Addendum - Contract Negotiations Desired/Actual Outcomes

Point of Negotiation	Desired Outcome	Steering Committee Item(s)	OUTCOME

1. Unused enhancement and configuration hours	**Desired Outcome #1:** During the Vendor Clarification meetings some items that were identified as requiring customization by the vendor actually meet the requirements of Washington as is or through configuration.
	
	One option may be to take the hours in the Vendor's proposal for these requirements and establish a pool of hours. It should also be documented in the contract that these hours could be utilized to address the "Optional Extensions to Functional Scope" **(**RFP Section 6.5). In addition it is expected that payment for the use of these hours will be made on a deliverable basis when the Extensions are incorporated into the scope.
	
	Desired Outcome #2:
	The proviso that all images would be stored locally by the County Clerk although copies of some images would be available for state-wide viewing.
	
	Deliverable examples that may be included:
	• Requirements Gap analysis
	• Configuration and Validation
	• Development and testing results
	• Training materials and activities if required
	• Conversion activities if required
		Out of Scope Items– at a minimum, lock in at $164/hr. or less for future pricing prioritized as follows:
		
		1 – Manage Finances
		2 – Document Management
		3 – SessionWorks Courtroom Processing: SessionWorks: Judges Edition
		4 – Electronic Filing
		5 – Attorney Manager
			Result of Desired Outcome #1: Pool of Hours
			Based on the requirements analysis conducted May 9 and 10, 2013 with the SMEs, approximately 500-800 hours could be reduced or shifted. It should be noted that while the number of hours of customizations could be cut based on some of the discussion, there was an equal amount of discussion that could potentially increase the number of hours of customization. This analysis should only be considered as preliminary until completing the entire fit analysis (as described in the Statement of Work) where the hours be adjusted accordingly.
			
			Result of Desired Outcome #2: Local Storage of Document Images
			Tyler offers an option to store document images locally by the Court or County Clerk's Office and would also be stored centrally for the purpose of backup and recovery only.
			
			Result of Out of Scope Items:
			• Hourly Rate for services is set at $164.00 for the services in the Statement of Work.
			
			Section 6. Proprietary Software
			
			The following list represents the Proprietary Software included in the Contract.
			
			• **Odyssey Case Manager**
			• **Odyssey Financial Manager**
			• **Odyssey Document Management**
			  o **Enterprise Document Management System**
			  o **Batch/Scanning Workflow**
			  o **Auto Attach**
			  o **Record on Appeal Creator**
			  o **eSignatures**
			  o **Citation Auto Zoom**
			• **Remote Document Management**
			  o **Server License**
			  o **20 Local Stores**
			• **SessionWorks Clerk Edition**
			• **SessionWorks Judge Edition**
			• **Enterprise Custom Reporting**
			• **Session Sync**
			• **Integration Toolkit – Case Manager Libraries**

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			• **Odyssey Supervision – Pretrial and Specialty Courts** • **All Public Access** **Appendix A, Section 8: Optional Software** **Electronic Filing**
2. Payment for Product Licensing	**Desired Outcome #1:** Establish a payment plan that matches the available funds and establishes a deliverables based (delivered by vendor and accepted by the project) payment method for the $4,621,042.00 software license.	FY 2013 FY 2014 → 5% FY 2015 FY 2016 → 60% FY 2017 FY 2018 → 35% Tie to deliverables based on fiscal cycle.	**Result of Desired Outcome #1: Payment Plan** Outcome met. Ramsey Radwan will provide details.
3. Remedies	**Desired Outcome #1:** Liquidated damages are outlined in Appendix C of the Draft Contract, and identify the performance standards set forth in the RFP. They cover: • Critical events • System Maintenance Help Desk • Emergency Call Response • Monitoring Reports • Database Availability • System Availability • System Performance Response Time • System Performance Reports • System Turnover • System Turnover Documentation • System Documentation **Desired Outcome #2:** Holdback is	Deliverable Timeliness Defect Tracking Defect Turnaround Testing Helpdesk Service Level Agreement (SLA) Holdback	**Result of Desired Outcome #1: Liquidated Damages** 17.1 The parties agree that any delay or failure by Contractor to timely perform its obligations by the dates in the Work Plan will interfere with the proper and timely Implementation of the System and Services, to the loss and damage of AOC. Further, AOC will incur major costs to maintain the functions that would have otherwise been performed by Contractor. The parties understand and agree that the following Sections describe the liquidated damages Contractor shall pay to AOC as a result of nonperformance hereunder by Contractor. 17.2 The parties acknowledge and agree that Contractor could incur liquidated damages for more than one Critical Event if Contractor fails to timely perform its obligations by each date and to the extent such delay is the result of the actions, inactions or omissions of Contractor. Damages which may be assessed hereunder are detailed in APPENDIX C. 17.3 The assessment of liquidated damages shall not constitute a waiver or release of any other remedy AOC may have under this Contract for Contractor's breach of this Contract, including without limitation, AOC's right to terminate this Contract, and AOC shall be entitled in its discretion to recover actual damages caused by Contractor's failure to

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	documented in the Draft Contract, Section 17.5. Payment of holdback dollars are described in Appendix A, section 1.2 of Draft Contract. **Desired Outcome #3:** Deliverable Timeliness outcomes are documented in the Draft Contract, Section 7.		perform its obligations under this Contract. However, AOC will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages. 17.4 Amounts due AOC as liquidated damages may be deducted by AOC from any money payable to Contractor under this Contract, or AOC may bill Contractor as a separate item therefore and Contractor shall promptly make payments on such bills. _____ **1.24 "Critical Event(s)":** The events and Deliverables listed as such in Appendix A. **5. Critical Events**. Acceptance of the following Deliverables shall be the Critical Events: Pilot Go Live Event Early Adopters Go Live Event(s) King County Go Live Event **Appendix C:** AOC shall assess up to $1000 per day from the scheduled Critical Event Acceptance date until the date each Critical Event receives Acceptance from AOC. **Result of Desired Outcome #2: Holdback** **1.40 "Holdback":** The payment amounts held back by AOC from each invoice for Charges for Deliverables, as described in Section 17.5 and Appendix A. **17.5 Holdback.** AOC shall retain a Holdback of 10% of amounts invoiced as prescribed in this Contract for Deliverables, Services and other Project tasks performed. AOC shall authorize Contractor's submission of an invoice for payment of the Holdback as described in Appendix A. AOC shall pay this amount in accordance with invoicing procedures in Section 3.5. **Appendix A - Holdback Release** **1.2 Holdback.** AOC will pay Contractor the Holdback following receipt by AOC of an invoice which is issued in accordance with the terms of this Contract following Acceptance of the last Release and correction by Contractor of Cosmetic Deficiencies and all other Deficiencies that were permitted by AOC on Acceptance of the last Release and prior Releases.

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			Result of Desired Outcome #3: Deliverable Timeliness **1.30 "Deliverables":** Contractor's products which result from the Services and which are prepared for AOC (either independently or in concert with AOC or third parties) during the course of Contractor's performance under this Contract, including without limitation deliverables which are described in APPENDIX A, the Work Plan and Change Orders, as well as all designs, structures, and models developed in the course of rendering the Services and incorporated into such products. **7.1.2** All Deliverables shall be subject to AOC's Acceptance, including without limitation Deliverables provided pursuant to Change Orders. AOC's review of Deliverables shall be in accordance with the time frames therefore set forth in the Work Plan. **Additional Remedies:** **17.5 Withholding Payments.** If Contractor fails to deliver Deliverables or to provide Services which satisfy Contractor's obligations hereunder, AOC shall have the right to withhold any and all payments due hereunder. AOC may withhold any and all such payments due hereunder to Contractor, as aforesaid, without penalty or work stoppage by Contractor, until such failure to perform is cured. **17.6 Reductions in Payments Due.** Amounts due AOC by Contractor, including but not limited to liquidated or other damages, or claims for damages, may be deducted or set off by AOC from any money payable to Contractor pursuant to this Contract. AOC shall provide Notice to Contractor of any such deduction or set-off. **22.2 Termination for Rejection of Deliverables.** If Contractor is unable to correct Deficiencies in a Deliverable, as described in Section 7.3, AOC shall have the right to immediately terminate this Contract, in whole or in part, without penalty or liability to AOC, and return to Contractor the Deliverable and other Deliverables that do not have value to AOC as a result of the termination, in AOC's judgment, including but not limited to the System, in whole or in part. If AOC terminates this Contract under this Section, Contractor shall, within 20 Days thereafter, refund to AOC all payments made to Contractor for any of the following returned Deliverables and Services rendered therefor: 22.2.1 If AOC terminates the Contract prior to Acceptance of the Release for the Pilot, Contractor shall return payments made for the

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			following Deliverables: (a) Pilot Local Testing Effort; (b) Pilot Test Package; (c) System Acceptance at Pilot; (d) SC-CMS Pilot; and (e) Pilot Converted Data; 22.2.2 If AOC terminates the Contract prior to Acceptance of Release 1, Contractor shall return payments made for the following Deliverables: (a) Release 1 Training Documentation; (b) Release 1 Test Package; (c) System Acceptance of Release 1; and (d) the Production version of Release 1; and 22.22.3 If AOC terminates the Contract prior to Acceptance of Release 2, Contractor shall return payments made for the following Deliverables: (a) Release 2 Training Documentation; (b) Release 2 Test Package; (c) System Acceptance of Release 2; and (d) the Production version of Release 2.
4. Support and Maintenance Program	**Desired Outcome 1:** Determine the degree of flexibility in using the hours identified as insurance hours for legislative changes. **Desired Outcome 2:** Establish an expected timeframe for implementation (normally 60 days or so) to implement legislative changes. **Desired Outcome 3:** Provide for the ability to give the legislature information necessary to delay the change if the level of effort is such that the changes cannot be made in the 60 day timeframe.	Support and Maintenance Program – • What is our flexibility for using these hours? • Can unused hours be used for other professional services? Court Rules – Time Sensitive	**Result of Desired Outcome #1: Flexibility of Legislative Changes** **1.45 "Legislative Change":** A refinement, Enhancement, or other modification to the Proprietary Software necessary to comply with legislation, administrative regulation, or judicially mandated change affecting AOC and pertaining to: (a) existing reports, exports, or data exchanges; (b) new reports; (c) new data entry fields for state reporting; (d) new fee calculations; (e) new disposition templates; (f) new sentence templates; (g) new citation templates; or (h) other changes needed to so comply. Legislative Changes do not include the expansion of Purchaser's constitutional or operational responsibilities beyond those that exist as of the Effective Date. **Result of Desired Outcome #2: Expected Timeframe for Implementation** **13.6.4** Contractor shall implement Legislative Changes within the time frames set forth in the applicable legislation regulation or as otherwise agreed to in writing between the parties, but in any event no later than the next Proprietary Software Version Release. Each year during the term for Maintenance Services, Contractor shall perform Services to design, develop, test, implement, train, configure, perform project management, or convert data for Legislative Changes for the number of hours of Services, at Contractor's hourly rates in Appendix A, equal to not more than 10% of the total annual Maintenance Fees for the Proprietary Software during each annual maintenance terms. To the extent additional Services are required for Legislative Changes, such Services shall be billed to AOC as follows: (a) the first 500 hours at the rate of $136.00 per hour; and (b) thereafter at Contractor's

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			hourly rates in Appendix A. Upon the mutual determination of the need for a Legislative Change that exceeds the limitations set forth above, Contractor shall provide AOC with a Change Order identifying the total number of hours that Contractor shall provide as part of its Maintenance Services Charges for Legislative Change Support as calculated above plus the additional cost to AOC. **Result of Desired Outcome #3: Explanation to Legislature for Delay of Change** Tyler would help support the State in providing an explanation to Legislature and would be based on the magnitude of change.
5. Key Staff	**Desired Outcome #1:** Key staff discussions are documented in the Draft Contract, Section 4.4.2. Changing and/or replacement of Key Project Staff is also addresses in RFP Section 4.3.1. Key staff and their associated positions will be documented in Appendix A, section 2 of the contract.	Key Staff continuity Key Staff positions may include: • Project Manager • Implementation Manager • Integration Manager • Training Manager	**Result of Desired Outcome #1: Key Staff** **1.44** Contractor's key personnel listed on Appendix A. **4.2.2.** The Contractor Project Manager and other Key Staff shall attend weekly status meetings with the AOC Project Manager and other members of AOC's Project team during the Project at times as mutually agreed upon in a Project management plan. These weekly status meetings shall follow a preset agenda jointly prepared by the Contractor Project Manager and AOC Project Manager, but will also allow both Contractor and AOC to discuss other issues that may concern either party. **Appendix A, Section 2. Key Staff.** Following are Tyler's Key Staff: Project Executive: Mr. Tom Bartel Project Director: Ms. Kristin Wheeler Project Manager: Mr. Chris Keltner Support Account Manager: To be named prior to pilot court go-live

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6. Price	**Desired Outcome #1:** Lowest hourly rate that the Vendor willing to accept without compromising scope. **Desired outcome #2:** Lowest support and maintenance cost the Vendor is willing to accept without compromising service levels. **Desired Outcome #3:** Determine if there are opportunities around potential cost avoidance identified in section 8.6 of the Vendors cost proposal.	NIEM Translation - $2,166,768 Letter of Credit - $ 225,000 Onsite technical support - $ 341,120 Disaster Recovery - $ 483,750 $3,216,638	**Result of Desired Outcome #1: Lowest Hourly Rate** • Hourly Rate for services is set at $164.00 for the services in the Statement of Work. • The Change Order rate is **to be determined**. • Rates for legislative changes (above the 10% allotment and up to 500 hours) are $136.00 per hour. **Result of Desired Outcome #2: Lowest Support and Maintenance Cost** No changes to the proposed cost. Additional hours for Legislative Changes. **Result of Desired Outcome #3 (includes Steering Committee Items): Assumptions and Terms Affecting Cost** • NIEM Translation – Tyler's responsibility to develop, no change • Letter of Credit – Remains in effect, no change • Onsite Technical Support – removed from scope resulting in a savings of $341,120. • Disaster Recovery – Removed from the contractor's scope of work resulting in a savings of $483,750.
7. Staffing Level Expectations	**Desired Outcome #1:** Bring clarity to the ratio of trainers to trainees in the classroom environment. **Desired Outcome #2:** Bring clarity to the staffing level that the Vendor assumes in the proposal. **Desired Outcome #3:** Bring clarity to the staffing levels the Vendor expects of AOC and the courts for each phase of the project.	Training Approach and staffing levels Staffing Level	**Result of Desired Outcome #1: Ratio of Trainers to Trainees** As proposed and confirmed by Tyler, training model is a 1:16 trainee to trainer ration. **Result of Desired Outcome #2: Clarity of Staffing Level** Tyler's staffing strategy on large multi-year projects focuses on establishing a permanent personnel foundation consisting of the Project Director, the Project Manager, and the lead Business Analyst. Tyler will build on that foundation with additional specialists that are brought in to perform a specific project task or tasks. These specialists include data conversion architects, hardware specialists, specialized business analysts (calendaring, financials, etc…), application trainers, and go-live support specialists. **Result of Desired Outcome #3: Staffing Expectation of Courts and AOC** The "Super User" is the most important position at the individual court and county clerk's office level and is required for successful implementation. Depending on the size of the court and county clerk's office, a local IT contact may be a required position for larger courts. AOC's staffing plan meets the expectations of Tyler.

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8. Change Control Process	**Desired Outcome #1:** The change control process is documented in the Draft Contract, Section 15.	Change Control Process	**Result of Desired Outcome #1: Changes** **15.1 AOC Issuance of Change Requests.** AOC may, at any time by a written Change Request to Contractor, request changes within the scope of the Contract. Such changes may include, without limitation, revisions to Deliverables or Services. **15.2 Contractor Response to Change Request.** Contractor shall respond in writing to a Change Request within 15 business days of receipt, advising AOC of any cost and Schedule impacts. When there is a cost impact, i.e., increase or decrease in Charges, Contractor shall advise AOC in writing of the increase or decrease involved, including a breakdown of the number of Staff hours by level of contractor and AOC personnel needed to effect this change. **15.3 Contractor Submission of Change Request.** Contractor may also submit a Change Request to AOC to propose changes that should be made within the scope of the Contract. Any such Change Request shall include proposed costs and Schedule impacts, including a breakdown of the number of Staff hours by level of Contractor and AOC personnel needed to effect this change. AOC will respond to such Change Requests from Contractor within 20 Days of receipt. If the parties reach an agreement on a Change Order in writing, and the Change Order is executed by authorized representatives of the Parties, the terms of this Contract shall be modified accordingly. If the parties are unable to reach an agreement in writing on a Change Request submitted by Contractor, the AOC Project Manager will be deemed to have rejected the requested Change Request. **15.4 Mutual Agreement on Change Order.** The Contractor Project Manager and the AOC Project Manager shall negotiate in good faith and in a timely manner as to the price for and the impact on the Schedule of any Change Request. If the parties reach an agreement on a Change Order in writing, and the Change Order is executed by authorized representatives of the parties, the terms of this Contract shall be modified accordingly. The parties will execute a formal Contract amendment for any Change Order that increases or decreases the Maximum Amount. Change Orders must be executed by the AOC ISD Director. Contractor will promptly incorporate all Change Orders affecting the Services and Deliverables into applicable System Documentation. In no event shall the Charges be increased nor shall the Schedule be extended in a Change Order to correct errors or omissions in the Response. **15.5 Disagreement.** If AOC submits to Contractor a Change Request and if the

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			parties are unable to reach an agreement in writing within 15 business days of Contractor's response to such a Change Request, the parties shall escalate the disagreement to senior management under the dispute resolution process under Section 14 and act in good faith to attempt to resolve their disagreement related to the scope, Schedule and costs of the Change Request. If the parties are not able to resolve the disagreement as provided in Section 14, the parties shall, if mutually agreed upon in writing, retain an independent third party mediator under the rules of JAMS/Endispute to assist them in finding a resolution to the disagreement. The parties shall equally share the costs associated with the mediator services. Either party shall have the right to end the use of any such mediator at any time. Contractor and AOC agree that, the existence of a dispute notwithstanding and the termination of such mediation process, they will continue without delay to carry out all their respective responsibilities and obligations under this Contract and shall have the right to exercise their rights and remedies. **15.6 Termination.** If Contractor fails or refuses to perform its Services pursuant to Section 15.5 or a Change Order, Contractor shall be in material breach of this Contract, and AOC shall have the right to terminate the Contract for such a breach in accordance with Section 22.1