate to perform according to contract.

3. Submission of Bids:

- (a) Whenever the CSU so designates, bids must be signed and sealed, with the bid number, bidder's name and address, and closing date, on the outside of the envelope.
- (b) Bids or partial bids, and modifications or corrections thereof received after the closing time specified may not be considered.
- (c) The bidder is solely responsible for ensuring that the bid is delivered to the CSU prior to the date and time specified and in accordance with the solicitation requirements. The CSU shall not be responsible for any delays in mail delivery, including delay occasioned by the internal CSU mailing system, or transmission errors or delivery errors.

4. Cancellation: This solicitation does not obligate CSU to enter into an agreement. CSU reserves the right to cancel this solicitation at any time, should the project be canceled, CSU loses the required funding or it is deemed in the best interest of CSU. No obligation either expressed or implied, exists on the part of CSU to make an award or to pay any cost incurred in the preparation or submission of a bid.

5. Bidder's Cost: Costs for developing bids are entirely the responsibility of the bidder and shall not be chargeable to the CSU.
6. Revisions in Bid Solicitation: In the event a bidder believes that the CSU's bid solicitation is unfairly restrictive or has substantive errors or omissions in it, the matter must be promptly brought to the attention of the CSU's procurement office, either by telephone, telegraph, letter, or visit, immediately upon receipt of the bid solicitation, in order that the matter may be fully considered and appropriate action taken by the CSU prior to the closing time set for bids.
7. Removal of Names from Bidders' List: The CSU may remove the name of any vendor or contractor from its lists of potential bidders whenever the CSU has received no recent responses to its bid solicitations from that vendor or contractor.
8. Award of Contracts:
 - (a) Contracts will be made or entered into with (1) the lowest responsible bidder meeting specifications, (2) the bidder with the highest score attained at the end of a competitive evaluation process, or (3) as otherwise specified in the bid solicitation. The CSU reserves the right to determine the results of the prescribed evaluation process and the awardee.
 - (b) Where more than one item is specified in the bid solicitation, the CSU reserves the right to determine the low bidder either on the basis of individual items or on the basis of all items included in the bid solicitation.
 - (c) Unless the bidder specifies otherwise in the submitted bid, the CSU may accept any portion or group of items or services offered in the bid, or accept none of them at all.
 - (d) The CSU reserves the right to reject any or all bids and to waive informalities and minor irregularities in bids received.
 - (e) A CSU purchase order mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the bid solicitation results in a binding agreement without further action by either party. The binding agreement shall be interpreted, construed, and given effect in all respects according to the laws of the State of California.
9. Bid Evaluation Preferences: In evaluating bids, the CSU will give preferences in accordance with the law for suppliers who are a California certified Small Business. If the bidder claims preferences under the Target Area Contract Preference Act (TACPA) the bidder must complete and return the appropriate form incorporated in the solicitation.

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If applicable, preferences may also be given for bidders using recycle products in accordance with Public Contract Code Sections 10408 and 12150 et seq. Where multiple preferences are claimed, the CSU will verify eligibility for the preference(s) and evaluate and apply preference(s) in accordance with law and established procedures.

10. Disabled Veteran Business Enterprise (DVBE) Participation Requirement and Incentive:

California state law requires that its state agencies achieve a goal of three (3) percent participation for disabled veteran business enterprises (DVBE) in state contracts. However, due to the nature of this proposal, this requirement has been waived. The university does, however, encourage DVBE participation and will award an incentive preference for proposal evaluation to those bidders achieving DVBE Participation.

If awarded the Contract, the successful Bidder must use the DVBE suppliers and/or subcontractors 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. See Article 4.04, Substitution of Subcontractors.

Responsive to direction from the State Legislature, the Trustees are seeking to report increased statewide participation of DVBE in contract awards. To this end, the successful Bidder shall inform the Trustees of any contractual arrangements with subcontractors, consultants or suppliers that are certified DVBE.

For additional DVBE/SB Information Sources, more information regarding DVBE certification, the database of DVBE suppliers or for general DVBE information, contact:

State of California, Department of General Services, Procurement Division
 Small Business & DVBE Services Branch
 P.O. Box 989052, West Sacramento, CA 95798-9052 (mailing address)
 707 Third Street, First Floor, Room 400, West Sacramento, CA 95605 (physical address)
 Telephone number: (916) 375-4940
 Fax number: (916) 375-4950
 Email: osdshelp@dgs.ca.gov
 Internet: <http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

DVBE Incentive

In accordance with Government Code section 14838(f), and Military and Veterans Code sections 999.5(a) and 999.5(d), the Trustees shall grant a bid incentive for bid evaluation purposes only to Bidders that exceed the three percent DVBE participation requirement. The level of DVBE incentive will correlate to the level of participation; that is, the more DVBE participation proposed, the higher the incentive. A non-small business cannot displace a California certified small business from the top ranked position due to application of preferences or incentive.

DVBE Incentive Levels

The Trustees are granting a DVBE participation bid incentive for this project for bid evaluation purposes only. Bidder must exceed the three percent DVBE participation requirement in order to earn this incentive.

The bid incentives are as follows:

DVBE Participation	Incentive
3.01% to 3.99%	None
4.00% to 4.99%	1%
5% to more %	2%

In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the DVBE Incentive shall be a percentage of the highest responsible bidder’s total score. In solicitations where an award is to be made to the low bid, the incentive is a percentage of the low bid total.

If requesting the DVBE Incentive, then complete the DVBE Form in the appendices and indicate the total DVBE participation.

11. Small Business Preference Request

The State of California requires agencies to provide a five percent (5%) preference to Proposers or Bidders who qualify as either California certified small businesses or non-small businesses that commit 25% of the contract value to California certified small businesses. To be eligible, the small businesses must be certified by The Office of Small Business and DVBE Services. The rules and regulations of this law, including the definition of a small business for the delivery of services, are contained in Title 2, California Government Code, Section 14838, et seq. and Title 2, California Administrative Code, Section 1896, et seq. Copies of the codes and regulations are available online or upon request.

If requesting the Small Business Preference, then complete the form in the appendices and indicate the total Small Business participation.

The use of the Small Business Preference shall be in compliance with the law and specifically Government Code Section 14838.B.2. In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to small businesses or microbusiness shall be 5 percent of the highest responsible bidder’s total score. The preference to non-small business bidders that provide for small business or microbusiness subcontractor participation shall be up to a maximum 5 percent of the highest responsible bidder’s total score, determined according to rules and regulations established by the Department of General Services. In solicitations where an award is to be made to the low bid, the preference is applied by

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factoring 5 percent of a non-small business low bid total and subtracting this amount from the small business bid total.

12. **Protests Prior to Contract award** - If, prior to award of a contract, a protest is received in writing within the timeframe specified within the bid solicitation and filed on the grounds that the intended award is not in conformance with the specifications or requirements of the bid solicitation, the contract shall not be awarded until the protest has been withdrawn or a decision has been reached by the CSU. The CSU shall review the merits and timeliness of the protest and submit a decision in writing or otherwise furnish to the bidder the decision in such a manner as to ensure receipt. The CSU's decision on a protest is final.

13. **Confidentiality:** Final bids are public upon bid opening; however the contents of all proposals, drafts bids, 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.

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.

II. BIDDER CERTIFICATIONS

By submitting a bid, the Bidder certifies to the following:

1. **Americans With Disabilities Act (ADA):** Contractor assures the CSU that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

2. **Unfair Practices Act:** Contractor warrants that its bid complies with the Unfair Practices Act (Business and Professions Code Section 17000 et seq.).

3. **Violation of Air or Water Pollution Laws:** Unless the contract is less than \$25,000.00 or with a sole-source provider, Government Code Section 4477 prohibits the State from contracting with a person, including a corporation or other business association, who has been determined to be in violation of any State or federal air or water pollution control law. By a proposal the Contractor warrants that the Contractor has not been found to be in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution district, or is subject to a cease and desist order not subject to review issued pursuant to Section 13310 of the Water Code for violation of

waste discharge requirements or discharge prohibitions, or is finally determined to be in violation of provisions of federal laws relating to air or water pollution.

By submitting a bid, the Bidder certifies that it has not been identified either by published notices or by Board notification as a person in violation of State or federal air or water pollution control laws.

4. Compliance with NRLB Orders: In submitting a bid or signing a contract the Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.
5. Assignment of Antitrust Actions: The bidder's attention is directed to the following provisions of Government Code Sections 4552, 4553, and 4554, which shall be applicable to the bidder:

In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the procurement body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the procurement body pursuant to the bid. Such assignment shall be made and become effective at the time the procurement body tenders final payment to the bidder (Government Code Section 4552).

If an awarding body or public procurement body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery (Government Code Section 4553).

Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action (Government Code Section 4554).

6. Noncollusion Affidavit: By submitting a bid, Bidder hereby certifies that the bid is not made in the interest of, or on behalf of, any undisclosed party; that the bid is genuine and not collusive, false, or sham; that the Bidder has not directly or indirectly induced or

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solicited any other Bidder to put in a false or sham bid, and has not directly or indirectly agreed with any Bidder or anyone else to put in a false or sham bid, or to refrain from bidding; that the Bidder has not in any manner, directly or indirectly, sought to fix any overhead, profit or cost element of the bid, of that of any other Bidder, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract.

7. **Safeguards for confidential information:** By submitting a bid, Bidder acknowledges Federal privacy laws such as Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions and Family Educational Rights and Privacy Act (Title 20, United States Code, Section 1232g) applicable to student records and information from student records. In the event that such information is required for the performance of the work specified, the Bidder hereby certifies that it has the appropriate safeguards in place as required by Title 16 Code of Federal Regulation Chapter 1 Section 314 et seq.
8. **Covenant Against Gratuities:** The Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the 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, the CSU shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the CSU in procuring on the open market any items, which the Contractor agreed to supply, shall be borne and paid for by the Contractor. The rights and remedies of the CSU provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
9. **Public Contracts Code Restrictions For CSU Employees:** CSU employees and immediate past employees must comply with restrictions regarding contracting with the CSU. Bidder needs to be aware of the following provisions regarding current or former CSU employees. In submitting a bid, bidder certifies that the bidder is eligible to contract with the CSU pursuant to the Public Contracts Code (PCC) sections list below:

Current CSU Employees (PCC Section 10831):

 - (a) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any CSU department through or by a CSU contract unless the employment, activity or enterprise is within the course and scope of the officer's or employee's regular CSU employment.
 - (b) No officer or employee shall contract on his or her own behalf as an independent contractor with any CSU department to provide goods or services.

- (c) This prohibition does not apply to officers or employees of the CSU with teaching or research responsibilities.

Former CSU Employees (PCC Section 10832):

- (a) For the two-year period from the date he or she left CSU employment, no former CSU officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any CSU department.
 - (b) For the twelve-month period from the date he or she left state employment, no former CSU officer or employee may enter into a contract with any CSU department if he or she was employed by that CSU department in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving CSU service.
10. In submitting a bid for electronic devices, as defined by the Electronic Waste Recycling Act of 2003, Part 3 Division 30 Chapter 8.5 of the Public Resource Code, the Bidder certifies that it, and its agents, subsidiaries, partners, joint venturers, and subcontractors for the procurement, have complied with the Electronic Waste Recycling Act of 2003 and any regulations adopted pursuant to the Act, or have demonstrated to the CSU that the Electronic Waste Recycling Act of 2003 is inapplicable to all lines of business engaged in by the bidder, its agents, subsidiaries, partners, joint venturers, or subcontractors. In addition the Bidder agrees to cooperate fully in providing reasonable access to its records and documents that evidence compliance with the Electronic Waste Recycling Act of 2003.
11. **DARFUR CONTRACTING ACT**
PCC sections 10475 et seq., the Darfur Contracting Act of 2008, establish restrictions against contracting with vendors conducting certain types of business in Sudan. The Act sets forth criteria to determine if a vendor is a “scrutinized company” and therefore ineligible to bid on or submit a proposal for State contracts.
- Upon submitting a bid, bidders that have had business activities outside of the United States within the previous three years certify that they are not a scrutinized company as defined, or demonstrate they obtained permission under the statute. (PCC §§ 10478, 10477(b).) False certifications shall cause the bid to be invalidated. (PCC § 10479.)
12. **IRAN CONTRACTING ACT**
PCC sections 2202 et seq., the Iran Contracting Act of 2010, establish restrictions against contracting with vendors that provide specified levels of goods or services or other

investment activities, as defined, in the energy sector of Iran. By submitting a bid in excess of \$1 million, bidder certifies that bidder 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: <http://www.documents.dgs.ca.gov/pd/poliproc/Iran%20Contracting%20Act%20List.pdf> (PCC § 2204.) The Act includes certain exceptions. (PCC § 2203(c).)

13. 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 CSU will not accept bids or proposals 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 bid, bidder certifies that they are not a scrutinized company as defined. False certifications shall cause the bid to be invalidated.

For purposes of this section, a “scrutinized company” is a person that has been found to be in violation of Section 13(p) of the Securities Exchange Act of 1934 by final judgment or settlement entered in a civil or administrative action brought by the Securities and Exchange Commission and the person has not remedied or cured the violation in a manner accepted by the commission on or before final judgment or settlement.



Appendix C

SUMMARY OF DISABLED VETERAN-OWNED BUSINESS PARTICIPATION

COMPANY NAME	NATURE OF WORK	CONTRACTING WITH	TIER	CLAIMED DVBE VALUE \$	PERCENTAGE OF CONTRACT (%)	OSMB DVBE CERTIFICATION

I declare under penalty of perjury, under the laws of the State of California, that the information herein is true and correct to the best of my knowledge.

Executed on: _____, at _____ in the state of _____.
Date City State

Signature of Contractor or Authorized Agent _____
Project Name _____
Project Number

Printed Name _____
Firm Name _____
() Telephone

SMALL BUSINESS PREFERENCE AND CERTIFICATION REQUEST

(Bidders requesting a 5% Small Business Preference must sign below and enclose this form in the Bid Package)

Project No. _____ Project Name _____

The undersigned hereby requests preference as a “Small Business” 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: Section 14835 *et seq.* of the California Government Code, 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 Title 2, California Code of Regulations, Section 1896, *et seq.* A copy of the regulations is available upon request.

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.

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.

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.

Please check the box below indicating whether your firm is a small business or non-small business:

Small Business Non-Small Business

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 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? YES-Percentage _____ NO

Special attention is directed to section 1896.16 for penalties for furnishing incorrect supporting information in obtaining preference.



Key Personnel

Vendor acknowledges and agrees that Contractor is to utilize the following individuals named below on a full-time basis for the performance of the work required by this agreement:

Name: _____

Title: _____

Name: _____

Title: _____

Substitution of any of the key personnel listed above shall require the advance written approval of the University. The Vendor shall provide complete resumes for the proposed substitutes, and any additional information requested by the University. The University shall notify the Contractor within 15 days after receipt of all required information of the consent on the substitutes. No change in fixed unit prices may occur as a result of key personnel substitution.

STATE OF CALIFORNIA
DRUG-FREE WORKPLACE CERTIFICATION
 STD. 21 (REV. 12-93)

CERTIFICATION

I, the official named below, hereby swear that I am duly authorized legally to bind the contractor or grant recipient to the certification described below. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

CONTRACTOR/BIDDER FIRM NAME	FEDERAL ID NUMBER
BY (Authorized/Signature)	DATE EXECUTED
PRINTED NAME AND TITLE OF PERSON SIGNING (Code)	TELEPHONE NUMBER (Include Area Code)
TITLE	
CONTRACTOR/BIDDER FIRM'S MAILING ADDRESS	

The contractor or grant recipient named above hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named contractor or grant recipient will:

1. 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, as required by Government Code Section 8355(a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:
 - (a) The dangers of drug abuse in the workplace,
 - (b) The person's or organization's policy of maintaining a drug-free workplace,
 - (c) Any available counseling, rehabilitation and employee assistance programs, and
 - (d) Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c), that every employee who works on the proposed contract or grant:
 - (a) Will receive a copy of the company's drug-free policy statement, and
 - (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.
4. At the election of the contractor or grantee, from and after the "Date Executed" and until _____
 _____(date)
 (NOT TO EXCEED 36 MONTHS), the state will regard this certificate as valid for all contracts or grants entered into between the contractor or grantee and this state agency without requiring the contractor or grantee to provide a new and individual certificate for each contract or grant. If the contractor or grantee elects to fill in the blank date, then the terms and conditions of this certificate shall have the same force meaning, effect and enforceability as if a certificate were separately, specifically, and individually provided for each contract or grant between the contractor or grantee and this state agency.



Noncollusion Affidavit

To be executed by bidder and submitted with bid for:

Project No. _____ **Project Name.** _____

Being first duly sworn, deposes and says that he or she is of _____, the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Signature _____

STATE OF CALIFORNIA
NONDISCRIMINATION COMPLIANCE STATEMENT
STD. 19 (REV. 2-93)

COMPANY NAME

The company named above (hereinafter referred to as “prospective contractor”) hereby certifies, unless specifically exempted, compliance with Government Code Section 12990 (a-f) and California Code of Regulations, Title 2, Division 4, Chapter 5 in matters relating to reporting requirements and the development, implementation and maintenance of a Nondiscrimination Program. Prospective contractor agrees not to unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave.

CERTIFICATION

I, the official named below, hereby swear that I am dully authorized to legally bind the prospective contractor to the above described certification. I am fully aware that this certification, executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

OFFICIAL’S NAME

DATE EXECUTED

EXECUTED IN THE COUNTY OF

PROSPECTIVE CONTRACTOR’S SIGNATURE

PROSPECTIVE CONTRACTOR’S TITLE

PROSPECTIVE CONTRACTOR’S LEGAL BUSINESS NAME



REFERENCES

Reference 1

Company Name
Street Address
City, ST ZIP Code
Phone | Email

Brief description of Service Provided

Reference 2

Company Name
Street Address
City, ST ZIP Code
Phone | Email

Brief description of Service Provided

Reference 3

Company Name
Street Address
City, ST ZIP Code
Phone | Email

Brief description of Service Provided