|  |  |
| --- | --- |
| **JUDICIAL COUNCIL OF CALIFORNIA** **STANDARD AGREEMENT FOR CONSULTING SERVICESCOVERSHEET**  | AGREEMENT NUMBER |
| **[@Agreement number]** |
| FEDERAL EMPLOYER ID NUMBER |
| **[@#]**  |
| 1. | In this Agreement, the term “Consultant” refers to **[Consultant name]**, and the term “Judicial Council” or “Council” refers to the **Judicial Council of California**. Judicial Council and Consultant may be individually referred to herein as “Party” or collectively referred to herein as “Parties.” |
| 2. | This Agreement is effective as of **[@Date]** (“Effective Date”) and expires on **[@Date]** (“Expiration Date”). This Agreement includes two (2) options of consecutive one-year periods (“Option Term(s)” or “Subsequent Term(s)”), which may be exercised and administered at the Judicial Council’s sole discretion and as indicated in Appendix C (General Terms and Conditions), which are attached hereto and incorporated herein.  |
| 3. | The maximum amount the Judicial Council may pay Consultant under this Agreement is $**[Dollar amount]** (the “Contract Amount”).  |
| 4. | The purpose or title of this Agreement is: **Consultation Services for Electronic Security Systems Evaluations**.*The title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.* |
| 5. | The parties agree that this Agreement, made up of this coversheet and the appendixes listed below, and any attachments, contains the parties’ entire understanding related to the subject matter of this Agreement, and is mutually binding on the parties in accordance with its terms. Appendix A – Statement of WorkAppendix B – Pricing and PaymentAppendix C – General Terms and ConditionsAppendix D – Defined TermsAppendix E – Judicial Council’s Travel and Expense Reimbursement GuidelinesAppendix F – Services Request FormAppendix G – Security Systems Evaluation Report (Sample Deliverable)Appendix H – Acceptance and Sign-Off FormAppendix I – Internal Background Check Policy |

|  |  |
| --- | --- |
| **JUDICIAL COUNCIL’S SIGNATURE** | **CONSULTANTS’S SIGNATURE** |
| **Judicial Council of California** | CONSULTANT’S NAME (*if Consultant is not an individual person, state whether Consultant is a corporation, partnership, etc., and the state or territory where Consultant is organized)*  |
| **[Consultant name]** |
| BY *(Authorized Signature)* | BY *(Authorized Signature)* |
|  ✍ | ✍ |
| PRINTED NAME AND TITLE OF PERSON SIGNING | PRINTED NAME AND TITLE OF PERSON SIGNING |
| [@Name and title] | [@Name and title] |
| DATE EXECUTED | DATE EXECUTED |
| [@Date] | [@Date] |
| ADDRESS | ADDRESS |
| Branch Accounting and Procurement455 Golden Gate Avenue, 6th FloorSan Francisco, CA 94102 | [@Address] |

**APPENDIX A - STATEMENT OF WORK**

This Statement of Work is subject to the Agreement between Consultant and the Judicial Council. By executing this Statement of Work, the Parties agree to be bound by the terms and conditions set out in the Agreement with respect to the Work to be provided under this Statement of Work.

**1. Term of this Statement of Work.**

Multiple consultants may be selected to enter into contracts with the Judicial Council for Consultation Services for Electronic Security Systems and related activities for existing or proposed Judicial Branch facilities, or for the provision of the services they propose upon. Those consultants may be assigned services, as may arise, based on the location and nature of the services required and the qualifications and resources of the consultants, at Judicial Council’s sole discretion. Consultants are not guaranteed any amount of work.

**2. Judicial Council’s Requirements and Description of the Work.**

The Judicial Council of California (“Judicial Council”), chaired by the Chief Justice of California, is the primary policy making body of the California judicial system. The Emergency Planning and Security Coordination unit, within the office of Facilities Services, provides certain security services to the Superior Courts of California, including services related to electronic security systems.

California courts occupy all 58 counties in the state. Most courthouses have some level of electronic security in place, including security video, access control, duress, and intercom systems. The systems vary greatly in age and condition. In order to plan and budget for necessary system replacements or refreshment, the consultants shall assist with the evaluation of the electronic security systems currently being used in the California courthouses and provide expertise in complex electronic security systems to provide consultation services necessary to evaluate the condition of and provide recommendations and options for refreshment or replacement of electronic security systems in court facilities throughout California. The responsible consultant shall be licensed to do business in California. All work shall be performed under and approved by an established, qualified, and experienced representative firm. Consultants team shall be comprised of staff familiar with electronic security systems, including but not limited to, security video, electronic access control, intercom, and wireless duress alarm systems. Consultant shall be familiar with the integration of the security systems described in this description of work.

Consultant(s) will provide professional consulting services to the Judicial Council of California by assisting with the evaluation of existing electronic security systems and preparing a written report of findings related to the age, serviceability, maintenance recommendations, and estimated remaining lifespan.

Consultant(s) will work with Judicial Council staff to develop schedules for court site visits. Consultant will visit court sites as necessary, coordinating with Judicial Council staff and/or court contacts, to conduct site visits and prepare evaluation reports. Judicial Council staff will work with the Consultant by either accompanying Consultant to various sites, or coordinating access, and scheduling future site visits.

Judicial Council staff will coordinate background check and badging requirements with Consultant.

Using the Security Systems Evaluation Report (Appendix G) Consultant(s) will provide system evaluation reports (“Evaluation Reports”). The attached Evaluation Report (Appendix G) is a sample only, and Judicial Council reserves the right to make changes to the form at any time. Judicial Council staff will review and approve Evaluation Reports. A separate report will be required for each system being evaluated. Report shall include a Rough Order of Magnitude (ROM) for costs of refreshing or replacing the existing systems, and a brief, high level scope of work to explain the ROM figures and conclusions. Particular attention shall be given to providing alternative solutions to total system replacement, including a phased replacement approach. The Judicial Council Project Manager will determine which systems in each location will require evaluation.

Services will require statewide travel to complete evaluations as assigned during the contract term. Some evaluations can be completed without a site visit if available information is sufficient as to the existing systems, while other, larger sites will require a significant amount of time on site, and for report preparation. Judicial Council staff may accompany the Consultant on site visits. Evaluation Reports will be completed without the use of “as built” drawings, and in most cases, without floor plans.

The Judicial Council intends to award Work in a timely manner to Consultant(s) that have been awarded a contract(s) in accordance with the following selection process:

Work to be Performed less than or equal to $75,000.00:

1. If the estimated value of Work is equal to or less than $75,000.00, then the Judicial Council may issue a Purchase Order without soliciting proposals from other consultant(s) that have been awarded a contract. The Judicial Council’s Project Manager will review the Evaluation Report and complete the Acceptance and Sign-Off Form to confirm that the price of the Work is fair and reasonable, and otherwise meets the Judicial Council’s requirements. The Judicial Council, at its sole discretion, may choose to issue Work in a round-robin rotation assigning Projects according to each consultant’s qualifications with the intent to issue Projects equally based on prior Project performance. The Judicial Council will make efforts to award a fair share of the work to each of the consultants based on specific expertise, availability, geographical location, knowledge of and involvement with specific systems and/or facilities, prior performance on this contract, and those other factors that the Judicial Council may deem pertinent for the work, but in no way guarantees that the award will be uniformly distributed.

Work to be Performed greater than $75,000.00:

1. If the estimated value of a proposed Work is greater than $75,000.00, then the Judicial Council shall solicit proposals from at least three (3) consultants that have been awarded a contract listed in the original solicitation unless there is an emergency or some other incident which justifies a sole sourcing of those services. The selected Consultant(s) shall submit a cost proposal using the Services Request Form (Appendix F) for requested work assignments. Consultants will be provided with a basic description of the Work, and there may be a site walk to determine the scope of Work. Depending on the Work, Consultants may be provided with appropriate drawings, specifications, security clearance requirements, permitting information, and other relevant information relating to the Work. The Judicial Council’s Contract Manager will then award the Work to the consultants with the lowest responsive proposal for the service. Once a consultant has been selected, the Judicial Council’s contract manager will then, under the existing contract, issue a purchase order with that consultant for that service. The Judicial Council’s requirements.
2. In the event that one consultant is the lowest responsive consultant for one or more Projects, the Judicial Council reserves the right, in its sole discretion, to limit the award to that consultant for only one Project and the remaining Projects could then be awarded to the next lowest consultant. There is no guarantee that a given consultant will be awarded a given Project or any future Projects.
3. The Judicial Council does not guarantee that a consultant will either have the opportunity to submit a proposal for Work or receive any Purchase Order(s).
4. In selecting the consultants pursuant to the above process, Judicial Council reserves the right to consider whether the Consultant or its Subconsultants are a DVBE, but in no event shall the Judicial Council be required to consider whether the Consultant or its Subconsultants are a DVBE.
5. Notwithstanding anything to the contrary, the Judicial Council reserves the right, in its sole discretion, to deviate from the selection process set forth herein, for any reason, including without limitation, for reasons of time constraints, emergencies or expertise of potential consultants.
6. Consultant will not be paid for any rejected Work.

**3. Schedule and Date(s) of Delivery / Timeline.**

Consultant must perform the Services and deliver the Deliverables according to the following timeline: All site visits will be coordinated with Judicial Council staff. Interactions at various court sites may include staff from courts, facilities, and court security providers. The Judicial Council staff assigned to a particular visit will generally accompany the Consultant. Evaluation Reports will be due within thirty (30) days after the site visit. Evaluation Reports completed in the early stages of the contract period will likely take longer to complete than subsequent reports because of the time necessary to identify appropriate solutions. Once identified, similar solutions can be applied as needed to the bulk of the Evaluation Reports. Time required to perform on-site evaluations will vary dependent upon the size of the location and of the systems being evaluated. Consultant staff must successfully pass Judicial Council required DOJ/FBI background check via Live Scan fingerprinting and obtain Judicial Council consultant badge. See Appendix I, Internal Background Check Policy. Some access issues should be expected from time to time. The initial scope of work will be the evaluation of security camera systems, and may be expanded to include access control, duress, and intercom systems. The expansion of the scope will be schedule and budget driven.

**4. Service Warranties.**

Consultant 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) Consultant will perform the Services in the most cost-effective manner consistent with the required level of quality and performance. Consultant warrants that each Deliverable will conform to and perform in accordance with the requirements of this Agreement and all applicable specifications and documentation. For each such Deliverable, the foregoing warranty shall commence for such Deliverable upon the Judicial Council’s acceptance of such Deliverable, and shall continue for a period of one (1) year following acceptance. In the event any Deliverable does not to conform to the foregoing warranty, Consultant shall promptly correct all nonconformities to the satisfaction of the Judicial Council.

**5. Resources.**

Consultant 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 Consultant's obligations under this Agreement.

1. **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 Consultant's own risk.

1. **Acceptance or Rejection.**

All Services and Deliverables are subject to acceptance by the Judicial Council. The Judicial Council may reject any Services or Deliverables that (i) fail to meet applicable acceptance criteria, (ii) are not as 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), Consultant shall modify such rejected Service or Deliverable at no expense to the Judicial Council to 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.

**END OF APPENDIX**

**APPENDIX B - PRICING AND PAYMENT**

1. **Fees.**

In consideration of and subject to the satisfactory performance and delivery by Consultant of the Work, the Judicial Council shall pay to Consultant the fees as set forth in this Appendix B. Except as expressly set forth in this Appendix B: (i) such fees are the entire compensation for all Work under this Agreement; and (ii) all expenses relating to the Work are included in such fees and shall not be reimbursed by the Judicial Council. The maximum amount payable to Consultant under this Agreement will not exceed the Contract Amount. The Contract Amount may be changed only by amendment to this Agreement. Notwithstanding any provision in this Agreement to the contrary, payments to Consultant are contingent upon the timely and satisfactory performance of Consultant’s obligations under this Agreement. Consultant 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 Consultant to the Judicial Council against any amount payable by the Judicial Council to Consultant under this Agreement.

* 1. Consultant Personnel Hourly Billing Rates. Consultant shall invoice the following Services (“Services”):

| **Job Title** | **Hourly Billing Rate** |
| --- | --- |
| Field Staff Person Conducting Evaluations | $ |
|   |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

* + 1. The hourly rates shall be fully burdened and inclusive of all costs including, but not limited to personnel, materials, computer support, profit and overhead rates payable to the Consultant for services rendered to the Judicial Council.
		2. The hourly rates shall remain firm and are not subject to change throughout the term of the Agreement, with the exception of allowable increases during Subsequent Terms. Rate increases will only apply to the start of Subsequent Terms.
		3. The Consultant shall not request, nor shall the Judicial Council consider any reimbursement for, Non-Production Work including but not limited to time spent traveling to and from a job site or any living expenses.
		4. Judicial Council may solicit proposals from at least three (3) consultants that have been awarded a contract for certain projects over $75,000. In such instances, the Consultant shall submit a cost proposal using the Services Request Form (Appendix F) for requested work assignments. If Consultant is chosen for the project, the Consultant will be issued a Purchase Order for the Service. The Judicial Council’s Project Manager will review the Evaluation Report and complete the Acceptance and Sign-Off Form if the Work meets the Judicial Council’s requirements. Invoices for Services may be submitted thereafter.
		5. The Judicial Council standard business payment terms are Net sixty (60) days after receipt of correct invoice.
	1. Description of Deliverables. Consultant shall deliver to the Judicial Council the following work products (“Deliverables”):
		1. Deliverables.
			1. Evaluation Reports, that shall include Rough Order of Magnitude (ROM) (See Master Agreement, Appendix G for a sample to assist Consultant in providing accurate costs associated with refreshing or replacing the existing systems.) Detailed cost estimate, scope of work, and system design services are not required for the evaluations. The goal of these evaluations is to provide information that will assist with future budgeting and the identification of priorities related to future security improvements.
			2. A brief, high level scope of work to explain the ROM figures and conclusions. Particular attention shall be given to providing alternative solutions to total system replacement, including a phased replacement approach. Not every location will require every system to be evaluated.
	2. Acceptance Criteria. The Services and Deliverables must be approved by the Judicial Council using the Acceptance and Sign-Off Form (Appendix H), or the Judicial Council may reject the applicable Services or Deliverables.

Consultant will not be paid for any rejected Services or Deliverables.

1. **Expenses.**
	1. Allowable Expenses. Except as set forth in this section, no expenses relating to the Services, and Deliverables shall be reimbursed by the Judicial Council.
	2. Limitation on Travel Expenses*.* All travel is subject to preauthorization and approval by the Judicial Council. The Consultant shall not request, nor shall the Judicial Council consider any reimbursement for Non-Production Work including but not limited to time spent traveling to and from a job site or any living expenses.
	3. Limitation on Expenses. If travel expenses are allowed under Section 2.2 above, all travel expenses are limited to the maximum amounts set forth in the Judicial Council’s Travel and Expense Reimbursement Guidelines (Appendix E).
	4. Required Certification. Consultant must include with any request for reimbursement from the Judicial Council a certification that the Consultant is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Consultant incurs costs, or makes expenditures to assist, promote or deter union organizing, Consultant will maintain records sufficient to show that no reimbursement from the Judicial Council was sought for these costs, and Consultant will provide those records to the Attorney General upon request.
2. **Invoicing and Payment.**
	1. Invoicing. Invoices must include information and supporting documentation, including a workload report in the form the Judicial Council may specify from time to time. Consultant shall adhere to reasonable billing guidelines issued by the Judicial Council from time to time. Consultant shall invoice the Judicial Council for the applicable fees upon Acceptance of each Deliverable by the Judicial Council and in accordance with payment milestones and schedules under this Agreement. The Judicial Council will not make any advance payment for the Work. Consultant shall provide invoices with the level of detail reasonably requested by the Judicial Council. The Judicial Council will pay each correct, itemized invoice received from Consultant after Acceptance, in accordance with the terms hereof.
	2. Payment. The Judicial Council will pay each correct, itemized invoice received from Consultant after Acceptance of the applicable Services, or Deliverables, in accordance with the terms of the Agreement. Notwithstanding any provision in this Agreement to the contrary, payments to Consultant are contingent upon the timely and satisfactory performance of Consultant’s obligations under this Agreement. The Judicial Council will not make any advance payment for the Work.
	3. No Implied Acceptance. Payment does not imply acceptance of Consultant’s invoice or Work. Consultant 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 Consultant to the Judicial Council against any amount payable by the Judicial Council to Consultant under this Agreement.
	4. Availability of Funds. The Judicial Council’s obligation to compensate Consultant is subject to the availability of funds. The Judicial Council shall notify Consultant if funds become unavailable or limited.

### 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 Consultant 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 Work rendered or equipment, parts or software supplied to the Judicial Council pursuant to this Agreement.

### Retention Amount.

### Notwithstanding the terms of this Appendix B, and without limiting the rights of the Judicial Council under the Agreement, the Judicial Council shall have the right at the time of Acceptance, with respect to those Deliverables in each Statement of Work, on a Statement of Work-by-Statement of Work basis, to withhold fifteen percent (15%) from the amounts to be paid by the Judicial Council to Consultant therefor, until Acceptance of the final Deliverable under such Statement of Work.

**END OF APPENDIX**

### APPENDIX C - GENERAL TERMS AND CONDITIONS

1. **Work.**
	1. Work. Consultant shall provide the Work described in this Agreement, including the Statement of Work and the Specifications. Except as set forth in the Statement of Work, Consultant is responsible for providing all facilities, materials, and resources (including personnel, equipment, and software) necessary and appropriate for delivery of the Work and to meet Consultants’ obligations under this Agreement.
	2. 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 Consultant's own risk.
	3. Stop Work Orders.
		1. Effect. The Judicial Council may, at any time, by written stop work order to Consultant, require Consultant to stop all, or any part, of the Work for a period of up to ninety (90) days after the stop work order is delivered to Consultant, and for any further period to which the Parties may agree. Upon receipt of a stop work order, Consultant shall promptly comply with the terms of the stop work order and take all reasonable steps to end the incurrence of any costs, expenses or liabilities allocable to the Work covered by the stop work order during the period of work stoppage. The Judicial Council shall not be liable to Consultant for loss of profits arising out of such stop work order. Within ninety (90) days after a stop work order is delivered to Consultant, or within any extension of that period mutually agreed to by the Parties, the Judicial Council shall either: (i) cancel the stop work order; or (ii) terminate the Work covered by the stop work order.
		2. Expiration or Cancellation. If a stop work order is canceled by the Judicial Council or the period of the stop work order or any extension thereof expires, Consultant shall promptly resume the Work covered by such stop work order. The Judicial Council shall make an equitable adjustment in the delivery schedule, and the applicable Statement of Work shall be modified, in writing, accordingly, if: (i) the stop work order directly and proximately results in an increase in the time required for the performance of any part of the Statement of Work; and (ii) Consultant asserts its right to such equitable adjustment within thirty (30) days after the end of the period of work stoppage.
	4. Third Party or Judicial Council Services. Notwithstanding anything in this Agreement to the contrary, the Judicial Council shall have the right to perform or contract with a Third Party to provide any services or goods within or outside the scope of the Work, including services to augment or supplement the Work or to interface with the IT Infrastructure of the Judicial Branch Entities or Judicial Council Consultants. In the event the Judicial Council performs or contracts with a Third Party to perform any such service, Consultant shall cooperate in good faith with the Judicial Branch Entities and any such Third Party, to the extent reasonably required by the Judicial Council. Such cooperation shall include, without limitation, providing such information as a person with reasonable commercial skills and expertise would find reasonably necessary for the Judicial Council or a Third Party to perform its services relating to the Work.
	5. Data and Security.
		1. Safety and Security Procedures. Consultant shall maintain and enforce, at the Consultant Work Locations, industry-standard safety and physical security policies and procedures. While at each Judicial Council Work Location, Consultant shall comply with the safety and security policies and procedures in effect at such Judicial Council Work Location.
		2. Data Security.
			1. Consultant shall comply with the Data Safeguards. Consultant shall implement and maintain a comprehensive information security program (“Consultant’s Information Security Program”) in accordance with the Data Safeguards. Consultant shall comply with all applicable privacy and data security laws, and other laws (including the California Rules of Court) and regulations relating to the protection, collection, use, and distribution of Judicial Council Data, as well as privacy and data security requirements and standards set forth in the Judicial Council’s policies or procedures. To the extent that California Rule of Court 2.505 applies to this Agreement, Consultant shall provide access and protect confidentiality of court records as set forth in that rule and in accordance with this Agreement. In addition to the foregoing, Consultant represents and warrants that Consultant complies with, and throughout the term of this Agreement, Consultant, and its performance of its obligations under this Agreement shall be in compliance with, the current NIST (National Institute of Standards and Technology) Special Publication 800-53, including without limitation any NIST 800-53 standards, guidelines, or requirements for security controls or data security protocols.
			2. Unauthorized access to or use or disclosure of Judicial Council Data (including data mining, or any commercial use) by Consultant or third parties, is prohibited. Consultant shall not, without the prior written consent of an authorized representative of Judicial Council, use or access the Judicial Council Data for any purpose other than to provide the Work under this Agreement. In no event shall Consultant transfer the Judicial Council Data to third parties or provide third parties access to the Judicial Council Data, except as may be expressly authorized by Judicial Council. Consultant is responsible for the security and confidentiality of the Judicial Council Data. Judicial Council owns and retains all right and title to the Judicial Council Data, and has the exclusive right to control its use.
			3. No Work shall be provided from outside the continental United States. Remote access to Judicial Council Data from outside the continental United States is prohibited unless approved in writing in advance by the Judicial Council. The physical location of Consultant’s data center, systems, and equipment where the Judicial Council Data is stored shall be within the continental United States. Consultant shall ensure that access to the Judicial Council Data will be provided to the Judicial Council (and its authorized users) 24 hours per day, 365 days per year (excluding agreed-upon maintenance downtime). Upon the Judicial Council’s request, all Judicial Council Data in the possession of Consultant shall be provided to Judicial Council in a manner reasonably requested by Judicial Council and all copies shall be permanently removed from Consultant’s system, records, and backups, and all subsequent use of such information by Consultant shall cease.
			4. Confidential, sensitive, or personally identifiable information shall be encrypted in accordance with the highest industry standards, applicable laws, this Agreement, and Judicial Council policies and procedures.
		3. Data Breach. If there is a suspected or actual Data Breach, Consultant shall notify the Judicial Council in writing within two (2) hours of becoming aware of such occurrence. A “Data Breach” means any access, destruction, loss, theft, use, modification or disclosure of the Judicial Council Data by an unauthorized party. Consultant’s notification shall identify: (i) the nature of the Data Breach; (ii) the data accessed, used or disclosed; (iii) who accessed, used, disclosed and/or received data (if known); (iv) what Consultant has done or will do to mitigate the Data Breach; and (v) corrective action Consultant has taken or will take to prevent future Data Breaches. Consultant shall promptly investigate the Data Breach and shall provide daily updates, or more frequently if required by the Judicial Council, regarding findings and actions performed by Consultant until the Data Breach has been resolved to the Judicial Council’s satisfaction, and Consultant has taken measures satisfactory to the Judicial Council to prevent future Data Breaches. Consultant shall conduct an investigation of the Data Breach and shall share the report of the investigation with the Judicial Council. The Judicial Council and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Consultant shall cooperate fully with the Judicial Council, its agents and law enforcement, including with respect to taking steps to mitigate any adverse impact or harm arising from the Data Breach. After any Data Breach, Consultant shall at its expense have an independent, industry-recognized, Judicial Council-approved third party perform an information security audit. The audit results shall be shared with the Judicial Council within seven (7) days of Consultant’s receipt of such results. Upon Consultant receiving the results of the audit, Consultant shall provide the Judicial Council with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Agreement.
		4. Security Assessments. Upon advance written notice by the Judicial Council, Consultant agrees that the Judicial Council shall have reasonable access to Consultant’s operational documentation, records, logs, and databases that relate to data security and the Consultant’s Information Security Program. Upon the Judicial Council’s request, Consultant shall, at its expense, perform, or cause to have performed an assessment of Consultant’s compliance with its privacy and data security obligations. Consultant shall provide to the Judicial Council the results, including any findings and recommendations made by Consultant’s assessors, of such assessment, and, at its expense, take any corrective actions.
		5. Data Requests. Consultant shall promptly notify the Judicial Council upon receipt of any requests which in any way might reasonably require access to the Judicial Council Data. Consultant shall not respond to subpoenas, service of process, Public Records Act requests (or requests under California Rule of Court 10.500), and other legal requests directed at Consultant regarding this Agreement or Judicial Council Data without first notifying the Judicial Council. Consultant shall provide its intended responses to the Judicial Council with adequate time for the Judicial Council to review, revise and, if necessary, seek a protective order in a court of competent jurisdiction. Consultant shall not respond to legal requests directed at the Judicial Council unless authorized in writing to do so by the Judicial Council.
		6. Data Backups. If Consultant is providing Hosted Services under this Agreement, Consultant shall:
			1. ensure that any hosting facilities (including computers, network, data storage, backup, archive devices, and the data storage media), and disaster recovery facilities (if applicable) shall be located in the continental United States;
			2. provide periodic full backup of all Judicial Council Data upon mutual agreement between Consultant and the Judicial Council;
			3. provide periodic incremental backup of all Judicial Council Data;
			4. have the capability to recover data from the Judicial Council Data backup copy;
			5. have the capability to export the Judicial Council’s raw data in human readable and machine-readable format and have the capability to promptly provide the Judicial Council Data to Judicial Council upon its request;
			6. have the capability to import the Judicial Council Data (subject to Consultant’s confidentiality and data security obligations);
			7. provide hourly snapshot backups of the Judicial Council Data (daily backups shall also be performed);
			8. maintain recoverable, secure backups of the Judicial Council Data offsite in a fire-protected, secure area, geographically separate from the primary datacenter; and
			9. maintain and implement data backup and disaster recovery processes and procedures in accordance with the highest industry standards and applicable laws.
		7. Transition Period. For ninety (90) days prior to the expiration date of this Agreement or Statement of Work, or upon notice of termination of this Agreement or Statement of Work, Consultant shall assist the Judicial Council in extracting and/or transitioning all Judicial Council Data in the format determined by the Judicial Council (“Transition Period”). During the Transition Period, the Hosted Services and Judicial Council Data access shall continue to be made available without alteration.
	6. Project Staff.
		1. Consultant Project Manager. The Consultant Project Manager shall serve, from the Effective Date, as the consultant project manager and primary consultant representative under this Agreement. The Consultant Project Manager shall (i) have overall responsibility for managing and coordinating the performance of Consultant’s obligations under this Agreement, including the performance of all Subcontractors; and (ii) be authorized to act for and bind Consultant and Subcontractors in connection with all aspects of this Agreement. The Consultant Project Manager shall respond promptly and fully to all inquiries from the Judicial Council Project Manager.
		2. Consultant Key Personnel. The Judicial Council reserves the right to interview and approve proposed Consultant Key Personnel prior to their assignment to the Judicial Council. Consultant shall not replace or reassign any Consultant Key Personnel unless the Judicial Council consents in advance in writing or such Consultant Key Personnel (i) voluntarily resigns or takes a leave of absence from Consultant, (ii) has his/her employment, professional or other for-hire relationship terminated by Consultant, (iii) fails to perform his or her duties and responsibilities pursuant to this Agreement, or (iv) dies or is unable to work due to his or her disability. If Consultant needs to replace a Consultant Key Personnel for any of the foregoing reasons, Consultant shall (1) notify the Judicial Council promptly, (2) provide resumes for proposed replacement Consultant Key Personnel within two (2) Business Days after so notifying the Judicial Council, and (3) be responsible for all costs and expenses associated with any replacement of any Consultant Key Personnel member (including, without limitation, any costs and expenses associated with training, project orientation or knowledge transfer reasonably required for replacement personnel to provide the applicable Work).
		3. Subcontractors. Consultant shall not subcontract or delegate any of the obligations under this Agreement except as approved by the Judicial Council in writing in advance. 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, Consultant will assume the proposed subcontractor’s responsibilities. No subcontracting shall release Consultant from its responsibility for performance of its obligations under this Agreement. Consultant shall remain fully responsible for the performance of Subcontractors hereunder, including, without limitation, all work and activities of Subcontractors providing services to Consultant in connection with the Work. Consultant shall be the sole point of contact with Subcontractors under this Agreement, and Consultant 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 Consultant’s obligations will take effect only if there is a written agreement with the Subcontractor, stating that the Consultant and Subcontractor: (i) are jointly and severally liable to the Judicial Council for performing the duties in this Agreement; (ii) affirm the rights granted in this Agreement to the Judicial Council; (iii) make the representations and warranties made by the Consultant in this Agreement; (iv) appoint the Judicial Council an intended third party beneficiary under Consultant’s written agreement with the Subcontractor; and (v) shall comply with and be subject to the terms of this Agreement, including with respect to Intellectual Property Rights, Confidential Information and Data Safeguards.
		4. Project Staff. Consultant shall appoint to the Project Staff: (i) individuals with suitable training and skills to provide the Work, and (ii) sufficient staffing to adequately provide the Work. Consultant shall endeavor to minimize turnover of personnel Consultant has assigned to perform Services. Consultant shall make commercially reasonable efforts consistent with sound business practices to honor the specific request of the Judicial Council with regard to assignment of its employees. The Judicial Council may require Consultant to remove any personnel from the Project Staff that interact with any personnel of the Judicial Branch Entities or Judicial Council Consultants (including, without limitation, the Consultant Project Manager) upon providing to Consultant a reason (permitted by law) for such removal. Consultant may, with the Judicial Council’s consent, continue to retain such member of the Project Staff in a role that does not interact with any personnel of the Judicial Branch Entities or Judicial Council Consultants. The Consultant Project Manager and the Judicial Council Project Manager shall work together to mitigate any impact on the schedule as set forth in a Statement of Work caused by any replacement of a Project Staff member. Consultant shall be responsible for all costs and expenses associated with any Project Staff replacement. Consultant shall assure an orderly and prompt succession for any Project Staff member who is replaced. If the Contract Amount is over $200,000 (excluding Consulting Services), then Consultant 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 PCC 10353.
		5. Conduct of Project Staff.
			1. While at the Judicial Council Work Locations, Consultant shall, and shall cause Subcontractors to: (1) comply with the requests, standard rules and regulations and policies and procedures of the Judicial Branch Entities regarding safety and health, security, personal and professional conduct generally applicable to such Judicial Council Work Locations, and (2) otherwise conduct themselves in a businesslike manner.
			2. Consultant shall enter into an agreement with each of the members of the Project Staff, which assigns, transfers and conveys to Consultant all of such Project Staff member’s right, title and interest in and to any Developed Materials, including all Intellectual Property Rights in and to Developed Materials.
			3. Consultant shall cooperate with the Judicial Council if the Judicial Council wishes to perform any background checks on Consultant’s employees or contractors by obtaining, at no additional cost, all releases, waivers, and permissions the Judicial Council may require. Consultant shall not assign personnel who refuse to undergo a background check. Consultant 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 Consultant. Consultant shall remove from the Project Staff any person refusing to undergo such background checks and any other person whose background check results are unacceptable to Consultant or that, after disclosure to the Judicial Council, the Judicial Council advises are unacceptable to the Judicial Council or the Judicial Branch Entities.
	7. Licenses and Approvals.  Consultant shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by Applicable Laws to provide the Work. Consultant 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.
	8. Progress Reports. As directed by the Judicial Council, Consultant must deliver progress reports or meet with Judicial Council personnel on a regular basis to allow: (i) the Judicial Council to determine whether the Consultant is on the right track and the project is on schedule, (ii) communication of interim findings, and (iii) opportunities for airing difficulties or special problems encountered so that remedies can be developed quickly.
2. **Delivery, Acceptance, and Payment.**
3. 1. Delivery. Consultant shall deliver to the Judicial Council the Deliverables in accordance with this Agreement, including the Statement of Work. Unless otherwise specified by the Judicial Council, Consultant will deliver all equipment purchased by the Judicial Council “Free on-Board Destination Freight Prepaid” to the Judicial Council at the address and location specified by the Judicial Council. Title to all equipment purchased by the Judicial Council vests in the Judicial Council upon payment of the applicable purchase price. Consultant will bear the risk of loss for any Work being delivered until received by the Judicial Council at the proper location.
	2. Acceptance. All Work is subject to written acceptance by the Judicial Council. The Judicial Council may reject any Work that: (i) fails to meet applicable requirements, Specifications, or acceptance criteria, (ii) are not as warranted, (iii) are performed or delivered late, or not provided in accordance with this Agreement; or (iv) contain Defects. Payment does not imply acceptance of Consultant’s invoice or Work. If the Judicial Council provides Consultant a notice of rejection for any Work, Consultant shall modify such rejected Work at no expense to the Judicial Council to correct the relevant deficiencies and shall redeliver such Work to the Judicial Council within ten Business Days after Consultant’s receipt of such notice of rejection, unless otherwise agreed in writing by the Parties. Thereafter, the Parties shall repeat the process set forth in this Section until Consultant’s receipt of the Judicial Council’s written acceptance of such corrected Work (each such Judicial Council written acceptance, an “Acceptance”); provided, however, that if the Judicial Council rejects any Work on at least two occasions, the Judicial Council may terminate that portion of this Agreement which relates to the rejected Work at no expense to the Judicial Council.
	3. Fees and Payment. Subject to the terms of this Agreement, the Consultant shall invoice the Judicial Council, and the Judicial Council shall compensate Consultant, as set forth in Appendix B. The fees to be paid to Consultant under this Agreement shall be the total and complete compensation to be paid to consultant for its performance under this Agreement. Consultant shall bear, and the Judicial Council shall have no obligation to pay or reimburse Consultant for, any and all other fees, costs, profits, taxes or expenses of any nature that Consultant incurs.
4. **Representations and Warranties.**

Consultant certifies that the following representations and warranties shall be true and accurate as of the Effective Date and shall remain true during the term of this Agreement and the Termination Assistance Period. Consultant shall promptly notify the Judicial Council if any representation or warranty becomes untrue. Consultant represents and warrants to the Judicial Council as follows:

1. 1. Authorization/Compliance with Laws. (i) Consultant has full power and authority to enter into this Agreement, to grant the rights and licenses herein and to perform its obligations under this Agreement, and that Consultant’s representative who signs this Agreement has the authority to bind Consultant to this Agreement; (ii) the execution, delivery and performance of this Agreement have been duly authorized by all requisite corporate action on the part of Consultant; (iii) Consultant shall not and shall cause Subcontractors not to enter into any arrangement with any Third Party which could reasonably be expected to abridge any rights of the Judicial Branch Entities under this Agreement; (iv) this Agreement constitutes a valid and binding obligation of Consultant, enforceable in accordance with its terms; (v) Consultant is qualified to do business and in good standing in the State of California; (vi) Consultant, its business, and its performance of its obligations under this Agreement comply with all Applicable Laws; and (vii) Consultant pays all undisputed debts when they come due.
	2. No Gratuities or Conflict of Interest. Consultant: (i) 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; and (ii) 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.
	3. No Litigation. No Claim or governmental investigation is pending or threatened against or affecting Consultant or Consultant’s business, financial condition, or ability to perform this Agreement.
	4. Not an Expatriate Corporation. Consultant 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 Judicial Council.
	5. No Interference. To the best of Consultant’s knowledge, this Agreement does not create a material conflict of interest or breach under any of Consultant’s other contracts.
	6. Drug Free Workplace. Consultant provides a drug-free workplace as required by California Government Code sections 8355 through 8357.
	7. No Harassment / Nondiscrimination. Consultant does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Consultant may interact in the performance of this Agreement, and Consultant takes all reasonable steps to prevent harassment from occurring. Consultant 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.). Consultant 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. Consultant has notified in writing each labor organization with which Consultant has a collective bargaining or other agreement of Consultant’s obligations of nondiscrimination.
	8. Domestic Partners, Spouses, Gender, and Gender Identity Discrimination. If the Contract Amount is $100,000 or more, Consultant is in compliance with: (i) Public Contract Code section 10295.3, which places limitations on contracts with consultants 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 consultants that discriminate in the provision of benefits on the basis of an employee’s or dependent’s actual or perceived gender identity.
	9. National Labor Relations Board Orders. No more than one, final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period because of Consultant's failure to comply with an order of a federal court requiring Consultant to comply with an order of the National Labor Relations Board. Consultant swears under penalty of perjury that this representation is true.
	10. Child Support Compliance Act. If the Contract Amount is $100,000 or more: (i) Consultant recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and (ii) Consultant provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
	11. Intellectual Property. Consultant shall perform its obligations under this Agreement in a manner that the Work (including each Deliverable) and any portion thereof, does not infringe, or constitute an infringement, misappropriation or violation of, any Intellectual Property Right. Consultant has full Intellectual Property Rights and authority to perform all of its obligations under this Agreement, and Consultant is and will be either the owner of, or authorized to use for its own and the Judicial Branch Entities’ benefit, all Consultant Materials, Third Party Materials, and Licensed Software used and to be used in connection with the Work.
	12. Work. (i) the Work 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 Work; (ii) Consultant will use efficiently the resources or services necessary to provide the Work; and provide the Work in the most cost efficient manner consistent with the required level of quality and performance; (iii) the Work will be provided free and clear of all liens, claims, and encumbrances; (iv) all Work will be free from all defects in materials and workmanship, and will be in accordance with Specifications, Documentation, Applicable Laws, and other requirements of this Agreement; and (v) all equipment purchased by the Judicial Council from Consultant will be new. In the event any Work does not conform to the foregoing provisions of this Section 3.12, Consultant shall promptly correct all nonconformities.
	13. Malicious Code. No Work will contain any Malicious Code. Consultant shall immediately provide to the Judicial Council written notice in reasonable detail upon becoming aware of the existence of any Malicious Code. Without limiting the foregoing, Consultant shall use best efforts and all necessary precautions to prevent the introduction and proliferation of any Malicious Code in the Judicial Branch Entities’ IT Infrastructure or networks or in the Consultant systems used to provide Work. In the event Consultant or the Judicial Council discovers the existence of any Malicious Code, Consultant shall use its best efforts, in cooperation with the Judicial Council, to effect the prompt removal of the Malicious Code from the Work and the Judicial Branch Entities’ IT Infrastructure and the repair of any files or data corrupted thereby, and the expenses associated with the removal of the Malicious Code and restoration of the data shall be borne by Consultant. In no event will Consultant or any Subcontractor invoke any Malicious Code.
	14. Four-Digit Date Compliance. Consultant will provide only Four-Digit Date Compliant Work to the Judicial Council. “Four-Digit Date Compliant” Work can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries.
	15. Conflict Minerals. Consultant certifies either: (i) it is not a “scrutinized company” as defined in PCC 10490(b), or (ii) the goods or services the Consultant will provide to the Judicial Council are not related to products or services that are the reason the Consultant must comply with Section 13(p) of the Securities Exchange Act of 1934.
	16. Miscellaneous. The rights and remedies of the Judicial Council provided in this Section 3 will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
2. **Intellectual Property.**
3. 1. Consultant/Third Party Materials. Consultant shall set forth in an exhibit to each Statement of Work all Consultant materials and third-party materials that Consultant intends to use in connection with that Statement of Work. The Judicial Council shall have the right to approve in writing the introduction of any Consultant Materials or Third-Party Materials into any Work prior to such introduction. Consultant grants to the Judicial Branch Entities, together with all Judicial Council Consultants, without additional charge, a perpetual, irrevocable, royalty-free, fully paid-up, worldwide, nonexclusive license to use, reproduce, perform, display, transmit, distribute, modify, create derivative works of, make, have made, sell, offer for sale and import Consultant materials and Third Party Materials (including Source Code) and to sublicense such rights to other entities, in each case for California judicial branch business and operations.
	2. Rights in Developed Materials. Notwithstanding any provision to the contrary, upon their creation the Developed Materials (and all Intellectual Property Rights therein) will be the sole and exclusive property of the Judicial Council. Consultant (for itself, Project Staff and Subcontractors) hereby irrevocably assigns, transfers and conveys to the Judicial Council without further consideration all worldwide right, title and interest in and to the Developed Materials, including all Intellectual Property Rights therein. Consultant further agrees to execute, and shall cause Project Staff and Subcontractors to execute, any documents or take any other actions as may be reasonably necessary or convenient to perfect the Judicial Council’s or its designee’s ownership of any Developed Materials and to obtain and enforce Intellectual Property Rights in or relating to Developed Materials. Consultant shall promptly notify the Judicial Council upon the completion of the development, creation or reduction to practice of any and all Developed Materials.
	3. Retention of Rights. The Judicial Council retains all rights, title and interest (including all Intellectual Property Rights) in and to the Judicial Council Materials. Subject to rights granted herein, Consultant retains all rights, title and interest (including all Intellectual Property Rights) in and to the Consultant Materials.
	4. Third-Party Rights. Consultant hereby assigns to the Judicial Branch Entities all of Consultant’s licenses and other rights (including any representations, warranties, or indemnities that inure to Consultant from third parties) to all Third-Party Materials incorporated into the Work. If such licenses and rights cannot be validly assigned to or passed through to Judicial Branch Entities by Consultant without a Third Party’s consent, then Consultant will use its best efforts to obtain such consent (at Consultant’s expense) and will indemnify and hold harmless the Judicial Council, Judicial Branch Entities and Judicial Branch Personnel against all Claims arising from Consultant’s failure to obtain such consent.
4. **Confidentiality.**
	1. General Obligations. During the Term and at all times thereafter, Consultant 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. Consultant will disclose Confidential Information only to Project Staff (including Subcontractors) with a need to know in order to provide the Work hereunder and who have executed a confidentiality agreement with Consultant at least as protective as the provisions of this Section 5. The provisions of this Section 5 shall survive beyond the expiration or termination of this Agreement. Consultant will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Consultant protects its own confidential or proprietary information of a similar nature, and with no less than reasonable care and industry-standard care. The Judicial Council owns all right, title and interest in the Confidential Information. Consultant 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. Notwithstanding any provision to the contrary, Consultant will keep all Personal Information confidential, unless otherwise authorized by the Judicial Council in writing.
	2. Removal; Return. Consultant will not remove any Confidential Information from Judicial Branch Entities’ facilities or premises without the Judicial Council’s express prior written consent. Upon the Judicial Council’s request and upon any termination or expiration of this Agreement, Consultant 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 Consultant has fully complied with the foregoing obligations.
	3. Breach of Confidentiality. Consultant acknowledges that there can be no adequate remedy at law for any breach of Consultant’s obligations hereunder, that any such breach will likely result in irreparable harm, and therefore, 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.
5. **Indemnification.**
6. 1. General Indemnity. Consultant shall indemnify, defend (with counsel satisfactory to the Judicial Council), and hold harmless Judicial Branch Entities and Judicial Branch Personnel against all Claims founded upon or that arise out of or in connection with: (i) Consultant’s provision of, or failure to provide, the Work (ii) any other breach by Consultant under this Agreement; or (iii) Third Party Claims relating to infringement or misappropriation of any Intellectual Property Right by Consultant or the Work, including software, services, systems, equipment, or other materials provided by Consultant or Subcontractors to Judicial Branch Entities (collectively, the “Covered Items”). Consultant 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. Consultant’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.
	2. Certain Remedies. If any Covered Item provided under this Agreement becomes, or in Consultant’s or the Judicial Council’s reasonable opinion is likely to become, the subject of any Claim arising from or alleging infringement, misappropriation or other violation of, or in the event of any adjudication that such Covered Item infringes, misappropriates or otherwise violates any Intellectual Property Right of a Third Party, Consultant at its own expense shall take the following actions in the listed order of preference: (a) secure for the Judicial Branch Entities the right to continue using the applicable Covered Item; or (b) if commercially reasonable efforts are unavailing, replace or modify the infringing Covered Item to make it noninfringing; provided, however, that such modification or replacement shall not degrade the operation or performance of the Covered Item.
7. **Insurance Requirements.**
8. 1. General Requirements
		1. By requiring the minimum insurance set forth in this Agreement, the Judicial Council shall not be deemed or construed to have assessed the risks that may be applicable to Consultant under this Agreement. Consultant shall assess its own risks and if it deems appropriate or prudent, maintain higher limits or broader coverage.
		2. The insurance obligations under this Agreement shall be: (1) all the insurance coverage and/or limits carried by or available to the Consultant; or (2) the minimum insurance coverage requirements and/or limits shown in this Agreement, whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits which are applicable to a given loss shall be available to the Judicial Council in compliance with the Insurance Requirements set forth in this Agreement. The Judicial Council may, in its sole discretion, accept self-insurance or risk-pool coverage as a substitute for any of the required insurance policies under this Agreement. No representation is made by the Judicial Council that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the Consultant under this Agreement.
		3. Consultant shall obtain and maintain the required insurance for the duration of this Agreement with an insurance company or companies acceptable to the Judicial Council, in its sole discretion, and that are rated “A-VII” or higher by A. M. Best’s key rating guide and are authorized to do business in the state of California.
		4. For all insurance policies required under this Agreement, no deductible shall exceed five (5) percent of the minimum limit of insurance required under this Agreement unless authorized in writing by the Judicial Council. Any Consultant deductible must be clearly stated on the appropriate certificate of insurance.
		5. Self-Insured retentions (SIR) must be declared to and approved in writing by the Judicial Council. The Judicial Council may require the Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Judicial Council. Any and all deductibles and SIRs shall be the sole responsibility of Consultant or subcontractor who procured such insurance and shall not apply to the Indemnified Parties. Judicial Council may deduct from any amounts otherwise due Consultant to fund the SIR. Policies shall NOT contain any SIR provisions that limit the satisfaction of the SIR to the named insured. The policy must also provide that defense costs, including the allocated loss adjustment expenses, will satisfy the SIR. Judicial Council reserves the right to obtain a copy of any policies and endorsements for verification.
		6. Consultant is responsible for and may not recover from the State of California, Judicial Council, or the Court any deductible or self-insured retention that is connected to the insurance required under this Agreement. If self-insured, Consultant warrants that it will maintain funds to cover losses required to be insured against by Consultant under the terms of this Agreement.
		7. Consultant, prior to commencement of the Work, shall provide Judicial Council with certificates of insurance and signed insurance policy endorsements, on forms acceptable to Judicial Council, as evidence that the required insurance is in full force and effect. The insurance required under this Agreement, and any excess liability or umbrella liability insurance, that Consultant maintains in compliance with the terms of this “General Requirements” subsection (with the exception of Professional Liability Insurance, if required) must be endorsed to include the State of California; Judicial Council of California; and their respective elected and appointed officials, judicial officers, officers, employees, and agents as additional insureds. No payments will be made to Consultant until all required current and complete certificates of insurance and signed insurance policy endorsements are properly endorsed and on file with the Judicial Council.
		8. The insurance required under this Agreement, including all required additional insured coverages, must be endorsed to be primary and non-contributory to any insurance or self-insurance maintained by the State of California, Judicial Council, or the Court. Consultant’s liabilities under this Agreement shall not be limited in any manner to the insurance coverage required.
		9. Failure to provide the documentation as required prior to the commencement of Work shall not constitute or be construed as a waiver of the obligation to provide such documentation.
		10. The Certificates of Insurance must be addressed and mailed to:

Judicial Council of California

Manager, Contracts, Branch Accounting and Procurement

Attn: Certificate of Insurance, Contract Number *[insert contract number here]*

455 Golden Gate Avenue, 6th Floor

San Francisco, CA 94102

* + 1. All insurance policies required under this Agreement must remain in force for the entire duration of this Agreement. If the insurance expires during the Term of this Agreement, Consultant shall immediately renew or replace the required insurance and provide a new current certificate of insurance and signed insurance policy endorsement(s), or Consultant will be in breach of this Agreement, and the Judicial Council may direct the Consultant to stop work or may take other remedial action. Consultant must provide renewal insurance certificates and signed policy endorsements to Judicial Council on or before the expiration date of the previous insurance certificates and signed policy endorsements. Any new insurance procured by Consultant must conform to the requirements of this Agreement.
		2. In the event Consultant fails to keep the specified insurance coverage in force at all times required under this Agreement, Judicial Council may, in addition to and without limiting any other remedies available to it, (i) order the Consultant to stop work, or (ii) terminate this Agreement upon the occurrence of such event, subject to the provisions of this Agreement.
		3. Consultant, and each insurer providing insurance required under this Agreement, expressly waives all rights of recovery and subrogation rights it may have against the State of California, Judicial Council, the Court, and their respective elected and appointed officials, judicial officers, officers, employees, and agents for direct physical loss or damage to the Work, and for any liability arising out of or in connection with the Work performed by Consultant under this Agreement or arising out of or in connection with Consultant’s breach of this Agreement. This provision does not apply to professional liability insurance policies.
		4. Consultant shall provide the Judicial Council with written notice within **TEN (10)** calendar days of becoming aware of a material change or cancellation of the insurance policies required under this Agreement. In the event of expiration or cancellation of any insurance policy, Consultant shall **immediately** notify the Judicial Council Project Manager.
		5. Judicial Council reserves the right to request certified copies of any of the insurance policies required under this Agreement, which must be provided by Consultant within **TEN (10)** business days following the request by Judicial Council.
		6. Consultant must require insurance from its Subcontractors in substantially the same form as required of the Consultant herein and with limits of liability that are sufficient to protect the interests of the Consultant, State of California, the Judicial Council, and the Superior Court of California in the County in which the Project is located.
	1. Insurance Requirements
		1. **Commercial General Liability**

Commercial General Liability Insurance shall be written on an occurrence form with limits of not less than $1,000,000.00 per occurrence for bodily injury and property damage and $ 2,000,000.00 annual aggregate. The policy shall include coverage for liabilities arising out of or in connection with premises, operations, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom a claim is made, or suit is brought. The products and completed liability shall extend for not less than three (3) years past the completion of the Work or the termination of this Agreement, whichever occurs first.

* + 1. **Commercial Automobile Liability**

Commercial Automobile Liability Insurance shall have limits of not less than $ 1,000,000.00 per accident. This insurance must cover liability arising out of or in connection with the operation, use, loading, or unloading of a motor vehicle assigned to or used in connection with the Work including, without limitation, owned, hired, and non-owned motor vehicles.

* + 1. **Workers’ Compensation & Employers’ Liability Insurance**

If Consultant has employees, it shall maintain workers’ compensation insurance as required by law. Employer’s liability limits shall be not less than $1,000,000 for each accident, $1,000,000 as the aggregate disease policy limit, and $1,000,000 as the disease limit for each employee. If Consultant does not have employees, it shall provide a letter, on company letterhead, to the Judicial Council certifying, under penalty of perjury, that it does not have employees. Upon the Judicial Council’s receipt of the letter, Consultant shall not be required to maintain workers’ compensation insurance.

* + 1. **Professional Liability Insurance**

Professional Liability Insurance shall include coverage for any negligent act, error, or omission committed or alleged to have been committed which arises out of rendering or failure to render the Work provided under the terms of this Agreement. The policy shall provide limits of not less than $ 2,000,000.00 per claim or per occurrence and $1,000,000.00 annual aggregate. If the policy is written on a “claims made” form, Consultant shall continue such coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than five (5) years from the date of completion of the Work which is the subject of this Agreement. The retroactive date or “prior acts inclusion date” of any such “claims made” policy must be no later than the date that Work commences pursuant to the Agreement.

* + 1. **Consultant’s Equipment Insurance**

Consultant shall maintain equipment insurance covering its business property, equipment, and tools used in the performance of the Work at the Project site that are not intended to become a permanent part of the Work. The Judicial Council shall not be responsible for loss or damage to or obtaining and/or maintaining in force insurance on temporary structures, construction equipment, tools, or personal effects, owned or rented to or in the care, custody, and control of a Consultant of any tier.

* + 1. **Commercial Crime Insurance**

This policy is required if Consultant 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 disappearance or destruction of money, securities, and property; forgery and alteration of documents; and fraudulent transfer of money, securities, and property. The minimum liability limit must be $**1,000,000.**

* + 1. **Umbrella Policies**

Consultant may satisfy basic coverage limits through any combination of primary, excess, or umbrella insurance.

1. **Term / Termination.**
2. 1. Term. This Agreement shall commence on the Effective Date and continue until terminated in accordance with the terms of this Agreement. The Judicial Council may, at its sole option, extend the Term for up to two (2) consecutive one-year periods, at the end of which this Agreement shall expire. In order to extend the Term, the Judicial Council must notify Consultant prior to the end of the initial term (or the then-current one-year extension period.
	2. Termination for Convenience. The Judicial Council may terminate, in whole or in part, this Agreement and/or any Statement of Work for convenience (without cause) upon thirty (30) days prior written notice. The Judicial Council’s notice obligations under the foregoing sentence shall not apply to any stop work orders issued by the Judicial Council under this Agreement or any Statement of Work. After receipt of such notice, and except as otherwise directed by the Judicial Council, Consultant shall immediately: (a) stop Work as specified in the notice; and (b) place no further subcontracts, except as necessary to complete the continued portion of this Agreement.
	3. Early Termination. The Judicial Council may terminate, in whole or in part, this Agreement or any Statement of Work immediately “for cause” if Consultant is in Default. The Judicial Council may also terminate this Agreement or limit Work (and proportionately, Consultant fees) upon written notice to Consultant without prejudice to any right or remedy of the Judicial Branch Entities if: (i) expected or actual funding to compensate the Consultant is withdrawn, reduced or limited; or (ii) the Judicial Council determines that Consultant’s performance under this Agreement has become infeasible due to changes in Applicable Laws.
	4. Rights and Remedies of the Judicial Council.
		1. All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy. Consultant shall notify the Judicial Council immediately if Consultant 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 Consultant is in Default, the Judicial Council may do any of the following: (i) withhold all or any portion of a payment otherwise due to Consultant, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Consultant; (ii) require Consultant 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.
		2. If the Judicial Council terminates this Agreement or any Statement of Work 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 Consultant 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 Branch Entities for such goods and services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Judicial Council or Judicial Branch Entities. Consultant shall continue the Work not terminated hereunder.
		3. In the event of any expiration or termination of this Agreement or the applicable Statement of Work, Consultant shall promptly provide the Judicial Council with all originals and copies of the Deliverables (including: (i) any partially-completed Deliverables and related work product or materials; and (ii) any Consultant Materials, Third Party Materials, and Developed Materials comprising such Deliverables or partially-completed Deliverables), Confidential Information, Judicial Council Data, Judicial Council Materials, and all portions thereof, in its possession, custody, or control. In the event of any termination of this Agreement or a Statement of Work, the Judicial Council shall not be liable to Consultant for compensation or damages incurred as a result of such termination; provided that if the Judicial Council’s termination is not based on a Default, Judicial Council shall pay any fees due under this Agreement for Deliverables completed and accepted as of the date of the Judicial Council’s termination notice.
	5. Termination Assistance. At the Judicial Council’s request and option, during the Termination Assistance Period, Consultant shall provide, at the same rates charged immediately before the start of the Termination Assistance Period, to the Judicial Council or to its designee (collectively, “Successor”) services reasonably necessary to enable the Judicial Council to obtain from another Consultant, or to provide for itself, services to substitute for or replace the Work, together with all other services to allow the Work to continue without interruption or adverse effect and to facilitate the orderly transfer of the Work to the Successor (collectively, the “Termination Assistance Services”). Termination Assistance Services will be provided to the Judicial Council by Consultant regardless of the reason for termination or expiration. At the Judicial Council’s option and election, the Judicial Council may extend the Termination Assistance Period for an additional six (6) months.
	6. Survival. Termination of this Agreement shall not affect the rights and/or obligations of the Parties which arose prior to any such termination (unless otherwise provided herein) and such rights and/or obligations shall survive any such expiration or termination. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including Sections 3 through 10 of these General Terms and Conditions.
	7. Tax Delinquency. Consultant must provide notice to the Judicial Council immediately if Consultant 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 8.3 if (i) Consultant fails to provide the notice required above, or (ii) Consultant is included on either list mentioned above.
3. **Special Provisions.**
	1. Union Activities Restrictions. *As required under Government Code sections 16645-16649, if the Contract Amount is $50,000 or more*, Consultant agrees that no Judicial Council funds received under this agreement will be used to assist, promote or deter union organizing. If Consultant incurs costs, or makes expenditures to assist, promote or deter union organizing, Consultant will maintain records sufficient to show that no Judicial Council funds were used for those expenditures and no reimbursement from the Judicial Council was sought for these costs. Consultant will provide those records to the Attorney General upon request.
	2. DVBE Commitment. *This section is applicable if Consultant received a disabled veteran business enterprise (“DVBE”) incentive in connection with this Agreement*. Consultant’s failure to meet the DVBE commitment set forth in its proposal constitutes a breach of the Agreement. If Consultant used DVBE subcontractor(s) in connection with this Agreement: (i) Consultant must use the DVBE subcontractors identified in its proposal, unless the Judicial Council approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Consultant must complete and return to the Judicial Council a post-contract certification form promptly upon completion of the awarded contract, and by no later than the date of submission of Consultant’s final invoice to the Judicial Council. (The post-contract certification form is located at: https://www.courts.ca.gov/documents/JBCM-Post-Contract-Certification-Form.docx) If the Consultant fails to do so, the Judicial Council will withhold $10,000 from the final payment or withhold the full payment if it is less than $10,000, until the Consultant submits a complete and accurate post-contract certification form. The Judicial Council shall allow the Consultant to cure the deficiency after written notice of the Consultant’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 Consultant refuses to comply with these certification requirements, the Judicial Council 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 Consultant received under the Agreement, (2) the total amount of money and the percentage of work that Consultant committed to provide to each DVBE subcontractor; (3) the name and address of each DVBE subcontractor to which Consultant subcontracted work in connection with the Agreement; (4) the amount of money each DVBE subcontractor actually received from Consultant in connection with the Agreement, and the corresponding percentage this payment comprises of the total amount of money Consultant received under the Agreement; and (5) that all payments under the Agreement have been made to the applicable DVBE subcontractors. Upon request by the Judicial Council, Consultant 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. Consultant will comply with all rules, regulations, ordinances and statutes that govern the DVBE program, including, without limitation, Military and Veterans Code section 999.5.
	3. Competitively Bid Contracts; Antitrust Claims. *If this Agreement resulted from a competitive bid, Consultant shall comply with the requirements of the Government Code sections set out below*.
		1. Consultant 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 Consultant for sale to the Judicial Council pursuant to the proposal. Such assignment shall be made and become effective at the time the Judicial Council tenders final payment to the Consultant. (GC 4552)
		2. If the Judicial Council receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the Consultant 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 the Consultant but were not paid by the Judicial Council as part of the proposal price, less the expenses incurred in obtaining that portion of the recovery. (GC 4553)
		3. Upon demand in writing by the Consultant, the Judicial Council shall, within one year from such demand, reassign the cause of action assigned under this part if the Consultant has been or may have been injured by the violation of law for which the cause of action arose and (1) the Judicial Council has not been injured thereby, or (2) the Judicial Council declines to file a court action for the cause of action. (GC 4554)
	4. Iran Contracting Act. *If the Contract Amount is $1,000,000 or more*, Consultant 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 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).
	5. Loss Leader Prohibition. *If this Agreement involves the purchase of goods, this section is applicable.* Consultant shall not sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.
	6. Recycling. *If this Agreement provides for the purchase or use of goods specified in PCC 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 includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable. Consultant shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible. Upon request, Consultant shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.
	7. Sweatshop Labor. *If this Agreement 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*. Consultant certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the Judicial Council under this Agreement 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. Consultant adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and PCC 6108. Consultant agrees to cooperate fully in providing reasonable access to Consultant’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 Consultant’s compliance with the requirements under this section and shall provide the same rights of access to the Judicial Council.
	8. Federally Funded Agreements. *If this Agreement is funded in whole or in part by the federal government*, then:
		1. It is mutually understood between the Parties that this Agreement may have been written for the mutual benefit of both Parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
		2. This Agreement is valid and enforceable only if sufficient funds are made available to the Judicial Council by the United States Government for the fiscal year in which they are due and consistent with any stated programmatic purpose. In addition, this Agreement 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 in any manner.
		3. The Parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement is intended to be paid, this Agreement shall be deemed amended without any further action of the Parties to reflect any reduction in funds.
		4. The Parties may amend the Agreement to reflect any reduction in funds.
	9. Equipment Purchases. *If this Agreement includes the purchase of equipment, this section is applicable*. The Judicial Council may, at its option, repair any damaged or replace any lost or stolen items and deduct the cost thereof from Consultant’s invoice to the Judicial Council, or require Consultant to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the Judicial Council at no expense to the Judicial Council. If a theft occurs, Consultant must file a police report immediately.
	10. Small Business Preference Contract Clause. *This section is applicable if Consultant received a small business preference in connection with this Agreement*. Consultant’s failure to meet the small business commitment set forth in its proposal constitutes a breach of this Agreement. Consultant must within sixty (60) days. Consultant must deliver to the Judicial Council with its final invoice a report detailing the actual percentage of small/micro business participation that was achieved under this Agreement; the Judicial Council will not pay Consultant’s final invoice until this report is received.] of receiving final payment under this Agreement report to the Judicial Council the actual percentage of small/micro business participation that was achieved. If Consultant is a nonprofit veteran service agency (“NVSA”), Consultant 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.
4. **General.**
	1. Audits. Consultant shall allow the Judicial Council and its designees to review and audit Consultant’s documents and records relating to this Agreement, and Consultant shall retain such documents and records for a period of four years following final payment under this Agreement. Consultant shall correct errors and deficiencies by the 20th day of the month following the review or audit. Consultant shall provide to the Judicial Branch Entities and Judicial Council Consultants, on Consultant’s premises (or, if the audit is being performed of an Subcontractor, Subcontractor’s premises if necessary), space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office‑related equipment and duplicating services as the Judicial Branch Entities or such Judicial Council Consultants may reasonably require to perform the audits described in this Section. Without limiting the foregoing, this Agreement is subject to examinations and audit by the State Auditor for a period three years after final payment.
	2. References. In this Agreement and the Appendixes: (a) the Appendixes shall be incorporated into and deemed part of this Agreement and all references to this Agreement shall include the Appendixes; (b) the Article and Section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement; (c) references to and mentions of the word “including” or the phrase “e.g.” means “including, without limitation” and (d) unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.
	3. Assignment. This Agreement will not be assignable by Consultant in whole or in part (whether by operation of law or otherwise) without the prior written consent of the Judicial Council. Any assignment 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.
	4. Notices. Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: (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 below:

| **If to Consultant:** | **If to the Judicial Council:** |
| --- | --- |
| [@Consultant name] [@name][@title][@address] | Judicial Council of California Branch Accounting and ProcurementContracts Manager455 Golden Gate Avenue, 6th FloorSan Francisco, CA 94102 |

Either Party may change its address for notification purposes by giving the other Party written 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) Business Days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.

* 1. Independent Consultants. Consultant and Subcontractors in the performance of this Agreement shall act in an independent capacity and not as officers or employees or agents of the Judicial Branch Entities or Judicial Council Consultants. Neither the making of this Agreement nor the performance of its provisions shall be construed to constitute either of the Parties hereto as an agent, employee, partner, joint venturer, or legal representative of the other, and the relationship of the Parties under this Agreement is that of independent consultants. Neither Party shall have any right, power or authority, express or implied, to bind the other.
	2. Covenant of Further Assurances. Consultant covenants and agrees that subsequent to the execution and delivery of this Agreement and without any additional consideration, Consultant shall execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Agreement.
	3. Publicity. News releases and other public disclosures pertaining to this Agreement will not be made by Consultant without prior written approval of the Judicial Council.
	4. Third-Party Beneficiaries. Except for the Judicial Branch Entities, each Party intends that this Agreement shall not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Parties.
	5. Governing Law; Jurisdiction; and Venue. This Agreement and performance under it will be exclusively governed by the laws of the State of California without regard to its conflict of law provisions. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. Consultant hereby irrevocably submits to the exclusive jurisdiction and venue of the state and federal district courts located in California in any legal action concerning or relating to this Agreement.
	6. Follow-On Contracting. Subject to certain exceptions, no person, firm, or subsidiary thereof who has been awarded a Consulting Services contract may submit a proposal for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the Consulting Services contract.
	7. 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.
	8. Order of Precedence. Any conflict among or between the documents making up this Agreement will be resolved in accordance with the following order of precedence (in descending order of precedence): (i) Appendix C - The General Terms and Conditions and Appendix D – Defined Terms; (ii) the Coversheet; (iii) Appendix B – Pricing and Payment; (iv) Appendix A – Statement of Work; (v) Appendix E – Judicial Council’s Travel and Expense Reimbursement Guidelines; (vi) Appendix F – Services Request Form; (vii) Appendix G – Security Systems Evaluation Report (Sample Deliverable); Appendix H – Acceptance and Sign-Off Form; Appendix I - Internal Background Check Policy; and (viii) any exhibits to the Agreement***.***
	9. Miscellaneous. 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. No amendment to this Agreement will be effective unless in writing. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. If any part of this Agreement is held unenforceable, all other parts remain enforceable. A Party’s waiver of enforcement of any of this Agreement’s terms or conditions is effective only if in writing. 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. Time is of the essence regarding Consultant’s performance of the Work. Unless otherwise approved by the Judicial Council in writing in advance, Work may not be performed outside of the United States. The Consultant shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but taken together, all of which shall constitute one and the same Agreement.

**END OF APPENDIX**

### APPENDIX D – DEFINED TERMS[[1]](#footnote-2)

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

“Acceptance” is defined in Appendix C, Section 2.2.

“Agreement” means this Standard Agreement as defined on the Coversheet, including the following: Appendix A **-** Statement of Work, Appendix B **-** Pricing and Payment, Appendix C **-** General Provisions, Appendix D **-** Defined Terms, Appendix E – Judicial Council’s Travel and Expense Reimbursement Guidelines, Appendix F – Services Request Form, Appendix G – Security Systems Evaluation Report (Sample Deliverable), Appendix H – Acceptance and Sign-Off Form, and Appendix I – Internal Background Check Policy**.**

“Applicable Law” means any applicable laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders.

“Business Day” means any day other than Saturday, Sunday or a scheduled Judicial Council holiday.

“Claims” means claims, suits, actions, arbitrations, demands, proceedings, fines, penalties, losses, damages, liabilities, judgments, settlements, costs, and expenses (including reasonable attorneys’ fees and costs), including those based on the injury to or death of any person or damage to property.

“Confidential Information” means: (i) any information related to the business or operations of Judicial Branch Entities, including court records, and information relating to court proceedings, security practices, and business methodologies, (ii) information relating to Judicial Branch Entities’ personnel, users, consultants, or agents, including information that the Judicial Council’s personnel, agents, and users upload, create, access or modify pursuant to this Agreement; (iii) all financial, statistical, technical and other data and information of the Judicial Branch Entities (and proprietary information of third parties provided to Consultant), including trade secrets and other intellectual property, or proprietary information; (iv) data and information that is designated confidential or proprietary, or that Consultant otherwise knows, or would reasonably be expected to know is confidential; and (v) Personal Information, Deliverables, Developed Materials, and Judicial Council Materials. Confidential Information does not include information (that Consultant demonstrates to the Judicial Council’s satisfaction, by written evidence): (a) that Consultant lawfully knew prior to the Judicial Council’s first disclosure to Consultant, (b) that a Third Party rightfully disclosed to Consultant free of any confidentiality duties or obligations, or (c) that is, or through no fault of Consultant 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. The end product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

“Contract Amount” has the meaning set forth on the Coversheet.

“Consultant Key Personnel” means the Consultant Project Manager and those Project Staff members identified as “Key Personnel” as set forth in a Statement of Work.

“Consultant Project Manager” means the employee identified in a Statement of Work as the consultant project manager.

“Consultant Work Location(s)” means any location (except for a JBCC Work Location) from which Consultant provides Work.

“Consultant Materials” means Materials owned or developed prior to the provision of the Work or developed by Consultant independently from the provision of the Work and without use of the Judicial Council Materials or Confidential Information.

“Coversheet” refers to the first sheet of this Agreement.

“Data Safeguards” means the highest industry-standard safeguards (including administrative, physical, technical, and procedural safeguards) against the destruction, loss, misuse, unauthorized disclosure, or alteration of the Judicial Council Data or Confidential Information, and such other related safeguards that are set forth in Applicable Laws, a Statement of Work, or pursuant to Judicial Council policies or procedures.

“Default” means if any of the following occurs: (i) Consultant breaches any of Consultant’s obligations under this Agreement, and this breach is not cured within ten (10) days following notice of breach (or in the opinion of the Judicial Council, is not capable of being cured within this cure period); (ii) Consultant or Consultant’s creditors file a petition as to Consultant’s bankruptcy or insolvency, or Consultant 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; (iii) Consultant makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading; or (iv) any act, condition, or item required to be fulfilled or performed by Consultant to (x) enable Consultant lawfully to enter into or perform its obligations under this Agreement, (y) ensure that these obligations are legal, valid, and binding, or (z) make this Agreement admissible when required is not fulfilled or performed.

“Defect” means any failure of any portion of the Work to conform to and perform in accordance with the requirements of this Agreement and all applicable Specifications and Documentation.

“Deliverables” means any Developed Materials, Consultant Materials, Third Party Materials, or any combination thereof (including those identified as “Deliverables” in a Statement of Work, together with all Upgrades thereto), as well as any other items, goods, or equipment provided pursuant to the Work (except the Licensed Software).

“Developed Materials” means Materials created, made, or developed by Consultant or Subcontractors, either solely or jointly with the Judicial Branch Entities or Judicial Council Consultants, in the course of providing the Work under this Agreement, and all Intellectual Property Rights therein and thereto, including, without limitation, (i) all work-in-process, data or information, (ii) all modifications, enhancements and derivative works made to Consultant materials, and (iii) all Deliverables; provided, however, that Developed Materials do not include Consultant materials.

“Documentation” means all technical architecture documents, technical manuals, user manuals, flow diagrams, operations guides, file descriptions, training materials and other documentation related to the Work, together with all Upgrades thereto.

“Effective Date” has the meaning set forth on the Coversheet.

“Hosted Services” means any cloud-based services, hosted service (including hosted services relating to the Licensed Software), software as a service, or other Internet or network-based services provided under the Agreement.

“Intellectual Property Rights” means all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including copyrights, moral rights, and mask work rights; (b) trademark and trade name rights and similar rights; (c) trade secret rights; (d) patent and industrial property rights; (e) other proprietary rights in intellectual property of every kind and nature; and (f) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses (a) through (e) of this sentence.

“IT Infrastructure” means software and all computers and related equipment, including, as applicable, central processing units and other processors, controllers, modems, servers, communications and telecommunications equipment and other hardware and peripherals.

“Judicial Council” has the meaning defined in the coversheet of this Agreement.

“Judicial Council Consultants” or “Judicial Council Consultants” means the agents, subcontractors, and other representatives of the Judicial Branch Entities, other than Consultant and Subcontractors.

“Judicial Council Data” means the Confidential Information, Personal Information, and any information, data, or content that is provided to or accessed by Consultant.

“Judicial Council Project Manager” or “Judicial Council Project Manager” means the individual appointed by the Judicial Council to communicate directly with the Consultant Project Manager.

“Judicial Council Work Locations” means any Judicial Council facility at which Consultant provides Work.

“Judicial Council Materials” means Materials owned, licensed, made, conceived, or reduced to practice by a Judicial Branch Entity or a Judicial Council Consultant, any Materials developed or acquired separate from this Agreement, and all modifications, enhancements, derivative works, and Intellectual Property Rights in any of the foregoing.

“Malicious Code” means any (i) program routine, device or other feature or hidden file, including any time bomb, virus, software lock, trojan horse, drop-dead device, worm, malicious logic or trap door that may delete, disable, deactivate, interfere with or otherwise harm any of the Judicial Branch Entities’ hardware, software, data or other programs, and (ii) hardware-limiting, software-limiting or services-limiting function (including any key, node lock, time-out or other similar functions), whether implemented by electronic or other means.

“Maintenance and Support Services” means the services provided by Consultant under Appendix F.

“Materials” means all inventions (whether patentable or not), discoveries, literary works, and other works of authorship (including software), designations, designs, know-how, technology, tools, ideas, and information.

“Non-Production Work” means nonproductive hours that are not directly associated with the performance of Services, which may include downtime, travel time, break or waiting time or other activities outside the scope of Work.

“Parties” means the Judicial Council and Consultant, collectively.

“Party” means either the Judicial Council or Consultant, as the case may be.

“Personal Information” means any personally identifiable information (e.g., person’s name, address, credit card number, email address) that is provided, generated, collected, accessed, stored, or obtained pursuant to this Agreement, including transactional and other data pertaining to individuals.

“Project” means the totality of work encompassed or contemplated under an individual authorized work order.

“Project Staff” means the personnel of Consultant and Subcontractors who provide the Work.

“Source Code” means human-readable program statements written by a programmer or developer in a high-level or assembly language that are not directly readable by a computer and that need to be compiled into object code before they can be executed by a computer.

“Specifications” means with respect to each Deliverable, Licensed Software, service, goods, or other portion of the Work, the detailed provisions and documents setting out the specifications, functionality, and requirements.

“Statement of Work” means one or more statements of Work to be provided pursuant to and governed under the terms of this Agreement, substantially in the form attached as Appendix A, as agreed to by the Parties.

“Subcontractor” means the agents, subcontractors, and other representatives of Consultant providing Work hereunder who are not employees of Consultant.

“Term” means the term of this Agreement.

“Termination Assistance Period” means the period commencing upon the expiration or termination of this Agreement and each Statement of Work and expiring six (6) months thereafter, as such period may be extended by the Parties.

“Third Party” means any person or entity other than the Judicial Council or Consultant.

“Third Party Materials” means Materials that are licensed or obtained by Consultant from a Third Party.

“Upgrades” means all new versions and releases of, and bug fixes, error corrections, Workarounds, updates, upgrades, modifications, patches for, the Licensed Software, Deliverables, Documentation, or any other portion of the Work.

“Work” means each of the following, individually and collectively: the services (including the Maintenance and Support Services, and the Hosted Services), Deliverables, Licensed Software, goods (including equipment) and materials provided under this Agreement, including those services and Deliverables set forth in a Statement of Work, and any incidental services, items, or responsibilities that are reasonable and customary in the industry and not specifically described in this Agreement (or the Statement of Work), but which are required for the performance of Consultant’s obligations and delivery of services.

“Workaround” means a temporary modification to or change in operating procedures for the Work that: (i) circumvents or effectively mitigates the adverse effects of a Defect so that the Work complies with and performs in accordance with the applicable Specifications and Documentation; (ii) does not require substantial reconfiguration of the Work or any reloading of data; and (iii) does not otherwise impose any requirements that would impede an end user’s efficient use of the Work.

“Work Location(s)” means any Judicial Council Work Location or Consultant Work location.

**END OF APPENDIX**

APPENDIX E – JUDICIAL COUNCIL’S TRAVEL AND EXPENSE REIMBURSEMENT GUIDELINES

1. **Consultant Travel and Living Expenses**.

At the Judicial Council’s sole discretion, and only if expressly specified by the Judicial Council and so agreed to by Consultant prior to performance of the Work, the Judicial Council shall reimburse Consultant for actual and reasonable transportation, meals, and lodging expenses actually incurred by Consultant’s and its Subcontractors’ employees when actually incurred in the course of their performance of the Work, but subject to the following:

* 1. If transportation is authorized, the Judicial Council will reimburse Consultant 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.
		1. All air transportation is limited to coach fares and must be booked a minimum of fourteen (14) Business Days prior to travel, unless the Judicial Council Project Manager agrees in writing to a shorter period.
		2. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of $3.50 or more.
		3. If private vehicle ground transportation expense is authorized, the Judicial Council will reimburse Consultant at the then published Federal mileage cents per mile, pursuant to <https://www.irs.gov/tax-professionals/standard-mileage-rates>.
	2. If overnight lodging is authorized, the Judicial Council will reimburse Consultant 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.
		1. In-State - The Judicial Council will reimburse Consultant 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.
		2. Out-of-State – The Judicial Council will reimburse Consultant only for hotel room rental at the actual cost, plus occupancy tax and/or energy surcharge.
	3. Meals and Incidentals – The Judicial Council will reimburse Consultant 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.
	4. 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.
	5. Reimbursement for Travel and Living Expenses is subject to the provisions of and must be charged in accordance with the Judicial Council’s Guidelines for Travel and Living Expenses.
	6. The Judicial Council is not obligated to pay for, and Consultant shall not invoice for any hours of Non-Production Work expended by the Consultant or its Subcontractors’ employees that are spent traveling to or from the location where the Service(s) are performed.
	7. Travel and Living Expenses shall be billed to the Judicial Council at Consultant’s actual cost, including any discounts or rebates accorded to Consultant or its Subcontractors, and are not subject to any markup, fee, or other charge.
	8. Notwithstanding the preceding, Consultant shall be required to ensure its workers are paid, and Judicial Council shall reimburse Consultant 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.
1. **Other Business Expenses**.

At the Judicial Council’s sole discretion, and only if expressly specified by the Judicial Council and so agreed to by Consultant prior to performance of the Work, the Judicial Council shall reimburse Consultant for other business expenses actually incurred by Consultant’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 EXHIBIT**

**APPENDIX F: SERVICES REQUEST FORM**

The Judicial Council of California invites your proposal for conducting Services. Please complete and sign Part 2, the Consultant’s proposal providing detailed Services or Deliverables and rates in accordance with the Agreement.

Your proposal will be reviewed on the cost and scope of the work proposed. Submission of proposals does not guarantee that Consultant will be awarded the project.

**PART 1: GENERAL INFORMATION**

|  |
| --- |
| **Request for Services** |
| Date: |  |
| Please submit your proposal by e-mail no later than: |  |
| Consultant’s Proposals should be sent to Judicial Council Contact: |  |
| Courthouse Facility: |  |
| Facility ID: |  |
| Facility Address: |  |
| Services Requested: |  |
| Reason For Request: |  |
| Date Needed: |  |

**PART 2: CONSULTANT’S PROPOSAL**

|  |
| --- |
| Consultant to provide a brief summary of Services/Work to be performed with the proposed job titles, allowable expenses (if any), and rates in accordance with the Agreement, quantities, and total proposal amount for services needed. |
| **Item** | **Task Description** | **Rate** | **Quantity** | **Amount** |
| 1 |  |  |  |  |
| 2 |  |  |  |  |
| 3 |  |  |  |  |
| 4 |  |  |  |  |
| 5 |  |  |  |  |
| **Total Proposal Amount:** | **$** |

|  |
| --- |
| **Consultant Information** |
| Company Name: |  |
| Consultant Project Manager: |  |
| E-mail / Phone: |  |
| Alternate Contact: |  |
| E-mail / Phone: |  |

|  |
| --- |
| **Consultant Acknowledgement** By signing below, I acknowledge that I have reviewed this proposal in its entirety, and I understand the requirements, terms and conditions (including the terms in the underlying Agreement); that this proposal constitutes an irrevocable offer; and that I am authorized by the Consultant to execute and submit this proposal on Consultant’s behalf; and that I am authorized to bind the Consultant to the terms of this proposal. Judicial Council reserves the sole right to select any consultant that has submitted a proposal for this project.  |
| BY: *(Signature of Authorized Representative)* |  |
| PRINTED NAME: |  |
| TITLE:  |  |
| DATE: |  |

**END OF APPENDIX**

**APPENDIX G: SECURITY SYSTEMS EVALUATION REPORT**

**(EVALUATION REPORT SAMPLE DELIVERABLE)**

Consultant to complete the following Evaluation Report:

*(Example of desired information in Evaluation Report:)*

|  |
| --- |
| **Security Systems Evaluation: VIDEO** |
| Date: |  |
| County: |  |
| Courthouse Facility: |  |
| Facility ID: |  |
| Facility Address: |  |

**HEAD END**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Check all that apply. | Make | Model | Age | Est. Remaining Life |
| □ DVR |  |  |  |  |
| □ NVR |  |  |  |  |
| □ VMS |  |  |  |  |
| □ Matrix |  |  |  |  |
| □ Multiplexer(s) |  |  |  |  |
| □ PC |  |  |  |  |
| □ Switches  |  |  |  |  |
| □ Encoders, etc. |  |  |  |  |
| □ Other components |  |  |  |  |

**VIEWING:**

|  |  |
| --- | --- |
| Monitors:  |  |
| Client Workstations #: |  |
| Other Viewing stations #: |  |
| Viewing Controller type(s): |  |
|  |  |

**CAMERAS:**

|  |  |
| --- | --- |
| Total #: |  |
| Analog #: |  |
| IP #: |  |
| PTZ #: |  |
| Multi-View (360, etc.) #: |  |
| Mixture IP/Analog: |  |
| Exterior #: |  |
| Accessibility requirements (ladder, lift, etc.): |  |

**CABLING:**

|  |  |
| --- | --- |
| COAX: |  |
| Twisted Pair: |  |
| Cat 5, 6, etc. (specify): |  |
| Patch Panels/cables: |  |

|  |
| --- |
| Video integration with other systems: |
| Access Control | Duress | Intercom | Detention PLC | Other |
| □ Yes | □ Yes | □ Yes | □ Yes | □ Yes |
| □ No | □ No | □ No | □ No | □ No |

**BUILDING ISSUES:**

|  |  |
| --- | --- |
| Asbestos: |  |
| Other (specify): |  |

|  |
| --- |
| JUDICIAL COUNCIL INSTALLED SYSTEM (this section completed by JC staff): |
| Installation Date | Latest Update | Service History/Repair Costs | Other |
| □ Yes | □ Yes | □ Yes |  |
| □ No | □ No | □ No |  |

|  |
| --- |
| EVALUATION NARRATIVE |

***System Description (EXAMPLE)***

* 1. On January 10, 2018, a security video system evaluation was conducted at the George McDonald Courthouse in Alameda County.
	2. The current system consisting of 42 analog cameras includes 37 interior fixed Pelco dome cameras, 2 exterior Pelco PTZ cameras, and 3 exterior Pelco fixed cameras.
	3. The head end equipment is managed by a Pelco Digital Sentry video recorder (DSSRV). The DSSRV was installed in 2010. Cameras vary in age from 5-12 years or more. There is a single client workstation with 2 monitors. A multiplexer is in place as well as a matrix bay. This equipment is over 10 years old.
	4. The analog cameras are at the end of serviceable life, as is the multiplexer and matrix, although the equipment is functioning at this time.
	5. The video system is integrated with the wireless duress system and the DSX access control system, resulting in camera call up when programmed events occur.

***Findings (EXAMPLE)***

1. Per available service records and interviews with court staff and system operators, this system has been experiencing increasing service issues and failures. Some cameras have been replaced, as well as RAID drives, monitors, and other equipment, as should be expected for a system of this age.
2. Most components are significantly outdated. Some are obsolete/no longer supported or manufactured. All have reached or exceeded the life expectancy for this type of equipment.
3. Failures can be expected to increase, and catastrophic failure will occur upon sudden failure of the DVR, matrix switch(s), or multiplexer.

***Recommendations (EXAMPLE)***

1. With the availability of sufficient funding, a complete system replacement with new components, cabling, work/viewing stations, etc., is recommended.
2. Absent sufficient funding for complete system replacement, a systematic refresh of major components is recommended. Additional longevity may be achieved by applying the following measures.
	1. Install lacer strips to hold BNC connectors in place: [list product example here].
	2. Use BNC tool for maintenance so cameras on other connections are not affected.
	3. Lace and support cabling.
	4. Label cables.
	5. Create loading schedule.
	6. Existing matrix bay is at end-of life and may fail without warning. Current matrix bay could be replaced by a product similar to: [American Dynamics Mega Power 3200].
	7. Existing multiplexer (and its technology) is obsolete, and replacements are very difficult to locate. Replace with client workstation with sufficient capabilities to handle multiple streams and processing alarms from access control, and an NVR or VMS able to support multiple monitors. Use a product similar to: [x-view client workstation] or [other example link here].
	8. To improve video quality and resolution, replace existing analog cameras as they fail with high resolution IP cameras.
	9. To avoid the costs associated with re-cabling, install switches to allow transmission of IP video across existing COAX or twisted pair wiring, using a product similar to: [ethernet poe over coax switch].

***Costs (EXAMPLE)***

Rough order of magnitude based on current pricing of similar new equipment as described, using current industry geographical labor estimates.

1. Recommendation # 1—Complete System Replacement
2. [Describe major components.]
3. [Describe material.]
4. [Describe labor.]
5. Alternative Recommendation # 2—Systematic refresh/maintenance Recommendations for refreshing existing equipment, in order of priority:
6. Upgrade workstations with pre-installed VMS software. $
7. Lace cabling and add wire management to improve and maintain reliable signal transmission. $
8. Install and pre-program I/O boards to accommodate camera call up from access control, duress, and intercom systems. $
9. Add switch(s) to accommodate IP signal transmission over existing cabling. $
10. Upgrade monitors to support high definition images, allow camera call ups, etc.
11. Replace existing matrix bay. (Replacement will allow the continued use of currently installed technology only). $
12. Replace analog cameras as they fail with IP cameras. $
13. Alternative Recommendation #3—Major refresh
14. Replace major head end equipment, utilize existing cabling, upgrade workstations, and replace cameras with IP as failures occur.

**END OF APPENDIX**

**APPENDIX H – ACCEPTANCE AND SIGN-OFF FORM**

**Location Information:**

Court Name:

Site Address:

Brief Description of work performed:

Date of Sign Off:

Work is complete.

❒ Yes ❒ No. If no, please note reasons:

Evaluation Report Received.

❒ Yes ❒ No. If no, please explain:

The Consultant has provided clear and timely communication in the process of initiating and completing this work.

❒ Yes ❒ No. If no, please explain:

**Evaluation Costs – provided by Consultant:**

|  |  |  |  |
| --- | --- | --- | --- |
| Task Description | # Hours | Hourly Rate | Total |
| Conduct Evaluation |  |  |  |
| Report Preparation |  |  |  |
| Total Costs: |  |

**Indicate if travel costs will be billed – completed by Consultant:**

❒ Yes ❒ No.

Please provide your level of satisfaction:

❒ Poor ❒ Fair ❒ Good ❒ Very Good ❒ Excellent

Comments:

Acceptance status:

❒ Unacceptable, as noted above.

❒ Acceptance is granted.

Name:

Title: Date:

**END OF APPENDIX**

**APPENDIX I – INTERNAL BACKGROUND CHECK POLICY**



**Internal Background Check Policy**

Facilities Services’ Contractor Clearance Program

|  |  |
| --- | --- |
| Title: | Background Checks for Contractors Working on the Judicial Council’s Behalf in Restricted Areas |
| Contact: | Facilities Services office’s Emergency Planning and Security Coordination Unit (EPSCU) |
| Policy Statement: | Judicial Council staff must adhere to this policy and related procedures to comply with the Federal Bureau of Investigation (FBI) security policy for personnel who have access to criminal justice information and the California Department of Justice (CA DOJ) regulations for the California Law Enforcement Telecommunications System (CLETS). In addition, access to other restricted areas as defined in this policy require adherence to this policy. |
| Contents: | Who must comply with this policy? 2What is the policy? 2Definition of Contractor 2Definition of Restricted Area 2Definition of Emergency Situation 3What is the purpose of this policy? 3What is the application process? 4What are the evaluation criteria? 5What is the evaluation process? 5Applicants Suitable for Unescorted Access to Restricted Areas 6Applicants Not Suitable for Unescorted Access to Restricted Areas 6Subsequent Arrests 6Requests for Exceptions 7What is the badging process? 7Badge Issuance 7Badge Replacement 7Badge Return 8Questions and Complaints 8Additional Resources 8References 8 |

Who must comply with this policy?

This policy applies to:

* Judicial Council (council) divisions, offices, and/or units that contract for non-council employees to work on the council’s behalf;
* Council staff who work with those individuals (for example, the project managers); and
* Council staff who work on any contracts or agreements that provide for non-council employees to perform work on the council’s behalf.

What is the policy?

Council staff must do all of the following:

1. Ensure that each “Contractor” is fingerprinted, evaluated, and badged *before* he or she is allowed unescorted access to a “Restricted Area.” A person who has not met these requirements may onlyenter a Restricted Area during an “Emergency Situation” and:

a. must be escorted at ALL times by someone who has met these requirements; or

b. must be found suitable for unescorted access to Restricted Areas by the court, in compliance with FBI *Criminal Justice Information Services Security Policy* and CA DOJ regulations for CLETS found in *CLETS Policies, Practices and Procedures*.

1. Adhere to the EPSCU procedure for background check services, which is referenced at the end of this policy under Additional Resources.
2. Ensure that contracts, agreements, and related documents do not contradict or counteract this policy or the related EPSCU procedure.

**Definition of Contractor**

For the purposes of this policy and related EPSCU services, any person who either contracts with the council or is employed through a third party who contracts with the council *who provides services* under that contract at a court or the California Court Technology Center (CCTC).

This excludes contractors and agencies who do not receive payment for services from the council. It also excludes employees of entities that are able to do fingerprint-based background checks that are submitted to the CA DOJ. Those entities are responsible for performing their own background checks of their employees. EPSCU only provides background checks to employees of private contractors who cannot do fingerprint-based background checks that are submitted to the CA DOJ (as commercially-available searches will not suffice).

**Definition of Restricted Area**

For the purposes of this policy, any area of either the CCTC or a court facility which:

1. contains a means to connect to FBI and CA DOJ criminal databases via CLETS; *or*
2. contains any records or information (transported, processed, or stored in physical or electronic format) that were obtained via CLETS.
3. are areas within the Facility that are not generally accessible to the public, including (i) judges’ chambers, all non-public restrooms, elevators, break rooms, and corridors, and other non-public spaces that are dedicated for use only by judges or Court staff and employees, and (ii) public areas of a Facility during non-business hours that are subject to security screening during normal business hours.

The definition of Restricted Area also applies to areas where CLETS information can be discussed, or electronic access to network and computing components where CLETS data is transported or stored in a physical or electronic format.

**Definition of Emergency Situation**

For the purposes of this policy, any condition arising from a sudden or unexpected occurrence in which prompt services are needed *to avoid or minimize* the impact on the CCTC, court facility, or the council staff’s ability to do the following:

* Ensure the safety and security of people occupying and visiting the facility;
* Conduct business in a timely manner in a safe and functional environment;
* Preserve the facility; and
* Protect files, records, and documents located in the facility.

Visitors to the CCTC or the non-public areas of a court facility are not required to undergo a background and fingerprint check. They must, however, be escorted at ALL times.

What is the purpose of this policy?

The council retains contractors to do work on its behalf or on behalf of courts, and these contractors are often located in the courts. Many if not all courts subscribe to CLETS service from the CA DOJ and have CLETS terminals, records, and information in their facilities, as does the CCTC.[[2]](#footnote-3)

There are strict regulations regarding access to CLETS. Government Code sections 15150–15167 establish the CA DOJ’s responsibility for maintenance of the system. The CA DOJ publishes a *CLETS Policies, Practices, and Procedures* document that specifies, among other things, the fingerprint and background check requirements for access to CLETS-provided information. Entities that subscribe to CLETS service from the CA DOJ are responsible for their compliance. Also, FBI security policy addresses personnel who have access to criminal justice information. Screening requirements are outlined in the FBI’s *Criminal Justice Information Services Security Policy*.

As a service to the courts and as a precaution, council’s staff have implemented a policy of conducting CLETS-level background checks for any of its contractors who would be working in Restricted Areas.[[3]](#footnote-4) The council’s Executive Office delegated to EPSCU oversight of background checks for non-council employees working under contract with the council in Restricted Areas. EPSCU worked with the CA DOJ and several council offices to define Restricted Areas, establish a procedure for providing related services, and identify the evaluation criteria that are listed in this policy.

What is the application process?

Council staff are responsible for requesting EPSCU’s services when needed. As part of the initial set‑up process, they will be required to provide EPSCU the following:

* A project code for chargeback of CA DOJ billing costs;
* A designated council contact or Contractor contact; and
* A designated council authorizer (ideally a manager or supervisor).

EPSCU and the council’s Human Resources (HR) office share a single Originating Agency Identifier (ORI) number. HR receives the CA DOJ invoices and uses the project code that council staff provide to do chargebacks for the cost of the Contractor background checks.

EPSCU will send the EPSCU program procedure to the designated council contact and Contractor contact, as applicable. The council contact and Contractor contact are responsible for explaining the restrictions to the “Applicants.” They are also responsible for providing EPSCU with the following:

* A background check authorization signed by the Applicant;
* A completed badge form, authorized by the council authorizer; and
* A digital photograph of the Applicant that meets the requirements on the badge form.

EPSCU will send the council contact or Contractor contact an “Applicant Packet” with the appropriate instructions and forms. The forms are prefilled with the council routing and billing information. The council contact or the Contractor contact gives the Applicant the paperwork so he or she can be fingerprinted. The Applicant should fingerprint within two weeks. It usually takes two weeks to three months for the CA DOJ to provide the background check results. Delays sometimes occur due to poor fingerprint quality, criminal information hits, or erroneous information submitted on the fingerprint transaction. EPSCU will provide the council contact and Contractor contact with information about how Applicants can check the status of their submissions with the CA DOJ.

What are the evaluation criteria?

EPSCU will review the results using the following evaluation criteria, which comply with FBI and CA DOJ regulations. Applicants are not suitable for unescorted access to a Restricted Area if an Applicant’s background check reveals any of the following:

1. A felony conviction of any kind or felony charge pending court disposition (that includes arrest warrant for a felony charge); or
2. Any misdemeanor conviction *or* charge pending court disposition involving violence, weapons, theft, robbery, burglary, embezzlement, dishonesty, gang activity, drugs (excluding certain misdemeanor marijuana convictions more than two years from the date of such conviction, as specified in California Labor Code section 432.8), or moral turpitude.

Crimes of moral turpitude (that are not already described in the criteria above) include:

* Assaultive crimes involving false imprisonment, discharging a firearm, and shooting at an inhabited dwelling.
* Drug crimes involving maintaining a drug house, possessing heroin for sale, possessing marijuana for sale, selling drugs, and transporting a controlled substance.
* Escape crimes involving escape with or without violence and evading a peace officer.
* Property crimes involving arson, forgery, and receiving stolen property.
* Sex crimes involving indecent exposure, lewd acts on a child, pimping and pandering, and rape.
* Weapon crimes involving possessing or conspiring to possess an illegal firearm and possessing a deadly weapon with intent to assault.
* Other crimes involving bribery, extortion, kidnapping, perjury, and terrorist threat.

The following will be reviewed on an individual basis to determine suitability for unescorted access to a Restricted Area:

1. Misdemeanor convictions greater than 10 years old;
2. Felony or misdemeanor arrests without conviction and/or misdemeanor convictions, within the last 10 years that, when taken in total, establish reasonable doubt about the Contractor’s suitability for access; or
3. Outstanding arrest warrants indicating possible fugitive status.

What is the evaluation process?

Because the council qualifies as an Applicant Agency under California law, it receives the criminal record results electronically from the CA DOJ. EPSCU follows the CA DOJ instructions to keep the information secure. It cannot share the criminal record result information.

**Applicants Suitable for Unescorted Access to Restricted Areas**

If an Applicant is suitable for unescorted access per the evaluation criteria, EPSCU will notify the council contact(s) and Contractor contact(s), as applicable. EPSCU will delete the criminal record results.

If not already submitted, the council contact or Contractor contact must provide EPSCU with the Applicant’s completed badge form and digital photograph. These will be used for badge purposes only. The digital photograph must meet the requirements on the badge request. If not already submitted, EPSCU must also have the council authorizer’s approval for a badge, via a signed badge form or e-mail approval.

EPSCU will forward the Contractor’s badge to the council contact or Contractor contact for distribution. The Contractor must wear the badge in a visible location at all times while in a Restricted Area, as visual confirmation that he or she is suitable for unescorted access.

**Applicants Not Suitable for Unescorted Access to Restricted Areas**

If an Applicant is not suitable per the evaluation criteria, EPSCU will notify the council contact(s) and Contractor contact(s), as applicable, that the Applicant is not suitable for unescorted access to a Restricted Area. EPSCU will mail the relevant criminal record results to the Applicant at the address he or she listed on the Live Scan form, then delete the criminal record results.

If the Applicant believes that the criminal record results contained an error, he or she must contact the CA DOJ’s California Justice Information Services Division at 916-227-3849 to obtain information on how to correct the record. Information on this process is also available at the Office of the Attorney General’s website at *http://oag.ca.gov/fingerprints/security\_faq*.

EPSCU must submit a No Longer Interested (NLI) form to the CA DOJ so that it does not receive subsequent arrest notifications or dispositions on Applicants deemed not suitable. For this reason, if the Applicant’s record is corrected and the council authorizer wants EPSCU to re-evaluate, the Applicant will have to be refingerprinted.

**Subsequent Arrests**

After EPSCU receives criminal record results, it automatically gets subsequent arrest notifications and dispositions. EPSCU will continue to get this information until it submits a NLI form to the CA DOJ.

If EPSCU is notified of a Contractor’s arrest, it may reevaluate the person’s suitability for unescorted access to Restricted Areas. EPSCU reserves the right to change its determination of a person’s suitability for unescorted access to Restricted Areas based on a subsequent arrest. If this occurs, EPSCU will notify the council contact(s) and Contractor contact(s), as applicable, and request that the Contractor’s badge be returned, that unescorted access to a Restricted Area be discontinued, and that the Contractor’s last-known address be provided. EPSCU will mail the relevant criminal record results to the Contractor at that address, delete the criminal record results, and send an NLI.

**Requests for Exceptions**

Exceptions are rarely considered because the evaluation criteria implement mandatory FBI and CA DOJ regulations. If an Applicant receives notice that he or she is not suitable for access to Restricted Areas, the council contact or Contractor contact may ask the council authorizer to request an exception from EPSCU. The request must be in writing. It must include the Applicant’s name and reason for the request. The Applicant will have to be re-fingerprinted. EPSCU will send the council contact or Contractor contact a new Applicant Packet.

Before refingerprinting, the Applicant may want to consider options for cleaning up his or her criminal record. One resource is the Online Self-Help Center located on the California Judicial Branch’s website at *www.courts.ca.gov* (specifically, the *Figuring out your options* section under *Cleaning Your Criminal Record*).

Once EPSCU receives the criminal record results electronically from the CA DOJ, the EPSCU supervisor will evaluate the results and notify the council authorizer, council contact(s), and Contractor contact(s) of the decision.

What is the badging process?

**Badge Issuance**

EPSCU issues badges to Applicants suitable for unescorted access to restricted areas. These green badges help identify Contractors who have been deemed suitable by EPSCU for unescorted access to Restricted Areas. The badges do not provide any special privileges to Contractors (for example, bypassing entrance security screening). They do not allow access to secured council facilities.

The badges that allow access to the council buildings are part of a separate EPSCU program. Council building access is only granted to people who will work in the building regularly, and it must be applied for in person. The council contact or designee may escort the Contractor to the EPSCU Badge Room to complete the required form and have a photograph taken.

**Badge Replacement**

EPSCU replaces lost, stolen, and damaged badges. The council contact or Contractor contact must notify EPSCU when a replacement badge is necessary.

**Badge Return**

When an approved Applicant is no longer employed by the Contractor company or is reassigned so that he or she no longer needs unescorted access to a Restricted Area, the following must happen. The council contact or Contractor contact must promptly inform EPSCU, collect the Contractor’s badge, and return it to EPSCU. EPSCU must fax or mail an NLI form to the CA DOJ so that it does not receive subsequent arrest notifications or subsequent arrest dispositions.

Questions and Complaints

EPSCU communicates directly with the council contact or Contractor contact only. Any questions or complaints should be routed to the council contact or Contractor contact (for example, questions or complaints relating to the retention, day-to-day management, or termination of Contractors).

Additional Resources

Council staff may contact EPSCU for current versions of the following documents:

* Memo to contacts summarizing EPSCU program procedure
* Contractor Background Check Authorization
* Contractor Badge Information/Authorization

References

* California Government Code sections 15150–15167
* Federal Bureau of Investigation *Criminal Justice Information Services Security Policy*
* California Department of Justice *CLETS Policies, Practices, and Procedures*
* Office of the Attorney General’s website at *http://oag.ca.gov/fingerprints/security\_faq*

**END OF APPENDIX**

**END OF AGREEMENT**

1. Additional capitalized terms may be defined in the other Appendices to this Agreement. [↑](#footnote-ref-2)
2. Depending on the type and location of their work, contractors may be subject to additional requirements, which will be specified by the Judicial Council’s Agency CLETS Coordinator (ACC) who can be reached at Nicole.Rosa@jud.ca.gov. [↑](#footnote-ref-3)
3. The Court retains authority over access to its facility and this policy does not supersede the Court’s responsibility, if a CLETS Subscribing Agency, to comply with FBI’s *Criminal Justice Information Services Security Policy* and CA DOJ’s *CLETS Policies, Practices and Procedures*. [↑](#footnote-ref-4)