

JUDICIAL COUNCIL OF CALIFORNIA, ADMINISTRATIVE OFFICE OF THE COURTS

	AGREEMENT NUMBER @
	FEDERAL EMPLOYER ID NUMBER @

THIS AGREEMENT is made and entered into this @th day of @, 20@ (“Effective Date”), in the State of California, by and between the parties identified below.

WITNESSETH: That the Architect for and in consideration of the covenants, conditions, agreements, and stipulations of the AOC hereinafter expressed, does agree to furnish to the AOC services and materials as follows:

Incorporated into this Agreement herewith, and attached hereto, are the following Contract Documents: (1) Exhibit A, Statement of Work; (2) Exhibit B, Payment Provisions and Other Information; (3) Exhibit C, General Terms and Conditions; (4) Exhibit D, Hourly Rates for Extra Services; (5) Exhibit E, Subcontractors to Architect; (6) Exhibit F, Architect’s Key Personnel; and (7) Exhibit G, Description of Project. In the event of a conflict between Exhibit A and Exhibit G, the terms of Exhibit A shall take precedence over those of Exhibit G.



As set forth further in Exhibit A, Statement of Work, the Architect shall provide architectural and engineering s Services for a @ located in @City, @County, California.

This Agreement has to date authorized the performance of the following Phases of Services in the following amounts:

- \$@ Study Phase
- NIC Acquisitions Phase
- NIC Preliminary Plans / Schematic Design Phase
- NIC Preliminary Plans / Design Development Phase
- NIC Working Drawings Phase
- NIC Construction Phase


The total Contract Amount currently authorized for the provision of the Services authorized to date is \$@ .

This term of this Agreement commences upon the Effective Date and is complete upon final payment and release of final retention by the AOC.

AOC’S SIGNATURE	ARCHITECT’S SIGNATURE
Judicial Council of California, Administrative Office of the Courts	ARCHITECT’S NAME <i>(if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.)</i> @
BY <i>(Authorized Signature)</i> 	BY <i>(Authorized Signature)</i> 
PRINTED NAME AND TITLE OF PERSON SIGNING Grant Walker Senior Manager, Business Services	PRINTED NAME AND TITLE OF PERSON SIGNING
ADDRESS 455 Golden Gate Avenue San Francisco, CA 94102	ADDRESS Attn: @

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Administrative Office of the Courts Use Only

Fund Title	Program/ Category	Item	Chapter	Statute	Fiscal Year	Object of Expenditure	Amount
Amount Encumbered by this Document:			Prior Amount Encumbered for this Contract:			Total Amount Encumbered to Date:	
\$0.00			\$0.00			\$0.00	
I hereby certify upon my own personal knowledge that budgeted funds are available for the period of the expenditure stated above.							
SIGNATURE OF ACCOUNTING OFFICER						DATE	
							

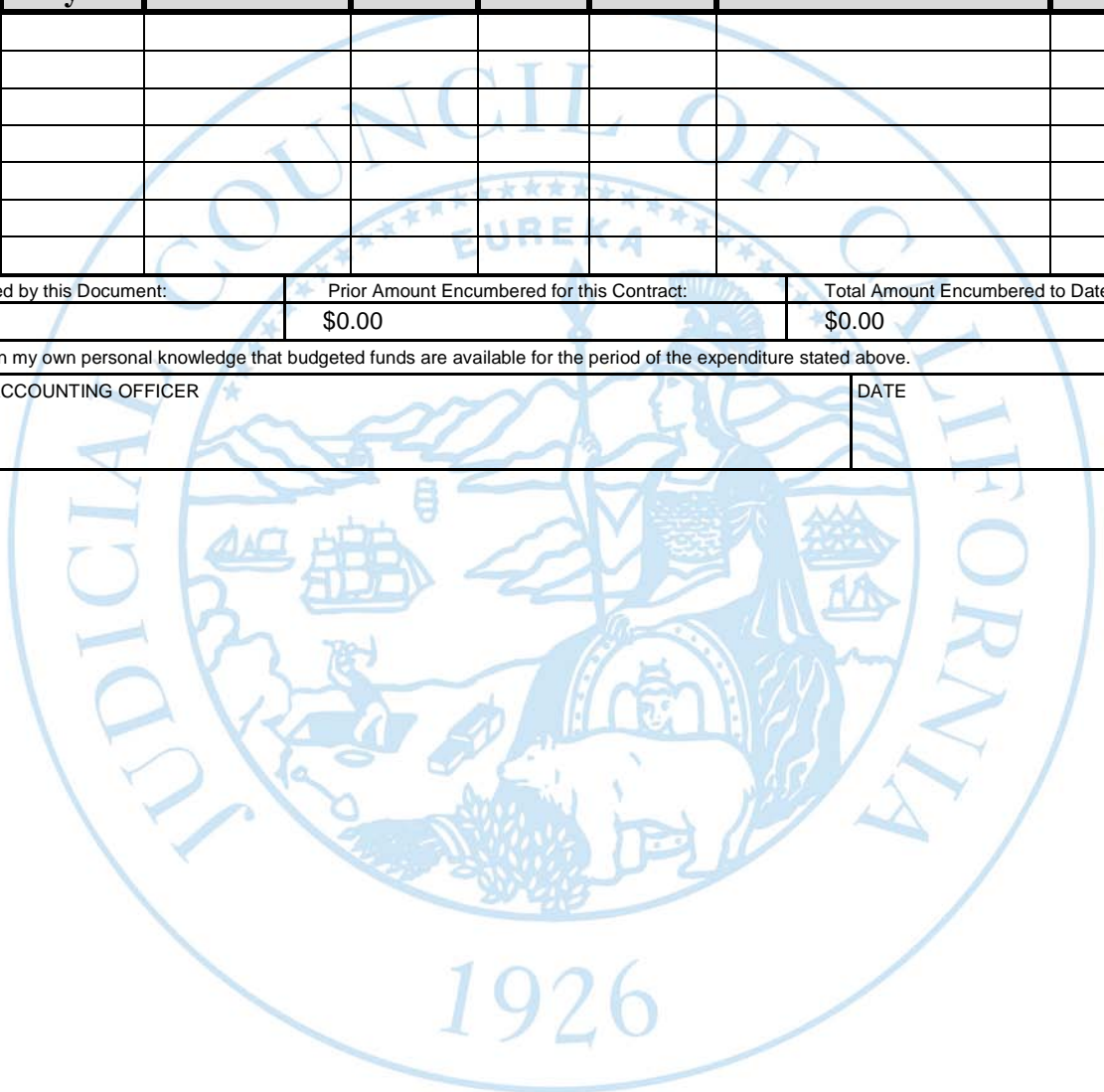


Exhibit A

STATEMENT OF WORK

A.1. Project Description

Architect shall, subject to and as specified in this Agreement, provide the specific Architectural and engineering services specified herein, as well as related professional services customarily performed by Architects (the "Services"), for a public works project for a judicial branch facility(ies) (the "Project") which is located in @, California, as more particularly described in Exhibit G.

A.2. Definitions

For purposes of this Agreement, the following definitions apply:

a. **ACCEPTANCE:** is the written acceptance issued by the AOC after the Architect has completed a deliverable, submittal, Phase, or other contract requirement, in compliance with this Agreement.

b. **ACQUISITIONS PHASE:** is a pre-design Phase that typically includes site capacity studies, topographic survey, and geotechnical investigation.

c. **CONSTRUCTION BUDGET:** is the budget amount established by the AOC that represents the maximum authorized cost for construction of the Project including FF&E (modular and free-standing furniture, furnishings, and equipment), the CM at Risk's contingency, and escalation. The Construction Budget does not include fees for professional Architectural and engineering services, inspection, testing services, or the AOC project contingency. The Construction Budget for this Project is specified in Exhibit B.

d. **CONSTRUCTION DOCUMENTS:** are approved final working drawings and specifications, and the Conditions of the Contract for construction of the Project, including General, Supplementary and other Conditions as may be developed for the Project, that set forth in detail all of the requirements for construction of the entire Project, and subject to the approval of the Architect, the CM at Risk, and the AOC. The Construction Documents provide the basis upon which the CM at Risk shall bid the Project.

e. **CONSTRUCTION MANAGER AT RISK (CM at Risk):** is a separate entity under contract to the AOC providing pre-construction services including, but not limited to preparation of cost estimates, systems value engineering and systems life cycle cost analysis, and construction management/administration services with a Guaranteed Maximum Price (GMAX) for the construction of the project.

f. **CONSTRUCTION PHASE:** is the entire construction period for the Project and encompasses pre-construction-start meetings and ends with Final Acceptance by the AOC of all punch list items, including, without limitation, construction observation, shop drawing and submittal reviews, site reviews, written clarification of Construction Documents, preparation of change orders at the direction of the AOC, processing of as-built drawings, preparation of observation reports, and issuance of the certificate of occupancy.

g. **COURT:** the @ Court of the County of @, located in @, CA.

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h. **DESIGN BUDGET:** is the budget amount established by the AOC that represents the maximum authorized cost for construction of the Project including FF&E (modular and free-standing furniture, furnishings, and equipment), and escalation. For purposes of the Architect's work, the Design Budget does not include fees for professional Architect services, inspection, testing services, the CM at Risk's contingency or the AOC project contingency. The Design Budget for this Project is specified in Exhibit B.

i. **ENERGY EFFICIENCY MEASURES:** are an element of the design that minimizes energy consumption, integrates passive and active design elements, while meeting the operational needs of the facility.

j. **FINAL ACCEPTANCE:** is a written Acceptance issued by the AOC by and through its Project Manager that accepts the Construction Documents as final and complete, in accordance with this Agreement.

k. **FLOOR AREA:** is a measurement of the design using methods and definitions set forth in the 1996 edition of the Building Owners and Managers Association publication titled "Standard Method for Measuring Floor Area in Office Buildings," or such other standards as may be adopted by the AOC.

l. **GUARANTEED MAXIMUM PRICE (GMAX):** is a figure established by the AOC and their CM at Risk, including the aggregate of all trade contractor bids and alternates for construction of the project and all direct costs of the CM at Risk including general conditions and their Construction Phase fee. The GMAX is established during the bidding portion of the Working Drawings Phase.

m. **LEED:** is The Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ of the United State Green Building Council (USGBC), a nationally accepted benchmark for the design, construction, and operation of high performance green buildings

n. **NIC (NOT AUTHORIZED IN CONTRACT):** when a Phase of the Service(s) is designated in this Agreement as "NIC", NIC indicates that said Services are an intended part of the work to be performed,, but that the Architect has not yet been authorized to perform them. At the AOC's sole option and upon the issuance of an Amendment by the AOC, the Architect shall provide the Services that are no longer designated as NIC, and the AOC shall in its Amendment authorizing such performance increase the Contract Amount by the amount agreed to for the performance of said Services, as said amount is set forth in Exhibit B. The current Phase(s) of the Services authorized for performance under this Agreement are at all times indicated solely on the Agreement Coversheet.

o. **OUTLINE SPECIFICATION:** is an abbreviated set of specification requirements that identify materials, systems, and equipment, and their criteria and quality standards consistent with the design, Project requirements, and the Construction Budget.

p. **PHASE:** is a group of Services performed or to be performed under this Agreement, as further specified in the Statement of Work, Exhibit A.

q. **PRELIMINARY PLANS PHASE:** is the initial design Phase, which is executed in two distinct steps: Schematic Design and Design Development.

r. **PRELIMINARY PLANS / DESIGN DEVELOPMENT PHASE:** is the second Phase of design, following schematic design (but part of "Preliminary Plans," in which the quantitative and qualitative aspects of the initial design are refined and developed in sufficient detail to confirm the layout, scope, and cost of the project sufficiently prior to the commencement of construction documents.

s. PRELIMINARY PLANS / SCHEMATIC DESIGN PHASE: is the first, preliminary Phase of design (also the first Phase of "Preliminary Plans") in which the conceptual layout, bulk, massing and quantitative and qualitative building is identified and finalized.

t. STUDY PHASE: is a Phase that may occur prior to project funding and typically includes program development, financial pro-formas and security risk assessment.

u. RECORD DOCUMENTS: are the Construction Documents, amended to show the Project as it was constructed. Record Documents include any significant changes or clarifications to the Construction Documents resulting from the construction process.

v. STOP SERVICES ORDER: is a written notice, delivered in accordance with this Agreement, by which the AOC may require the Architect to stop all, or any part, of the Services under this Agreement, for the period set forth in the Stop Services Order. The Stop Services Order shall be specifically identified as such and shall indicate that it is issued pursuant to the Stop Services provision in section C.14 of Exhibit C.

w. SUSTAINABLE BUILDING MEASURES: are elements of the design that result in minimizing pollution, resource waste, and environmental impacts associated with facility construction operation and, if applicable, demolition.

x. WORKING DRAWINGS PHASE: is a Phase that includes the preparation of working drawings, technical specifications, addenda, general conditions, supplementary conditions, bidding requirements, and the bid proposal developed to set forth in detail all aspects of the design, function and construction. These documents will be used for estimating the cost of the Project, obtaining construction-related approvals, securing bids for construction, and constructing the Project. The bidding of the Project and obtaining authorization to commence the Construction Phase are the final portions of this Phase.

A.3. Construction Budget

a. The Architect shall accomplish the design Services required under this Agreement so as to permit the AOC (i) to undertake a procurement for construction services using its procedures for the CM at Risk project delivery method, and (ii) to assist the AOC in reaching agreement with the CM at Risk in determining the Guaranteed Maximum Price (GMAX) necessary to manage construction of the Project and to construct the Project, with the goal of not exceeding the Construction Budget available to the AOC that is set forth in Exhibit B. The GMAX is calculated after the Project has been bid by the CM at Risk in the Subcontractor Bid Package Stage at the end of the Working Drawings Phase. If upon completion of the initial or any subsequent Subcontractor Bid Package Stage of the AOC's Agreement with the CM at Risk the CM at Risk and the AOC determine that the expected GMAX exceed the Construction Budget, the AOC may elect to abandon the project, reduce the scope of work to fit within the Construction Budget, provide additional funds as required to construct the full scope of work, or require Architect and the CM at Risk to provide such Services necessary to make changes to the Construction Documents suitable to the AOC so that the project may be rebid by the CM at Risk. The AOC may elect to have Architect provide the Services necessary to make said changes if the initial or a subsequent GMAX, when calculated, exceeds the Construction Budget by more than 10%. As specified above, and at the AOC's request, the Architect shall, at no additional cost to the AOC, participate in two iterations of said changes to the Construction Documents and in value analysis, to assist the AOC and the CM at Risk in reaching agreement on the changes to the Construction Documents necessary to bring the GMAX in conformance with the Construction Budget

b. The preliminary Construction Budget established by the AOC and the date established

are specified in Exhibit B. Prior to the commencement of the Schematic Design Phase, the AOC, in consultation with the Architect, will confirm and fix the Construction Budget before authorization of the Preliminary Plans /Schematic Design Phase. Any changes to the Construction Budget that occur during the term of the Agreement must be approved by the AOC through a written Amendment to Exhibit B.

A.4. Schedule Of Work

The Architect agrees to perform the Services according to the Schedule of Work provided in Exhibit B. Start and completion dates will be inserted for each Phase as this Agreement is amended to include subsequent Phases. Dates include AOC review time and approvals.

A.5. Services

a. General

When authorized as specified in this Agreement, Architect agrees to provide or perform, the Services and tasks set forth in this Statement of Work and such other normal, customary, and incidental services as are necessary to provide design and construction support for the Project. When authorized, Architect shall be responsible for the performance of the authorized Services, regardless of whether their actual costs exceed the Contract Amount. The Services shall be performed in Phases, as specified in this Statement of Work. Architect shall commence each succeeding Phase only upon receipt of a fully executed Amendment to this Agreement. The Services specified in this Exhibit A, section A. 5 shall be provided as needed throughout the term of the Agreement.

Architect agrees to:

- (i) Contract for or employ at Architect's expense, a sufficient number of specialists and other workers with requisite skills and experience as appropriate for the successful completion of this Project.
- (ii) Restrict subcontracting to only those subcontractors approved in writing by the AOC pursuant to section C.10 of Exhibit C and who have agreed in writing to be bound by the terms and conditions applicable to the Services of the Architect under this Agreement.
- (iii) Prepare, organize, and distribute in a timely manner, progress reports and drawings.
- (iv) Conduct Project status meetings with the AOC, other professionals and consultants under contract with the AOC, and/or State or local agencies as needed and directed by the AOC during the course of the design and construction of the Project; after each Project meeting, prepare, organize, and distribute in a timely manner, meeting notes and lists of action items for review, comment, and use.
- (v) Cooperate with other consultants the AOC may employ for work related to the Project. Collaborate with the Construction Manager under contract with the AOC for this Project; however, the Architect is solely responsible for the content and completeness of the Construction Documents.

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- (vi) Review and analyze land surveys, geotechnical reports, and other documents prepared by consultants, and incorporate information and recommendations from such documents into the working drawings for the Project.
- (vii) Provide a land survey including, but not limited to, topographical, title information with exceptions and easements plotted, and utilities features and locations as directed by the AOC.
- (viii) Provide a preliminary geotechnical investigation and report on the selected site as directed by the AOC.
- (ix) *[Project Manager: As applicable on a project by project basis, the following services will /will not be included.]* Provide space planning, design, furniture and equipment floor plans, bid documents and specifications, and other services related to moveable furniture and equipment (excluding desk-top office equipment) within the Project; incorporate existing furniture and equipment into the design and specifications {if applicable}; review the inventory of existing furniture and equipment provided by the AOC and the Court {if applicable}, and provide consultation on the items to be reused.
- (x) Develop, maintain, and regularly update a schedule of Project activities including but not limited to architectural or engineering activities, required submittal milestone dates, status review meetings, and AOC or agency review and approval milestone dates. The schedule of Project activities shall be a Gantt chart format prepared in Microsoft Project. The Architect shall provide an updated schedule of Project activities to the AOC within ten (10) days of commencement of each Phase except the Construction or Bidding Phase.
- (xi) Prepare Project documentation in Adobe Acrobat .pdf format, Microsoft Word .doc format, and AutoCAD .dwg format, as indicated in this Agreement or agreed upon in writing with the AOC at the commencement of the Services.
- (xii) Provide estimated construction cost breakdowns of the Project at indicated intervals consistent with the stage of development of the Architect's drawings and specifications. The form of the cost estimates shall be based on Uniformat standards except for the cost estimate at the 100% Construction Phase which be prepared in both Uniformat and Construction Specification Institute Master formats. Architect shall be responsible for designing the Project such that the construction cost estimates do not exceed the Construction Budget.
- (xiii) Conduct milestone review meetings with the AOC and Project team immediately before commencing each Project Phase listed in section A.5 of this Exhibit. At the milestone review meetings, the AOC shall identify goals for the upcoming work, examine the performance of the Project team against the goals in the preceding Phase, and set forth corrective measures as necessary or appropriate.
- (xiv) Field check existing conditions as necessary or appropriate. All field checks of existing conditions must be documented and reflected, to the best of the Architect's knowledge, in the Construction Documents with an identified plan of action. Architect shall advise AOC on any testing that is required or recommended in order to adequately ascertain existing conditions that affect the

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building design and systems functionality.

- (xv) Abide by applicable conditions imposed by funding sources, and comply with all requirements of such conditions, including auditing requirements and payroll affidavits.
- (xvi) Consult with the AOC if the AOC or the Architect becomes aware of any construction deficiency that develops prior to expiration of the guarantee period specified in the construction contract for the Project, regardless of whether the deficiency became apparent before or after Final Acceptance of the work by the AOC, and suggest satisfactory methods for correction of such deficiencies.
- (xvii) Use prototypical designs or other design drawings, specifications or calculations provided by the AOC when requested by the AOC to do so. Unless otherwise directed in writing, Architect shall recheck such designs and any other design data, drawings, specifications and calculations provided by the AOC and shall be responsible therefore to the same extent as if such material had been provided by Architect under this Agreement.
- (xviii) Provide Construction Documents which, at a minimum, reflect compliance with applicable statutes, regulations, rules, guidelines, and requirements.
- (xix) Utilize the services of a fire protection engineer who is registered as a professional engineer to design the buildings' fire life safety and property protection system.
- (xx) Obtain construction-related approvals, including, but not limited to, written approvals by the State Fire Marshal and the Division of the State Architect ("DSA") Access Compliance Unit.
- (xxi) Provide a written description of Architect's quality assurance program ("QA Program") commencing with the Preliminary Plans Phase. The Quality Assurance Program shall be designed to advance the goal of achieving a quality Project, within schedule and within the Design Budget, in compliance with the terms of this Agreement. Architect shall submit the QA Program to the AOC within 20 days of commencement of each Phase. At a minimum the following shall apply:
 - 1. The QA Program shall cover all activities affecting quality performed by Architect and Architect's subcontractors.
 - 2. The Architect shall provide the AOC access to its records documenting implementation of the QA Program ("QA Records"). Architect shall retain and maintain identifiable, legible, and retrievable QA Records for the duration of the Project. Architect shall submit QA records to the AOC upon the completion of each Phase of the work.
 - 3. The Architect shall ensure that all drawings and specifications shall be reviewed and checked by at least one other professional trained in the same discipline as the professional who prepared the drawings and specifications, with the goals of:

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- (a) Assuring the completeness of the drawings and specifications;
 - (b) Assuring a high level of construction quality; and
 - (c) Avoiding change orders to construction contracts, which are caused by conflicts, ambiguities, inaccuracies, and deficiencies in the construction drawings and specifications.
4. The QA program will identify the specific methodology that will be used to cross-check drawings of the various disciplines for completeness and accuracy at each submittal stage.
- (xxii) Correct or revise inconsistencies, errors or omissions in its Construction Documents, including those drawings and specifications prepared by Architect's consultants, without additional compensation.
 - (xxiii) Conduct Project status meetings at the location(s) directed by the AOC's Project Manager.
 - (xxiv) Architect shall design Project shall for sustainability and to the standards of LEED as designated for each Project including participation in the formal LEED certification process from the Schematic Design through the Construction Phases. Submittals to USGBC, as required for certification, shall be included in the scope of work of the Architect.
 - (xxv) Architect shall participate in the California Savings By Design program.
 - (xxvi) Architect shall design the Project consistent with the California Trial Court Design Standards.
 - (xxvii) Architect to design a courtroom mock up, if appropriate, during Design Development to be constructed by the CM@Risk.

b. Study Phase:

The Services that shall be provided in the Study Phase consist of the following:

- (i) The Architect shall develop a written and graphical statistical description of the design, functional, and space requirements for the building and its site (the "Program"). The AOC shall provide Judicial Branch standards; caseload, employee, and judicial position projections for this court and Project; and a format for the Program. The Architect shall develop the Program based on the AOC-provided information and data gathered from interviews conducted by the Architect with court personnel. The Program shall include but not be limited to: size and quantity of each type of interior space; allowances for non-useable space; adjacency and relationships of spaces to achieve the required functions; staff and public parking demand; secure parking, loading, and official vehicle parking within the building or site; a conceptual structural system; and specific Project design and performance standards and operation objectives for each major building system. The Program shall also address the site area required for appropriate design and, if designated by the AOC, to accommodate future

expansion.

- (ii) The Architect shall develop @ alternatives for meeting the Project goals to test the cost and implementation feasibility of the proposed Project. The number and types of alternatives will be determined on a project by project basis. Alternatives may include, but not be limited to: renovating and/or expanding the existing facility, leasing additional or new space, purchasing and converting existing buildings, and constructing new facilities. The Architect shall provide an analysis and comparison of alternatives, which shall be based on several factors, including, but not limited to an estimate of the development costs, an estimate of the operating costs (provided by the AOC), implementation issues, advantages and disadvantages from a court operational and service perspective, and Project.
- (iii) The Architect shall prepare for the AOC's review a written estimate of probable construction and/or development costs for each alternative of the Project, indicating the estimated cost of each principal element of the building, and with allowances for site construction, in a format acceptable to the AOC.
- (iv) The Architect shall review the Project specific threat/vulnerability assessment prepared by AOC which provides a risk analysis to determine the anticipated threats, the likely vulnerability of the Project to those credible threats and potential consequences to court operations and the AOC's asset value. Architect shall incorporate findings and recommendations into the project goals. [*Project Manager: If Preschematic/Study Phase is not included (NIC), include this item in Preliminary Plans Phase.*]
- (v) The Architect shall develop a list of desirable site attributes and requirements based on the Program as accepted by the AOC, the threat/vulnerability assessment and risk analysis, and discussions with the AOC. This list will be used for the evaluation of potential sites. [*Project Manager: Delete if site acquisition is not included in Statement of Work.*]

c. Acquisitions Phase:

The Services that shall be provided in the Acquisitions Phase consist of the following:

- (i) The Architect shall provide CEQA support, providing conceptual design diagrams and other information, such as building concept and massing studies, as well as working with the CEQA consultant as directed.
- (ii) The Architect shall assist the AOC in the evaluation of potential sites by preparing sketch plan examinations to determine if the building program, parking, and required set-backs can be reasonably accommodated on up to three (3) potential sites.
- (iii) The Architect shall assist the AOC during site acquisition negotiations by preparing site plan diagrams or other exhibits to be attached to the acquisition agreement.
- (iv) The Architect shall prepare for the AOC's review an estimate of probable construction cost of the Project, indicating the estimated cost of each principal

element of the building and site construction, in a format acceptable to the AOC.

d. Preliminary Plans Phase

The Preliminary Plans Phase includes Schematic Design and Design Development as specified below.

(i) Preliminary Plans / Schematic Design Phase.

The Services that shall be provided in the Preliminary Plans / Schematic Design Phase consist of the following:

1. Assist the AOC in confirming the programming requirements based on discussions with the client representatives from the Court and the AOC. The Architect shall prepare room data sheets for each space that indicate the dimensions; furniture and fixture configuration; and acoustical, HVAC, electrical, communications, and data requirements and standards. The room data sheets are to be maintained and updated through succeeding design phases by the Architect/ Engineer.
2. Provide assistance for the CEQA process to be performed by the State or the AOC, such as surveying of the Project site as necessary to provide a legal description, plotting title exceptions, attending public meetings to describe and clarify proposed design, and responding to public comments on design related issues.
3. Include Energy Efficiency and Sustainable Building Measures in the design whenever possible and economically feasible. The Architect shall make recommendations and provide analysis to the AOC for cost and feasibility of implementation of Energy Efficiency Measures and Sustainability Measures, within the approved Design Budget.
4. Provide a code analysis indicating how the design of the Project complies with applicable building codes, including California Code of Regulations, Title 24.
5. Prepare for the AOC's review Schematic Design studies incorporating the Project requirements and including structure and site utilization plans, floor plans, elevations, sections, perspectives, and other documents necessary to illustrate the scale and relationship of Project components. Building designs shall pay particular attention to orientation, solar consideration and passive energy techniques and shall conform to applicable energy regulations. Schematic Design studies shall be revised until a design concept has been accepted and approved by the AOC.
6. Prepare for the AOC's review: (a) Outline Specifications indicating Architectural, structural, civil, mechanical, electrical, and other systems and materials proposed; (b) mounted presentation drawings and study perspectives of the Project and other graphic material necessary to convey the concept of the Architectural design; (c) a detailed room-by-

room tabulation of all net assignable Floor Areas, and a summary of the gross Floor Area; (d) security design program statement; and (e) a comparison to the Project area requirements.

7. Prepare for the AOC's review an estimate of probable construction cost of the Project, indicating the estimated cost of each principal element of the building and site construction, in a format acceptable to the AOC, at the 50% and 100% completion stages. Review and comment upon parallel cost estimates prepared by the CM at Risk.
8. Provide copies of all deliverables as specified herein for AOC to review and retain a record copy. AOC will, as appropriate, notify Architect of its Acceptance of the deliverables.

(ii) Preliminary Plans / Design Development Phase:

The Services that shall be provided in the Preliminary Plans / Design Development Phase consist of the following:

1. Prepare from the Schematic Design documents accepted and approved by the AOC, Design Development documents consisting of: (a) site plans, Architectural, structural, mechanical, and electrical, including telecommunications, low voltage, audio-visual, and data floor plans, elevations; cross-sections and other drawings necessary to fix and describe the size and character of all components of the Project; (b) Outline Specifications establishing the size, character, and quality of the entire Project in its essentials as to kinds and locations of materials and type of structural, mechanical, electrical, including telecommunications, low voltage, audio-visual, and data and other systems; (c) a tabulation of both the approximate net assignable and gross Floor Areas; and (d) a comparison to the initial Project area requirements and security program statement.
2. Provide an updated analysis setting forth how energy efficient and sustainable building materials are included in the design of the Project where possible and economically feasible.
3. Update the code analysis that Architect developed during the Schematic Design Phase.
4. Provide, if required by the AOC, graphic information demonstrating that the design is compatible with local Architectural standards and submit complimentary copies of such design to the local review boards for their comments.
5. Provide security consulting and analysis for the Project, including plans, cost estimates, and design elements necessary to comply with any security-related rules, standards, guidelines, or policies adopted by the Judicial Council pursuant to Rule 6.170 of the California Rules of Court.

6. Prepare the final geotechnical report with requirements for the design and construction of foundations, other subsurface structures, and roads, driveways, and parking areas. Geotechnical requirements shall also be incorporated into the Construction Documents.
7. Prepare for the AOC's review an estimate of probable construction cost of the Project, indicating the estimated cost of each principal element of the building and site construction, in a format acceptable to the AOC, at the 50% and 100% completion stages. Review and comment upon parallel cost estimates prepared by the CM at Risk.
8. Prepare for the AOC's review a written description of the design criteria for all Project components including but not limited to, structural, mechanical, electrical, telecommunications, security, lighting, acoustical and audio visual systems.
9. Provide copies of all deliverables as specified herein for AOC to review and retain a record copy. AOC will, as appropriate, notify Architect of its Acceptance of the deliverables.

e. Working Drawings Phase:

(i) Construction Documents.

The Services that shall be provided in the Working Drawings Phase consist of the following:

1. Prepare, using Design Development documents accepted and approved by the AOC and such standard documents as may be furnished by the AOC, Construction Documents consisting of working drawings and specifications that set forth in detail all the requirements for construction of the entire Project. The Construction Documents shall be designed to promote economy in construction, maintenance, and operation, and to comply with design criteria and cost limitations.
2. Prepare information required for the General Construction Activity Permit [per requirements of the State Water Resources Control Board (SWRCB), available on the SWRCB website at <http://www.swrcb.ca.gov/stormwtr/construction.html>] regarding the Storm Water Pollution Prevention Plan (SWPPP), as required for inclusion in the Construction Documents. Such information will be for use by the construction contractor in preparation of the construction contractor's final SWPPP for the Project site and for the construction contractor's use in filing the Notice of Intent with the SWRCB and in meeting any other county, city, municipality, or other local agency requirements regarding storm water discharges and management. Information and documentation to be provided typically includes a topographical survey (identifying streams, channels, wetlands, etc.), site map (base map including known hazardous or toxic waste areas), certification page, amendment page, site hydrology (rainfall, watershed management), soil type (site runoff, impervious areas), site and construction area sizes, and

discharge sampling and analysis strategy.

3. Furnish to the AOC for review all work at the 50 percent, 90 percent and 100 percent stages of completion. Architect shall provide copies of the deliverables for the AOC to review as specified in section A.5.g of this Exhibit A. Architect shall retain record copies of said deliverables. The AOC will review deliverables and either notify the Architect of Acceptance or request modifications. Upon completion of review by the AOC, Architect shall make all changes and corrections necessary to meet the requirements of the approved Program scope and Design Budget for the Project, at no additional cost to the AOC. Architect shall respond to each review comment at each stage of completion, indicating the resolution of each item.
4. Obtain stamped approval by the State Fire Marshal and DSA Access Compliance Unit on all drawings/documents as required.
5. Provide design phase scheduling information in the format agreed upon with the AOC at the commencement of Services, for inclusion into the master schedule prepared and updated by the AOC's selected CM at Risk.
6. Respond to and/or make corrections to the deliverables as a result of a constructability review performed by the AOC and/or the AOC's selected CM at Risk.
7. Prepare a construction cost estimate at the 50 percent and 100 percent completion stages. Review and comment upon parallel cost estimates prepared by CM at Risk.
8. Prepare Construction Documents in full compliance with applicable building codes, ordinances, and other regulatory authorities.
9. Provide to the AOC, upon written Acceptance by it of the 100 percent complete Construction Documents, completed drawings and specifications on reproducible masters and computer discs containing electronic files, as specified below (Assembly of the Project manual and reproduction of the Construction Documents for distribution to bidders will be provided by the AOC):
 - (a) Drawings - Original full-size drawings plotted on reproducible paper, as determined by the AOC. Each drawing shall bear the stamp and signature of the Architect and/or subcontractor, and, when required, the approval stamps of the State Fire Marshal and/or DSA Access Compliance Unit.
 - (b) Specifications - Printed copy for all work applicable to the Project; in format complying with the current edition of the Construction Specifications Institute's "MasterFormat"; as directed by the AOC and in accordance with the following:

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- (1) Division 1 - General Requirements shall be prepared in accordance with the AOC's requirements; as determined for the Project.
 - (2) Supplemental information shall be provided to complete the Project manual, AOC-prepared Bidding Requirements, and General Conditions of the Contract for Construction.
 - (3) Where articles, materials, and equipment are identified by brand names, at least two names shall be used, and such names shall be followed by the words "or equal." Specifications shall not contain restrictions that will limit competitive bids. Exceptions shall only be as permitted by the AOC.
 - (c) The Construction Documents shall bear the stamp and signature of the Architect and/or subcontractor, and the approval stamps of the State Fire Marshal and/or DSA Access Compliance Unit.
 - (d) Construction cost estimate - will be prepared in both Uniformat and Construction Specification Institute formats, and shall include materials, labor, subcontract costs, and contractor's indirect costs, overhead, profit, insurance, taxes, and bonds.
10. Notify, immediately and in writing, the AOC if it becomes evident, during development of the Construction Documents for the Project, that the construction cost will exceed the Construction Budget established by the AOC, and cease and hold in abeyance all work until funding differences, scope, and/or criteria are resolved and such changes as may be required are executed. Cost estimates prepared by the CM at Risk do not replace those required of the Architect, and do not remove the responsibility from the Architect to design the project within the approved scope of the Design Budget.
11. Upon successful completion of all activities and the successful provision of all deliverables of the Working Drawings Phase specified above, the AOC, the Architect, and the CM shall, in a written and signed document, designate the names, versions, and revision numbers of the final Construction Documents and Master Schedule for the Construction Phase of the Project.
12. Bidding Services:
- Bidding process and procedures will be the responsibility of the AOC. Upon written authorization by the AOC to proceed with the Bidding Services, Architect shall perform the following Services:
- (a.) Attend pre-bid conference at Project site.
 - (b) Refer all questions concerning intent to the AOC for

response while the Project is being advertised for bids. In the event that items requiring interpretation of the drawings or specifications are discovered during the bidding period, said items shall be analyzed by the Architect for decision by the AOC as to the proper procedure required. Corrective action taken will be in the form of an addendum prepared by the Architect and issued by the AOC. The Architect shall prepare all necessary supplemental drawings at no additional cost to the AOC.

(c) Refrain from giving any directions, clarifications, corrections, or other modification of the Bidding Documents either verbally or in writing to any person other than the AOC's Project Manager. The Project Manager will determine whether the information should be placed in an addendum to be distributed to all bidders.

(d) Assist the CM at Risk and the AOC in preparing the construction solicitation documents in such form and manner so as to enable the CM at Risk and the AOC to solicit separate bids and award separate contracts for the desired number of different parts of the Project. Assist the CM at Risk in consideration of and preparing the separate packages for bidding, including the development and requesting of alternates.

f. Construction Phase Services

Overall Construction Phase management will be the responsibility of the AOC or its designated representative. Architect will act as the AOC's designated representative as provided in this section. During the Construction Phase, observation of the actual construction of the Project for compliance with the Construction Documents shall be the responsibility of the Architect.

The Services that shall be provided in the Construction Phase shall consist of the following:

- (i) Attend preconstruction meetings with the CM at Risk and the successful construction trade contractors.
- (ii) Provide the geotechnical engineering Services during grading, excavation, paving and foundation construction in order to confirm that field conditions conform to the preliminary investigation, and interpret, and advise the CM at Risk on requirements of the Construction Documents related to geotechnical engineering and field conditions.
- (iii) Review the CM at Risk's construction schedule and schedule of values every time issued, and provide comments thereon to the AOC.
- (iv) Conduct pre-submittal reviews jointly with the CM at Risk for each of the major trade contractors.

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- (v) Review, respond to, approve, and/or disapprove all requests for information, submittals, shop drawings, or change orders presented by the CM at Risk, and issue bulletins or directives for the purpose of ensuring compliance with the approved Construction Documents. Notwithstanding the foregoing, Architect shall have no authority to approve changes to any submittal, shop drawing, specification or issue bulletins or directives when such response or issuance will result in a change in the scope, cost, schedule, or quality of the work of the Project.

If approval of or response to any request for information, submittal, shop drawing, or any AOCs request for proposal for changes to the work, will result in a change to the cost of the Project, or a change to the schedule, scope or quality of the work, Architect shall obtain the AOC Project Manager's written consent prior to such approval or response.

During the course of the Construction Phase, Architect shall return all requests for information, submittals, shop drawings or directives to the CM at Risk with a concurrent copy to the AOC Project Manager.

Architect shall maintain a written record, available for review by the AOC's Project Manager, of all requests for information (along with a record of Architect's actions with regard to the same), and all submittals, shop drawings, bulletins and/or directives issued by Architect, as well as any other requests for changes to the Project, (along with Architect's responses) received from the CM at Risk ("Submittal Log"). The receipt and acceptance of the Submittal Log is a condition precedent to the AOC's release of Architect's final payment.

Interpretation and clarification of the submittals, shop drawings, and changes to other written specifications shall be the responsibility of the Architect.

- (vi) Architect will make modifications to the Construction Documents or other written specifications for the purpose of supplementing, clarifying and/or correcting any material inconsistencies, errors and omissions discovered in the Construction Documents or other written specifications. Architect shall perform these duties in a timely manner, so as not to adversely impact the Project schedule. All such documents shall be prepared and provided in the manner as specified elsewhere in this Agreement.
- (vii) Architect will take an active role in setting the standards of quality expected in the Project, anticipating that such standards will be established via periodic observation of the construction work in progress.
- (viii) Architect shall provide appropriate staff on site at all times necessary to provide the aforementioned Services at least weekly and more frequently if so advised by the AOC Project Manager. Architect's weekly visits to the job site as necessary to review the progress of the construction and to be able to timely respond to questions, and observe conformance with the design intent. Architect shall bring to the attention of the AOC, in writing, any material changes, defects or deficiencies in the actual construction of the Project by the AOC's CM at Risk that the Architect observes or otherwise becomes aware of, and shall assist the AOC Project Manager or Inspector of Record in determining appropriate action towards said changes, defects or deficiencies. Amendments to the construction

contract(s) shall be made only by the AOC.

- (ix) Assist the AOC in determination of the date or dates of substantial completion of the Project. Such assistance shall include development of a list of items to be completed or corrected so that the Project may be occupied and utilized in the manner intended.
- (x) Upon notification by the CM at Risk that the Project is substantially complete, prepare a punch list of observed items that require correction or completion. Architect shall provide follow up review of punch list items to observe and document completion of all prior noted punch list items.
- (xi) Following completion of the construction of the Project, and according to the Project schedule, Architect shall prepare and provide the AOC with modified Construction Documents ("Record Documents") that incorporate all changes to the Project made during the course of construction, including but not limited to changes specified in all approved change orders. Record Documents shall be prepared and provided in the manner specified elsewhere in this Agreement. The receipt and acceptance of the Record Documents is a condition precedent to the AOC's release of Architect's final payment.
- (xii) Architect will, at the times directed by the AOC, make at least two visits to the Project site after final completion of the Project to assist the AOC in evaluating the need for any corrective measures.

g. Deliverables

- (i) At each indicated submittal and as directed by the AOC, Architect shall provide the following quantities of documents:
 1. Pre-Schematics: Four (4) bound sets of printed documents, one (1) unbound reproducible set of printed documents, plus one (1) set of files in an electronic format as described in this Agreement.
 2. Schematic Design: Four (4) bound sets of printed documents, one (1) unbound reproducible set of printed documents at 50% and 100%, plus one (1) set of files in an electronic format as described in this Agreement.
 3. Design Development: Four (4) bound sets of printed documents and one (1) unbound reproducible set of printed documents at 50% and 100% plus one (1) set of files in an electronic format as described in this Agreement at 100%.
 4. Construction Documents: Four (4) bound sets of printed documents and one (1) unbound reproducible set of printed documents at 50%, 90%, 100% and final. Printed documents provided at final will be copies of the stamped and signed documents. Provide three (3) sets of files in an electronic format as described in this Agreement at final.
 5. Construction Phase: For each issuance of a changed or new document during construction, provide one (1) reproducible. For Record

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Documents, provide one (1) original full-size reproducible of each drawing, one (1) unbound set of specifications, and three (3) sets of drawings and specifications files in an electronic format as described in this Agreement at the completion of the Project.

- (ii) The Deliverables include one (1) rendered site plan, one (1) exterior rendering, and one (1) miscellaneous rendering, which Architect shall provide as part of the Design Development Phase. [*Project Manager to specify whether this is necessary and, if so, at which Phase.*]
- (iii) Electronic Documents Requirements for All Phase Submittals:
 - 1. Architect shall provide drawings in Adobe Acrobat .pdf format (version 6.0) and AutoCAD (AutoCAD version 2000+ or later). If creating .dwg files from other than AutoCAD, Architect shall ensure that all graphic elements and typeface are preserved and exactly match the hard copy documents. Architect's/subcontractor's stamp may be omitted in .dwg files.
 - 2. Architect shall submit one .dwg CAD file for each submitted hard copy document in an electronic folder along with the file's unbound XREFs. Architect shall include a directory matrix with the file name, corresponding hard copy drawing name and number, XREF file names and descriptions, and layer names and descriptions. Each submittal shall include all font files, line types, and a table of plotting colors and line weights.
 - 3. Architect shall submit specifications in Microsoft Word 2003.
 - 4. Architect shall submit electronic documents on compact discs (CD). Architect shall label each CD with the Architect's name, address, and telephone number; AOC Project name and Project number; submittal phase; and date of submittal.

h. Changes

- (i) The AOC may, at any time, by written Amendment, direct changes to the Services described in this Agreement. The Architect may also propose changes to the Services described in this Agreement based upon occurrences that are not the result of the Architect's errors or omissions. If such changes will cause an increase in the cost of or the time required for performance of the agreed upon Services, such a change will require a formal written Amendment to this Agreement and an equitable adjustment, as mutually agreed upon, shall be made to the Contract Amount as set forth in Contract Amount set forth on the Agreement Coversheet or in the time of required performance as set forth in "Term of the Agreement" in the Agreement Coversheet, or both. Notwithstanding any dispute between the Architect and the AOC about whether the Services constitute a change or modification to Architect's Statement of Work or a dispute relating to the value of the claimed change or modification, Architect agrees to diligently proceed with the Services upon receipt of written direction from the AOC.

- (ii) For any change proposed by either the AOC or the Architect, the Architect shall submit in writing: (i) a description of the proposed change and the reasons for the change; (ii) the total contract amount to be paid the Architect with a breakdown of tasks and costs, including any reduction in costs resulting from the change; and (iii) the expected impact on schedule. The Architect shall submit this information, in writing, no later than fifteen (15) days after the AOC's order or other occurrence that causes the change; failure to submit said writing within this time period shall constitute a waiver of the Architect's right to seek an adjustment of the Contract Amount or the Term of this Agreement.
- (iii) If the AOC and the Architect reach agreement on a change, the agreement shall be set forth in an Amendment.

A.6. Extra Services

a. Architect shall perform the following Extra Services, only when authorized by a written Amendment to this Agreement. The cost for each Extra Service shall be determined before, and no work related to any Extra Service shall be performed until, an Amendment is made to this Agreement. In no event shall AOC be responsible for compensating Architect in excess of the Contract Amount, unless there is a written Amendment executed by the AOC that specifically increases the Contract Amount.

- (i) Revisions to Accepted Construction Documents or Design Development documents to accommodate AOC's discretionary changes (excluding corrections of inconsistencies, errors and omissions by Architect) when so directed by the AOC.
- (ii) Preparation of drawings or change orders as required due to those actions of the AOC that are beyond the scope of the Architect's responsibilities.
- (iii) Preparation of measured drawings of existing structures except as required for the design services.
- (iv) Selection of moveable furniture, equipment, or other articles that are not included in the construction contract unless otherwise specified in this Agreement.
- (v) Services necessary to supervise correction of defects or damage to the Project (excluding corrections arising from inconsistencies, errors and omissions of Architect).
- (vi) Services necessitated by the delinquency or insolvency of the CM at Risk during or after the guarantee period.
- (vii) Joining with and assisting the AOC in defending any claim or action related to or arising out of the Architect's design (not attributable to inconsistencies, errors or omissions on the part of the Architect) of the Project.
- (viii) Additional rendering and/or models as may be deemed necessary by the AOC beyond those included in the Services specified under this Agreement will be an Extra Service.

b. The hourly rates which include direct costs, indirect costs, overhead, administrative costs, and profit, to be utilized in arriving at a negotiated fee for Extra Services, are set forth in Exhibit D. Payment for Extra Services will be either on a time and materials basis or a firm fixed price, as determined by the AOC. For projects that extend over multiple fiscal years the AOC may consider, in its sole discretion, increases to hourly rates, for extra services.

END OF EXHIBIT



Exhibit B

PAYMENT PROVISIONS AND OTHER INFORMATION

INCLUDES PAYMENT PROVISIONS, SCHEDULE OF WORK, DESIGN BUDGET, CONSTRUCTION BUDGET, DESIGNATED PROJECT MANAGERS, DESIGNATED CONTRACT MANAGERS, ADDRESSES FOR NOTICE

1. Payment Provisions

B.1. Contract Amount

The total amount that may be paid under this Agreement ("Contract Amount") shall at all times be set forth on the Agreement Coversheet as the "Total Amount Encumbered to Date". The Contract Amount to be paid Architect, as specified herein, is a firm, fixed price and constitutes full consideration for all of Architect's Services provided and expenses incurred, direct or indirect, including travel and per diem, and all other costs incidental to providing all of the Services

a. Compensation by Phase:

(i) The amounts that have been agreed to as compensation for each Phase of the Services are as follows:

\$@	Pre-Schematic / Study Phase
\$@	Acquisitions Phase
\$@	Preliminary Plans / Schematic Design Phase
\$@	Preliminary Plans / Design Development Phase
\$@	Working Drawings Phase
\$@	Construction Phase

(ii) The Phases of the Services authorized to date under this Agreement are indicated on the most recently executed Agreement Coversheet.

If the start date for any Phase is delayed for more than one (1) year past the estimated start date through no fault of the Architect, then the total compensation for that Phase may be increased so long as such increase does not exceed the percentage difference between (i) the most recently reported Consumer Price Index ("CPI") (as defined below) as of the first day of the term of this Agreement, and (ii) the most recently reported CPI as of the start date of the Phase in question; provided, however, that in no event shall the amount of the increase exceed five percent (5%) per year. "CPI" means the unadjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items (1982-1984=100) published by the Bureau of Labor Statistics.

B.2. Method of Payment

a. The Architect shall submit one (1) original and two (2) copies of each invoice for the Services no more frequently than once monthly, in arrears. After receipt of the invoice, the AOC will either approve the invoice for payment or give the Architect specific written reasons why part or all of the payment is being withheld and what remedial actions the Architect must take to receive the withheld amount.

b. The AOC will make payment after receipt of the Architect's properly completed invoice. Invoices shall clearly indicate:

- (i) The contract number;
- (ii) A unique sequential invoice number;
- (iii) The Architect's name and address;
- (iv) Taxpayer identification number;
- (v) Description of the completed Services, including percentage complete of each Phase, and retention;
- (vi) Compensation previously invoiced, by Phase; and
- (vii) Preferred remittance address, if different from the mailing address.

c. Invoices furnished by the Architect under this Agreement must be in a form acceptable to the AOC and must be submitted for approval to the AOC's designated Project Manager.

d. An authorized representative of the Architect shall sign each invoice.

e. The AOC will endeavor to pay invoices within thirty (30) days after receipt of a correct, itemized invoice. In no event shall the AOC be liable for interest or late charges for any late payments. Payment shall be made by the AOC to the Architect at the remit to address specified on the face of Architect's invoice.

f. The AOC may withhold full or partial payment to the Architect in any instance in which the Architect has failed or refused to satisfy any material obligation provided for under this Agreement.

g. Upon receipt and approval of Architect's invoices, the AOC agrees to make payment as follows:

- (i) For Pre-Schematic/Study Phase.

Monthly payment for the percentage of work completed less 10 percent retention; the final 10 percent will be paid within forty-five (45) days of receipt of a correct, itemized invoice for the retention submitted after the AOC's Acceptance and approval of the Pre-Schematic/Study Phase.

(ii) For Acquisitions Phase.

Monthly payment for the percentage of work completed less 10 percent retention; the final 10 percent will be paid within forty-five (45) days of receipt of a correct, itemized invoice for the retention submitted after the AOC's Acceptance and approval of the Acquisitions Phase.

(iii) For Preliminary Plans / Schematic Design Phase

Monthly payment for the percentage of work completed less 10 percent retention; the final 10 percent will be paid within forty-five (45) days of receipt of a correct, itemized invoice for the retention submitted after the AOC's Acceptance and approval of the for Preliminary Plans / Schematic Design Phase.

(iv) For Preliminary Plans / Design Development Phase

Monthly payment for the percentage of work completed less 10 percent retention; the final 10 percent will be paid within forty-five (45) days of receipt of a correct, itemized invoice for the retention submitted after the AOC's Acceptance and approval of the for Preliminary Plans / Design Development Phase.

(v) For Working Drawings Phase.

Monthly payment for the percentage of work completed less 10 percent retention. The final 10 percent will be paid within forty-five (45) days of receipt of a correct, itemized invoice for the retention submitted after the AOC's Acceptance and approval of the Working Drawings Phase.

(vi) For Construction Phase.

Monthly payment for the percentage of work completed less 10 percent retention. The final 10 percent will be paid within forty-five (45) days of receipt of a correct, itemized invoice for the retention submitted after the AOC's Acceptance and approval of the Construction Phase, including the receipt and approval of the Record Documents and Submittal Log.

(vii) For Extra Services.

Unless otherwise stipulated in an approved Amendment, no retention will be withheld for Extra Services.

B.3. Disallowance

If the Architect claims or receives payment from the AOC for a Service that is later disallowed by the AOC, the Architect shall promptly refund the disallowed amount to the AOC upon the AOC's request. At its option, the AOC may offset the amount disallowed from any payment due or that may become due to the Architect under this Agreement or any other agreement.

B.4. Payment Does Not Imply Acceptance of Work

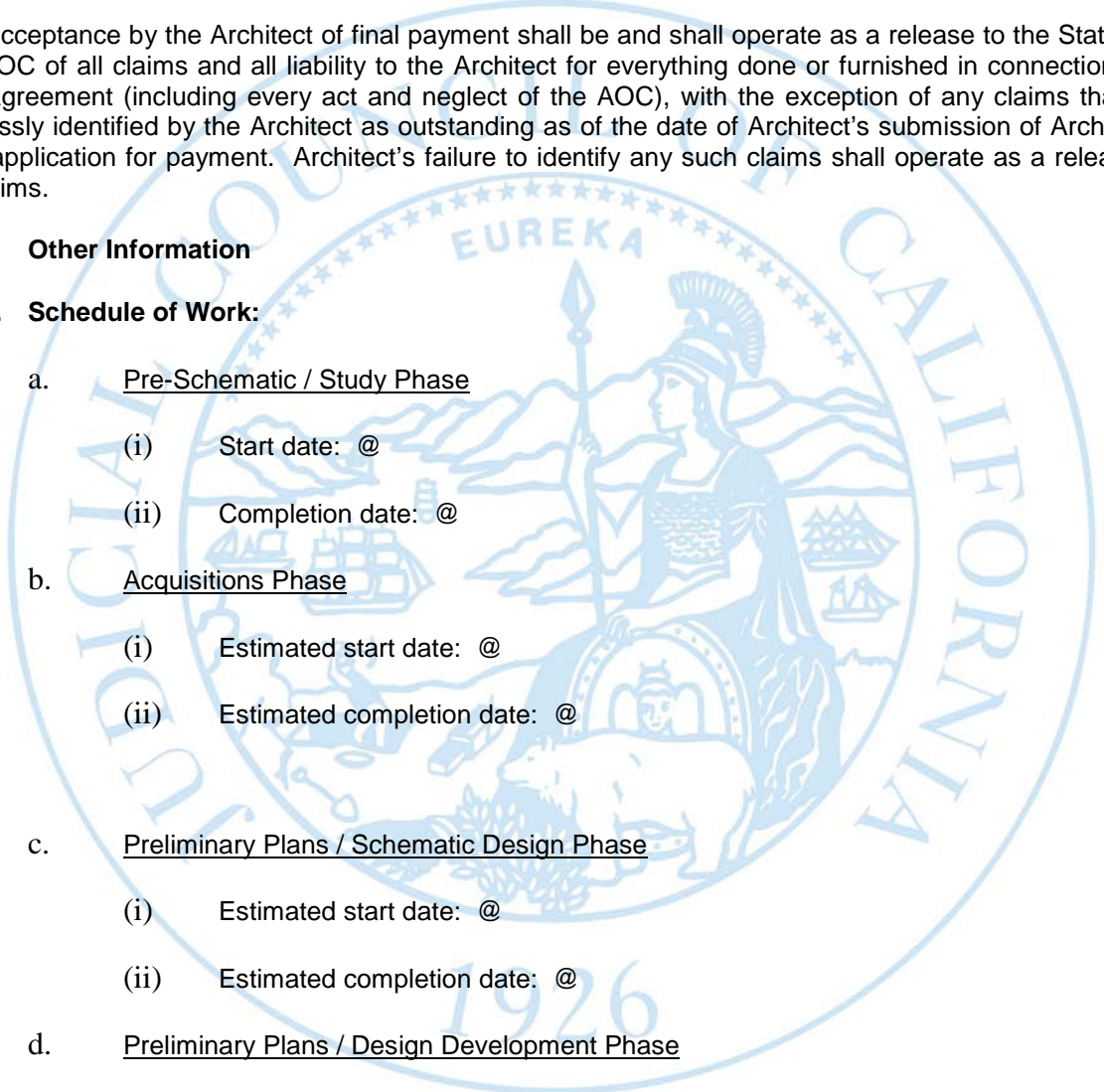
The granting of any payment by the AOC, or the receipt thereof by the Architect, shall in no way lessen the liability of the Architect to correct unsatisfactory work in connection with the Services. Services that do not conform to the requirements of this Agreement may be rejected by the AOC and in such case the Architect must correct the delivery of Services without delay.

B.5. Release of Claims

The acceptance by the Architect of final payment shall be and shall operate as a release to the State and the AOC of all claims and all liability to the Architect for everything done or furnished in connection with this Agreement (including every act and neglect of the AOC), with the exception of any claims that are expressly identified by the Architect as outstanding as of the date of Architect's submission of Architect's final application for payment. Architect's failure to identify any such claims shall operate as a release of all claims.

2. Other Information

1. Schedule of Work:

- 
- a. Pre-Schematic / Study Phase
 - (i) Start date: @
 - (ii) Completion date: @
 - b. Acquisitions Phase
 - (i) Estimated start date: @
 - (ii) Estimated completion date: @
 - c. Preliminary Plans / Schematic Design Phase
 - (i) Estimated start date: @
 - (ii) Estimated completion date: @
 - d. Preliminary Plans / Design Development Phase
 - (i) Estimated start date: @
 - (ii) Estimated completion date: @
 - e. Working Drawings Phase
 - (i) Estimated start date: @

- (ii) Estimated completion date of 50% Construction Documents: @
- (iii) Estimated completion date of 100% Construction Documents: @
- (iv) Bidding Services:

Estimated start date: @

Estimated completion date: @

f. Construction Phase

Estimated start date of Construction: @

2. Design Budget:

The Design Budget established by the AOC for the Project is \$@ as of @, 20@.

3. Construction Budget:

The Construction Budget established by the AOC for the Project is \$@ as of @, 20@.

4. Designated Project Managers:

The AOC's designated Project Manager for this Project is:

@,
Office of Court Construction and Management
Judicial Council of California
Administrative Office of the Courts

The Architect's designated Project Manager for this Project is:

@,

5. Designated Contracts Managers:

The AOC's designated Contracts Manager for this Project is:

@
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

The Architect's designated Contracts Manager for this Project is:

@

6. Addresses for Notices:

Any Notices to be given under this Agreement shall be directed to the following individuals at the following addresses:

To the AOC: AOC Project Manager

with a copy to: AOC Contract Manager

To the Architect: @

END OF EXHIBIT



Exhibit C

GENERAL TERMS AND CONDITIONS

C.1. Effective Date of Agreement

This Agreement is effective on the Effective Date set forth on the Agreement Coversheet; however, the Architect is not authorized to begin work until the AOC Project Manager delivers a "Notice to Proceed" to the Architect. The AOC will issue the Notice to Proceed only after the Architect delivers evidence of insurance to the AOC that is consistent with the insurance requirements in this Agreement. If the Architect begins work before delivery of the Notice to Proceed, that work will be at the Architect's risk and expense and subject to all terms and conditions of this Agreement except those terms and conditions inconsistent with the Architect's assumption of that risk and expense. If a Notice to Proceed is delivered, then work performed before delivery will be treated for all purposes as though it were performed after delivery. Further, an Amendment will be necessary to incorporate the work designated as "NIC" in any event.

C.2. Submitting False Claims; Monetary Penalties

The AOC shall be entitled to remedy any false claims, as defined in California Government Code Section 12650 *et seq.*, made to the AOC by the Architect or any subcontractor under the standards set forth in Government Code Section 12650 *et seq.* Any Architect or subcontractor who submits a false claim shall be liable to the AOC for three times the amount of damages that the AOC sustains because of the false claim. An Architect or subcontractor who submits a false claim shall also be liable to the AOC for (a) the costs, including attorney fees, of a civil action brought to recover any of those penalties or damages, and (b) a civil penalty of up to \$10,000 for each false claim.

C.3. Sales and Use Tax

Payment of possessory interest taxes and California sales and use taxes, levied upon this Agreement, or any goods or the Services delivered pursuant hereto, shall be the obligation of the Architect.

C.4. Responsibility for Equipment and Real Property

The AOC shall not be responsible for any damage to persons or property as a result of the use, misuse, or failure of any equipment used by the Architect, or by any of its employees or agents, even though such equipment is furnished, rented, or loaned to the Architect by the AOC.

C.5. Independent Architect

a. Independent Architect. The Architect shall be, and is, an independent contractor, is not an employee or agent of the AOC, and is not covered by any employee benefit plans provided to the AOC's employees. The Architect is, and shall be, liable for its own acts and omissions as well as those of its employees, its subcontractors and its agents. Nothing in this Agreement shall be construed as creating an employment or agency relationship between the AOC and the Architect. The Architect will determine the method, details and means of performing its responsibilities with regard to the Services, including, without limitation, exercising full control over the employment, direction, compensation and discharge of all persons assisting the Architect in the performance of the Services. The Architect shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding, any and all employee benefits, and all regulations governing such matters.

b. Payment of Income Taxes. The Architect shall pay, when due, all applicable income taxes, including estimated taxes, incurred as a result of the compensation paid by the AOC to the Architect for the Services. The State is exempt from federal excise taxes and no payment will be made for any taxes levied on the Architect's or any subcontractor's employees' wages. The Architect agrees to indemnify, defend and hold the AOC harmless for any claims, costs, losses, fees, penalties, interest or damages (including attorney fees and costs) suffered by the AOC resulting from the Architect's failure to comply with this provision. The AOC may offset any taxes paid by the AOC as a result of the Architect's breach of this provision.

C.6. Licenses:

a. Architect warrants and represents that Architect itself has, and shall maintain throughout the duration of this Agreement, all license(s) required under law to provide the Service(s) contemplated by this Agreement.

b. Architect warrants and represents that Architect shall ensure that any of its employees or Subcontractors, including but not limited to its engineering Subcontractor(s), providing a Service(s) contemplated by this Agreement have and maintain throughout their work, all license(s) required under law to provide that Service(s).

c. If the possession of a license(s) is required under law for the performance of a Service(s), Architect warrants and represents that that Service(s) will either be performed by appropriately licensed individuals or under the direct supervision and subject to the review and approval of appropriately licensed individuals.

C.7. Architect's Key Personnel

a. The Architect shall use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the Services. The Architect has been selected to perform the Services herein, in part, because of the skills and expertise of the key individuals and/or firms (collectively "Architect's Key Personnel") that are listed in Exhibit F. Substitution or replacement of the individuals and/or firms identified in Exhibit F is not allowed except with written approval of the AOC.

b. If the designated lead or key person fails to perform to the satisfaction of the AOC upon written notice, the Architect will have fifteen (15) calendar days to remove that person from the Project and replace that person with one acceptable to the AOC. All lead or key personnel for any subcontractor must also be designated by any subcontractor and are subject to all conditions stated in this section.

c. The Architect shall be responsible for all costs associated with replacing any of Architect's Key Personnel, including the additional costs to familiarize replacement personnel with the Services. If the Architect does not furnish replacement personnel acceptable to the AOC, the AOC may terminate this Agreement for cause.

C.8. Standard of Care

The Architect, its officers, agents, employees, subcontractors, consultants and any persons or entities for whom Architect is responsible, shall provide all Services pursuant to this Agreement in the manner specified in this Agreement and consistent with the standard of care under California law applicable to those who specialize in providing such services for projects of the type, scope, and complexity of the Project. The AOC's Acceptance of any submittals, deliverables, or other work product of the Architect shall not be construed as assent that Architect has complied, nor in any way relieve the Architect of,

compliance with (i) the applicable standard of care or (ii) applicable statutes, regulations, rules, guidelines, and requirements.

C.9. AOC's Quality Assurance Plan

The AOC or its agent may evaluate Architect's performance under this Agreement. Such evaluation may include assessing Architect's compliance with all Agreement terms and performance standards. Any deficiencies in the Architect's performance that the AOC determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected, will be reported to the Architect's principal. The report may include recommended improvements and corrective measures to be taken by the Architect. If the Architect's performance remains unsatisfactory, the AOC may, without limitation, terminate this Agreement for cause or impose other penalties as specified in this Agreement. Any evaluation of Architect's performance conducted by the AOC shall not be construed as an Acceptance of the Architect's work product or methods of performance. Architect shall be solely responsible for the quality, completeness, and accuracy of the work product that Architect and its subcontractors deliver under this Agreement. Architect shall not rely on AOC to perform any quality control review of Architect's work product, as such review shall be conducted by Architect.

C.10. Subcontracting

a. The Architect is prohibited from subcontracting this Agreement or any part of it, except to subcontractors as set forth in Exhibit E, unless such subcontracting is first approved by the AOC in an Amendment. An agreement made in violation of this section shall confer no rights on any party and shall be null and void.

b. If requested by the AOC, the Architect shall provide documentation that the proposed subcontractor is experienced and able to perform that portion of the Services Architect wishes to subcontract. The Architect shall require all subcontractors to comply with the provisions of this Agreement. The Architect shall provide copies of all agreements with subcontractors to the AOC. The AOC's approval of subcontracts shall in no way relieve the Architect of any of its responsibilities and obligations under this Agreement.

c. The Architect expressly acknowledges that its subcontractors are not third party beneficiaries of this Agreement.

C.11. Background Checks

If the Architect assigns persons (whether employees, independent contractors, subcontractors or agents) to perform work under this Agreement that requires that the person have access to the systems (whether on-site or by remote access) or premises of the AOC or other judicial branch entities, the AOC shall have the right, but not the obligation, to conduct a background check or to require the Architect to conduct a background check, as permitted by law, on all such persons before the AOC will grant to such persons access to the AOC's or other judicial branch entities' premises or systems. The Architect will cooperate with the AOC in performing such background check, and will promptly notify the AOC of any such person refusing to undergo such background check, and will reassign such person to perform other services. The Architect shall obtain all releases, waivers, or permissions required for the release of such information to the AOC. Costs incident to background checks are the sole responsibility of the Architect.

C.12. Indemnification

Contractor agrees to indemnify and hold harmless (collectively, "Indemnify") the State, the Judicial Council of California, the Administrative Office of the Courts, the State's trial courts, appellate courts, justices, judges, subordinate judicial officers, court executive officers, court administrators, and any and all of their directors, officers, agents, representatives, volunteers and employees (individually, an "Indemnified Party") from any and all claims, lawsuits, losses, costs, liabilities, and damages to the extent caused by any of the following:

- a) Contractor's or any of its employees' or subcontractors' negligent acts or omissions, or intentional misconduct;
- b) Contractor's breach of its obligations under this Agreement;
- c) Contractor's or any of its employees' or subcontractors' violation of any applicable law, rule, or regulation; and,
- d) any claim or lawsuit by a third party, contractor, subcontractor, supplier, worker, or any other person, firm, or corporation furnishing or supplying work, materials, or supplies who may be injured or damaged by Contractor or any of its employees or subcontractors, when such claim arises from, is related to, or is in connection with Contractor's operations under this Agreement.

Contractor's defense obligation under this section C.12 is limited to reimbursement of any expenditure, including reasonable attorney fees and costs, incurred by an Indemnified Party in defending claims or lawsuits, ultimately determined to be due to negligent acts or omissions of Contractor or any of its employees or subcontractors.

This section C.12 does not require Contractor to Indemnify an Indemnified Party for such portion of any loss, cost, liability, or damage that arises solely from the negligence or intentional misconduct of the Indemnified Party.

This section C.12 shall not be construed to limit any Indemnified Party's rights as an additional insured under a policy of insurance furnished pursuant to sections C.13.a (ii) or C.13.a (iii) of this Agreement.

This section C.12 shall not be construed to limit the defense obligations of any insurance company to any Indemnified Party named as an additional insured under any policy described in sections C.13.a (ii) or C.13.a (iii) of this Agreement.

C.13. Insurance

a. Insurance Required. Without limiting the Contractor's indemnification obligation and in addition thereto, the Contractor shall secure and maintain in force throughout the term of this Agreement the following types of insurance with limits as shown. By requiring such minimum insurance, the AOC shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. Each policy, other than the Professional Liability policy, shall be written on an "occurrence" form. The Professional Liability policy may be written on a "claims made" form.

- (i) Workers' Compensation Insurance —At statutory minimums, including employers' liability coverage with limits not less than \$1,000,000 for each

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

- (ii) Commercial General Liability Insurance—Covering liability arising from premises, operations, independent contractors, products and completed operations, personal injury and advertising injury, and liability assumed under contract. The policy shall provide limits of not less than \$5,000,000 per occurrence and \$5,000,000 annual aggregate. The insurance must apply separately to each insured against whom a claim is made or lawsuit is brought, subject only to the insurance policy's limit of liability
- (iii) Commercial or Business Automobile Liability Insurance—Covering liability arising out of a motor vehicle, including owned, non-owned, leased, and hired vehicles assigned to or used in connection with the Project. The policy shall provide combined single limits of not less than \$1,000,000 per accident or loss.
- (iv) Professional Liability Insurance; Errors and Omissions —Covering the Contractor's acts, errors or omissions committed or alleged to have been committed which arise out of rendering or failure to render the Services provided under the terms of this Agreement. The policy shall provide limits of not less than \$\$ (see guidelines below) per claim or per occurrence and \$\$ (see guidelines below) annual aggregate. If the policy is written on a "claims made" form, the Contractor 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 three (3) years from the date of completion of the Services which are 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 Services commence pursuant to this Agreement.

Guidelines: (Not a part of the contract text)

The Professional Liability Insurance needs will be assessed based on the complexity of the project, however, the following guidelines and the amounts of insurance indicated in the Request for Qualifications for Architectural and Engineering services will in general apply.

<i>Total Project Cost</i>	<i>Professional Liability Limits</i>
1. Up to \$50,000,000	\$2,000,000 minimum per occurrence or claim and annual aggregate
2. \$50,000,001 to \$100,000,000	\$3,000,000 minimum per occurrence or claim and annual aggregate
3. Over \$100,000,000	\$5,000,000 minimum per occurrence or claim and annual aggregate

b. General Requirements

- (i) Contractor will maintain, or cause to be maintained, insurance issued by an insurance company or companies 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.
- (ii) For all insurance policies required by this Contract, Contractor will declare any deductible or self-insured retention (SIR). Contractor will be responsible for reimbursement of any deductible to its insurer. Contractor will administer any self-insurance program in a commercially reasonable manner that ensures sufficient funds are available to cover all losses Contractor must insure against under the terms of section 13.
- (iii) Before commencement of the Services, Contractor will provide the AOC with certificates of insurance, on forms acceptable to the AOC, as evidence that all required insurance is in full force and effect. The dollar amount of any SIR or deductible will be specified on the applicable certificate of insurance. The certificates of insurance will be accompanied by the following endorsements:
 - (a) For the insurance required by section C.13.a.(ii) and a.(iii) above, an endorsement evidencing that the State of California, the Judicial Council of California, the Administrative office of the Courts, and the Superior Court of California – (name of county where the courthouse is being built), including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents, if any, have been added as additional insureds on the insurance policy being referenced; and
 - (b) For all insurance an endorsement that the insurance will not be materially changed or cancelled without 30 days notice to the AOC, and
 - (c) For the insurance required by section C.13.a.(ii) and C.13.a.(iii) an endorsement evidencing that the insurance is primary and non-contributing with any insurance, self-insurance, or other risk management program maintained by the State of California, the Judicial Council of California, the Administrative office of the Courts, and the Superior Court of California – (name of county where the courthouse is being built), including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents, if any.
- (iv) If any of the required insurance policies expire during the term of the Contract, Contractor will immediately renew or replace the required insurance and provide a new certificate of insurance to the AOC. Contractor will ensure that any renewal insurance certificates are tendered to the AOC at least 10 days after the expiration of the expiring insurance policy.
- (v) Contractor shall waive any right of recovery or subrogation it may have against any of the State of California , the Judicial Council of California, the Administrative Office of the Courts, or the Superior Court of California - (name of

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county where the courthouse is being built), including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents for loss or damage for any loss arising out of the Services performed by Contractor under this Agreement, and the Contractor will require any insurer providing insurance required under section C.13 to do the same.

- (vi) Contractor is responsible for and may not recover from the State of California, the Judicial Council of California, the Administrative Office of the Courts, or the Superior Court of California – (name of county where the courthouse is being built), including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents, if any, any deductible or self-insured retention that is connected to the insurance required under section C.13.
- (vii) If Contractor fails to keep in effect at all times the specified insurance coverage, the AOC may, in addition to any other remedies it may have, declare the Contract to be in breach and withhold all progress payments and retentions until the breach is cured, or terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.
- (viii) If at any time the specified insurance policies become unsatisfactory to the AOC, the Contractor shall, upon notice to that effect from the AOC, promptly obtain a new policy, and shall submit the same to the AOC, with the appropriate certificates and endorsements, for approval.
- (ix) A The AOC reserves the right to request certified copies of any of the insurance policies required under section C.13.
- (x) The Certificates of Insurance required under section C.13.b (iii) and any ' advance written notice of any change or cancellation, shall be mailed to the individuals at the following addresses:

@, AOC Project Manager
Office of Court Construction and Management
Judicial Council of California
Administrative Office of the Courts
@(address)

with a copy to the AOC Business Services Manager:

Grant Walker, Business Services Manager
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

c. Joint Ventures. If the Contractor is an association, partnership, or other joint business venture, the insurance required in subsection (a) above shall be provided by any one of the following methods, any of which shall be subject to all of the requirements stated herein:

- (i) Separate insurance policies issued for each individual entity, with each entity

included as a named insured or as an additional insured.

- (ii) Joint insurance program with the association, partnership, or other joint business venture included as a named insured.

C.14. Stop Services Order

a. The AOC may, at any time, by delivery of a Stop Services Order to the Architect, require the Architect to stop all, or any part, of the Services pursuant to this Agreement, for a period up to ninety (90) days after the Stop Services Order is delivered to the Architect, and for any further period to which the parties may agree. The Stop Services Order shall be specifically identified as such and shall indicate it is issued under this section. Upon receipt of the Stop Services Order, the Architect shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Services covered by the Stop Services Order during the period of Services stoppage.

b. The AOC shall not be liable to the Architect for any costs, expenses, or loss of profits because of the Stop Services Order issued under this provision unless expressly specified in the Stop Services Order.

C.15. 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 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.

C.16. Termination for Cause

If the AOC determines that the Architect has failed to perform in accordance with the terms and conditions of this Agreement, the AOC may terminate all or part of the Agreement for cause. This termination shall be effective if Architect does not cure its failure to perform within ten (10) days (or more, if authorized in writing by the AOC) after receipt of a notice of intention to terminate from the AOC specifying the failure in performance.

C.17. Termination for Non-Appropriation of Funds

The Architect acknowledges that funding for this Agreement is conditioned upon appropriation by the California Legislature and allocation by the Judicial Council of California, and/or sale of lease revenue or other bonds, of sufficient funds to support the activities described in this Agreement. By written notice to the Architect, the AOC may immediately terminate this Agreement, in whole or in part, for lack of appropriation of funds, or other withdrawal, reduction or limitation in any way of the AOC's Construction and/or Design Budget(s), funding or financial resources.

C.18. Termination for Convenience

The AOC shall have the option, in its sole discretion, to terminate this Agreement, in whole or in part, at any time during the term hereof, for convenience and without cause, upon written notice to the Architect. The notice shall specify the date on which termination shall become effective.

C.19. Actions of the Architect Upon Termination

Immediately upon receipt of any notice of termination of this Agreement, the Architect shall commence and perform, with diligence, all actions necessary on the part of the Architect to effect the termination of this Agreement on the date specified by the AOC and to minimize the liability of the Architect and the AOC to third parties as a result of termination. All such actions shall be subject to the prior approval of the AOC, at the AOC's sole discretion. Such actions shall include, without limitation:

- a. Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by the AOC.
- b. Not placing any further orders or entering into any subcontracts for materials, Services, equipment or other items.
- c. Canceling any and all existing orders and terminating any and all subcontracts.
- d. Assigning to the AOC any or all of the Architect's right, title, and interest under the existing orders and subcontracts.
- e. Settling all outstanding liabilities and all claims arising out of the cancellation of orders and termination of subcontracts.
- f. Completing performance of any Services that the AOC designates to be completed prior to the date of termination specified by the AOC.
- g. Providing to the AOC any tangible work product and Data created in the course of the performance of Services hereunder.

C.20. Effect of Termination

In addition to any other remedies and actions set forth in this Agreement, if this Agreement is terminated for cause, non-appropriation of funds, or for convenience, the following will apply:

- a. Payment Upon Termination. The AOC shall pay for Architect's Services satisfactorily performed through the effective date of termination; in no event shall Architect's compensation under this section exceed the reasonable value of the performed Services, based on the Architect's progress of the Services performed and the proportionate corresponding value of the Contract Amount. Additionally, the Architect shall not be entitled to recover its anticipated profit on any work not performed pursuant to said termination.
- b. Offset and Deduction. The AOC may deduct from any payment upon termination:
 - (i) All payments previously made by the AOC for Services covered by the Architect's final invoice.
 - (ii) The amount of any undisputed claim that the AOC may have against the Architect in connection with this Agreement.
 - (iii) In instances in which the AOC reasonably determines that the cost of any Services is excessive and if excessive due to costs incurred to remedy or replace

defective materials or rejected Services, the AOC will pay the difference between the invoiced amount and the AOC's reasonable estimate of the reasonable cost of replacing the materials or performing the invoiced Services in compliance with the requirements of this Agreement.

C.21. Ownership of Data

a. Everything created, developed or produced in the course of the Architect's performance of the Services, including, without limitation, all drawings and specifications, reports, records, files, documents, memoranda, schedules, recordings, information and other materials or data (collectively, "Data") in any form, prepared, or in the process of being prepared, are works made for hire by the Architect for the AOC and are the sole property of the AOC without further employment or the payment of additional compensation to the Architect. The AOC owns all of the right, title and interest, in and to the Data, including, without limitation, all trademarks, copyrights, trade secrets, patents, and any and all other intellectual property rights therein (collectively, the "Intellectual Property Rights"). To the extent that any of the Data or the Intellectual Property Rights therein are not works for hire, the Architect hereby irrevocably assigns its entire right, title and interest in and to all such Data and the Intellectual Property Rights therein, to the AOC. At the AOC's request, the Architect will assist the AOC in the AOC's prosecution, perfection, and registration of any or all Intellectual Property Rights in the Data. The Architect irrevocably appoints the AOC as its attorney in fact, coupled with an interest, to take all actions and execute and file all documents that the AOC deems necessary to perfect the AOC's interest and Intellectual Property Rights in the Data as set forth herein.

b. The AOC shall be entitled to access copies of the Data in whatever form, including, without limitation CAD, all times during the term of the Agreement. Any such Data in the possession of the Architect or in the possession of any subcontractor upon completion or termination of the Agreement shall be immediately delivered to the AOC. If any Data are lost, damaged or destroyed before final delivery to the AOC, the Architect shall replace them at its own expense and the Architect assumes all risks of loss, damage or destruction of or to such Data.

c. AOC expressly acknowledges and agrees that the Data to be provided by Architect under the Agreement may contain certain design details, features and concepts from the Architect's best practices detail library, which collectively may form portions of the design for the Project, but which separately are, and shall remain, the sole and exclusive property of Architect. Nothing herein shall be construed as a limitation on the Architect's right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.

d. The AOC acknowledges the Architect's work product, including electronic files, as instruments of professional service. If the AOC reuses or makes any modification to the Architect's work product without the prior written authorization of the Architect, the AOC agrees, to the fullest extent permitted by law, to indemnify, defend (with counsel reasonably satisfactory to Architect) and hold harmless the Architect, and its officers, directors, employees and subconsultants, against any damages, liabilities or costs, including reasonable attorney fees and defense costs, arising from or allegedly arising from or in any way connected with the reuse or modification of the Architect's work product by the AOC, or by any person or entity that lawfully acquires or obtains the Architect's work product from or through the AOC without the written authorization of the Architect.

C.22. Proprietary or Confidential Information of AOC

a. The Architect understands and agrees that, in the performance of the Services under this Agreement or in contemplation thereof, the Architect may have access to private or confidential information which may be owned or controlled by, or otherwise in the possession of, the AOC and that

such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the AOC. The Architect agrees that all information disclosed by the AOC to the Architect shall be held in confidence and used only in the performance of the Agreement. The Architect shall exercise the same standard of care to protect such information as the Architect uses to protect its own proprietary information and in any case no less than a reasonably prudent person or entity would use to protect its own proprietary data.

b. It is understood, however, that the Architect may disclose the AOC's confidential information on a "need to know" basis to the Architect's employees, the Architect's subcontractors, and the subcontractors' employees, and as required by law. Architect shall execute written agreements with its subcontractors that bind each subcontractor and its employees to the confidentiality provisions set forth in this Agreement.

c. The Architect shall acquire no right or title to the confidential information. The Architect agrees not to use the confidential information for any purpose except to provide the Services. Notwithstanding the foregoing, the Architect may disclose the confidential information: (i) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it or as appropriate to respond to any summons or subpoena applicable to it; provided, however, that the Architect first gives reasonable notice of its intention to disclose in order for the AOC to seek a protective order; or (ii) to the extent necessary to enforce its rights under this Agreement.

d. The Architect agrees that monetary damages are inadequate to remedy any breach or threatened breach of this section and, accordingly, consents to injunctive relief for any breach or threatened breach hereof without the posting of any bond.

C.23. Audit and Retention of Records

The Architect shall permit authorized representatives of the AOC and/or its designee at any reasonable time to inspect, copy, or audit any and all records and documentation related to the performance of the Agreement, including records related to billings and other financial records. The Architect shall allow the auditor(s) access to such records during normal business hours and shall allow the auditor(s) to interview any employees or others who might reasonably have information related to such records. Further, the Architect agrees to include the same right of the AOC to audit records and interview staff in any subcontract related to performance of this Agreement. The Architect shall maintain, and shall require its subcontractors to maintain, all records and documentation related to the performance of this Agreement, including records related to billings and other financial records, in an accessible location and condition for a period of not less than three (3) years after final payment is received pursuant to this Agreement or until after final audit has been resolved, whichever is later. The Architect shall adequately protect all records against fire or other damage. The State of California, or any state agency or entity having an interest in the subject of this Agreement, shall have the same rights conferred upon the AOC by this section.

C.24. Accounting System Requirements

The Architect shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles (GAAP).

C.25. AOC and Court Representation

a. AOC Project Management.

(i) For the purposes of this Agreement, the AOC's authorized representative

("Project Manager") shall be as named in the most current version of Exhibit B of this Agreement:

- (ii) All requests and communications about the Services to be performed under this Agreement shall be made through the Project Manager.
- (iii) The Project Manager is not authorized by the AOC to make any commitments or changes which will affect the price, terms or conditions of this Agreement absent an Amendment executed by the parties.

b. Third Party Representation. The AOC has the authority to speak on behalf of the Court and to bind such court with respect to Acceptance of deliverables and all matters hereunder.

c. Third Party Beneficiary. The Court shall be an intended third party beneficiary of this Agreement. In the event the court gives conflicting instructions or makes conflicting determinations with respect to any matter, it shall be the AOC's responsibility to resolve any such conflict promptly.

C.26. Dispute Resolution

a. Notice of Dispute. The parties shall attempt in good faith to resolve potential disputes informally and promptly. If a dispute persists, either party may submit a written demand to the other party at the earliest practicable time that the dispute is identified (the "Demand"). The Demand shall: (i) be fully supported by detailed factual information and supporting documentation; (ii) state the specific Agreement provisions on which the Demand is based; and (iii) if the Demand involves a cost adjustment, state the exact amount of the cost adjustment accompanied by all records supporting the Demand. The Demand shall include a written statement signed by an authorized person indicating that the Demand is made in good faith, that the supporting data and documents are accurate and complete, and that the amount requested accurately reflects the adjustment for which the submitting party believes the other party is responsible. To assist the other party in its review of the Demand, the submitting party shall comply with reasonable requests for additional information. The receiving party shall provide a written response to the submitting party's Demand stating a decision as to whether the receiving party accepts or rejects the Demand. Failure by the receiving party to provide such a response shall be deemed a decision by the receiving party constituting a rejection of the Demand.

b. Senior Level Negotiations. Upon written request by either party after the receipt of a Demand, the parties shall attempt to resolve the dispute by negotiations between the principal (or equivalent) of the Architect and the designated representative of the AOC. The principal (or equivalent) of the Architect and the designated representative of the AOC shall meet as often as they deem reasonably necessary to exchange information and attempt to resolve the Demand within thirty (30) days after the Demand was initially delivered.

c. Mediation. If the senior level negotiations do not result in resolution of the dispute within thirty (30) days after the Demand was received, the parties shall submit their dispute to mediation prior to any party initiating an action in court.

d. Litigation. If, after mediation pursuant to section C.26(c), the parties have not resolved the dispute, the receiving party's decision made pursuant to section C.26 (a) will be conclusive and binding regarding the dispute unless the submitting party commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days following the conclusion of such mediation or one (1) year following the accrual of the cause of action, whichever is later. In the event of litigation of a dispute arising from or related to this Agreement, the prevailing party shall be entitled to recover

reasonable attorney fees and costs.

e. Confidentiality. All negotiations conducted pursuant to this section C.26 are confidential and shall be treated as compromise and settlement negotiations to which California Evidence Code Section 1152 applies. The mediation shall be confidential and shall be subject to the provisions of California Evidence Code Sections 703.5 and 1115 through 1128.

f. Continuation of Work. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, Architect agrees to diligently proceed with the performance of this Agreement, including the delivery of deliverables or providing of Services, in accordance with the AOC's instructions. Architect's failure to diligently proceed in accordance with the AOC's instructions will be considered a material breach of this Agreement.

C.27. Certifications

By executing this Agreement, Architect certifies under penalty of perjury that the following are true at the time of execution of this Agreement and shall remain true during the performance of this Agreement:

- a. Nondiscrimination/No Harassment Provisions and Compliance.
- (i) Nondiscrimination. The Architect and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, creed, religion, color, national origin, ancestry, physical or mental disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), medical condition, marital status, age (over 40), sex, sexual orientation, gender identity, or domestic partner status. The Architect and its subcontractors shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
 - (ii) No Harassment. The Architect and its subcontractors shall not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom the Architect or its subcontractors interact in the performance of this Agreement. The Architect and its subcontractors shall take all reasonable steps to prevent harassment from occurring.
 - (iii) FEHA. The Architect shall comply with the provisions of the Fair Employment and Housing Act, California Government Code, Sections 12990 *et seq.*, and the applicable regulations promulgated under California Code of Regulations, title 2, Sections 7285 *et seq.* The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code, Section 12990, set forth in chapter 5 of division 4 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full.
 - (iv) Compliance with Americans with Disabilities Act. The Architect complies with applicable provisions of the Americans with Disabilities Act ("ADA") of 1990 (42 U.S.C. Section 12101 *et seq.*), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.
 - (v) Notice to Labor Organizations. The Architect and any of its subcontractors shall

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give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- (vi) Compliance. The Architect shall include the nondiscrimination, no harassment, and compliance provisions of this section in any and all subcontracts issued to perform Services under this Agreement. Architect has, unless exempt, complied with the nondiscrimination program requirements. (Government Code, Section 12990 (subdivisions a-f) and CCR, Title 2, Section 8103 *et seq.*)

b. Prohibited Financial Conflict of Interest. The Architect and its subcontractors presently have no interest and will not acquire any interest which would present a conflict of interest pursuant to California Government Code Sections 1090 *et seq.* and 87100 *et seq.* during the performance of Services pursuant to this Agreement. The Architect further certifies that, to the best of its knowledge after due inquiry, no employees or agents of the AOC are now, nor in the future will they be, in any manner interested directly or indirectly in this Agreement, or in any profits expected to arise from this Agreement, as set forth in California Government Code Sections 1090 *et seq.* and 87100 *et seq.*

c. Conflict of Interest for Former State Employees. The Architect certifies and shall require any subcontractor to certify to the following: Former State employees will not be awarded a contract for two (2) years from the date of separation if that employee had any part of the decision making process relevant to the contract, or for one year from the date of separation if that employee was in a policy making position in the same general subject area as the proposed contract within the twelve (12) month period of his or her separation from State service.

d. Covenant Against Gratuities. No gratuities, in the form of entertainment, gifts, or otherwise, were offered by the Architect or any agent, director, or representative of the Architect, to any officer, official, agent, or employee of the State with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement. For breach or violation of this provision, the AOC will have the right to terminate this Agreement, either in whole or in part, and any loss or damage sustained by the State in procuring, on the open market, any items which the Architect agreed to supply, shall be borne and paid for by the Architect. The rights and remedies of the AOC provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

e. Drug-Free Workplace. The Architect will provide a drug-free workplace as required by California Government Code Sections 8355 through 8357.

f. National Labor Relations Board. No more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against the Architect within the immediately preceding two (2) year period because of the Architect's failure to comply with an order of the National Labor Relations Board.

g. Brokerage Or Contingent Fees. No person or selling agency has been employed or retained to solicit or secure this Agreement upon an understanding or agreement for a commission, percentage, brokerage or contingent fee.

h. Computer Software Use. Architect has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

C.28. Limitation on Publication

The Architect shall not publish or submit for publication any article, press release, or other writing relating to the Architect's Services for the AOC without prior review and written permission by the AOC. The AOC review shall be completed within thirty (30) days of submission to the Project Manager and, if permission is denied, the AOC shall provide its reasons for denial in writing. Architect r shall ensure that the provisions of this section C.28 are passed on to all subcontractors of any tier participating on the performance of any part of this Agreement.

C.29. General

a. Survival. The termination or expiration of the Agreement shall not relieve either party of any obligation or liability accrued hereunder prior to or subsequent to such termination or expiration, nor affect or impair the rights of either party arising under the Agreement prior to or subsequent to such termination or expiration, except as expressly provided herein.

b. Remedies Cumulative. All remedies provided for in this Agreement are cumulative and may be exercised individually or in combination with any other remedy available hereunder.

c. Assignment. The Services to be performed by the Architect are personal in nature and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Architect unless first consented to by the AOC by written instrument executed and approved in the same manner as this Agreement. Except as otherwise provided herein, all of the terms, provisions and conditions of the Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives. Any assignment in violation hereof shall be null and void.

d. Waiver. Any waiver of any term of this Agreement must be in writing and executed by an authorized representative of the waiving party and shall not be construed as a waiver of any succeeding breach of the same or other term of this Agreement.

e. Severability. The provisions of this Agreement are separate and severable. Should any court hold that any provision of this Agreement is invalid, void or unenforceable, then (i) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (ii) such provision shall be enforced to the maximum extent possible so as to effect the reasonable intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

f. Compliance with Laws. The Architect shall keep itself fully informed of all municipal, county, state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply, at no expense to the AOC, with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time. The Architect shall procure and keep in full force during the term of this Agreement any and all permits necessary to accomplish the Services contemplated in this Agreement at no expense to the AOC.

g. Time is of the Essence. Time is of the essence in this Agreement.

h. Governing Law; Jurisdiction. This agreement, and all of the rights and duties of Architect and the State arising out of or related to this agreement or to the relationship of Architect and the State, are governed by the laws of the State of California without regard to its conflicts of law rules. This provision applies to all claims and causes of action that Architect has or may acquire against the State,

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whether based on contract, tort, statute, or anything else.

Architect agrees that any claims that it has or may acquire against the State shall be commenced in and decided exclusively by a court of competent jurisdiction located in the State of California. Architect agrees to submit to the personal and exclusive jurisdiction of courts located in the State of California. Architect waives all defenses and arguments that the courts located in the State of California constitute an inconvenient forum based upon the residence or domicile of Architect, the location of the project that is the subject of the litigation or the location of witnesses, the location of documents, or anything else.

i. Agreement Construction. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given their reasonable interpretation.

j. Notices to the Parties. All notices, requests, demands, and other communications hereunder must be in writing and will be deemed to have been duly given when hand delivered or five (5) days after being deposited in the United States mail, if mailed by certified or registered mail, return receipt requested, postage prepaid, to the individuals and at the addressed specified in the most current version of Exhibit B of this Agreement:

k. Amendments. This Agreement may not be modified or amended, except by a written instrument executed and approved in the same manner as this Agreement (an "Amendment").

l. Public Contract Code References. Public Contract Code references create duties of the Architect under this Agreement; however, the references do not imply that the AOC is subject to the Public Contract Code.

m. Entire Agreement. This Agreement, consisting of the Agreement Coversheet and all Exhibits thereto, constitutes the entire agreement between the parties and supersedes all previous modifications, agreements, proposals, negotiations, representations, and commitments, both oral and written, between the parties.

END OF EXHIBIT

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Exhibit D

HOURLY RATES FOR EXTRA SERVICES

TITLE	HOURLY BILLING RATE
1. Managing Principal	\$@
2. Principal/Director	\$@
3. Associate/Sr. Project Manager	\$@
4. Project Manager / Sr. Project Designer / Sr. Engineer	\$@
5. Project Architect / Sr. Interior Designer / Project Engineer	\$@
6. Specifications Writer / Estimating	\$@
7. Project Designer / Interior Designer / Architect / Engineer	\$@
8. Job Captain / Designer	\$@
9. Jr. Designer II / Technical Support / CADD Drafter	\$@
10. Jr. Designer / Administrative Support	\$@

END OF EXHIBIT

Exhibit E

SUBCONTRACTORS TO ARCHITECT

Name	Address	Area of Specialization

END OF EXHIBIT

Exhibit F

ARCHITECT'S KEY PERSONNEL

Name	Title	Role

END OF EXHIBIT

Exhibit G

DESCRIPTION OF PROJECT

