



ATTACHMENT 3 – Revision 1
JUDICIAL COUNCIL OF CALIFORNIA
STANDARD AGREEMENT COVERSHEET

AGREEMENT NUMBER [#]
FEDERAL EMPLOYER ID NUMBER [#]

- In this agreement (“Agreement”), the term “Contractor” refers to **[Contractor’s name]**, and the term “Judicial Council” refers to the Judicial Council of California.
- This Agreement is effective as of **[Date]** (“Effective Date”) and expires on **[Date]** (“Expiration Date”). This Agreement includes two (2) one-year options to extend through **[Date or “N/A”]**.

3. The purpose or title of this Agreement is:

[Purpose or descriptive title]

The purpose or title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.

4. The parties agree to the terms and conditions of this Agreement and acknowledge that this Agreement (made up of this coversheet, the following exhibits, and any attachments) contains the parties’ entire understanding related to the subject matter of this Agreement. If there are any inconsistent terms in the exhibits, the following is the descending order of precedence: Exhibits A, B, C

- Exhibit A – Contract Terms and Conditions
- Exhibit B – Statement of Work
- Exhibit C – Key Personnel and Hourly Rate Schedule

JUDICIAL COUNCIL’S SIGNATURE	CONTRACTOR’S SIGNATURE
Judicial Council of California	CONTRACTOR’S NAME (if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.) [Contractor’s Name]
BY (Authorized Signature) ☞	BY (Authorized Signature) ☞
PRINTED NAME AND TITLE OF PERSON SIGNING	PRINTED NAME AND TITLE OF PERSON SIGNING
DATE EXECUTED [DATE]	DATE EXECUTED [DATE]
ADDRESS 455 Golden Gate Avenue San Francisco, CA 94102	ADDRESS [Contractor’s Address]

EXHIBIT A

CONTRACT TERMS AND CONDITIONS

1. Definitions.

Terms defined below and elsewhere throughout the Contract Documents shall apply to the Agreement as defined.

- 1.1 **“Acceptance”** means the written acceptance issued to the Contractor by Judicial Council after the Contractor has completed a Deliverable, Submittal, or other Contract requirement, in compliance with the Contract Documents, including without limitation, the Acceptance of the Work provision set forth in this exhibit.
- 1.2 **“Amendment”** means a written document issued by Judicial Council and signed by the Contractor which alters the Contract Documents and identifies the following: (i) a change in the Work; (ii) a change in any not to exceed amount; (iii) a change in time allotted for performance; and/or (iv) an adjustment to the Agreement terms.
- 1.3 **“Confidential Information”** means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to Judicial Council’s business or the business of its Members. Confidential Information does not include (i) information that is already known by the receiving Party, free of obligation of confidentiality to the disclosing Party; (ii) information that becomes generally available to the public, other than as a result of disclosure by the receiving Party in breach of this Agreement; (iii) information that is independently developed by the receiving Party without reference to the Confidential Information; and (iv) information that the receiving Party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing Party.
- 1.4 The **“Contract”** or **“Contract Documents”** constitute the entire integrated agreement between Judicial Council and the Contractor, as attached to and incorporated by a fully executed Standard Agreement Coversheet. The terms “Contract” or “Contract Documents” may be used interchangeably with the term **“Agreement.”**
- 1.5 **“Contract Amount”** means the total amount encumbered under this Agreement for any payment by Judicial Council to the Contractor for performance of the Work, in accordance with the Contract Documents.
- 1.6 **“Contractor”** means the individual, subsidiaries, association, partnership, firm, company, Contractor, corporation, or combination thereof, including joint ventures, contracting with Judicial Council to do the Contract Work. The Contractor is one of the Parties to this Agreement.
- 1.7 **“Data”** means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- 1.8 **“Day”** means calendar day, unless otherwise specified.
- 1.9 **“Deliverable(s)”** or **“Submittal(s)”** means one or more items, if specified in the Contract Documents, that the Contractor shall complete and deliver or submit to Judicial Council for acceptance.
- 1.10 **“Executive Office”** refers to the Administrative Director of the Courts, the Chief of Staff, the Chief Administrative Officer, and the Chief Operating Officer.
- 1.11 **“Force Majeure”** means a delay which impacts the timely performance of Work for which neither the Contractor nor Judicial Council are liable because such delay or failure to perform was unforeseeable and beyond the control of the Party. Acts of Force Majeure include, but are not limited to;
 - i. Acts of God or the public enemy;
 - ii. Acts or omissions of any government entity;
 - iii. Fire or other casualty for which a Party is not responsible;
 - iv. Quarantine or epidemic;

- v. Strike or defensive lockout; and,
 - vi. Unusually severe weather conditions.
- 1.12 **“Hourly Rate”** means that Contractor will be paid at an hourly rate specified in this Agreement for each such hour of authorized Work or Services actually performed.
- 1.13 **“Judicial Branch Entity”** refers to the Judicial Council, and any California superior or appellate court, and the Habeas Corpus Resource Center.
- 1.14 **“Judicial Council”** refers to the Judicial Council of California.
- 1.15 **“Key Personnel”** refers to Key Personnel are set forth in Exhibit C.
- 1.16 **“Material”** means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- 1.17 **“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 Exhibit A.
- 1.18 **“Option Term”** means a period, if any, through which this Agreement may be or has been extended by the Judicial Council.
- 1.19 **“Party”** means either Judicial Council or Contractor, as the case may be.
- 1.20 **“Preventive Maintenance or PMs”** are on-going tasks provided for Judicial Council facilities to maintain systems and equipment, provide required testing and certifications, and prolong the life of the system or equipment. Generally, the Judicial Council issues services work orders for PMs on a monthly basis.
- 1.21 **“Project Manager”** refers to Judicial Council’s assigned representative or designee responsible for the oversight of all Contractor activities/services.
- 1.22 **“Project”** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, Judicial Council and Judicial Council’s representatives.
- 1.23 **“Service(s)”** is defined in Exhibit A, Section 2.
- 1.24 **“Standard Agreement Coversheet”** or **“Standard Amendment Coversheet”** means the form used by Judicial Council to enter into agreements or amendments with other parties. Several originally signed, fully executed versions of the Standard Agreement Coversheet or Standard Amendment Coversheet, together with the integrated Contract Documents, shall each represent the Agreement or Amendment as an individual **“Contract Counterpart.”**
- 1.25 **“Stop Work Order”** means the written Notice, delivered in accordance with this Agreement, by which Judicial Council may require the Contractor to stop all, or any part, of the Services or Work of this Agreement, for the period set forth in the Stop Work Order. The Stop Work Order shall be specifically identified as such and shall indicate that it is issued pursuant to the Stop Work provision in Exhibit A.
- 1.26 **“Subcontractor”** shall mean an individual, firm, partnership, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of the Agreement. When Judicial Council refers to Subcontractor(s) in this document, for purposes of this Agreement and unless otherwise expressly Judicial Council, the term “Subcontractor” includes, at every level and/or tier, all Subcontractors, Sub-Subcontractors, suppliers, and materialmen.
- 1.27 **“Task(s)”** means one or more functions, if specified in the Contract to be performed by the Contractor for Judicial Council.
- 1.28 **“Term”** comprises the Initial Term and any Option Terms.

- 1.29 **“Third Party”** refers to any individual, association, partnership, firm, company, corporation, Contractor, Subcontractor, or combination thereof, including joint ventures, other than Judicial Council or the Contractor, which is not a party to this Agreement.
- 1.30 **“Time and Materials”** means the direct amount of time and cost of materials that the Contractor expends in providing the Work under this Agreement. Payment for Time and Materials shall be based on the hourly rate and materials required for the delivery of Services.
- 1.31 **“Work”, “Work to be Performed”, “Work Authorization” or “Contract Work”** may be used interchangeably to refer to the Services, Labor, Materials, Data, and other items necessary for the execution, completion and fulfillment of the Agreement by the Contractor to the satisfaction of Judicial Council. Services or Work include Tasks, Deliverables, and/or Submittals, as required by the Contract.

2. Services.

- 2.1 **Description of Services.** Contractor shall perform the Services or Work specified in the statement of work (“SOW”) in Exhibit B, and as further clarified under this Agreement. Contractor agrees to provide or perform the Services or Work set forth in this Agreement, as well as any other Services that are necessary, normal, customary, or incidental to the performance of Contractor’s responsibilities.
- 2.2 **Project Managers.** The Project Manager is an assigned representative or designee of the Judicial Council. The Judicial Council may change its Project Manager at any time upon notice to Contractor without need for an amendment to this Agreement. Subject to written approval by the Judicial Council, Contractor may change its project manager without need for an amendment to this Agreement.
- 2.1 **Service Warranties.** Contractor warrants 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 will conform to and perform in accordance with the requirements of this Agreement and all applicable specifications and documentation.
- 2.2 **Resources.** Contractor is responsible for providing any and all facilities, materials and resources (including personnel, equipment and software) necessary and appropriate for performance of the Services and to meet Contractor's obligations under this Agreement.
- 2.3 **Commencement of Performance.** This Agreement is of no force and effect until signed by both parties and all Judicial Council required approvals are secured. Any commencement of performance prior to Agreement approval shall be at Contractor's own risk.
- 2.4 **Stop Work Orders.**
- A. The Judicial Council may, at any time, by Notice to Contractor, require Contractor to stop all or any part of the Services for a period up to ninety (90) days after the Notice is delivered to Contractor, and for any further period to which the parties 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 Services 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 Judicial Council shall either (i) cancel the Stop Work Order; or (ii) terminate the Services 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 Services. The Judicial Council, under its sole discretion, may make an adjustment in the delivery schedule, the Contract Amount, or both, and the Agreement shall be modified, in writing, accordingly, if:
 - i. The Stop Work Order results in an increase in the time required for the performance of any part of this Agreement; and

ii. Contractor may request an adjustment to the delivery schedule or an adjustment in the Contract Amount within thirty (30) days written notice after the end of the period of stoppage; however, if the Judicial Council decides in its sole discretion that the facts justify the adjustment, the Judicial Council may act upon the request, either by accepting or rejecting it at any time before final payment under this Agreement.

C. The Judicial Council shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this provision.

3 Acceptance

3.1 Acceptance Criteria for Services and Work. In addition to any specific criteria specified in the SOW, the Judicial Council's Project Manager will apply the following criteria in determining acceptance of Services or Work performed under this Agreement:

A. Timeliness: The Service or Work was delivered on time;

B. Completeness: The Service or Work contained the Data, Materials, and features required in the Contract; and

C. Technical accuracy: The Service or Work is accurate as measured against commonly accepted standard (for instance, a statistical formula, an industry standard, or de facto marketplace standard), and concepts are presented logically and clearly.

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

4 Payment Provisions. Subject to the terms of this Agreement, Contractor shall invoice the Judicial Council, and the Judicial Council shall compensate the Contractor after acceptance of the applicable Services or Work in accordance with the terms and conditions in this Agreement. Contractor shall bear, and the Judicial Council shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature which Contractor incurs. Notwithstanding any provision in this Agreement to the contrary, payments to the Contractor are contingent upon the timely and satisfactory performance of Contractor's obligations under this Agreement.

4.1 Allowable Expenses/Payment for Services.

A. Exhibit B (Statement of Work) gives a brief description of services and work that Contractor agrees to provide. The Contractor shall furnish, without limitation, all necessary labor, material, hardware, software, tools, and equipment to complete the work as described in this document and future statements of work. The Contractor will use available codes, regulations, professional standards, accepted best practices, and other relevant knowledge to provide the service to the standard level of professional service.

B. The Hourly Rates included by Contractor shall be fully burdened and inclusive of all costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for services rendered to the Judicial Council. Hourly Rates are included in Exhibit C as proposed by the Contractor.

4.2 Withholding. When making a payment tied to the acceptance of Deliverables, the Judicial Council shall have the right to withhold ten percent (10%) of each such payment until the Judicial Council accepts the final Deliverable.

4.3 No Advance Payment. The Judicial Council will not make any advance payment for Services or Work.

4.4 Expenses. Except as set forth in this section, no expenses relating to the Services, Work and Deliverables shall be reimbursed by the Judicial Council.

4.5 Limit on Travel Expenses. If travel expenses are allowed under this Agreement (i) all travel is subject to written preauthorization and approval by the Judicial Council, and (ii) all travel expenses are limited to the maximum amounts set forth in the Judicial Council's Travel Expense Policy.

4.6 Required Certification. Contractor must include with any request for reimbursement from the Judicial Council 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 Judicial Council was sought for these costs, and Contractor will provide those records to the Attorney General upon request.

4.7 Invoicing.

A. Contractor shall submit invoices to the Judicial Council in arrears no more frequently than monthly. Contractor's invoices must include information and supporting documentation acceptable to the Judicial Council. Contractor shall adhere to reasonable billing guidelines issued by the Judicial Council from time to time. Invoices shall clearly indicate the following:

- i. A unique invoice number;
- ii. The Contractor's name and address;
- iii. Taxpayer identification number (the Contractor's federal employer identification number);
- iv. Description of the completed Work, including services rendered, hours worked, Task(s) performed, and/or Deliverable(s) made, as appropriate;
- v. The contractual charges, including the appropriate rate(s) or firm fixed prices(s) allowable under this Agreement and
- vi. Preferred remittance address, if different from the mailing address.

Contractor shall include the Invoice Cover Sheet included in Exhibit C with all invoices.

B. The Contractor shall submit one (1) original and two (2) copies of invoices to:

Judicial Council of California
c/o Accounts Payable
455 Golden Gate Avenue
San Francisco, CA 94102-3688

With a cc to:

Mike Courtney
Judicial Council of CA,
2860 Gateway Oaks, Suite 400
Sacramento, CA 95833

C. Invoices or vouchers not on printed bill heads shall be signed by the Contractor or the person furnishing the supplies or services.

- 4.8 Disallowance.** If the Contractor claims or receives payment from Judicial Council for a Service or reimbursement that is later rightfully disallowed by Judicial Council, the Contractor shall promptly refund the disallowed amount to Judicial Council upon Judicial Council's request. At its option, Judicial Council may offset the amount disallowed from any payment due or that may become due to the Contractor under this Agreement or any other agreement
- 4.9 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 Judicial Council shall have the right at any time to set off any amount owing from Contractor to the Judicial Council against any amount payable by the Judicial Council to Contractor under this Agreement.
- 4.10 Taxes.** Unless otherwise required by law, the Judicial Council 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 Judicial Council 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 Judicial Council pursuant to this Agreement.

5 Provisions Applicable to Services

- 5.1 Qualifications.** Contractor shall assign to this project only persons who have sufficient training, education, and experience to successfully perform Contractor's duties. If the Judicial Council is dissatisfied with any of Contractor's personnel, for any or no reason, Contractor shall replace them with qualified personnel.
- 5.2 Turnover.** Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to perform Services.
- 5.3 Background Checks.** Contractor shall cooperate with the Judicial Council if the Judicial Council wishes to perform any background checks on Contractor's personnel by obtaining, at no additional cost, all releases, waivers, and permissions the Judicial Council may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Judicial Council of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Judicial Council and performed by Contractor. Contractor shall ensure that the following persons are not assigned to perform services for the Judicial Council: (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 Judicial Council, the Judicial Council advises are unacceptable to the Judicial Council.

6 Representations and Warranties. Contractor certifies that the following representations and warranties are true. Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly notify the Judicial Council if any representation and warranty becomes untrue. Contractor represents and warrants as follows:

- 6.1 Authority.** Contractor has authority to enter into and perform its obligations under this Agreement, and Contractor's signatory has authority to bind Contractor to this Agreement.
- 6.2 Not an Expatriate Corporation.** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC 10286.1, and is eligible to contract with the Judicial Council.
- 6.3 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 securing favorable treatment with respect to any determinations concerning the performance of this Agreement.
- 6.4 No Conflict of Interest.** Contractor has no interest that would constitute a conflict of interest under PCC 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.
- 6.5 No Interference with Other Contracts.** To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest or default under any of Contractor's other contracts.
- 6.6 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 the Services.
- 6.7 Compliance with Laws Generally.** Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor's business and services.

- 6.8 Drug Free Workplace.** Contractor provides a drug free workplace as required by California Government Code sections 8355 through 8357.
- 6.9 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 Contractor takes all reasonable steps to prevent harassment from occurring.
- 6.10 Noninfringement.** The Services, Deliverables, and Contractor's performance under this Agreement do not infringe, or constitute an infringement, misappropriation or violation of, any third party's intellectual property right.
- 6.11 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.
- 6.12 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.
- 6.13 Performance.** The Contractor represents and warrants that each of its employees, Subcontractors or agents assigned to perform any services or provide any technical assistance in planning, development, training, consulting or related services under the terms of this Agreement shall have the skills, training, and background reasonably commensurate with his or her level of performance or responsibility, so as to be able to perform in a competent and professional manner. The Contractor further warrants that the services provided hereunder will conform to the requirements of this Agreement. All warranties, including any special warranties specified elsewhere herein, shall inure to Judicial Council, its successors, assigns, customer agencies, and any other recipients of the services provided hereunder.
- 6.14 California Labor Code.** To the extent that this agreement pertains to public works projects, Contractor certifies that it is aware of the provisions of the California Labor Code, without limitation, section 1720, et seq., section 1770, et seq., and section 1771.1 that require the payment of prevailing wage rates to certain classes of trade labor, the registration of Contractors, Subcontractors and Sub-Subcontractors, and other requirements. The Contractor agrees to fully comply with and to require its Subcontractors to fully comply with all applicable prevailing wage requirements of the California Labor Code.

Contractor also acknowledges that, for purposes of Labor Code section 1725.5, some of its Services may be a public work to which Labor Code section 1771 applies. That portion of the Services is therefore subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor and its Subcontractors must comply with Labor Code section 1725.5, including without limitation the registration requirements.

- A.** If it becomes necessary to employ a craft, classification or type of worker other than those listed on-line at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>, the Contractor shall contact the Division of Labor Statistics and Research to find the appropriate prevailing wage determination. If the Division of Labor Statistics and Research is unable to identify a determination that is applicable, the Contractor shall notify the Court immediately, and the Court will request a special determination from the Division of Labor Statistics and Research. The rate thus determined shall be applicable from the commencement of the project.

B. The Contractor and each Subcontractor shall keep an accurate payroll record showing the names, addresses, social security numbers, work classifications, 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 Subcontractor in connection with the work. Payroll records shall be certified and shall be on forms provided by the Division of Labor Standards Enforcement, or shall contain the same information as those forms. Upon written request by the Judicial Council, the Contractor's and Subcontractor's certified payroll records shall be furnished within ten (10) days. The Contractor's and Subcontractor's certified payroll records shall be available for inspection at the principal office of the Contractor.

6.14.B.1 Contractor shall pay travel and subsistence payments to persons required to execute the work as travel and subsistence payments are defined in applicable collective bargaining agreements filed with the Department of Industrial Relations, pursuant to Labor Code, Sections 1773.1 and 1773.9.

6.14.B.2 Contractor acknowledges and agrees that, if this Agreement involves a dollar amount or a number of working days greater than those specified in Labor Code section 1777.5, then this Agreement is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of Contractor to ensure compliance Labor Code section 1777.5 for all apprenticeship occupations.

7 Insurance

7.1 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, \$1,000,000 as the aggregate disease policy limit, and \$1,000,000 as the disease limit for each employee.
- 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.

7.2 Umbrella Policies. Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.

7.3 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.

7.4 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.

- 7.5 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.
- 7.6 Certificates of Insurance.** Before Contractor begins performing Services, Contractor shall give the Judicial Council certificates of insurance attesting to the existence of coverage, and stating that the policies will not be canceled, terminated, or amended to reduce coverage without thirty (30) days' prior written notice to the Judicial Council.

The Certificates of Insurance shall be addressed as follows:

Judicial Council of California
Manager, Risk Management
455 Golden Gate Ave.
San Francisco, CA 94102-3688

- 7.7 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.
- 7.8 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.
- 7.9 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.
- 7.10 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.
- 8 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) a latent or patent defect in any Goods, (ii) 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, Work 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.
- 9 Option Term.** Unless the Coversheet indicates that an Option Term is not applicable, the Judicial Council may, at its sole discretion, elect to exercise an Option Term to extend this Agreement. 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 Notice will be effective without Contractor's signature.
- A.** The Agreement shall commence on the Effective Date and terminate on the Expiration Date as specified in the Coversheet ("Initial Term"), unless otherwise set forth in writing, and in accordance with the terms and conditions of the Agreement.

- B. The parties agree that the Judicial Council may elect to extend the Agreement up to two (2) consecutive optional one-year extensions, if authorized in writing and in accordance with the terms and conditions of the Agreement.
- C. In the event the Judicial Council elects to exercise an Option Term, as set forth in this provision, the parties will modify the Agreement via bilateral execution of the Judicial Council's Standard Amendment Coversheet.

10 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 12 below if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.

11 Termination.

- 11.1 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 or Work as specified in the Notice; and (b) stop the delivery of Deliverables as specified in the Notice.
- 11.2 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.
- 11.3 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.

12 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.

13 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.

14 Dispute Resolution.

- 14.1 Project Manager Negotiations.** The Project Manager and the Contractor's point of contact shall attempt in good faith to informally and promptly resolve any disagreement that arises from a dispute ("**Dispute**") that can be settled within the limits of authority granted them under this Agreement.
- 14.2 Dispute Notice.** If the settlement of a disagreement is beyond the authority allowed the Project Manager and the Contractor's project manager under this Agreement, or if a disagreement has in the opinion of either Party persisted for an undue length of time, either Party may submit a written Notice to the other Party that the Parties will commence the procedure set forth in this provision to resolve the Dispute ("**Dispute Notice**"). The Dispute Notice shall include: (i) detailed factual information and supporting documentation in support of the submitting Party's position; (ii) the specific Agreement provisions on which the Dispute is based; and (iii) if the Dispute involves a cost adjustment, the exact amount of the cost adjustment accompanied by all records supporting the submitting Party's position. The Dispute Notice shall include a written statement signed by an authorized representative of the submitting Party indicating that the Dispute is made in good faith, that the supporting data and documents are accurate and complete, and that the amount requested, if any, accurately reflects the adjustment for which the submitting Party believes the other Party is responsible. To assist the other Party in its review of the Dispute, the submitting Party shall promptly comply with reasonable requests for additional information.
- 14.3 Dispute Notice Response.** Within fifteen (15) Days of receiving the Dispute Notice, the receiving Party shall provide a written response to the submitting Party's Dispute Notice ("**Dispute Notice Response**"). The Dispute Notice Response shall include: (i) detailed factual information and supporting documentation in support of the receiving Party's position; and (ii) if the Dispute involves a cost adjustment, Judicial Council the exact amount that the receiving Party believes is at issue accompanied by all records supporting the receiving Party's position.
- 14.4 Senior Level Negotiations.** If after fifteen (15) Days of receipt of the Dispute Notice Response by the submitting Party or, in the event that the receiving Party fails to timely submit a Dispute Notice Response, either Party may, by providing written Notice to the other Party, request that the Dispute be resolved by direct negotiations between senior level negotiators of the Parties ("**Senior Level Negotiations Notice**"). The senior level negotiators shall meet in person or by phone as often as they deem reasonably necessary to exchange information and attempt to resolve the Dispute within thirty (30) Days after the Senior Level Negotiations Notice is given to the other Party.
- 14.5 Litigation.** If the senior level negotiations do not result in resolution of the Dispute, either Party may pursue any legally available remedy.
- 14.6 Confidentiality.** All negotiations conducted pursuant to this Section 14 are confidential and shall be treated as compromise and settlement negotiations to which California Evidence Code section 1152 applies. The mediation shall be confidential and shall be subject to the provisions of California Evidence Code section 703.5 and sections 1115 through 1128.

14.7 Continuation of Work. Pending the final resolution of any Dispute arising under, related to, or involving this Agreement, Contractor agrees to diligently proceed with the performance any Work under Dispute in accordance with the provisions of this Agreement and Judicial Council’s instructions. Contractor’s failure to diligently proceed with performance in this manner will be considered a material breach of this Agreement.

15 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. Subject to the foregoing, this Agreement will be binding on the parties and their permitted successors and assigns.

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

If to Contractor:	If to the JUDICIAL COUNCIL:
<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.

17 Provisions Applicable to Certain Agreements. The provisions in this section are applicable only to the types of orders specified in the first sentence of each subsection. If this Agreement is not of the type described in the first sentence of a subsection, then that subsection does not apply to the Agreement.

17.1 Agreements over \$10,000. This Agreement is subject to examinations and audit by the State Auditor for a period of three years after final payment.

17.2 Agreements over \$50,000. No Judicial Council funds received under this Agreement will be used to assist, promote or deter union organizing during the term of this Agreement (including any extension or renewal term).

17.3 Agreements of \$100,000 or More. Contractor certifies that it is, and will remain for the term of the Agreement, in compliance with: (i) PCC 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) PCC 10295.35, which places limitations on contracts with contractors that discriminate in the provisions of benefits on the basis of an employee’s or dependent’s actual or perceived gender identity. Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the term of this Agreement) all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in 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. **Contractor certifies, under penalty of perjury,** that it: (i) is in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code); (ii) 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); and (iii) 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).

17.4 Agreements of \$1,000,000 or More. 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 PCC 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 Judicial Council to enter into this Agreement pursuant to PCC 2203(c).

- 17.5 Agreements relating to DVBE Incentive.** If the Contractor claims the incentive that it is a disabled veteran business enterprise (DVBE), Contractor must document its DVBE compliance by completing the DVBE Participation Form required by the Judicial Council. This section is only 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: (i) Contractor must use the DVBE Subcontractors identified in its bid or proposal, unless the Judicial Council approves in writing replacement by another DVBE Subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must within sixty (60) days of receiving final payment under this Agreement certify in a report to the Judicial Council: (1) the total amount of money Contractor received under the Agreement; (2) the name and address of each DVBE Subcontractor to which Contractor subcontracted work in connection with the Agreement; (3) the amount each DVBE Subcontractor received from Contractor in connection with the Agreement; and (4) that all payments under the Agreement have been made to the applicable DVBE Subcontractors. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.
- 17.6 Agreements Resulting from Competitive Solicitations.** Contractor shall assign to the Judicial Council 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 Judicial Council. Such assignment shall be made and become effective at the time the Judicial Council tenders final payment to Contractor. If the Judicial Council 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 Judicial Council any portion of the recovery, including treble damages, attributable to overcharges that were paid by Contractor but were not paid by the Judicial Council as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by Contractor, the Judicial Council 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 Judicial Council has not been injured thereby, or (b) the Judicial Council declines to file a court action for the cause of action.
- 17.7 Agreements Allowing for Reimbursement of Contractor’s Costs.** Contractor must include with any request for reimbursement from the Judicial Council a certification that the 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 Judicial Council was sought for these costs, and Contractor will provide those records to the Attorney General upon request.
- 17.8 Agreements Performed in California by Contractors that are Corporations, LLCs, or LPs.** Contractor is, and will remain for the term of the Agreement, qualified to do business and in good standing in California.
- 17.9 Agreements that the Judicial Council Cannot Terminate for Convenience.** The Judicial Council's obligations under this Agreement are subject to the availability of applicable funds. Funding beyond the initial appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement. Upon notice, the Judicial Council may terminate this Agreement in whole or in part, without prejudice to any right or remedy of the Judicial Council, if expected or actual funding is withdrawn, reduced, or limited in any way. If this Agreement is terminated for non-availability of funds, the Judicial Council will pay Contractor for the fair value of work satisfactorily performed prior to the termination, not to exceed the total contract amount.
- 17.10 Agreements relating to small business preference.** 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. Contractor must within sixty (60) days of receiving final payment under this Agreement report to the Judicial Council 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 75 percent of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement.

18 Miscellaneous Provisions.

18.1 Independent Contractor. Contractor is an independent contractor to the Judicial Council. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the Judicial Council. Contractor has no authority to bind or incur any obligation on behalf of the Judicial Council. If any governmental entity concludes that Contractor is not an independent contractor, the Judicial Council may terminate this Agreement immediately upon Notice.

18.2 GAAP Compliance. Contractor maintains an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles.

18.3 Audit. Contractor must allow the Judicial Council or its designees to review and audit Contractor's (and any Subcontractors') documents and records relating to this Agreement, 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, 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 Judicial Council five percent (5%) or more during the time period subject to audit, Contractor must reimburse the Judicial Council in an amount equal to the cost of such audit.

18.4 Safety.

- A. Contractor shall retain full responsibility for the safety of all persons employed or contracted by Contractor, its Subcontractors, or suppliers.
- B. Contractor must comply with the safety and security standards and provisions of all applicable local, state and federal laws and building and construction codes related to performing its Services, including the provisions of the Title 8 of the California Code of Regulations, California Construction Safety Orders and all revisions, amendments and regulations thereto.
- C. When working on a Judicial Council construction site where the project or facility is in the course of construction, Contractor and its Subcontractors must understand and comply with the requirements of the General Contractor's project site safety program.

18.5 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 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.

18.6 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 Judicial Council'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. 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. The Judicial Council owns all right, title and interest in the Confidential Information. Contractor will notify the Judicial Council promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the Judicial Council to protect such Confidential Information. Upon the Judicial Council's request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the Judicial Council or, if so directed by the Judicial Council, destroy all Confidential Information (in every form and medium), and (b) certify to the Judicial Council 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 Judicial Council shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.

- 18.7 Ownership of Deliverables.** Unless otherwise agreed in this Agreement, Contractor hereby assigns to the Judicial Council ownership of all Deliverables, any partially-completed Deliverables, and related work product or 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 in whole or part, in any manner or form, or authorize others to do so, without the written consent of the Judicial Council.
- 18.8 Publicity.** Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the Judicial Council.
- 18.9 Choice of Law and Jurisdiction.** California law, without regard to its choice-of-law provisions, governs this Agreement. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. 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.
- 18.10 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.
- 18.11 Changes, Amendments and Waiver.** Changes or Amendments to any component of the Contract Documents can only be made with prior written approval from the Project Manager. Requests for changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. Additional funds may not be encumbered under the Agreement due to an act of Force Majeure, although the performance period of the Agreement may be amended due to an act of Force Majeure. After the Project Manager reviews the request, a written decision shall be provided to the Contractor. Except as otherwise specified in this Agreement, no amendment or change to this Agreement will be effective unless authorized via bilateral execution of a Judicial Council Standard Amendment Coversheet. A waiver of enforcement of any of the Agreement's terms or conditions by the Judicial Council is effective only if expressly agreed in writing by a duly authorized officer of the Judicial Council. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- 18.12 Force Majeure.** Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by a force majeure. Force majeure, for purposes of this paragraph, is defined as follows: acts of war and acts of god, such as earthquakes, floods, and other natural disasters, such that performance is impossible.
- 18.13 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.
- 18.14 Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.
- 18.15 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.
- 18.16 Time of the Essence.** Time is of the essence in Contractor's performance under this Agreement.
- 18.17 Counterparts.** This Agreement may be executed in counterparts, each of which is considered an original.

END OF EXHIBIT A

EXHIBIT B – Revision 1**STATEMENT OF WORK**

Contractor shall provide the Services or Work as authorized under this Agreement.—The Contractor will provide technical assistance on all aspects of the Judicial Council’s facility preventive maintenance services which include operations, maintenance and engineering programs. Preventive Maintenance (PM) programs are on-going tasks provided for Judicial Council facilities to maintain systems and equipment, provide required testing and certification, and prolong the life of the system or equipment. Generally, the Judicial Council issues services work orders for PMs on a monthly basis.

This scope of work includes, but is not limited to the following services:

Phase	Deliverables	Acceptance Criteria	Due Date
Review Preventive Maintenance (PM) programs for the purposes of reducing costs and prioritizing PMs as follows: Fire/life safety; Other Code- Related Requirements Other “required” PMs (include reasons why these PMs are required); Rank remaining PMs by “recommended PMs to eliminate for budget reasons” with the first PMs recommended for elimination at the bottom of the ranking; and Include potential ramifications of eliminating PMs.	Report that discusses approach to cost saving analysis of existing PM program and a ranking of all PMs by order of importance, including PMs the Judicial Council cannot eliminate for fire/life safety reasons; other PMs that cannot be eliminated and the corresponding reasons; and the remaining PMs ranked by recommended schedule of elimination. Report should include ramifications of eliminating identified PM.	Review and acceptance by the Project Manager.	Approx 2 mos.
Review historic repairs of major equipment and recommend replacement options that might eliminate/reduce high repair costs. Include analysis of more energy efficient options (if appropriate) versus like for like replacement.	Report that discusses repair history, cost of repairs versus industry average, and identifies key equipment to be replaced in an effort to save on repair costs. Report should identify most cost effective replacement option, and most energy efficient replacement options, including a cost benefit analysis of the energy efficient options, if applicable.	Review and acceptance by the Project Manager.	Approx 2 mos.
Review FFP contracts and identify cost savings opportunities outside of the PM program.	Report that identifies cost savings opportunities.	Review and acceptance by the Project Manager.	Approx 2 weeks
Review FFP contracts and identify cost savings opportunities outside of the PM program for the purposes of negotiations.	Negotiations support for contract modifications/negotiations. Additional analysis during contract negotiations to confirm identified cost savings.	Review and acceptance by the Project Manager.	TBD

Phase	Deliverables	Acceptance Criteria	Due Date
Operations/Engineering Assistance. Technical Assistance for ongoing building systems for operations and maintenance.	Reports, upon Judicial Council request, documenting recommendations from various meetings and/or consultations.	Review and acceptance by the Project Manager.	TBD

END OF EXHIBIT B

SAMPLE

EXHIBIT C

KEY PERSONNEL AND HOURLY RATE SCHEDULE

Name of Key Staff	Title or Position	Hourly Rates
		\$
		\$
		\$
		\$

Key Personnel must be approved by the Judicial Council. No additional staff may be added or taken off the project without the Judicial Council's approval.

All hourly rates are fully burdened and inclusive of costs and expenses as set forth in Exhibit A, section 4 ("Payment Provisions").

END OF EXHIBIT C