

**MASTER AGREEMENT** [rev Dec. 2019]

AGREEMENT NUMBER <b>LPA-87180</b>
FEDERAL EMPLOYER ID NUMBER <b>26-2880570</b>

- In this Master Agreement ("Agreement"), the term "Contractor" refers to **MEK Enterprises, Inc.**, and the term "Establishing Judicial Branch Entity" or "Establishing JBE" refers to the **Judicial Council of California**. This Agreement is entered into between Contractor and the Establishing JBE for the benefit of the Judicial Branch Entities (as defined in Appendix D). Any Judicial Branch Entity that enters into a Participating Addendum with Contractor pursuant to this Agreement is a "Participating Entity" (collectively, "Participating Entities"). The Establishing JBE and the Participating Entities are collectively referred to as "JBEs" and individually as "JBE").
- This Agreement is effective as of **November 28, 2022** ("Effective Date") and expires on **November 27, 2023** ("Expiration Date"). This Agreement includes four (4) consecutive one-year Option Terms. Each of the four Option Terms may be exercised at the Establishing JBE's sole discretion.
- The title of this Agreement is: **Master Agreement for San Francisco Moving and Installation Services**. *The title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.*
- The parties agree that this Agreement, made up of this coversheet, the appendixes listed below, and any attachments, contains the parties' entire understanding related to the subject matter of this Agreement, and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties.
  - Appendix A – Services
  - Appendix B – Payment Provisions
  - Appendix C – General Provisions
  - Appendix D – Defined Terms
  - Appendix E – Participating Addendum
  - Appendix F – Unruh Civil Rights Act and FEHA Certification
  - Appendix G - Services Request Form
  - Attachment 1 – Acceptance and Signoff Form
  - Attachment 2 – Building Moving Policy for DGS Building
  - Attachment 3 – Prevailing Wage and Related Labor Requirements Certification
  - Attachment 4 – Judicial Council's Travel and Living Expense Guidelines

JUDICIAL COUNCIL SIGNATURE	CONTRACTOR'S SIGNATURE
<b>Judicial Council of California</b>	CONTRACTOR'S NAME (if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc., and the state or territory where Contractor is organized) <b>MEK Enterprises, Inc., a Corporation</b>
BY (Authorized Signature) 	BY (Authorized Signature) 
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Alice Lee, Supervisor, Contracts - Facilities</b>	PRINTED NAME AND TITLE OF PERSON SIGNING <b>Grant Sawyer, COO</b>
DATE EXECUTED	DATE EXECUTED <b>12/12/2022</b>
ADDRESS <b>Branch Accounting and Procurement 455 Golden Gate Avenue, 6th Floor San Francisco, CA 94102</b>	ADDRESS <b>3517 Camino del Rio South Suite 215 San Diego, CA 92108</b>

## APPENDIX A

### Services

#### 1. Background, Purpose, and Ordering.

- 1.1 This Agreement sets forth the terms and conditions that apply to Contractor's provision of Work to the JBEs. "Work" shall mean the Services, and Deliverables as further described in Sections 2 and 3 below. This Agreement does not obligate a JBE to place any orders for Work under this Agreement and does not guarantee Contractor a specific volume of orders.
- 1.2 Each JBE shall have the right to place orders under this Agreement for any of the Work. A JBE may place orders for Work by entering into a Participating Addendum with Contractor in the form attached as Appendix E to this Agreement ("Participating Addendum"). Pricing for Work shall be in accordance with the prices set forth in this Agreement. After a Participating Addendum has been presented to the Contractor by a JBE, the Contractor shall acknowledge, sign, and perform under the Participating Addendum in a timely manner. Contractor shall provide the Work for each JBE in accordance with the terms of this Agreement and the applicable Participating Addendum.
- 1.3 Each Participating Addendum constitutes and shall be construed as a separate, independent contract between Contractor and the JBE signing such Participating Addendum, subject to the following: (i) each Participating Addendum shall be governed by this Agreement, and the terms in this Agreement are hereby incorporated into each Participating Addendum; (ii) the Participating Addendum may not alter or conflict with the terms of this Agreement, or exceed the scope of the Work provided for in this Agreement; and (iii) the term of the Participating Addendum may not extend beyond the expiration date of the Agreement. The Participating Addendum and this Agreement shall take precedence over any terms and conditions included on Contractor's invoice or similar document. Contractor shall notify the Establishing JBE within five (5) business days of receipt of a Participating Addendum from a Participating Entity. The Contractor shall promptly provide the Establishing JBE with a fully signed copy of each Participating Addendum between the Contractor and a Participating Entity.
- 1.4 Under a Participating Addendum, the JBE may at its option place orders for the services using a purchase order, subject to the following: such purchase order is subject to and governed by the terms of the Master Agreement and the Participating Addendum, and any term in the purchase order that conflicts with or alters any term of the Master Agreement (or the Participating Addendum) or exceeds the scope of the Work provided for in this Agreement, will not be deemed part of the contract between Contractor and JBE. Subject to the foregoing, the Participating Addendum shall be deemed to include such purchase orders.

The JBE signing the Participating Addendum shall be solely responsible for: (i) the acceptance of and payment for the Work under such Participating Addendum; and (ii) its obligations and any breach of its obligations. Any breach of obligations by a JBE shall not be deemed a breach by any other JBE. Under no circumstances shall a JBE have any liability or obligation except pursuant to a Participating Addendum signed by such JBE, nor shall any breach by a JBE under a Participating Addendum give rise to a breach under any other Participating Addendum or be deemed grounds for termination of this Agreement by Contractor. The Establishing JBE shall have no liability or responsibility of

any type related to: (i) any other JBE's use of or procurement through this Agreement (including any Participating Addendum), or (ii) such JBE's business relationship with Contractor. The Establishing JBE makes no guarantees, representations, or warranties to any Participating Entity.

- 1.5** This Agreement is a nonexclusive agreement. Each JBE reserves the right to provide, or have others provide the Work. Contractor shall reasonably cooperate with any third parties retained by a JBE to provide the Work.

**2. Services.**

- 2.1 Description of Services and Deliverables.** As ordered by each JBE under a Participating Addendum, Contractor shall perform the following services ("Services") for the JBEs.

- A. Provide moving and installation services of office furniture and equipment for the Judicial Branch Entities as well as assistance with special projects, such as taking obsolete furniture offsite, on an as-needed basis. The Judicial Branch Entities include:

- The Judicial Council of California: 455 Golden Gate Avenue, San Francisco, CA 94102
- The Supreme Court of California: 350 McAllister Street, San Francisco, CA 94102
- The First District Court of Appeal: 350 McAllister Street, San Francisco, CA 94102
- Habeas Corpus Resource Center: 303 Second Street, San Francisco, CA 94107

All work shall be performed during regular working hours or upon mutual agreement between JBE and contractor. Additional expenses for work performed after hours, overtime, Sundays or other holidays shall only be permitted upon prior written approval by the JBE Project Manager. Additional dates throughout the year may be needed for special projects. Work dates will be scheduled utilizing JBE's Services Request Form (Appendix G).

- B. Move freestanding furniture, install keyboard tray platforms, and some removal and installation of work surfaces and storage components for systems furniture.
- C. Staff moves including moving, disconnecting, and reconnecting standard peripheral equipment such as:
- Monitors, keyboard, mouse, printers, CPU docking stations and various other peripheral equipment.
  - Installation of computers including connections to power and data resulting in a "prompt" screen; and
  - Installation of phones at desktop. The JBEs will be responsible for inside wiring and programming.
- D. Other services to be provided:
- Installation of ergonomic equipment.

- Installation of office equipment including but not limited to computers, printers & telephones.
  - Move and/or set up offices, conference rooms, storage rooms, and the like.
  - Assembly of chairs and small pieces of furniture.
  - Hang items in offices/open areas.
  - Seismic attachment of freestanding furniture over 60" high (i.e., bookcase); and
  - Various miscellaneous tasks that may arise on "Move Day."
- E. Make deliveries to and from the California State Archives in Sacramento, Department of General Services (DGS) Surplus Property and Reutilization in Sacramento, San Francisco and recycle and/or e-waste centers. Contractor may periodically be required to store court furnishings or other material at a suitable facility of contractor after spending a day loading materials at a JBE, the Contractor may choose to store these materials overnight or longer before making the trip to Sacramento.
- F. Provide assistance to JBEs staff including the JBEs move coordinator, project manager, telecom specialist, Information Services Helpdesk as needed to complete moving projects.
- G. Minor furniture repair, hanging marker boards and framed pictures.
- H. Contractor will be required to bring in the appropriate equipment, workers or truck to complete the requested tasks.
- I. Contractor will be required to sweep or vacuum floor as needed after move work or assembly of furniture.
- J. Provide all moving materials (labels, boxes, etc.).
- K. Contractor will move within courts and between courts documents considered confidential under the California Rules of Court or specific court orders. Contractor and its employees or agents will not read or disseminate any documents they come across while performing work within the courts.
- L. Contractor may periodically be required to store court furnishings or other material at a suitable facility of contractor.

## **2.2 Requirements and Liabilities**

- A. All Workers must complete a sign-in sheet before beginning work.
- B. Each of the participating JBEs will have a designated Project Manager. Prior to each scheduled move, the Contractor will be required to provide a quote per fees in Exhibit B of the master agreement, to the requesting JBE Project Manager for each move date based on the list of move work requested. A purchase order will then be created based on the quote for each move date.
- C. Contractor must adhere to specific list of move work provided by the JBEs Project Manager and do not conduct any move work requested by other JBEs staff without permission from the JBEs Project Manager or move coordinator contact.
- D. Contractor must be flexible in case of urgent requests.

- E. All move staff must wear identifiable shirts, hats, etc. to clearly distinguish them as working staff. All move staff are subject to complete internal background investigations. Contractor or each mover shall be responsible paying the fingerprint processing fee to Live Scan operator.
  - F. Contractor must not outsource of any services without written approval from the JBEs Project Manager.
    - A Project Manager will be designated for each JBE, respectively.
  - G. Contractor must have the ability to work with DGS Building Manager and abide by rules and regulations of DGS building management. The DGS building's moving policy and loading dock specifications, listing hours of access and restrictions on types of vehicles admitted to the loading dock, is included as Attachment 2, Building Moving Policy for DGS Building.
  - H. The loading dock is located on Larkin Street between Golden Gate Avenue and McAllister Street. Maximum height is 13 feet, loading platform height is 42 inches, and no carriage with an underbelly can access the loading dock. Maximum vehicle length is 30 feet. Unless making a delivery or pick up at the facility, Contractor cannot park in the loading dock and must find parking in the surrounding area at Contractor's expense.
  - I. Contractor shall have insurance to cover damages for any possible loss or damage while property is under the protection of the Contractor as well as for damage to any fixed property. Contractor shall be responsible for the satisfactory repair, or replacement (at the option of the JBEs) of any property that is lost, damaged or stolen while in Contractor's custody and for the satisfactory repair of any damage to buildings or grounds.
  - J. Contractor must provide to the JBEs proof of Motor Carrier Permit issued by the California Department of Motor Vehicles or Household Goods Carrier permit issued by the California Public Utilities Commission annually.
- 2.3 Description of Deliverables.** As ordered by each JBE under a Participating Addendum, Contractor shall deliver to the JBEs the following work products ("Deliverables"):
- 2.4 Acceptance Criteria.** The Services and Deliverables must meet the following acceptance criteria or the JBE may reject the applicable Services or Deliverables. The JBE may use the attached Acceptance and Signoff Form (Attachment 1) to notify Contractor of the acceptance or rejection of the Services and Deliverables. Contractor will not be paid for any rejected Services or Deliverables.
- 2.5 Project Managers.** Each JBE may designate a project manager. The Establishing JBE's project manager is Bruce Newman. A JBE may change its project manager at any time upon notice to Contractor without need for an amendment to this Agreement. Contractor's project manager. Subject to written approval by the Establishing JBE, Contractor may change its project manager without need for an amendment to this Agreement.
- 2.6 Service Warranties.** Contractor warrants to the JBEs that: (i) the Services will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services; and (ii) Contractor will perform the Services in the most cost-effective manner consistent with the required level of quality and performance.

Contractor warrants that each Deliverable and the Services will conform to the requirements of this Agreement and all applicable specifications and documentation. The foregoing warranty shall commence upon the JBE's acceptance of such Deliverable or Service and shall continue for a period of one (1) year following acceptance. In the event any Deliverable or Service does not conform to the foregoing warranty, Contractor shall promptly correct all nonconformities to the satisfaction of the JBE.

- 2.7 Resources.** Contractor is responsible for providing any and all facilities, materials and resources (including personnel, equipment, tools) necessary and appropriate for performance of the Services and to meet Contractor's obligations under this Agreement.
- 2.8 Commencement of Performance.** This Agreement is of no force and effect until signed by both parties and all Establishing JEE-required approvals are secured. Any commencement of performance prior to Agreement approval (and approval by a JBE of a Participating Addendum) shall be at Contractor's own risk.
- 2.9 Labor Code Provisions.** The moving services provider ("Service Provider" and/or "Contractor") will be required to perform certain services that are subject to California prevailing wage laws pursuant to sections 1770 et. seq of the California Labor Code. Work subject to California prevailing wage laws, includes but is not limited to, the assembly or disassembly of modular office systems, attaching or detaching furniture affixed to the real property, etc. The Contractor will be responsible for the proper classification of its employees.
- 3.0 Timeline.** Contractor must perform the Services and deliver the Deliverables according to the following timeline:
- 3.1 Project Managers.** Each JBE may designate a project manager. The Establishing JBE's project manager is Bruce Newman. A JBE may change its project manager at any time upon notice to Contractor without need for an amendment to this Agreement. Contractor's project manager is Bruce Newman. Subject to written approval by the Establishing JBE, Contractor may change its project manager without need for an amendment to this Agreement.
- 3.2 Service Warranties.** Contractor warrants to the JBEs that: (i) the Services will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services; and (ii) Contractor will perform the Services in the most cost-effective manner consistent with the required level of quality and performance. Contractor warrants that each Deliverable and the Services will conform to the requirements of this Agreement and all applicable specifications and documentation. The foregoing warranty shall commence upon the JBE's acceptance of such Deliverable or Service and shall continue for a period of one (1) year following acceptance. In the event any Deliverable or Service does not conform to the foregoing warranty, Contractor shall promptly correct all nonconformities to the satisfaction of the JBE.
- 3.3 Resources.** Contractor is responsible for providing any and all facilities, materials and resources (including personnel, equipment, tools and software) necessary and appropriate for performance of the Services and to meet Contractor's obligations under this Agreement.
- 3.4 Commencement of Performance.** This Agreement is of no force and effect until signed by both parties and all Establishing JBE-required approvals are secured. Any commencement of performance prior to Agreement approval (and approval by a JBE of a Participating Addendum) shall be at Contractor's own risk.



**3.5 Stop Work Orders.**

- A. Each JBE may, at any time, by Notice to Contractor, require Contractor to stop all or any part of the Work being provided to such JBE for a period up to ninety (90) days after the Notice is delivered to Contractor, and for any further period to which the JBE and the Contractor may agree ("Stop Work Order"). The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Stop Work Order during the period of stoppage. Within ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, the JBE shall either (i) cancel the Stop Work Order; or (ii) terminate the Work covered by the Stop Work Order as provided for in this Agreement.
- B. If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume the performance of the Work. The JBE shall make an equitable adjustment in the delivery schedule and the Participating Addendum shall be modified, in writing, accordingly, if:
  - i. The Stop Work Order results in an increase in the time required for performance of any part of the Participating Addendum; and
  - ii. Contractor requests an equitable adjustment within thirty (30) days after the end of the period of stoppage.
- C. The JBEs shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this provision.

**3.6 Prevailing Wage:**

- A. Certain classifications of work performed under this Contract are subject to California prevailing wage laws. The Contractor and all Subcontractors under the Contractor shall pay workers subject to prevailing wage requirements on Work performed pursuant to this Contract not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed, pursuant to sections 1770 et seq. of the California Labor Code. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at the Court's principal office. Prevailing wage rates are also available from the Court or on the internet at (<http://www.dir.ca.gov>).
- B. Contractor shall ensure that Contractor and all of Contractor's Subcontractors execute the Prevailing Wage and Related Labor Requirements Certification attached to the Contract (Attachment 3) and incorporated herein.
- C. The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall post job site notices, as prescribed by regulation. Contractor shall comply with all requirements of Labor

Code section 1771.4, except the requirements that are exempted by the Labor Commissioner for the Project.

**3.7 Registration:**

- A. Contractor shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its certified payroll records ("CPR(s)") to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations ("DIR"). Labor Code section 1771.1(a) states the following:

"A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103 .5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."

- B. Contractor shall, and shall ensure that all "subcontractors" ( as defined by Labor Code section 1722.1 ), comply with Labor Code section 1725.5, including without limitation the registration requirements with the Department of Industrial Relations that are set forth in Labor Code section 1725.5. Contractor represents to the Court that all "subcontractors" (as defined by Labor Code section 1722.1) are registered pursuant to Labor Code section 1725.5. Contractor shall not permit any Subcontractor to perform Work on the Project, without first verifying the Subcontractor is properly registered with the DIR as required by law and providing this information in writing to the Court. Contractor acknowledges that, for purposes of Labor Code section 1725.5, this Work is public work to which Labor Code section 1771 applies.

**3.8 Hours of Work:**

- A. Notwithstanding the timing and duration of the Work under the Contract which is subject to court activities and other coordination required for occupied facilities, as provided in article 3 {commencing at section 1810}, chapter 1, part 7, division 2, of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by Contractor or by any Subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract shall be limited and restricted by Contractor to eight (8) hours per day, and forty (40) hours during any one week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, Work performed by employees of Contractor in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.
- B. Contractor shall keep and shall cause each Subcontractor to keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by Contractor in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all



reasonable hours to the inspection of Judicial Council and to the Division of Labor Standards Enforcement of the DIR.

- C. Pursuant to Labor Code section 1813, Contractor shall as a penalty to the Court forfeit the statutory amount (believed by the Court to be currently twenty five dollars (\$25)) for each worker employed in the execution of this Contract by Contractor or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code.
- D. All Work shall be performed during regular working hours. Additional expenses for work performed after hours, overtime, Sundays or other holidays shall only be permitted upon prior written approval by the Court.
- E. Project Work will typically take place in an occupied court facility; therefore, work hours may be restricted depending upon the Project. The individual Services Request Form (Appendix G) will include any restrictions on hours of work. If the Services Request Form does not include a restriction on hours of work, then the work must take place during business hours.

### **3.9 Payroll Records:**

- A. In addition to submitting CPR( s) to the Labor Commissioner of California pursuant to Labor Code section 1771.4 or any other applicable law, if requested by the Court, Contractor shall provide to the Court and shall cause each Subcontractor performing any portion of the Work to provide the Court CPR(s), showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor and/or each Subcontractor in connection with the Work.
- B. All CPRs shall be available for inspection at all reasonable hours at the principal office of Contractor on the following basis:
  - (1) A certified copy of an employee's CPR shall be made available for inspection or furnished to the employee or his/her authorized representative on request.
  - (2) CPRs shall be made available for inspection or furnished upon request to a representative of the Court, Division of Labor Standards Enforcement, Division of Apprenticeship Standards, and/or the Department of Industrial Relations.
  - (3) CPRs shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the Court, Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested CPRs have not been provided pursuant to the provisions herein, the requesting party shall, prior to being provided the records, reimburse the costs of preparation by Contractor, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of Contractor.
- C. The form of certification for the CPRs shall be as follows:

I, \_\_\_\_\_ (Name-Print), the undersigned, am the \_\_\_\_\_ (Position in business) with the authority to act for and on behalf of \_\_\_\_\_ (Name of business and/or Contractor), certify under penalty of perjury that the records or copies thereof submitted and consisting of \_\_\_\_\_ (Description, number of pages) are the originals or true, full, and correct copies of the originals which depict the payroll record(s) of actual disbursements by way of cash, check, or whatever form to the individual or individual named, and (b) we have complied with the requirements of sections 1771, 1811, and 1815 of the Labor Code for any work performed by our employees on the Project.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

(Section 16401 of Title 8 of the California Code of Regulations)

- D. Each Contractor shall file a certified copy of the CPRs with the entity that requested the records within ten (10) days after receipt of a written request.
- E. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the Court, Division of Apprenticeship Standards, or Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Contractor awarded Contract or performing Contract shall not be marked or obliterated.
- F. Contractor shall inform the Court of the location of the records enumerated hereunder, including the street address, city, and county, and shall, within five (5) Business Days, provide a notice of change of location and address.  
Business Days, provide a notice of change of location and address.
- G. In the event of noncompliance with the requirements of this section, Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Contractor must comply with this section. Should noncompliance still be evident after the ten (10) day period, Contractor shall, as a penalty to the Court, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of Division of Apprenticeship Standards or Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.
- H. It shall be the responsibility of Contractor to ensure compliance with the provisions of Labor Code section 1776.

#### **4.0 Apprentices:**

- A. Contractor acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code section 1777 .5, then this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of Contractor to ensure compliance with this Article and with Labor Code section 1777 .5 for all apprenticeship occupations.

- B. Apprentices of any crafts or trades may be employed and, when required by Labor Code section 1777.5, shall be employed provided they are properly registered in full compliance with the provisions of the Labor Code.
- C. Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he/she is employed and shall be employed only at the work of the craft or trade to which she/he is registered.
- D. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards and written apprentice agreements under chapter 4 (commencing at section 3070), division 3, of the Labor Code, are eligible to be employed. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he/she is training.
- E. Pursuant to Labor Code section 1777 .5, if that section applies to this Contract as indicated above, Contractor and any Subcontractors employing workers in any apprentice able craft or trade in performing any Work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the Contractor or Subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the Work.
- F. Pursuant to Labor Code section 1777.5, if that section applies to this Contract as indicated above, Contractor and any Subcontractor may be required to make contributions to the apprenticeship program.
- G. Contractor or Subcontractor willfully fails to comply with Labor Code section 1777.5, then, upon a determination of noncompliance by the Administrator of Apprenticeship, it shall:
  - (1) Be denied the right to bid or propose on any subsequent project for one (1) year from the date of such determination; and
  - (2) Forfeit as a penalty to the Court the full amount as stated in Labor Code section 1777. 7. Interpretation and enforcement of these provisions shall be in accordance with the rules and procedures of the California Apprenticeship Council and under the authority of the Chief of the Division of Apprenticeship Standards.
- H. Contractor and all Subcontractors shall comply with Labor Code section 1777.6, which section forbids certain discriminatory practices in the employment of apprentices.
- I. Contractor shall become fully acquainted with the law regarding apprentices prior to commencement of the Work. Special attention is directed to sections 1777.5, 1777 .6, and 1777. 7 of the Labor Code, and title 8, California Code of Regulations, section 200 et seq. Questions may be directed to the State Division of Apprenticeship Standards, 455 Golden Gate Avenue, San Francisco, California 94102.
- J. Contractor shall ensure compliance with all certification requirements for all workers on the Project including, without limitation, the requirements for electrician certification in Labor Code sections 108 et seq.

- 5.0 Acceptance or Rejection.** All Services, and Deliverables are subject to acceptance by each JBE. The JBE may reject any Services or Deliverables that (i) fail to meet applicable requirements or specifications, including acceptance criteria, (ii) are not as warranted, or (iii) are performed or delivered late (without prior consent by the JBE). If the JBE rejects any Service, or Deliverable (other than for late performance or delivery), Contractor shall modify such rejected Service, or Deliverable at no expense to the JBE to correct the relevant deficiencies and shall redeliver such Service, or Deliverable to the JBE within ten (10) business days after the JBE's rejection, unless otherwise agreed in writing by the JBE. Thereafter, the parties shall repeat the process set forth in this section until the JBE accepts such corrected Service, or Deliverable. The JBE may terminate the portion of the Participating Addendum that relates to a rejected Service, or Deliverable at no expense to the JBE if the JBE rejects that Service, or Deliverable (i) for late performance or delivery, or (ii) on at least two (2) occasions for other deficiencies.

**APPENDIX B**

**Payment Provisions**

1. **General.** Subject to the terms of this Agreement, Contractor shall invoice the JBE, and the JBE shall compensate Contractor, as set forth in this Appendix B. The amounts specified in this Appendix shall be the total and complete compensation to be paid to Contractor for its performance under this Agreement. Contractor shall bear, and the JBE shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature that Contractor incurs.

2. **Compensation for Services.**

2.1 **Amount.** Contractor will invoice the following amounts for Services or Deliverables that the JBE has accepted:

<b>Classification, Based on Prevailing Wages Rates NOTE: Match DIR classification for the services</b>	<b>Unexpected or Emergency Moving Services (Per Hour)</b>	<b>Planned Scheduled Moving Services (Per Hour)</b>	<b>Monthly Per Cubic Foot Rate for Storage Monthly</b>
<b>In-House Moves/Installations</b>	Add Prevailing Wage Rate	Add Prevailing Wage Rate	\$x per Cubic Foot = Total
Driver	\$65.50	\$65.50	\$5.00/m/cu ft
Mover	\$63.50	\$63.50	\$
Additional Mover(s)	\$63.50	\$63.50	\$
Installer	\$75.00	\$75.00	\$
Add - OT Standard 1.5X Standard Mover & Installer	\$95.25 mover	\$112.50 Installer	\$
Add -OT Standard 2 X Standard Mover & Installer	\$127.00 mover	\$150.00 Installer	\$
Truck, Including Equipment	\$35.00/hr	\$	\$
<b>Moving from Destination to Destination and Costs (Initial Estimate Based on Current Economic Conditions</b> <a href="https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx">https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx</a> <b>Negotiable Based on future Economic Conditions)</b>	<b>San Francisco to Sacramento, Roundtrip</b> <ul style="list-style-type: none"> <li>Court of Appeal, Third Appellate District c/o Supreme Court of California 914 Capitol Mall, 1<sup>st</sup> Floor Sacramento, CA 95814</li> <li>California State Archives 1020 "O" Street Sacramento, CA 95814</li> </ul>	<b>San Francisco to Los Angeles, Roundtrip</b> <ul style="list-style-type: none"> <li>Court of Appeal, Second Appellate District c/o Supreme Court of California 300 S Spring St Los Angeles, CA 90013-1230</li> </ul>	<b>Sacramento to Los Angeles, Roundtrip</b>
20-foot truck, 2 FTE (Fixed Firm Price) <small>Labor Not Included</small>	\$410.00 6 hrs.	\$1,946.00 16 hrs.	\$1,946.00 16 hrs.
40-foot truck, 2 FTE (Fixed Firm Price) <small>Labor Not Included</small>	\$410.00 6 hrs.	\$1,946.00 16 hrs.	\$1,946.00 16 hrs.
Less than 20-foot truck (Fixed Firm	\$410.00 6 hrs.	\$1,860.00 16 hrs.	\$1,860.00 16 hrs.

Materials	Boxes	Tape	Miscellaneous
List Sizes of Boxes and Unit of Measure (e.g., Bundle) 1.5 Cube Auto Bottom	\$3.50/Box	Not Needed for Auto Bottom	Boxes will not be charged if returned undamaged.
File Box with Lid	\$3.30/Box		" "
Double Walled Speed Pack/ *Triple Walled	\$30.00	* \$40.00	" "
<b>Miscellaneous (To be Discussed for Consideration)</b>			
Disposal per Ton	Market Rate	Approx. \$250-\$300/ Ton	
Overnight Storage in Truck	\$200/Night	If needed	

- 2.2 Withholding.** When making a payment tied to the acceptance of Deliverables, the JBE shall have the right to withhold fifteen percent (15%) of each such payment until the JBE accepts the final Deliverable.
- 2.3 No Advance Payment.** The JBEs will not make any advance payments.
- 3. Expenses.** Except as set forth in this section, no expenses relating to the Services, and Deliverables shall be reimbursed by the JBEs.
- 3.1 Allowable Expenses.** Contractor may submit for reimbursement, without mark-up, only the following categories of expense:
- A. Travel-related expenses preauthorized and approved by the JBE.
- 3.2 Limit on Travel Expenses.** If travel expenses are allowed under Section 4.1 above: (i) all travel is subject to written preauthorization and approval by the JBE, and (ii) all travel expenses are limited to any maximum amounts set forth in the Participating Addendum or the Judicial Council's Travel and Living Expense Guidelines (Attachment 4).
- 3.3 Required Certification.** Contractor must include with any request for reimbursement from the JBE a certification that Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Contractor incurs costs or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the JBE was sought for these costs, and Contractor will provide those records to the Attorney General upon request.
- 4. Invoicing and Payment**
- 4.1 Invoicing.** Contractor shall submit invoices to the JBE in arrears no more frequently than monthly. Contractor's invoices must include Judicial Council Services Request Form (Appendix G), information and supporting documentation acceptable to the JBE. Contractor shall adhere to reasonable billing guidelines issued by the JBE from time to time.
- 4.2 Payment.** The JBE will pay each correct, itemized invoice received from Contractor after acceptance of the applicable Services, or Deliverables, in accordance with the terms of this Agreement and the applicable Participating Addendum. Notwithstanding any provision to the contrary, payments to Contractor are contingent upon the timely and satisfactory performance of Contractor's obligations.

- 4.3 No Implied Acceptance.** Payment does not imply acceptance of Contractor's invoice, Services, or Deliverables. Contractor shall immediately refund any payment made in error. The JBE shall have the right at any time to set off any amount owing from Contractor to the JBE against any amount payable by the JBE to Contractor under this Agreement.
- 5. Taxes.** Unless otherwise required by law, the JBE is exempt from federal excise taxes and no payment will be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The JBE shall only pay for any state or local sales, service, use, or similar taxes imposed on the Services rendered or equipment, parts or software supplied to the JBE pursuant to this Agreement.



## APPENDIX C

### General Provisions

#### 1. Provisions Applicable to Services

**1.1 Qualifications.** Contractor shall assign to this project only persons who have sufficient training, education, and experience to successfully perform Contractor's duties. If a JBE is dissatisfied with any of Contractor's personnel, for any or no reason, Contractor shall replace them with qualified personnel with respect to such JBE.

**1.2 Turnover.** Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to perform Services.

**1.3 Background Checks.** Contractor shall cooperate with the JBE if the JBE wishes to perform any background checks on Contractor's personnel by obtaining, at no additional cost, all releases, waivers, and permissions the JBE may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the JBE of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the JBE and performed by Contractor. Contractor shall ensure that the following persons are not assigned to perform services for the JBE: (a) any person refusing to undergo such background checks, and (b) any person whose background check results are unacceptable to Contractor or that, after disclosure to the JBE, the JBE advises are unacceptable to the JBE.

**2. Contractor Certification Clauses.** Contractor certifies to the JBEs that the following representations and warranties, which shall apply to this Agreement and any Participating Addendum, are true. Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly notify the JBEs if any representation and warranty becomes untrue. Contractor represents and warrants as follows:

**2.1 Authority.** Contractor has authority to enter into and perform its obligations under this Agreement and any Participating Addendum, and Contractor's signatory has authority to bind Contractor to this Agreement and any Participating Addendum.

**2.2 Not an Expatriate Corporation.** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1, and is eligible to contract with the JBEs.

**2.3 No Gratuities.** Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement (or any Participating Addendum) or securing favorable treatment with respect to any determinations concerning the performance of this Agreement (or any Participating Addendum).

**2.4 No Conflict of Interest.** Contractor has no interest that would constitute a conflict of interest under Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.

**2.5 No Interference with Other Contracts.** To the best of Contractor's knowledge, this Agreement and any Participating Addendum does not create a material conflict of interest or default under any of Contractor's other contracts.

- 2.6 **No Litigation.** No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened that may adversely affect Contractor's ability to perform its obligations.
- 2.7 **Compliance with Laws Generally.** Contractor complies with all laws, rules, and regulations applicable to Contractor's business and its obligations under this Agreement and any Participating Addendum.
- 2.8 **Drug Free Workplace.** Contractor provides a drug free workplace as required by California Government Code sections 8355 through 8357.
- 2.9 **No Harassment.** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement (and any Participating Addendum), and Contractor takes all reasonable steps to prevent harassment from occurring.
- 2.10 **Noninfringement.** The Goods, Services, Deliverables, and Contractor's performance under this Agreement (and any Participating Addendum) do not infringe, or constitute an infringement, misappropriation or violation of, any third party's intellectual property right.
- 2.11 **Nondiscrimination.** Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor will notify in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of nondiscrimination.
- 2.12 **National Labor Relations Board Orders.** No more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.

### 3. Insurance

- 3.1 **Basic Coverage.** Contractor shall provide and maintain at the Judicial Council's discretion and Contractor's expense the following insurance during the Term:
  - A. *Commercial General Liability.* The policy must be at least as broad as the Insurance Services Office (ISO) Commercial General Liability "occurrence" form, with coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. The policy must provide limits of at least \$1,000,000 per occurrence and annual aggregate.
  - B. *Workers Compensation and Employer's Liability.* The policy is required only if Contractor has employees. The policy must include workers' compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for

employer's liability bodily injury at minimum limits of \$1,000,000 per accident or disease.

- C. *Automobile Liability.* This policy is required only if Contractor uses an automobile or other vehicle in the performance of this Agreement. The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in Contractor's performance of this Agreement whether owned, non-owned, leased, or hired. The policy must provide combined single limits of at least \$1,000,000 per occurrence.
  - D. *Professional Liability.* This policy is required only if Contractor performs professional services under this Agreement. The policy must cover liability resulting from any act, error, or omission committed in Contractor's performance of Services under this Agreement, at minimum limits of \$1,000,000 per occurrence and annual aggregate. If the policy is written on a "claims made" form, Contractor shall maintain such coverage continuously throughout the Term and, without lapse, for a period of three (3) years beyond the termination and acceptance of all Services provided under this Agreement. The retroactive date or "prior acts inclusion date" of any such "claims made" policy must be no later than the date that activities commence pursuant to this Agreement.
  - E. *Commercial Crime Insurance.* This policy is required only if Contractor handles or has regular access to the Judicial Council's funds or property of significant value to the Judicial Council. This policy must cover dishonest acts including loss due to theft of money, securities, and property; forgery, and alteration of documents; and fraudulent transfer of money, securities, and property.
- 3.2 Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.
- 3.3 Aggregate Limits of Liability.** The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case the annual aggregate limits of liability must be at least two (2) times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.
- 3.4 Deductibles and Self-Insured Retentions.** Contractor shall declare to the Judicial Council all deductibles and self-insured retentions that exceed \$100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to the Judicial Council's approval. Deductibles and self-insured retentions do not limit Contractor's liability.
- 3.5 Additional Insured Endorsements.** Contractor's commercial general liability policy, automobile liability policy, and, if applicable, umbrella policy must be endorsed to name the following as additional insureds with respect to liabilities arising out of the performance of this Agreement: the Judicial Council, the State of California, the Judicial Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees.
- 3.6 Certificates of Insurance.** . Before Contractor begins performing Services, Contractor shall give the Judicial Council certificates of insurance attesting to the existence of coverage. Contractor shall provide prompt written notice to the Judicial Council in the event that insurance coverage is cancelled or materially changed from the coverage set forth in the current certificate of insurance provided to the Judicial Council.

- 3.7 Qualifying Insurers.** For insurance to satisfy the requirements of this section, all required insurance must be issued by an insurer with an A.M. Best rating of A - or better that is approved to do business in the State of California.
- 3.8 Required Policy Provisions.** Each policy must provide, as follows: (i) the policy is primary and noncontributory with any insurance or self-insurance maintained by Judicial Branch Entities and Judicial Branch Personnel, and the basic coverage insurer waives any and all rights of subrogation against Judicial Branch Entities and Judicial Branch Personnel; (ii) the insurance applies separately to each insured against whom a claim is made or a lawsuit is brought, to the limits of the insurer's liability; and (iii) each insurer waives any right of recovery or subrogation it may have against the Judicial Council, the State of California, the Judicial Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees for loss or damage.
- 3.9 Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.
- 3.10 Consequence of Lapse.** If required insurance lapses during the Term, the Judicial Council is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.
- 4. Indemnity.** Contractor will defend (with counsel satisfactory to the Judicial Council or its designee), indemnify, and hold harmless the Judicial Branch Entities and the Judicial Branch Personnel against all claims, losses, and expenses, including attorneys' fees and costs, that arise out of or in connection with (i) an act or omission of Contractor, its agents, employees, independent contractors, or subcontractors in the performance of this Agreement, (iii) a breach of a representation, warranty, or other provision of this Agreement, and (iv) infringement of any trade secret, patent, copyright or other third party intellectual property. This indemnity applies regardless of the theory of liability on which a claim is made or a loss occurs. This indemnity will survive the expiration or termination of this Agreement, and acceptance of any Services or Deliverables. Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the Judicial Council's prior written consent, which consent shall not be unreasonably withheld; and the Judicial Council shall have the right, at its option and expense, to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.
- 5. Option Term.** Unless Section 2 of the Coversheet indicates that an Option Term is not applicable, the Judicial Council may, at its sole option, extend this Agreement for a single one-year term, at the end of which Option Term this Agreement shall expire. In order to exercise this Option Term, the Judicial Council must send Notice to Contractor at least thirty (30) days prior to the end of the Initial Term. The exercise of an Option Term will be effective without Contractor's signature.
- 6. Tax Delinquency.** Contractor must provide notice to the Judicial Council immediately if Contractor has reason to believe it may be placed on either (i) the California Franchise Tax

Board's list of 500 largest state income tax delinquencies, or (ii) the California Board of Equalization's list of 500 largest delinquent sales and use tax accounts. The Judicial Council may terminate this Agreement immediately "for cause" pursuant to Section 7.2 below if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.

## 7. Termination

- 7.1 Termination for Convenience.** The Judicial Council may terminate, in whole or in part, this Agreement for convenience upon thirty (30) days prior Notice. After receipt of such Notice, and except as otherwise directed by the Judicial Council, Contractor shall immediately: (a) stop Services as specified in the Notice; and (b) stop the delivery of Deliverables as specified in the Notice.
- 7.2 Termination for Cause.** The Judicial Council may terminate this Agreement, in whole or in part, immediately "for cause" if (i) Contractor fails or is unable to meet or perform any of its duties under this Agreement, and this failure is not cured within ten (10) days following Notice of default (or in the opinion of the Judicial Council, is not capable of being cured within this cure period); (ii) Contractor or Contractor's creditors file a petition as to Contractor's bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business; or (iii) Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading.
- 7.3 Termination upon Death.** This entire Agreement will terminate immediately without further action of the parties upon the death of a natural person who is a party to this Agreement, or a general partner of a partnership that is a party to this Agreement.
- 7.4 Termination for Changes in Budget or Law.** The Judicial Council's payment obligations under this Agreement are subject to annual appropriation and the availability of funds. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the current appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement. The Judicial Council may terminate this Agreement or limit Contractor's Services (and reduce proportionately Contractor's fees) upon Notice to Contractor without prejudice to any right or remedy of the Judicial Council if: (i) expected or actual funding to compensate Contractor is withdrawn, reduced or limited; or (ii) the Judicial Council determines that Contractor's performance under this Agreement has become infeasible due to changes in applicable laws.
- 7.5 Rights and Remedies.**
- A. *Nonexclusive Remedies.* All remedies provided in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Judicial Council immediately if Contractor is in default, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement. If Contractor is in default, the Judicial Council may do any of the following: (i) withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor; (ii) require Contractor to enter into nonbinding mediation; (iii) exercise, following

Notice, the Judicial Council's right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.

- B. *Replacement.* If the Judicial Council terminates this Agreement in whole or in part for cause, the Judicial Council may acquire from third parties, under the terms and in the manner the Judicial Council considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the Judicial Council for any excess costs for those goods or services. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Judicial Council for such goods and services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Judicial Council. Contractor shall continue any Services not terminated hereunder.
- C. *Delivery of Materials.* In the event of any expiration or termination of this Agreement, Contractor shall promptly provide the Judicial Council with all originals and copies of the Deliverables, including any partially completed Deliverables-related work product or materials, and any Judicial Council-provided materials in its possession, custody, or control. In the event of any termination of this Agreement, the Judicial Council shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the Judicial Council's termination is not for cause, the Judicial Council shall pay any fees due under this Agreement for Services performed or Deliverables completed and accepted as of the date of the Judicial Council's termination Notice.
- D. *Participating Addenda.* The termination of this Agreement shall not result in the termination of any outstanding Participating Addendum that has not been terminated by a JBE, and this Agreement shall continue to apply to any such Participating Addendum until such time as all Work under such Participating Addendum has been completed by its terms or is terminated as provided in this Section 7; provided, however, that the term of such Participating Addendum may not exceed the expiration date of this Agreement. Issuance and acknowledgement of any Participating Addendum (as evidenced by the JBE's and Contractor's signature on the Participating Addendum) must be completed before the termination or expiration of this Agreement.

7.6 **Survival.** Termination or expiration of this Agreement shall not affect the rights and obligations of the parties which arose prior to any such termination or expiration (unless otherwise provided herein) and such rights and obligations shall survive any such termination or expiration. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including any section of this Agreement that states it shall survive such termination or expiration.

- 8. **Assignment and Subcontracting.** Contractor may not assign or subcontract its rights or duties under this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the Judicial Council. Consent may be withheld for any reason or no reason. Any assignment or subcontract made in contravention of the foregoing shall be void and of no effect. The Judicial Council may withdraw its approval of a Subcontractor if the Judicial Council determines in good faith that the Subcontractor is, or will be, unable to effectively perform its responsibilities. If the Judicial Council rejects any proposed Subcontractor in writing, Contractor shall remain responsible for the proposed Subcontractor's obligations and responsibilities. No subcontracting shall release Contractor

from its responsibility for performance of its obligations under this Agreement and Contractor shall remain fully responsible for the performance of Subcontractors hereunder, including all work and activities of Subcontractors providing services to Contractor in connection with the Services. Contractor shall be the sole point of contact with Subcontractors under this Agreement, and Contractor shall be solely responsible for Subcontractors, including, without limitation, payment of any and all charges resulting from any subcontract. The Judicial Council's consent to any subcontracting or delegation of Contractor's obligations will take effect only if Contractor furnishes a written agreement between Contractor and the Subcontractor, stating that the Subcontractor shall comply with and be subject to the terms and conditions of this Agreement, including with respect to: (i) joint and several liability with Contractor to the Judicial Council for performing the duties in this Agreement; (ii) the rights granted in this Agreement to the Judicial Council; and (iii) the representations and warranties made by the Contractor in this Agreement. Subject to the foregoing, this Agreement will be binding on the parties and their permitted successors and assigns.

**9. Notices.** Notices must be sent to the following address and recipient:

<b>If to Contractor:</b>	<b>If to the Establishing JBE:</b>
MEK Enterprises, Inc. 3517 Camino del Rio South, Suite 215 San Diego, CA 92108 ATTN: Grant Sawyer	Branch Accounting and Procurement Judicial Council of California 455 Golden Gate Ave. 6 <sup>th</sup> Floor San Francisco, CA 94102 ATTN: Contracts Manager

Either party may change its address for Notices by giving the other party Notice of the new address in accordance with this section. Notices will be considered to have been given at the time of actual delivery in person, three (3) days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.

**10. Provisions Applicable to Certain Agreements.** The provisions in this section are applicable to this Agreement and to any Participating Addendum, provided, however that if this Agreement or a Participating Addendum is not of the type described in the first sentence of a subsection, then that subsection does not apply to this Agreement or such Participating Addendum.

**10.1 Union Activities Restrictions.** *If the Contract Amount is over \$50,000, this section is applicable.* Contractor agrees that no JBE funds received under this Agreement or any Participating Addendum will be used to assist, promote or deter union organizing during the Term. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no JBE funds were used for those expenditures. Contractor will provide those records to the Attorney General upon request.

**10.2 Domestic Partners, Spouses, Gender, and Gender Identity Discrimination.** *If the Contract Amount is \$100,000 or more, this section is applicable.* Contractor is in compliance with, and throughout the Term will remain in compliance with: (i) Public Contract Code section 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) Public Contract Code section 10295.35, which places limitations on contracts with contractors that discriminate in the provision of benefits on the basis of an employee's or dependent's actual or perceived gender identity.



- 10.3 Child Support Compliance Act.** *If the Contract Amount is \$100,000 or more, this section is applicable.* Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the Term) all applicable state and federal laws relating to child and family support enforcement, including disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq. Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 10.4 Priority Hiring.** *If the Contract Amount is over \$200,000 and this Agreement is for services (other than Consulting Services), this section is applicable.* Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with Public Contract Code section 10353.
- 10.5 Iran Contracting Act.** *If the Contract Amount is \$1,000,000 or more and Contractor did not provide to the Establishing JBE an Iran Contracting Act certification as part of the solicitation process, this section is applicable.* Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“Iran List”) created by the California Department of General Services pursuant to Public Contract Code section 2203(b), and is not a financial institution extending \$20,000,000 or more in credit to another person, for forty-five (45) days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the Establishing JBE to enter into this Agreement (and written permission from each JBE to enter into the applicable Participating Addendum) pursuant to Public Contract Code section 2203(c).
- 10.6 Loss Leader Prohibition.** *If this Agreement (including any Participating Addendum) involves the purchase of goods, this section is applicable.* Contractor shall not sell or use any article or product as a “loss leader” as defined in section 17030 of the Business and Professions Code.
- 10.7 Recycling.** *If this Agreement (including any Participating Addendum) provides for the purchase or use of goods specified in Public Contract Code section 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods. Without limiting the foregoing, if this Agreement (including any Participating Addendum) includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable.* Contractor shall use recycled products in the performance of this Agreement (including any Participating Addendum) to the maximum extent doing so is economically feasible. Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code section 12200, in such goods regardless of whether the goods meet the requirements of Public Contract Code section 12209. With respect to printer or duplication cartridges that comply with the requirements of Public Contract Code section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.
- 10.8 Sweatshop Labor.** *If this Agreement (including any Participating Addendum) provides for the laundering of apparel, garments or corresponding accessories, or for furnishing equipment, materials, or supplies other than for public works, this section is applicable.*

Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the JBEs under this Agreement (or any Participating Addendum) have been laundered or 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 adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code section 6108. Contractor agrees to cooperate fully in providing reasonable access to Contractor's records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under this section and shall provide the same rights of access to the JBEs.

**10.9 Federal Funding Requirements.** *If this Agreement (or a Participating Addendum) is funded in whole or in part by the federal government, this section is applicable.* It is mutually understood between the parties that this Agreement (or a Participating Addendum) may have been written for the mutual benefit of both parties (or Participating Entities) before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if this Agreement (or a Participating Addendum) were executed after that determination was made. This Agreement (or a Participating Addendum) is valid and enforceable only if sufficient funds are made available to the Establishing JBE (or the applicable Participating Entity) by the United States Government for the fiscal year in which they are due and consistent with any stated programmatic purpose, and this Agreement (or a Participating Addendum) is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement (or a Participating Addendum) in any manner. The parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement (or a Participating Addendum) is intended to be paid, this Agreement (or Participating Addendum) shall be deemed amended without any further action of the parties to reflect any reduction in funds. The Establishing JBE may invalidate this Agreement (and a JBE may invalidate a Participating Addendum) under the termination for convenience or cancellation clause (providing for no more than thirty (30) days' Notice of termination or cancellation) or amend this Agreement (or Participating Addendum) to reflect any reduction in funds.

**10.10 DVBE Commitment.** This section is applicable if Contractor received a disabled veteran business enterprise ("DVBE") incentive in connection with this Agreement. Contractor's failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of the Agreement. If Contractor used DVBE subcontractor(s) in connection with this Agreement (or a Participating Addendum): (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the Establishing JBE approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must complete and return to the JBE a post-contract certification form (<https://www.courts.ca.gov/documents/JBCM-Post-Contract-Certification-Form.docx>), promptly upon completion of the Participating Addendum, and by no later than the date of submission of Contractor's final invoice to the JBE. If the

Contractor fails to do so, the JBE will withhold \$10,000 from the final payment, or withhold the full payment if it is less than \$10,000, until the Contractor submits a complete and accurate post-contract certification form. The JBE shall allow the Contractor to cure the deficiency after written notice of the Contractor's failure to complete and submit an accurate post-contract certification form. Notwithstanding the foregoing and any other law, if after at least 15 calendar days, but no more than 30 calendar days, from the date of the written notice the Contractor refuses to comply with these certification requirements, the JBE shall permanently deduct \$10,000 from the final payment, or the full payment if less than \$10,000. The post-contract certification form shall include : (1) the total amount of money Contractor received under the Participating Addendum; (2) the total amount of money and the percentage of work Contractor committed to provide to each DVBE subcontractor;; (3) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Participating Addendum; (4) the amount of money each DVBE subcontractor actually received from Contractor in connection with the Participating Addendum, and the corresponding percentage this payment comprises of the total amount of money Contractor received under the Participating Addendum; and (5) that all payments under the Participating Addendum have been made to the applicable DVBE subcontractors. Upon request by the JBE, Contractor shall provide proof of payment for the work. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. Contractor will comply with all rules, regulations, ordinances and statutes that govern the DVBE program, including, without limitation, Military and Veterans Code section 999.5.

**10.11 Antitrust Claims.** *If this Agreement resulted from a competitive solicitation, this section is applicable.* Contractor shall assign to the applicable JBE 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 Contractor for sale to the JBE. Such assignment shall be made and become effective at the time the JBE tenders' final payment to Contractor. If the JBE receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the JBE any portion of the recovery, including treble damages, attributable to overcharges that were paid by Contractor but were not paid by the JBE as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by Contractor, the JBE shall, within one (1) year from such demand, reassign the cause of action assigned under this part if Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the JBE has not been injured thereby, or (b) the JBE declines to file a court action for the cause of action.

**10.12 Legal Services.** *If this Agreement is for legal services, this section is applicable.* Contractor shall: (i) adhere to legal cost and billing guidelines designated by the JBE; (ii) adhere to litigation plans designated by the JBE, if applicable; (iii) adhere to case phasing of activities designated by the JBE, if applicable; (iv) submit and adhere to legal budgets as designated by the JBE; (v) maintain legal malpractice insurance in an amount not less than the amount designated by the JBE; and (vi) submit to legal bill audits and law firm audits if so requested by the JBE, whether conducted by employees or designees of the JBE or by any legal cost-control provider retained by the JBE for that purpose.

Contractor may be required to submit to a legal cost and utilization review as determined by the JBE. If (a) the Contract Amount is greater than \$50,000, (b) the legal services are not the legal representation of low- or middle-income persons, in either civil, criminal, or administrative matters, and (c) the legal services are to be performed within California, then Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services, or an equivalent amount of financial contributions to qualified legal services projects and support centers, as defined in section 6213 of the Business and Professions Code, during each year of the Agreement equal to the lesser of either (A) thirty (30) multiplied by the number of full time attorneys in the firm's offices in California, with the number of hours prorated on an actual day basis for any period of less than a full year or (B) the number of hours equal to ten percent (10%) of the Contract Amount divided by the average billing rate of the firm. Failure to make a good faith effort may be cause for nonrenewal of this Agreement or another judicial branch or other state contract for legal services and may be taken into account when determining the award of future contracts with a Judicial Branch Entity for legal services.

**10.13 Good Standing.** *If Contractor is a corporation, limited liability company, or limited partnership, and this Agreement (and any Participating Addendum) is performed in whole or in part in California, this section is applicable.* Contractor is, and will remain for the Term, qualified to do business and in good standing in California.

**10.14 Equipment Purchases.** *If this Agreement (or any Participating Addendum) includes the purchase of equipment, this section is applicable.* The JBE may, at its option, repair any damaged or replace any lost or stolen items and deduct the cost thereof from Contractor's invoice to the JBE, or require Contractor to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the JBE at no expense to the JBE. If a theft occurs, Contractor must file a police report immediately.

**10.15 Four-Digit Date Compliance.** *If this Agreement (or any Participating Addendum) includes the purchase of systems, software, or instrumentation with imbedded chips, this section is applicable.* Contractor represents and warrants that it will provide only Four-Digit Date Compliant deliverables and services to the JBEs. "Four-Digit Date Compliant" deliverables and services can accurately process, calculate, compare, and sequence date data, including date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Agreement and does not limit the generality of warranty obligations set forth elsewhere in this Agreement or any Participating Addendum.

**10.16 Janitorial Services or Building Maintenance Services.** *If this Agreement (or any Participating Addendum) is for janitorial or building maintenance services, this section is applicable.* If this Agreement (or a Participating Addendum) requires Contractor to perform Services at a new site, Contractor shall retain for sixty (60) days all employees currently employed at that site by any previous contractor that performed the same services at the site. Contractor shall provide upon request information sufficient to identify employees providing janitorial or building maintenance services at each site and to make the necessary notifications required under Labor Code section 1060 et seq.

**10.17 Small Business Preference Commitment.** This section is applicable if Contractor received a small business preference in connection with this Agreement. Contractor's failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement (and any Participating Addendum). Contractor must within sixty (60) days of receiving final payment under this Agreement (and any Participating

Addendum) report to the JBE the actual percentage of small/micro business participation that was achieved. If Contractor is a nonprofit veteran service agency (“NVSA”), Contractor must employ veterans receiving services from the NVSA for not less than seventy-five percent (75%) of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement (and any Participating Addendum).

## **11. Miscellaneous Provisions.**

- 11.1 Independent Contractor.** Contractor is an independent contractor to the JBEs. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the JBEs. Contractor has no authority to bind or incur any obligation on behalf of the JBEs. If any governmental entity concludes that Contractor is not an independent contractor, the Establishing JBE may terminate this Agreement (and a JBE may terminate a Participating Addendum) immediately upon notice.
- 11.2 GAAP Compliance.** Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles.
- 11.3 Audit.** Contractor must allow the JBEs or their designees to review and audit Contractor’s (and any subcontractors’) documents and records relating to this Agreement (including any Participating Addendum), and Contractor (and its subcontractors) shall retain such documents and records for a period of four (4) years following final payment under this Agreement. If an audit determines that Contractor (or any subcontractor) is not in compliance with this Agreement (including any Participating Addendum), Contractor shall correct errors and deficiencies by the twentieth (20th) day of the month following the review or audit. If an audit determines that Contractor has overcharged the JBE five percent (5%) or more during the time period subject to audit, Contractor must reimburse the JBE in an amount equal to the cost of such audit. This Agreement (and any Participating Addendums) are subject to examinations and audit by the State Auditor for a period of three (3) years after final payment.
- 11.4 Licenses and Permits.** Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by applicable law for the performance of the Services (including Deliverables) or the delivery of the Goods. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any applicable law.
- 11.5 Confidential Information.** During the Term and at all times thereafter, Contractor will: (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement, and (c) refrain from disclosing or permitting others to disclose any Confidential Information to any third party without obtaining the JBE’s express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to its employees or contractors who need to know that information in order to perform Services hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this section. The provisions of this section shall survive the expiration or termination of this Agreement and any Participating Addendum. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than the greater of reasonable care and industry-standard care. Each JBE

owns all right, title and interest in its Confidential Information. Contractor will notify the affected JBE promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the JBE to protect such Confidential Information. Upon a JBE's request and upon any termination or expiration of this Agreement or a Participating Addendum, Contractor will promptly (a) return to the JBE or, if so directed by the JBE, destroy all such JBE's Confidential Information (in every form and medium), and (b) certify to the JBE in writing that Contractor has fully complied with the foregoing obligations. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations under this section, that any such breach will likely result in irreparable harm, and that upon any breach or threatened breach of the confidentiality obligations, the JBEs shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.

- 11.6 Ownership of Deliverables.** Unless otherwise agreed in this Agreement, regarding any Deliverables or any other work product to be provided to a JBE, Contractor hereby assigns to such JBE all rights, title, and interest (and all intellectual property rights, including but not limited to copyrights) in and to such Deliverables and work product, any partially-completed Deliverables, and related materials. Contractor agrees not to assert any rights at common law, or in equity, or establish a copyright claim in any of these materials. Contractor shall not publish or reproduce any Deliverable or other work product in whole or part, in any manner or form, or authorize others to do so, without the written consent of the JBE.
- 11.7 Publicity.** Contractor shall not make any public announcement or press release about this Agreement (or any Participating Addendum) without the prior written approval of the Establishing JBE (and with respect to any Participating Addendum, the prior written approval of the applicable JBE).
- 11.8 Choice of Law and Jurisdiction.** California law, without regard to its choice-of-law provisions, governs this Agreement (including any Participating Addendum). The Contractor and the applicable JBEs shall attempt in good faith to resolve informally and promptly any dispute that arises. Jurisdiction for any legal action arising from this Agreement shall exclusively reside in state or federal courts located in California, and the parties hereby consent to the jurisdiction of such courts.
- 11.9 Negotiated Agreement.** This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654.
- 11.10 Amendment and Waiver.** Except as otherwise specified in this Agreement, no amendment or change to this Agreement will be effective unless expressly agreed in writing by a duly authorized officer of the Establishing JBE. A waiver of enforcement of any of this Agreement's terms or conditions by the Establishing JBE is effective only if expressly agreed in writing by a duly authorized officer of the Establishing JBE. Any waiver or failure by a JBE to enforce any provision of this Agreement or Participating Addendum on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- 11.11 Follow-On Contracting.** No person, firm, or subsidiary who has been awarded a Consulting Services agreement may submit a bid for, nor be awarded an agreement for, the providing of services, procuring goods or supplies, or any other related action that is

required, suggested, or otherwise deemed appropriate in the end product of this Agreement.

**11.12 Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.

**11.13 Headings; Interpretation.** All headings are for reference purposes only and do not affect the interpretation of this Agreement. The word “including” means “including, without limitation.” Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.

**11.14 Time of the Essence.** Time is of the essence in Contractor’s performance under this Agreement.

**11.15 Counterparts.** This Agreement may be executed in counterparts, each of which is considered an original.



## APPENDIX D

### Defined Terms

As used in this Agreement, the following terms have the indicated meanings:

“**Agreement**” is defined on the Coversheet.

“**Contractor**” is defined on the Coversheet.

“**Confidential Information**” means: (i) any information related to the business or operations of each JBE, including information relating to its personnel and users; and (ii) all financial, statistical, personal, technical and other data and information of each JBE (and proprietary information of third parties provided to Contractor) which is designated confidential or proprietary, or that Contractor otherwise knows, or would reasonably be expected to know, is confidential. Confidential Information does not include information that Contractor demonstrates to the JBEs’ satisfaction that: (a) Contractor lawfully knew prior to the JBE’s first disclosure to Contractor, (b) a third party rightfully disclosed to Contractor free of any confidentiality duties or obligations, or (c) is, or through no fault of Contractor has become, generally available to the public.

“**Consulting Services**” refers to the services performed under “Consulting Services Agreements,” which are defined in Public Contract Code section 10335.5, substantially, as contracts that: (i) are of an advisory nature; (ii) provide a recommended course of action or personal expertise; (iii) have an end product that is basically a transmittal of information, either written or oral, that is related to the governmental functions of state agency administration and management and program management or innovation; and (iv) are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type.

“**Contract Amount**” means the contract amount of any Participating Addendum.

“**Coversheet**” refers to the first page of this Agreement.

“**Deliverables**” is defined in Appendix A.

“**Effective Date**” is defined on the Coversheet.

“**Establishing JBE**” is defined on the Coversheet.

“**Expiration Date**” is the later of (i) the day so designated on the Coversheet, and (ii) the last day of any Option Term.

“**Goods**” is defined in Appendix A.

“**Initial Term**” is the period commencing on the Effective Date and ending on the Expiration Date designated on the Coversheet.

“**JBEs**” and “**JBE**” are defined on the Coversheet.

“**Judicial Branch Entity**” or “**Judicial Branch Entities**” means the Establishing JBE and any other California superior or appellate court, the Judicial Council of California, and the Habeas Corpus Resource Center.

“**Judicial Branch Personnel**” means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.

“**Notice**” means a written communication from one party to another that is (a) delivered in person, (b) sent by registered or certified mail, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient set forth in Appendix C.

“**Option Term**” means a period, if any, through which this Agreement may be or has been extended by the Establishing JBE.

**“Participating Addendum”** is defined in Appendix A.

**“Participating Entities”** and **“Participating Entity”** are defined on the Coversheet.

**“Services”** is defined in Appendix A.

**“Stop Work Order”** is defined in Appendix B.

**“Term”** comprises the Initial Term and any Option Terms.

**“Work”** is defined in Appendix A.

## APPENDIX E

### Participating Addendum

- (1) This Participating Addendum is made and entered into as of [month/day/year] (“Participating Addendum Effective Date”) by and between the \_\_\_\_\_ *[add full name of the JBE]* (“JBE”) and [add name of Contractor] (“Contractor”) pursuant to the Master Agreement # \_\_\_\_\_ *[add Master Agreement # - see cover page]* (“Master Agreement”) dated \_\_\_\_\_, 20\_\_ *[add Effective Date of the Master Agreement]* between the *[add name of the JBE that established the Master Agreement]* (“Establishing JBE”) and Contractor. Unless otherwise specifically defined in this Participating Addendum, each capitalized term used in this Participating Addendum shall have the meaning set forth in the Master Agreement.
- (2) This Participating Addendum constitutes and shall be construed as a separate, independent contract between Contractor and the JBE, subject to the following: (i) this Participating Addendum shall be governed by the Master Agreement, and the terms in the Master Agreement are hereby incorporated into this Participating Addendum; (ii) the Participating Addendum (including any purchase order documents pursuant to the Participating Addendum) may not alter or conflict with the terms of the Master Agreement, or exceed the scope of the Work provided for in the Master Agreement; and (iii) the term of the Participating Addendum may not extend beyond the expiration date of the Master Agreement. The Participating Addendum and the Master Agreement shall take precedence over any terms and conditions included on Contractor’s invoice or similar document.
- (3) Under this Participating Addendum, the JBE may at its option place orders for the Goods using a purchase order, subject to the following: such purchase order is subject to and governed by the terms of the Master Agreement and the Participating Addendum, and any term in the purchase order that conflicts with or alters any term of the Master Agreement (or the Participating Addendum) or exceeds the scope of the Work provided for in this Agreement, will not be deemed part of the contract between Contractor and JBE. Subject to the foregoing, this Participating Addendum shall be deemed to include such purchase orders.
- (4) The JBE is solely responsible for the acceptance of and payment for the Work under this Participating Addendum. The JBE shall be solely responsible for its obligations and any breach of its obligations. Any breach of obligations by the JBE shall not be deemed a breach by the Establishing JBE or any other Participating Entity. The Establishing JBE shall have no liability or responsibility of any type related to: (i) the JBE’s use of or procurement through the Master Agreement (including this Participating Addendum), or (ii) the JBE’s business relationship with Contractor. The Establishing JBE makes no guarantees, representations, or warranties to any Participating Entity.
- (5) Pricing for the Work shall be in accordance with the prices set forth in the Master Agreement.
- (6) The term of this Participating Addendum shall be from the Effective Date until: [\_\_\_\_\_ month/day/year – may not exceed the term of the Master Agreement].
- (7) The JBE hereby orders, and Contractor hereby agrees to provide, the following Work:

**[Instructions to the JBE establishing the Master Agreement: add provisions as appropriate, and in accordance with the terms of the Master Agreement. For example:**

- *Options for ordering, including description of the Goods, Services and/or Deliverables.*
- *Options for: service levels, quantity, model #s, delivery dates, pricing, etc.*

(8) Any notices must be sent to the following address and recipient:

<b>If to Contractor:</b>	<b>If to the JBE:</b>
<u>[name, title, address]</u>	<u>[name, title, address]</u>
<u>With a copy to:</u>	<u>With a copy to:</u>

Either party may change its address for notices by giving the other party notice of the new address in accordance with this section. Notices will be considered to have been given at the time of actual delivery in person, three (3) days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.

(9) This Participating Addendum and the incorporated documents and provisions (including the terms of the Master Agreement) constitute the entire agreement between the parties and supersede any and all prior understandings and agreements, oral or written, relating to the subject matter of this Participating Addendum.

IN WITNESS WHEREOF, JBE and Contractor have caused this Participating Addendum to be executed on the Participating Addendum Effective Date.

***[JBE]***

***[CONTRACTOR]***

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**APPENDIX F**

**UNRUH CIVIL RIGHTS ACT AND CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT CERTIFICATION**

Pursuant to Public Contract Code section 2010, the following certifications must be provided when (i) submitting a bid or proposal to the JBE for a solicitation of goods or services of \$100,000 or more, or (ii) entering into or renewing a contract with the JBE for the purchase of goods or services of \$100,000 or more.

**CERTIFICATIONS:**

1. Contractor is in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);
2. Contractor is in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of the Title 2 of the Government Code);
3. Contractor does not have any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, that is used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code); **and**
4. Any policy adopted by a person or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

The certifications made in this document are made under penalty of perjury under the laws of the State of California. I, the official named below, certify that I am duly authorized to legally bind the Contractor to the certifications made in this document. The certifications made in this document shall be deemed to be made for, and apply to, the Agreement and each Participating Addendum of \$100,000 or more.

<i>Contractor Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of _____ in the State of _____</i>

APPENDIX G



JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE DIVISION  
REAL ESTATE AND FACILITIES MANAGEMENT

Services Request Form

---

**Date:** [Date] \_\_\_\_\_

**From:** [Project Manager Name] \_\_\_\_\_  
 [Address] \_\_\_\_\_  
 [Phone/Fax] \_\_\_\_\_  
 [Email] \_\_\_\_\_

**Project:** [Project Title] \_\_\_\_\_

---

This Work must be performed according to the following as further indicated herein (check ONE):

- Lump Sum Basis                       Time and Materials Basis
- 

The Judicial Council of California requests that you provide a project cost proposal for the work as described in Exhibit A, attached hereto and incorporated herein by this reference (“Services” or “Work”). The scope of Work will generally consist of the following:

**[GENERALLY, DESCRIBE THE SERVICES THAT WILL BE NEEDED AND THAT WILL BE INCORPORATED INTO THE CONTRACT]**

The work was discussed on [Date] with the following individuals:

- [List contact name, company, and email/phone number here] \_\_\_\_\_
- [List contact name, company, and email/phone number here] \_\_\_\_\_
- [List contact name, company, and email/phone number here] \_\_\_\_\_

Your proposal is due on or before: [Time and Date]

Proposed Work Schedule: [Start/End Dates]

**SERVICES REQUEST FORM**

**PROJECT SCOPE OF WORK**

[THIS SPACE RESERVED FOR SCOPE OF WORK]

**PLANS (IF APPLICABLE)**

[THIS SPACE RESERVED FOR PLANS IN POSSESSION OF THE JUDICIAL COUNCIL THAT CONTRACTOR MAY USE TO PERFORM WORK]

**WORK SPECIFICATIONS (IF APPLICABLE)**

[THIS SPACE RESERVED FOR WORK SPECIFICATIONS TO THE CONTRACTOR]



**ATTACHMENT 1**

**ACCEPTANCE AND SIGNOFF FORM**

Description of Services or Deliverables provided by Contractor:

---

---

Date submitted to the JBE: \_\_\_\_\_

The Services or Deliverables are:

1) Submitted on time:  yes  no. If no, please note length of delay and reasons.

---

---

2) Complete:  yes  no. If no, please identify incomplete aspects of the Services or Deliverables.

---

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3) Technically accurate:  yes  no. If no, please note corrections required.

---

---

Please note level of satisfaction:

Poor  Fair  Good  Very Good  Excellent Comments, if any:

---

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The Services or Deliverables listed above are accepted.

The Services or Deliverables listed above are rejected.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Name of JBE: \_\_\_\_\_

Date: \_\_\_\_\_

END OF ATTACHMENT

**ATTACHMENT 2**

**BUILDING MOVING POLICY FOR DGS BUILDING**

DGS building height clearance is 13.5 feet; vehicle should be under 13 feet high and less than 30 feet long.

Loading dock hours are 7 AM - 6 PM.

Use of the loading dock should be reserved. Certificate(s) of insurance must be received prior to the scheduled time.

Attached is a sample certificate of insurance. The certificate holder shall be the following DGS agency/location:

**CERTIFICATE HOLDER**

State of California  
DGS  
455 Golden Gate Ave, Ste 2600  
San Francisco, CA 94102



**ATTACHMENT 3**

**PREVAILING WAGE AND RELATED LABOR REQUIREMENTS CERTIFICATION**

PROJECT/CONTRACT NO.: [PROJECT NUMBER] between the Superior Court of California, County of \_\_\_\_\_ (the "Court") and \_\_\_\_\_ (the "Contractor") (the "Contract" or the "Project").

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours' notice, payroll records, and apprentice and trainee employment requirements, for all Work on the Project including, without limitation, the requirement that Contractor and all of its Subcontractors are registered pursuant to Labor Code section 1771, et seq.

Date:

\_\_\_\_\_

Proper Name of Contractor:  
/ Subcontractor

\_\_\_\_\_

Signature:

\_\_\_\_\_

Print Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

**THIS FORM MUST BE COMPLETED BY THE CONTRACTOR AND ALL SUBCONTRACTORS**

END OF DOCUMENT

## ATTACHMENT 4

### JUDICIAL COUNCIL'S TRAVEL AND LIVING EXPENSE GUIDELINES

- 1. Contractor Travel and Living Expenses.** At the JBE's sole discretion, and only if expressly specified by the JBE and so agreed to by Contractor prior to performance of the Work, the JBE shall reimburse Contractor for actual and reasonable transportation, meals, and lodging expenses actually incurred by Contractor's and its Subcontractors' employees when actually incurred in the course of their performance of the Work, but subject to the following:
  - 1.1** If transportation is authorized, the JBE will reimburse Contractor only at the actual cost incurred for tickets for air, rail, bus, rental car, or other forms of public transportation. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler's itinerary may be submitted in lieu of a receipt.
    - A.** All air transportation is limited to coach fares and must be booked a minimum of fourteen (14) Business Days prior to travel, unless the Project Manager agrees in writing to a shorter period.
    - B.** The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of \$3.50 or more.
    - C.** If private vehicle ground transportation expense is authorized, the JBE will reimburse Contractor at the then published Federal mileage cents per mile, pursuant to <https://www.irs.gov/tax-professionals/standard-mileage-rates>.
  - 1.2** If overnight lodging is authorized, the JBE will reimburse Contractor only at the actual cost incurred, up to the maximum daily amounts listed below. Receipts are required and each day of lodging claimed must be listed separately.
    - A.** In-State - The JBE will reimburse Contractor only for hotel room rental at the actual cost, but not to exceed:
      - (1) \$250.00/day in San Francisco County, plus occupancy tax and/or energy surcharge;
      - (2) \$125.00/day in Monterey and San Diego Counties, plus occupancy tax and/or energy surcharge;
      - (3) \$120.00/day in Los Angeles, Orange, and Ventura Counties, plus occupancy tax and/or energy surcharge;
      - (4) \$140.00/day in Alameda, San Mateo, and Santa Clara Counties, plus tax and energy surcharge;
      - or
      - (5) \$110.00/day in all other California counties, plus tax and energy surcharge.
    - B.** Out-of-State – The JBE will reimburse Contractor only for hotel room rental at the actual cost, plus occupancy tax and/or energy surcharge;
    - C.** Meals and Incidentals – The JBE will reimburse Contractor only for the actual cost for continuous travel of more than 24 hours, but not to exceed the following maximum amounts per person per day:
      - (1) Breakfast up to \$8.00/day;
      - (2) Lunch up to \$12.00/day;
      - (3) Dinner up to \$20.00/day;
      - (4) Incidentals up to \$6.00/day.

For continuous travel of less than 24 hours, actual expenses up to the above limits are reimbursable as follows:

- (1) Travel begins one hour before normal work hours – Breakfast may be claimed.
  - (2) Travel ends one hour after normal work hours – Dinner may be claimed.
  - (3) Lunch may not be claimed on trips of less than 24 hours.
  - (4) Incidentals may not be claimed on trips of less than 24 hours.
- B. Reimbursement for Travel and Living Expenses is subject to the provisions of and must be charged in accordance with the JBE's Guidelines for Travel and Living Expenses.
  - C. The JBE is not obligated to pay for, and Contractor shall not invoice for any hours of non-production Work expended by the Contractor or its Subcontractors' employees that are spent traveling to or from the location where the Service(s) are performed.
  - D. Travel and Living Expenses shall be billed to the JBE at Contractor's actual cost, including any discounts or rebates accorded to Contractor or its Subcontractors, and are not subject to any markup, fee, or other charge.
  - E. Notwithstanding the preceding, Contractor shall be required to ensure its workers are paid, and JBE shall reimburse Contractor to the extent applicable for, all travel and/or subsistence payments pursuant to Labor Code sections 1773.1 and 1773.9 or as otherwise required by the Prevailing Wage laws.
2. **Other Business Expenses.** At the JBE's sole discretion, and only if expressly specified by the JBE and so agreed to by Contractor prior to performance of the Work, the JBE shall reimburse Contractor for other business expenses actually incurred by Contractor's and its Subcontractors' employees when actually incurred in the course of their performance of the Work. Receipts or documentation are required for all other business expenses, regardless of the amount claimed.

**END OF ATTACHMENT**

**END OF AGREEMENT**