

Contract Number	Amendment Number
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER	

THIS AGREEMENT, made and entered into as of the ____ day of _____, 20__ ("Effective Date"), in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE Business Services Manager	ENTITY Judicial Council of California, Administrative Office of the Courts 455 Golden Gate Ave. San Francisco, CA 94102	, hereafter called the AOC, and
CONTRACTOR'S NAME		, hereafter called the Contractor.

WITNESSETH: That the Contractor 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 documents ("Contract Documents"): (1) Exhibit A, Standard Provisions; (2) Exhibit B, Special Provisions; (3) Exhibit C, Work Order Authorization Process and Payment Provisions; (4) Exhibit D, Statement of Work, (5) Exhibit E Services Request Form, (6) Exhibit F, Work Order Authorization Form and (7) Exhibit G, Acceptance and Signoff Form.

In the event of a conflict between the Contract Documents, the following descending order of precedence shall govern: Exhibit A, Exhibit B, Exhibit C, and Exhibit D. Any Amendments, starting with the most recent, shall take precedence over the existing Agreement.

As set forth in this Agreement, and as specified in Work Orders authorized under this Agreement, the Contractor agrees to provide the Work as specified.

The term of this Agreement begins on the Effective Date and expires on May 15, unless otherwise extended by amendment of this Agreement.

IN WITNESS WHEREOF, this Agreement has been entered into by the parties hereto, effective upon the Effective Date.

STATE OF CALIFORNIA			CONTRACTOR			
ENTITY Judicial Council of California, Administrative Office of the Courts			CONTRACTOR (if other than an individual, state whether a corporation, partnership, etc.)			
BY (AUTHORIZED SIGNATURE) <input type="checkbox"/>			BY (AUTHORIZED SIGNATURE) <input type="checkbox"/>			
PRINTED NAME OF PERSON SIGNING Grant Walker			PRINTED NAME AND TITLE OF PERSON SIGNING			
TITLE Business Services Manager			ADDRESS Attn:			
AMOUNT ENCUMBERED BY THIS DOCUMENT \$	PROGRAM/CATEGORY (CODE AND TITLE)	FUND TITLE		<i>Department of General Services Use Only</i> EXEMPT FROM DEPARTMENT OF GENERAL SERVICES APPROVAL.		
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$0.00	(OPTIONAL USE)					
TOTAL AMOUNT ENCUMBERED TO DATE \$	ITEM	CHAPTER	STATUTE			FISCAL YEAR
OBJECT OF EXPENDITURE (CODE AND TITLE)						
I hereby certify upon my own personal knowledge that budgeted funds are available for the period of the expenditure stated above.		T.B.A. NO.	B.R. NO.			
SIGNATURE OF ACCOUNTING OFFICER <input type="checkbox"/>			DATE			

CONTRACTOR
 STATE AGENCY
 DEPT. OF GEN. SER.
 CONTROLLER

EXHIBIT A
STANDARD PROVISIONS

1. Indemnification

Contractor agrees, to the fullest extent permitted by law, to indemnify, defend (with counsel satisfactory to the AOC), 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 officers, agents, contractors, representatives, volunteers and employees (individually, an "Indemnified Party") from any and all claims, lawsuits, losses, costs (including attorney fees and costs), liabilities, and damages arising from, related to or in connection with, in whole or in part, any of the following:

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

This article does not require the 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.

2. Relationship of Parties

Contractor and its employees and Subcontractors, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

3. Termination for Cause

The State may terminate this Agreement or any individual Work Order, and be relieved of the payment of any consideration to Contractor for any Work not yet completed and accepted if Contractor fails to perform as specified in this Agreement at the time and in the manner provided. If the Agreement or a Work Order is terminated, the State may proceed with the Work in any manner it deems proper. The cost to the State to perform the Work shall be deducted from any sum due Contractor under this Agreement or any other agreement, and the balance, if any, shall be paid to Contractor upon demand.

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4. No Assignment

Without the written consent of the State, Contractor shall not assign this Agreement in whole or in part.

5. Time of Essence

Time is of the essence in this Agreement.

6. Validity of Alterations

Alteration or variation of the terms of this Agreement shall not be valid unless made in writing and signed by the parties, and an oral understanding or agreement that is not incorporated shall not be binding on any of the parties.

7. Consideration

The consideration to be paid to Contractor under this Agreement shall in no event exceed the Contract Amount. Contractor shall be paid in accordance with the Payment Provisions set forth in Exhibit "C" of this Agreement. The State's payments to Contractor pursuant to this section shall constitute full compensation for all of Contractor's time, materials, costs and expenses incurred in the performance of this Agreement.

END OF EXHIBIT

EXHIBIT B
SPECIAL PROVISIONS

1. Definitions

Terms defined below and elsewhere throughout the Contract Documents shall apply to the Agreement as defined. Additional terms may be defined in authorized Work Orders, however, the definition of a term defined in a Work Order shall apply only within the Work Order in which it is defined.

- A. “**Acceptance**” means the written acceptance issued to Contractor by the State’s Project Manager after Contractor has completed a Deliverable, in compliance with this Agreement, including without limitation, D, the Statement of Work and the applicable Work Order.
- B. “**Administrative Director**” refers to that individual or authorized designee, empowered by the State to make final and binding executive decisions on behalf of the State.
- C. The “**Agreement**” constitutes the entire integrated agreement between the State and Contractor, and includes the Contract Documents incorporated by reference into a fully executed State Standard Agreement form. The term “**Contract**” may be used interchangeably with the term “**Agreement**.”
- D. “**Amendment**” means a written document issued by the State and signed by Contractor which alters the Agreement or a Work Order authorized under the Agreement and which identifies the following: (1) a change in the Work; (2) a change in the “Total Amount Encumbered to Date” under a Work Order; or (3) an adjustment to the Agreement terms.
- E. “**Business Day**” means days of the week excluding Saturday and Sunday, as well as Contractor’s pre-established and published holidays applicable to its employees.
- F. “**Confidential Information**” means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the State’s business or the business of its constituents. Confidential Information does not include (i) information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information that becomes generally available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement; (iii) information that is independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.
- G. “**Contract Amount**” means the total amount encumbered under this Agreement for payment by the State to Contractor for performance of all Work Orders and reimbursement of all expenses, in accordance with the Contract Documents.

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- H. The “**Contractor**” means the individual, association, partnership, firm, company, consultant, corporation, affiliates, or combination thereof, including joint ventures, contracting with the State to do the Contract Work. Contractor is one of the parties to this Agreement.
- I. “**Court(s)**” or “**Trial Court(s)**” means one or more of the fifty-eight (58) superior courts in the California state trial court system.
- J. “**Data**” means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- K. “**Day**” means calendar day.
- L. “**Deliverable(s)**” means and includes any tangible item provided or to be provided under this Agreement, including written reports. Services may be performed in pursuit of providing Deliverable(s), however, a Deliverable may not consist solely of the performance of Services.
- M. “**Deliverable Basis**” means that the Services provided under a Work Order shall result in the provision of a Deliverable or Deliverables.
- N. “**Expenses**” means and includes both Travel and Living Expenses and Reimbursable Expenses.
- O. “**Firm Fixed Price**” means a single fixed amount or amounts designated as payment for a Deliverable or Deliverables in a Work Order.
- P. “**Firm Fixed Price Basis**” means that the Contractor shall receive, as full and complete compensation for the provision of Deliverable(s), Firm Fixed Price(s), which shall constitute complete compensation for all costs, expenses, and efforts incurred by Contractor in provision of the Deliverable(s).
- Q. “**Force Majeure**” means a delay which impacts the timely performance of Work which neither Contractor nor the State are liable because such delay or failure to perform was unforeseeable and beyond the control of the party. Acts of Force Majeure include, but are not limited to:
- Acts of God or the public enemy;
Acts or omissions of any government entity;
Fire or other casualty for which a party is not responsible;
Quarantine or epidemic;
Strike or defensive lockout; and,
Unusually severe weather conditions.
- R. “**Hourly Basis**” means that Contractor shall be paid at an hourly rate for each such hour of authorized Work actually performed.

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- S. **“Key Personnel”** refers to Contractor’s personnel or personnel of Subcontractors that are named in Work Orders, whom the State has approved to perform specific Work. Qualifications of Key Personnel are provided in any resumes set forth in or attached to Work Orders. Work and roles of Key Personnel are as set forth in this Agreement and in Work Orders.
- T. **“Material”** means all types of tangible personal property, including but not limited to reports, goods, supplies, equipment, commodities, and information and telecommunication technology.
- U. **“Notice”** means a written document as required by this Agreement and given by:

Depositing in the U. S. Mail (or approved commercial express carrier) prepaid to the address of the appropriate authorized representative of the other party, which shall be effective upon date of receipt; or hand-delivered to the other party’s authorized representative, which shall be effective on the date of service.
- V. **“Project”** refers to all activity relative to an individual Work Order executed under this Agreement, including the Work of Contractor and its Subcontractors and the responsibilities of the State and the State’s representatives.
- W. **“Proposal”** means a written document that Contractor shall submit to the State in response to a Services Request Form, as further specified in Exhibit E.
- X. **“Reimbursable Expenses”** means specific expense(s) incurred or to be incurred by Contractor and/or its Subcontractor(s) in pursuit of performance of the Work, as further specified in Work Orders.
- Y. **“Service(s)”** means and includes action(s) specified in a Work Order that shall be performed by the Contractor’s or its Subcontractor’s employees. Services may or may not result in the provision of Deliverables.
- Z. **“Services Request Form”** means a written document that the State shall submit to Contractor when requesting a Proposal, as further specified in Exhibit E.
- AA. The **“State”** refers to the Judicial Council of California / Administrative Office of the Courts (**“AOC”**).
- BB. **“Statement of Work”** means and includes a description of Services and Deliverables to be provided according to Work Order authorized according to this Agreement.
- CC. **“State Standard Agreement”** means the form used by the State to enter into agreements with other parties. An originally signed, fully executed version of the State Standard Agreement form, together with the integrated Contract Documents, shall constitute the **“Agreement”**. State Standard Agreement Forms (Exhibit F) shall also be used to authorize Work Orders under this Agreement.

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- DD. **“Subcontractor”** shall mean and include any individual, firm, partnership, agent, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of this Agreement. When the State refers to Subcontractor(s) in this document, for purposes of this Agreement and unless otherwise expressly stated, the term “Subcontractor” includes, at every level and/or tier, all subcontractors, sub-consultants, agents, suppliers, and/or materialmen.
- EE. **“Third Party”** refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, that is not a party to this Agreement.
- FF. **“Time and Materials Not to Exceed Basis”** means that the Contractor shall be compensated for Work actually performed on an Hourly Basis, and, if specified in a Work Order, compensated separately for Expenses, but not in total to exceed the “Total Amount Encumbered to Date” for that Work Order.
- GG. **“Travel and Living Expenses”** means expenses for travel and living costs incurred or to be incurred by Contractor’s employees or Contractor’s Subcontractor’s employees in pursuit of performance of the Work, as further specified in Exhibit C.
- HH. **“Work”** means and includes the provision of Services alone and/or Services that result in the provision of Deliverables.
- II. **“Work Order”** is a written document, substantially in the form of Exhibit E, that specifies the Work to be provided, the price of the Work, and any Expenses applicable to the performance of the Work, which, when signed by both Parties as specified in the work order process of this Agreement becomes binding upon them.

2. Manner of Performance of Work

Contractor shall provide, and shall act to ensure that its Subcontractors shall provide that all Work specified in these Contract Documents is performed to the State's satisfaction, in compliance with the standards specified in Exhibit D and in authorized Work Orders, and in compliance with the Nondiscrimination/No Harassment Clause, as set forth in this Exhibit B.

3. Standard of Care

The Contractor, its officers, agents, employees, subcontractors, consultants and any persons or entities for whom Contractor is responsible, shall provide all Services pursuant to this Agreement in a manner 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 Contractor shall not be construed as assent that Contractor has complied, nor in any way relieve the Contractor of, compliance with (i) the applicable standard of care or (ii) applicable statutes, regulations, rules, guidelines, and requirements.

4. Services Warranties

- A. Contractor warrants and represents that its employees and its Subcontractors employees assigned to perform Services under this Agreement have the appropriate required credentials in the specified area(s) of competence required by the regulations cited in Exhibit D and/or an authorized Work Order; or, if no credentials are cited in Exhibit D or an authorized Work Order, the skills, training, and background reasonably commensurate with his or her level of performance or responsibility so as to be able to perform in a competent and professional manner in accordance with generally accepted industry standards.
- B. Contractor warrants that the Services provided hereunder will conform to the standards established by this Agreement and its authorized Work Orders.
- C. All warranties, including any special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and any other recipients of the Services provided hereunder.
- D. Contractor warrants that the Services will be performed on time and according to the applicable schedule or within the dates specified in Work Order(s).
- E. Contractor warrants that the Services to be provided hereunder will conform to the requirements of the Statement of Work of this Agreement and as provided in the Work Orders authorized hereunder. This warranty shall begin upon the date of the State's final payment for the Services provided under a Work Order, and shall extend for a period of 180 Days thereafter ("Warranty Period"). If the State identifies defect(s) in the Services provided during the Warranty Period, Contractor shall either re-perform the Services or otherwise remedy the defect to the satisfaction of the State. Contractor shall (unless a longer period is agreed to in writing with the State's Project Manager) have a period of ten (10) Business Days following receipt of Notice of the existence of a defect, in which to provide a cure. In no event shall the State be responsible for any costs incurred by Contractor to remedy any deficiencies in the Services
- F. All warranties, including any special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, the Court(s), the Counties and/or any other customer agencies or other beneficiaries of the Services provided hereunder.
- G. Contractor agrees that absent any material change to the specifications for the Work, Contractor shall provide all of the Work specified in the Work Order for the "Total Amount Encumbered to Date" applicable to the Work Order.

5. Acceptance of Deliverables

- A. The State's Project Manager shall be responsible for the sign-off acceptance of all Deliverables required and performed/submitted pursuant to this Agreement. Upon successful completion of a Deliverable, Contractor shall provide the State's Project

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Manager with a completed Acceptance and Signoff Form (Exhibit G). The State's Project Manager will apply the standards established in Exhibit D and the authorized Work Order and the acceptance criteria set forth in subparagraph B of this article, as appropriate, to determine the acceptability of the Deliverable provided by Contractor. If the State's Project Manager rejects the Deliverable, the parties agree to any dispute(s) resulting from such rejection(s) will be resolved as set forth in this article.

- B. Acceptance Criteria for Deliverables (“**Criteria**”) provided by Contractor pursuant to this Agreement include:

Timeliness: The Work was provided on time; according to schedule;

Completeness: The Deliverable contained all of the, Data, Materials, and features required by the Agreement and the Work Order; and

Technical accuracy: The Deliverable complied with the standards of this Agreement and the Work Order, or, if this Agreement and the Work Order lack a standard for provision of the Work, the currently generally accepted industry standard.

Appropriateness: The Deliverable contains design solutions appropriate for the intended use and context, and in conformance with the Trial Court Facilities Standards (unless otherwise directed by the AOC) .

- C. Contractor shall provide the Deliverable to the State, in accordance with direction from the Project Manager and as provided for in Exhibit D and the authorized Work Order. The State shall accept the Deliverable, provided that Contractor has delivered the Deliverable in accordance with the Criteria. The State's Project Manager shall assign the Acceptance and Signoff Form to notify Contractor of the Deliverable's acceptability.

- D. If the State rejects the Deliverable provided, the State's Project Manager shall submit to Contractor's Project Manager a written rejection describing in detail the failure of the Deliverable as measured against the Criteria. If the State rejects the Deliverable, then Contractor shall have a period of ten (10) Business Days from receipt of the Notice of rejection to correct the stated failure(s) to conform to the Criteria.

- E. Disputes:

- i. 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

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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.

- ii. 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 Contractor and the designated representative of the AOC. The principal (or equivalent) of the Contractor 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.
- iii. 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.
- iv. Litigation. If, after mediation pursuant to Section C.25(c), the parties have not resolved the dispute, the receiving party's decision made pursuant to Section C.25(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.
- v. Confidentiality. All negotiations conducted pursuant to this Section C.25 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.
- vi. Continuation of Work. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, Contractor agrees to diligently proceed with the performance of this Agreement, including the delivery of deliverables or providing of Services, in accordance with the AOC's instructions. Contractor's failure to diligently proceed in accordance with the AOC's instructions will be considered a material breach of this Agreement.

6. Actions of the Contractor Upon Termination

- A. Immediately upon receipt of any notice of termination of this Agreement, the Contractor shall commence and perform, with diligence, all actions necessary on the part of the Contractor to effect the termination of this Agreement on the date

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specified by the AOC and to minimize the liability of the Contractor 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:

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

7. 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 Contractor's Services satisfactorily performed through the effective date of termination; in no event shall Contractor's compensation under this Section exceed the reasonable value of the performed Services, based on the Contractor's progress of the Services performed and the proportionate corresponding value of the Contract Amount. Additionally, the Contractor 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 Contractor's final invoice.
 - ii. The amount of any undisputed claim that the AOC may have against the Contractor 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.

8. AOC's Quality Assurance Plan

The AOC or its agent may evaluate Contractor's performance under this Agreement. Such evaluation may include assessing Contractor's compliance with all Agreement terms and performance standards. Any deficiencies in the Contractor'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 Contractor's principal. The report may include recommended improvements and corrective measures to be taken by the Contractor. If the Contractor'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 Contractor's performance conducted by the AOC shall not be construed as an Acceptance of the Contractor's work product or methods of performance. Contractor shall be solely responsible for the quality, completeness, and accuracy of the work product that Contractor and its subcontractors deliver under this Agreement. Contractor shall not rely on AOC to perform any quality control review of Contractor's work product, as such review shall be conducted by Contractor.

9. Copyrights and Rights in Data, Material, and Deliverables

All copyrights and rights in any Data, Materials, and/or Deliverables produced with funding from this Agreement that may presumptively vest in Contractor shall be transferred to the State.

10. Ownership of Data

- A. Everything created, developed or produced in the course of the Contractor'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 Contractor for the AOC and are the sole property of the AOC without further employment or the payment of additional compensation to the Contractor. 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 Contractor 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

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the AOC's request, the Contractor will assist the AOC in the AOC's prosecution, perfection, and registration of any or all Intellectual Property Rights in the Data. The Contractor 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, at all times during the term of the Agreement. Any such Data in the possession of the Contractor 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 Contractor shall replace them at its own expense and the Contractor 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 Contractor under the Agreement may contain certain design details, features and concepts from the Contractor'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 Contractor. Nothing herein shall be construed as a limitation on the Contractor'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 Contractor's work product, including electronic files, as instruments of professional service. If the AOC reuses or makes any modification to the Contractor's work product without the prior written authorization of the Contractor, the AOC agrees, to the fullest extent permitted by law, to indemnify, defend (with counsel reasonably satisfactory to Contractor) and hold harmless the Contractor, 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 Contractor's work product by the AOC, or by any person or entity that lawfully acquires or obtains the Contractor's work product from or through the AOC without the written authorization of the Contractor.

11. Limitation on Publication

The Contractor shall not publish or submit for publication any article, press release, or other writing relating to the Contractor'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.

12. Contractor's Personnel

- A. Contractor shall provide all personnel and Subcontractor personnel necessary to provide the Work authorized under this Agreement.

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- B. Contractor and/or its Subcontractors shall provide certain Key Personnel, including Contractor's Project Manager(s), to perform certain Work set forth in this Agreement and in Work Orders.
- C. Contractor's Project Manager shall:
 - Serve as the primary contact with the State's Project Manager and personnel;
 - Manage the day to day activities of Contractor and its Subcontractor's personnel;
 - Identify the appropriate resources needed;
 - Plan and schedule the Work;
 - Meet budget and schedule commitments;
 - Provide Progress Reports in accordance with this Agreement; and
 - Act to ensure the overall quality of the Work performed.
- D. The State reserves the right to disapprove the continuing assignment of any Key Personnel provided under this Agreement, if, in the State's opinion, the performance of Key Personnel is unsatisfactory. The State agrees to provide Notice to Contractor in the event it makes such a determination. If the State exercises this right, Contractor shall immediately assign replacement Key Personnel, possessing equivalent or greater experience and skills.
- E. If any of Key Personnel assigned to a Project, through no cause or fault of Contractor, become unavailable to perform Work, Contractor shall immediately provide replacement Key Personnel, possessing equivalent or greater experience and skills as required by this Agreement and as further specified in any resumes referenced in Work Orders.
- F. Contractor shall ensure that the same Key Personnel named in Work Orders are retained during the performance of the Work of that Work Order. However, Contractor may, with approval of the State's Project Manager, introduce substitute Key Personnel with specific skill sets/qualifications, or release Key Personnel whose skill sets/qualifications are no longer needed, if advance approval in writing is received from the State's Project Manager.
- G. If any of the Key Personnel identified as specified in an authorized Work Order terminate their employment during the period of performance of a Work Order, Contractor will provide a substitute acceptable to the State's Project Manager.
- H. If any Key Personnel become unavailable or are disapproved and Contractor cannot furnish a replacement acceptable to the State, the State may terminate this Agreement or the applicable Work Order for cause, pursuant to Exhibit A - Standard Provisions, article 3.

13. Background Checks

- A. If the Contractor assigns persons (whether employees, independent contractors, subcontractors or agents) to perform work under this Agreement that requires that

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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 Contractor 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 Contractor 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 Contractor 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 Contractor.

14. Agreement Term and Renewals

- A. The initial term of the Agreement shall commence on _____ and expire on May 15, 2007.
- B. The term of this Agreement may be extended for two additional one-year periods at the sole option of the State.
- C. The parties agree that any extension of this Agreement is subject to a written Amendment.
- D. This Agreement is of no force and effect until signed by both parties. Any commencement of performance prior to execution of this Agreement by Contractor shall be at Contractor's own risk.

15. Termination Other Than for Cause

- A. In addition to termination for cause under Exhibit A, Standard Provisions, article 3, the State may terminate this Agreement or any Work Order for convenience and without cause at any time upon providing Contractor written Notice at least ten (10) Days before the effective date of termination. Upon receipt of the termination Notice, Contractor shall promptly discontinue all Work affected unless the Notice specifies otherwise.
- B. If the State terminates a Work Order authorized under this Agreement other than for cause, the State shall pay Contractor for the fair value of satisfactory Work rendered before the termination, not to exceed the Total Amount Encumbered to Date applicable to that Work Order.

16. State's Obligation Subject to Availability of Funds

- A. The State's obligation under this Agreement is subject to the availability of authorized funds. The State may terminate the Agreement or any part of the Contract Work, without prejudice to any right or remedy of the State, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or

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limited in any way prior to the expiration date set forth in this Agreement, or in any Amendment hereto, the State may terminate this Agreement in whole or in part, upon written Notice to Contractor. Such termination shall be in addition to the State's rights to terminate for convenience or default.

- B. Payment shall not exceed the amount allowable for appropriation by Legislature. If the Agreement is terminated for non-appropriation:

The State will be liable only for payment in accordance with the terms of this Agreement for Work provided prior to the effective date of termination; and Contractor shall be released from any obligation to provide further services pursuant to the Agreement as are affected by the termination.

- C. Funding for this Agreement beyond the current appropriation year is conditional upon appropriation by the Legislature of sufficient funds to support the activities described in this Agreement. Should such an appropriation not be approved, the Agreement may terminate at the close of the current appropriation year. The appropriation year ends on June 30 of each year.

17. Notice:

- A. Any Notice of breach required by or with regard to this Agreement shall be in writing and shall be delivered as follows:

- B. Notice to the AOC shall be directed to:

Mr. John McGlynn
Senior Contracts Manager
Judicial Council of California
Administrative Office of the Courts – Business Services
455 Golden Gate Avenue
San Francisco, CA 94102

- C. Notice to Contractor shall be directed to:

18. Subcontracting

Contractor shall not subcontract the Work to be provided under this Agreement unless Contractor has identified the Subcontractor in writing in a Proposal that is acceptable to and authorized by the State in a Work Order. No party to this Agreement shall in any way contract on behalf of or in the name of another party to this Agreement.

If requested by the AOC, the Contractor shall provide documentation that the proposed subcontractor is experienced and able to perform that portion of the Services Contractor wishes to subcontract. The Contractor shall require all subcontractors to comply with the provisions of this Agreement. The Contractor shall provide copies of all agreements with

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subcontractors to the AOC. The AOC's approval of subcontracts shall in no way relieve the Contractor of any of its responsibilities and obligations under this Agreement.

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

19. Changes and Amendments

- A. Changes or Amendments to any component of the Contract Documents, or to any authorized Work Order, can be made only with prior written approval from:

Mr. Grant Walker
Business Services Manager
Judicial Council of California
Administrative Office of the Courts – Business Services
455 Golden Gate Avenue
San Francisco, CA 94102

- B. Requests for said changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. Additional funds may not be encumbered under the Agreement due to an act of Force Majeure, although the performance period of the Agreement may be amended due to an act of Force Majeure. After a review of the request, a written decision shall be provided to Contractor. Amendments to the Agreement and its Work Orders shall be authorized via bilateral execution of a State Standard Agreement.
- C. Any terms and/or conditions specified in a Work Order that purport to modify or that conflict with the provisions of the Agreement shall be null and void, and without effect.

20. Accounting System Requirement

Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP.

21. Retention of Records

Contractor shall maintain all financial Data, supporting documents, and all other records relating to performance and billing under this Agreement for a period in accordance with California State and Federal law, a minimum retention period being no less than three (3) years. The retention period starts from the date of the submission of the final payment request. Contractor is also obligated to protect Data adequately against fire or other damage.

22. Audit

- A. Contractor shall permit the authorized representative of the State or its designee or both at any reasonable time to inspect or audit all Data relating to performance and billing to the State under this Agreement. Contractor further agrees to maintain such Data for a period of three (3) years after final payment under this Agreement.
- B. Such Data shall at a minimum include:
- i. Contractor shall maintain a log and a file of time sheets for all authorized hours actually worked by Contractor's employees and its Subcontractor's employees under this Agreement. The log must include, but is not limited to, the following information: (1) name and title of the employee; (2) Subcontractor providing the employee, if applicable; (3) the dates and hours worked; (4) description of the Work performed; (5) hourly rate charged; and (6) Work Order Number of the Work Order under which the Work was performed. Upon the request of the State's Project Manager, Contractor shall provide copies of the log and time sheets.
 - ii. Contractor shall maintain a travel log and a file of original invoices for all authorized Travel and Living Expenses incurred by Contractor's employees and its Subcontractor's employees in performing the Work of this Agreement. The travel log must include, but is not limited to, the following information: (1) the beginning and ending dates of the trip; (2) Subcontractor providing the employee, if applicable; (3) the name and title of the personnel making the trip; (4) the beginning location of the trip and the destination; (5) the purpose of the trip; and (6) Work Order Number of the Work Order under which said expenses were incurred. Upon the request of the State's Project Manager, Contractor shall provide copies of the log and invoices applicable to said expenses.
 - iii. Contractor shall maintain a log and a file of original invoices for all authorized Reimbursable Expenses incurred by Contractor and its Subcontractors in performing Work authorized under this Agreement. The log must include, but is not limited to, the following information: (1) the party incurring the expenditure (Contractor or name of Subcontractor); (2) date of the expenditure; (3) the purpose of the expenditure; (4) description of the goods or services purchased; (5) the price of the expenditure; and (6) Work Order Number of the Work Order under which said expenses were incurred. Upon the request of the State's Project Manager, Contractor shall provide copies of the log and invoices applicable to said expenses.
- C. Upon the request of the State's Finance Division or the State's Project Manager, Contractor agrees to provide the logs of said Data pertaining to any particular Work Order requested, within 5 Business Days of request.

23. Accounting System Requirements

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

24. 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: The Contractor shall maintain statutory workers' compensation coverage for all its employees who will be engaged in the performance of the Contract, including special coverage extensions where applicable and employer's liability with limits not less than \$1,000,000 for each accident \$1,000,000 disease policy limit, \$1,000,000 disease – each employee.
- ii. Commercial General Liability Insurance—Covering bodily injury, property damage, personal injury, advertising injury, contractual liability, products, and completed operations. The policy shall provide limits of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
- iii. Commercial or Business Automobile Liability Insurance—Covering bodily injury and property damage and applicable to all owned, non-owned, leased, and hired vehicles. The policy shall provide combined single limits of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
- iv. Professional Liability Insurance; Errors and Omissions —Covering the Contractor's performance under this Agreement. The policy shall provide limits of at least \$1,000,000 per claim or per occurrence and \$1,000,000 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 Work which is the subject of this Agreement. The retroactive date or "prior acts inclusion date" of any such "claims made" policy must be no later than the date that activities commence pursuant to this Agreement.

B. Additional Insured Endorsements. All policies required in subsection (a) above with the exception of Workers' Compensation and Professional Liability must be endorsed to name the following as additional insureds with respect to liabilities

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arising out of the Contractor's Services for the AOC under this Agreement: 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 officers, agents, representatives, volunteers and employees.

- C. Required Policy Provisions. Each policy required in subsection (a) above must provide that:
- i. The policy is primary and non-contributory with any insurance or self-insurance programs carried or administered by the AOC.
 - ii. The policy shall apply separately to each insured against whom a claim is made and/or a lawsuit is brought, except with respect to the limits of the insurer's liability.
 - iii. The AOC will receive thirty (30) days' advance written notice of any change or cancellation, mailed to the following address (with a copy to the AOC Business Services Manager, Grant Walker):

 , AOC Project Manager
Office of Court Construction and Management
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102

- D. The insurer waives any and all rights of subrogation against the AOC, 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 officers, agents, representatives, volunteers or employees except for Professional Liability coverage.
- E. Waiver of Claims: The State, the Judicial Council of California, the Administrative Office of the Courts, the superior courts and appellate courts of the State of California, and any of their officers, employees, and agents (collectively, "State Entities") shall not be liable for any injury, loss, or damage to Contractor, Subcontractors, or their officers, employees, or agents including, without limitation, damage to the property of Contractor, Subcontractors or their officers, employees, and agents, by or from any cause whatsoever, except to the extent the injury, loss, or damage was caused from the gross negligence or intentional misconduct of the State Entities. Contractor and Subcontractors hereby waive all claims and their respective insurers waive all rights of subrogation against the State Entities for any injury, loss, or damage to Contractor, Subcontractors, or their officers, employees, or agents including, without limitation, damage to the property of Contractor, Subcontractors or their officers, employees, and agents, in or about the Facilities, by or from any cause whatsoever, except to the extent the injury, loss, or damage was caused from

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the gross negligence or intentional misconduct of the State Entities. Neither the State, nor any officer or employee of the State, shall be liable for any loss or damage that may happen to the Work, or any part thereof; nor to any of the materials or other items used or employed in performing the Work.

- F. **Qualifying Insurers.** Insurance policies are to be placed with insurers with an A.M. Best rating of no less than A:VIII, or, if not rated with A.M. Best, with minimum surpluses the equivalent of A.M. Best's surplus size VIII. Professional Liability, Errors and Omissions insurance may be placed with insurers with an A.M. Best rating of no less than B+: VII.
- G. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to, and approved by, the AOC. Contractor shall furnish the AOC with said declaration of deductibles or self-insured retentions prior to the commencement of its Services. The deductible and/or self-insured retention shall not limit or apply to the Contractor's liability to the AOC and shall be the sole responsibility of the Contractor.
- H. **No Reduction or Limit of the Contractor's Obligation.** Insurance affected or procured by the Contractor shall not reduce or limit the Contractor's contractual obligation to indemnify and defend the AOC. Acceptance of the Contractor's insurance by the AOC shall not relieve or decrease the liability of the Contractor hereunder.
- I. **Subcontractors.** Except for Professional Liability coverage, the Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- J. **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:
 - 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.
- K. **Evidence of Coverage.** Before commencing any work under this Agreement, the Contractor must furnish to the AOC certificates of insurance and applicable endorsements, in form and with insurers satisfactory to the AOC, evidencing that all required insurance coverage is in effect. The AOC reserves the right to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificates and endorsements must be sent to (with a copy to the AOC Project Manager):

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

- L. Consequences of Changes in Policies or Insurers. If at any time the foregoing policies shall be or 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.
- M. Consequences of Lapse. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the AOC receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the AOC may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

25. AOC and Court Representation

A. AOC Project Management.

For the purposes of this Agreement, the AOC's authorized representative ("Project Manager") shall be as specified in the individual Work Orders issued under this Agreement.

- B. All requests and communications about the Services to be performed under this Agreement shall be made through the Project Manager.
- C. 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.
- D. 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.
- E. Third Party Beneficiary. The particular Court designated in the Work Order 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.

26. Confidentiality

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- A. Both the State and Contractor acknowledge and agree that in the course of performing the Work under this Agreement, the State may disclose Confidential Information to Contractor and/or its Subcontractors.
- B. Contractor agrees not to disclose the Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that Contractor may disclose the State's Confidential Information on a "need to know" basis to Contractor's employees and Subcontractors and, as directed by the Project Manager, representatives of the State that are performing Work authorized under this Agreement. All such employees and Subcontractors of Contractor shall have executed a confidentiality agreement with Contractor requiring a promise of confidentiality concerning Contractor's clients and business.
- C. Contractor shall acquire no right or title to the Confidential Information. Contractor agrees not to use the Confidential Information for any purpose except as contemplated pursuant to this Agreement. Notwithstanding the foregoing, Contractor may disclose the Confidential Information (i) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it; (ii) as appropriate to respond to any summons or subpoena applicable to it; or (iii) to the extent necessary to enforce its rights under this Agreement.
- D. The State reserves the right to disclose all Work provided under this Agreement disclose to third parties for the purpose of validation of the Work.
- E. Contractor shall bind its Subcontractors to provisions of confidentiality with regard to the Confidential Information disclosed that are not less strict than those assumed by Contractor hereunder.
- F. The Contractor 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.

27. Trade Secret, Patent and Copyright Indemnification

- A. Contractor shall hold the Court(s), the State, its officers, agents, and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used by Contractor or its Subcontractors in connection with this Agreement.
- B. Contractor, at its own expense, shall defend any action brought against the Court(s) and/or the State, its officers, agents, and employees, to the extent that such action is based upon a claim that any Deliverable(s), Data or Materials supplied by Contractor or its Subcontractors infringes a United States patent or copyright or violates a trade secret. Contractor shall pay those costs and damages finally

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awarded against the Courts and/or the State its officers, agents, and employees, in any such action. Such defense and payment shall be conditioned on the following:

That Contractor shall be notified within a reasonable time in writing by the State of any Notice of such claim; and,

That Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, the Court(s) and/or the State shall have the option to participate in such action at its own expense.

- C. Should the Deliverable(s), Data, Materials, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, the State shall permit Contractor at its option and expense either to procure for the Court(s) and/ or the State the right to continue using the Deliverable, Data or Materials, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Deliverables, Data or Materials by the Courts and/or the State shall be prevented by injunction, Contractor agrees to take back such Deliverables, Data or Materials and make every reasonable effort to assist the Courts and/or the State in procuring substitute Deliverables, Data or Materials. If, in the sole option of the State, the return of such infringing Deliverables, Data or Materials makes the retention of other Deliverables, Data or Materials acquired from Contractor under this Agreement impractical, the State shall then have the option of terminating the applicable Work Order(s), or applicable portions thereof, or this Agreement in its entirety, without penalty or termination charge. Contractor agrees to take back such Deliverables, Data or Materials and refund any sums that the State has paid Contractor less any reasonable amount for use or damage.
- D. The foregoing states the entire liability of Contractor to the Courts and/or the State with respect to infringement of patents, copyrights, or trade secrets.

28. Permits and Licenses

The Contractor shall observe and comply, and shall ensure that its Subcontractors observe and comply with all federal, state, city, and county laws, rules, and regulations affecting Contractor and its Subcontractor(s) performance of the Work provided under this Agreement. The Contractor shall procure and keep in full force and effect, and shall ensure that its Subcontractors procure and keep in full force and effect, during the Term of this Agreement, all permits and licenses necessary to accomplish the Work contemplated in this Agreement.

29. Conflict of Interest

- A. Contractor shall ensure that its officers and employees shall not participate in proceedings that involve the use of State funds or that are sponsored by the State if

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the person's partner, family, or organization has a financial interest in the outcome of the proceedings. Contractor and its officers and employees shall also avoid actions resulting in or creating the appearance of (1) use of an official position with the government for private gain; (2) preferential treatment to any particular person associated with this Agreement or the Work of this Agreement; (3) loss of independence or impartiality; (4) a decision made outside official channels; or (5) adverse effects on the confidence of the public in the integrity of the government or this Agreement. Contractor agrees that it shall bind its Subcontractors to conflict of interest provisions not less strict than those provided here.

B. Contractor shall certify and shall require its Subcontractors to certify that:

Former State employees will not be awarded a contract for (a) two (2) years from the date of separation if that employee had any part in the decision making process relevant to this Agreement, or (b) for one (1) year from the date of separation if that employee was in a policy making position in the same general subject area as this Agreement within the twelve (12) month period of his or her separation from State service.

30. Covenant Against Gratuities

Contractor warrants by signing this Agreement that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by Contractor or any agent, director, Subcontractor or representative of Contractor, 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 warranty, the State 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 Work which Contractor agreed to supply, which shall be borne and paid for by Contractor. The rights and remedies of the State 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.

31. 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 Contractor or any subcontractor under the standards set forth in Government Code section 12650 *et seq.* Any Contractor 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. A Contractor 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.

32. Responsibility for Equipment and Real Property

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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 Contractor, or by any of its employees or agents, even though such equipment is furnished, rented, or loaned to the Contractor by the AOC.

33. Independent Contractor

The Contractor 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 Contractor 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 Contractor. The Contractor 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 Contractor in the performance of the Services. The Contractor 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.

34. Payment of Income Taxes.

The Contractor shall pay, when due, all applicable income taxes, including estimated taxes, incurred as a result of the compensation paid by the AOC to the Contractor for the Services. The State is exempt from federal excise taxes and no payment will be made for any taxes levied on the Contractor's or any subcontractor's employees' wages. The Contractor 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 Contractor's failure to comply with this provision. The AOC may offset any taxes paid by the AOC as a result of the Contractor's breach of this provision.

35. Stop Services Order

- A. The AOC may, at any time, by delivery of a Stop Services Order to the Contractor, require the Contractor 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 Contractor, 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 Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Services covered by the Stop Services Order during the period of Services stoppage.
- B. The AOC shall not be liable to the Contractor 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.

36. National Labor Relations Board

By executing this Agreement, Contractor certifies under penalty of perjury under the laws of the State of California that no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two (2) year period because of Contractor's failure to comply with an order of the National Labor Relations Board.

37. Drug-Free Workplace

Contractor certifies that it will provide a drug-free workplace as required by California Government Code, Sections 8355 through Section 8357.

38. Certifications

By executing this Agreement, Contractor 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 Contractor 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 Contractor 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 Contractor and its subcontractors shall not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom the Contractor or its subcontractors interact in the performance of this Agreement. The Contractor and its subcontractors shall take all reasonable steps to prevent harassment from occurring.
- iii. FEHA. The Contractor 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.

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- iv. Compliance with Americans with Disabilities Act. The Contractor 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 Contractor and any of its subcontractors shall 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 Contractor shall include the nondiscrimination, no harassment, and compliance provisions of this section in any and all subcontracts issued to perform Services under this Agreement. Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor or any agent, director, or representative of the Contractor, 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 Contractor agreed to supply, shall be borne and paid for by the Contractor. 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.

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- E. Drug-Free Workplace. The Contractor 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 Contractor within the immediately preceding two (2) year period because of the Contractor'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. Contractor 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.

39. Americans with Disabilities Act

By signing this Agreement, Contractor assures the State that it complies with applicable provisions of the Americans with Disabilities Act (“**ADA**”) of 1990 (42 U.S.C. Sections 012101 *et seq.*), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.

40. 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. Limitation on Publication. The Contractor shall not publish or submit for publication any article, press release, or other writing relating to the Contractor's Services for the AOC without prior review and written permission by the AOC, which consent shall be in the AOC's sole discretion.
- C. 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.
- D. Assignment. The Services to be performed by the Contractor are personal in nature and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor 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

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respective successors, assigns and legal representatives. Any assignment in violation hereof shall be null and void.

- E. 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.
- F. 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.
- G. Compliance with Laws. The Contractor 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 Contractor shall procure and keep in full force during the term of this Agreement any and all permits and licenses necessary to accomplish the Services contemplated in this Agreement at no expense to the AOC.
- H. Time is of the Essence. Time is of the essence in this Agreement.
- I. Governing Law; Jurisdiction. This Agreement shall be governed by California law without regard to any conflict of law rules that would direct the application of the laws of any other jurisdiction. The Contractor irrevocably consents to personal jurisdiction in California.
- J. 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.
- K. 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 following contact information or at such other address as delivered by like notice:

To the AOC:

Project Manager named in the Work Order
Office of Court Construction and Management
Judicial Council of California
Administrative Office of the Courts

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455 Golden Gate Avenue
San Francisco, CA 94102

With a copy to:

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

To the Contractor:

- L. Amendments. This Agreement may not be modified or amended, except by written instrument executed and approved in the same manner as this Agreement.
- M. Public Contract Code References. Public Contract Code references create duties of the Contractor under this Agreement; however, the references do not imply that the AOC is subject to the Public Contract Code.
- N. 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

EXHIBIT C

**WORK ORDER AUTHORIZATION PROCESS
and**

PAYMENT PROVISIONS

.1. Work Order and Contract Amounts

- A. The total amount the State may pay to Contractor under any individual Work Order authorized this Agreement for performing all Work, as well as all Travel and Living Expense and/or Reimbursable Expenses specified therein, shall not in any event exceed the Total Amount Encumbered to Date specified on the face of the Work Order Authorization Form applicable to that Work Order.
- B. The total amount the State may pay to Contractor under this Agreement (“Contract Amount”) shall not in any event exceed the total of all Total Amount(s) Encumbered to Date on all Work Orders authorized under this Agreement.

.2. Work Order Authorization Process

- A. The State will authorize the performance of Work and spending of funds under this Agreement via written Work Order(s) which shall be substantially in the format provided in Exhibit E and authorized as specified in this Work Order process.
- B. The State’s Project Manager will provide Contractor with an unsigned Services Request Form, describing the Work the State desires to purchase. The State will complete the parts of the form designated as “State to Complete”. The State shall describe in full the Services requested, including the location(s) at which they will be performed, as well as the requested beginning and end dates for the Work. The State’s Project Manager will designate whether the Work requested shall be performed on a Deliverable Basis. The State’s Project Manager will designate whether the Work requested shall be paid for on a Fixed Price Basis or a Time and Materials Not to Exceed Basis. When complete, the State’s Project Manger will submit the unsigned Services Request Form to Contractor’s Project Manager via e-mail.
- C. Upon receipt, Contractor will, based upon the Services requested by the State modify the Services Request Form, changing its title to “Proposal” and shall, in coordination with and with the agreement of the State’s designated Project Manger:
 - i. Assign and Provide Name and Address information of the Contractor’s Project Manager who will be assigned to this Work Order.
 - ii. Provide a Statement of Work. Provide a narrative work plan specifying the responsibilities of the parties and the Key Personnel with regard to

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performance of the Work, including any assumptions and/or conditions applicable to performance of the Work

- iii. If agreed to, provide revised start and completion dates for the Work, or provide a detailed Project Schedule detailing the critical path responsibilities for the Project.
- iv. Provide a list of Key Personnel who will be assigned to perform the Work. Identify any Subcontractor personnel as such.
- v. In the Price area of the form:
 - a. If the Services have been requested on a Deliverables Basis and a Fixed Price Basis, provide a description of the Services pertaining to each individual Deliverable along with the name of the Deliverable and a Firm Fixed Price for that Deliverable. If more than one Deliverable is requested, provide a grand total (“Grand Total”) of all Deliverables for the Work Order. Provide a schedule naming the Deliverables and identifying the Fixed Price to be paid for each Deliverable.
 - b. If the Services have been requested on a Deliverables Basis and a Time and Materials Not to Exceed Basis, provide a description of the Services pertaining to each individual Deliverable along with the name of the Deliverable and the name(s) and title(s) of Key Personnel that will perform the Services, their expected hours of Work, their applicable Hourly Rates, and total expected amount to be paid for each employee. Describe any expected Travel and Living Expenses that are expected to be incurred in pursuit of providing the Deliverable, using the AOC Travel and Living Expense Guidelines to cost out the Travel and Living Expense. Describe any Reimbursable Expenses that are expected to be incurred in pursuit of providing the Deliverable. Provide a total, for each Deliverable, including the cost of all Work to be performed on an Hourly Basis, all expected Travel and Living Expense, and all expected Reimbursable Expense. Provide a Grand Total of all Deliverables for the Work Order.
 - c. If the Services have been requested on a Time and Materials Not to Exceed Basis but not on a Deliverables Basis, provide a description of the Services and the name(s) and title(s) of Key Personnel that will perform the Services, their expected hours of Work, their applicable Hourly Rates, and total expected amount to be paid for each employee. Describe any expected Travel and Living Expenses that are expected to be incurred in pursuit of providing the Services, using the AOC Travel and Living Expense Guidelines to cost out the Travel and Living Expense. Describe any Reimbursable Expenses that are expected to be incurred in pursuit of providing the

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Work. Provide a Grand Total of the Hourly Work, Travel and Living Expense, and Reimbursable Expense(s) applicable to the Work Order.

- vi. Upon completion of the above, Contractor shall submit the unsigned Proposal to the AOC's Project Manager via e-mail.
 - vii. Contractor Proposals so submitted are not be revocable for 20 Business Days following the day received by the State, or until the date scheduled for the start of the Work in the applicable Work Order, whichever event occurs sooner.
- D. If the State wishes to accept the Proposal and proceed with the Work, the State will notify the Contractor and shall provide via e-mail a Work Order consisting of the then current format of the State Standard Agreement Form 220 (Exhibit F) authorizing the Proposal in the full amount specified in the Proposal and referencing the Proposal.
- E. Contractor shall sign two originals of the Work Order, which shall be sent to the State at following address:
- John McGlynn
Senior Contracts Manager
Business Services, Floor 7
Administrative Office of the Courts
455 Golden Gate Ave.
San Francisco, CA 94102
- F. Upon receipt, the State shall, if it chooses to proceed with authorization of the Work Order, countersign both originals and return one original to the Contractor.
- G. Upon countersignature by the State, the Work Order shall, for the purposes of this Agreement, be considered authorized, and shall be binding upon the parties.
- H. Upon receipt of a signed Work Order, Contractor is authorized to begin the Work when and as specified in said Work Order.
- I. If the parties agree to revise an existing Work Order, the parties agree that such revisions are subject to the authorization of a revision to be performed in the same manner as authorization of the Work Order itself. Upon authorization, the revised Work Order shall supersede and override the existing Work Order.
- J. The State reserves the right to modify the forms provided in Exhibit F, as it deems necessary or appropriate, in its sole discretion, and will notify Contractor of any modification to said form prior to implementing the modified form(s). Any such modification(s) will be incorporated into this Agreement by an Amendment.
- K. Any commencement of Work and any expenditure made prior to Contractor's

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receipt of a signed Work Order shall be made at Contractor's sole risk.

- L. The State's Project Manager named on the individual Work Order(s) shall monitor and evaluate Contractor's performance. All requests and communications between the State and the Contractor regarding the Work must make through the State's designated Project Managers.
- M. There is no limit on the number of Work Orders the State may issue under this Agreement.
- N. There will be no specific limitation on the minimum and/or maximum amount authorized under an individual Work Orders.
- O. The State does not guarantee that Contractor will receive any Work Order(s) under this Agreement.

.3. Compensation:

i. Compensation for Types of Work Orders

(1) Fixed Prices Work Orders Provided on a Deliverables Basis

When a Work Order specifies that the Work is to be provided on a Deliverables Basis and Contractor is to be compensated on a Fixed Price Basis, Contractor shall be compensated solely at the actual Fixed Price(s) specified for the Deliverables in said Work Order.

(2) Time and Materials Not to Exceed Basis Work Orders Provided On a Deliverables Basis

When a Work Order specifies that the Work is to be provided on a Deliverables Basis and Contractor is to be compensated on a Time and Materials Not to Exceed Basis, Contractor shall be compensated at the Hourly Rates for Services as specified below, plus Travel and Living Expenses as specified below, plus Reimbursable Expenses as specified below.

(3) Time and Materials Not to Exceed Work Orders Not Provided on a Deliverables Basis

When a Work Order specifies that the Work is not to be provided on a Deliverables Basis and Contractor is to be compensated on a Time and Materials Not to Exceed Basis, Contractor shall be compensated for Work provided at the Hourly Rates for Services as specified below, plus Travel and Living Expenses as specified below, plus Reimbursable Expenses as specified below in an amount up to but not exceeding the "Total Amount Encumbered to Date" applicable to the Work Order.

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ii. Hourly Rates for Services

When, as specified in an authorized Work Order, Contractor is to be compensated on an Hourly Basis, Contractor shall be compensated only for hours actually incurred by Contractor or its Subcontractor employees in pursuit of the Work. Contractor shall be compensated at the Hourly Rates applicable to Contractor's employees as specified below, or at lower rates if so agreed to and specified in a Work Order. Hourly Rates for any Contractor's Subcontractor employees shall be as specified in the Work Order, are subject to AOC agreement on a Work Order by Work Order basis, and shall only apply to the Work Order in which authorized.

Title	Hourly Billing Rate
1. Managing Principal	\$ _____
2. Principal/Director	\$ _____
3. Associate/Sr. Project Manager	\$ _____
4. Project Manager	\$ _____
5. Project Architect	\$ _____
6. CAD Drafter	\$ _____
7. Specifications Writer / Estimating / Scheduling	\$ _____
8. Administrative Support	\$ _____

iii. Compensation for Travel and Living Expenses:

If an authorized Work Order specifies that Contractor is to be compensated for Travel and Living Expenses, Contractor shall be compensated according to the following AOC Policy for Compensation for Travel and Living Expenses:

- (1) The State shall reimburse Contractor for actual and reasonable transportation, meals, and lodging expenses actually incurred by Contractor's and its Subcontractor's employees in the course of their performance of the Work, but subject to the following:
 - (a) If air transportation is authorized, the State will reimburse Contractor only at the actual cost incurred. All air transportation is limited to coach fares and must be booked a minimum of fourteen (14) Days prior to travel, unless the Project Manager agrees to a shorter period in the Work Order.
 - (b) If overnight lodging expense is authorized, in accordance with the California Victim Compensation and Government Claims Board (formerly State Board of Control) guidelines, the State will reimburse Contractor only (i) for hotel room rental at the actual cost not to exceed **\$110.00** per Day, plus occupancy tax and/or energy surcharge; and (ii) for meals, at the actual cost not to exceed the following maximum amounts per person per Day: breakfast~**\$6.00**; lunch~**\$10.00**; dinner~**\$18.00**; and incidentals~**\$6.00**.
 - (c) If private vehicle ground transportation expense is authorized, the State will reimburse Contractor at **\$0.34** cents per mile.

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- (d) The State is not obligated to pay for, and Contractor shall not invoice for any hours of non-production work expended by the Contractor or its Subcontractor's employees that are spent traveling to or from the location where the Work is performed.
- (e) Travel and Living Expenses shall be billed to the State at Contractor's actual cost, including any discounts or rebates accorded to Contractor or its Subcontractors, and are not subject to any markup, fee, or other charge.

iv. Compensation for Reimbursable Expenses:

If an authorized Work Order specifies that Contractor is to be compensated for Reimbursable Expenses, Contractor shall be compensated as follows:

- (1) The State shall reimburse Contractor for said expenses. Reimbursable Expenses shall not, exceed the total estimated amount for said expenses specified in the Work Order.
- (2) Reimbursable expenses are limited to itemized expenses otherwise not expressly excluded under this Agreement that are clearly and specifically identified in a Work Order, for goods or services necessary to the performance of the Work and actually incurred by Contractor and or its Subcontractors or their respective employees in the performance of the Work.
- (3) Reimbursable Expenses shall be billed to the State at Contractor's or its Subcontractor's actual cost, including any discounts or rebates accorded to Contractor or its Subcontractors, and are not subject to any markup, fee, or other charge.

v. Taxes

The State is exempt from federal excise taxes and no payment will be made for any taxes levied on Contractor's or any Subcontractor's employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the Deliverables provided or Services rendered pursuant to this Agreement.

vi. 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 Contractor.

.4. Invoicing Requirements

- i. Contractor shall invoice the State once monthly, with separate invoice for each Work Order summarizing all payments due under that Work Order in the previous calendar month.

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

Judicial Council of California
Administrative Office of the Courts
c/o Finance Division, Accounts Payable
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102-3660

With a copy to:

Project Manager named in the Work Order
Office of Court Construction and Management
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102

- iii. For Fixed Prices Work Orders Provided on a Deliverables Basis, Contractor shall invoice on successful acceptance of a Deliverable. Contractor's invoice(s) shall clearly specify:

- The Contract number;
- The Work Order Number provided on the Work Order.
- A unique invoice number;
- Contractor's name and address;
- Contractor's Taxpayer identification number (FEIN);
- Description of the Deliverable as specified in the Work Order
- The Fixed Price of the Deliverable
- Preferred remittance address, if different from the mailing address
- The DVBE dollars expended, if DVBE commitments were made.

- iv. For Time and Materials Not to Exceed Basis Work Orders Provided On a Deliverables Basis, Contractor shall invoice on successful acceptance of a Deliverable. Contractor's invoice(s) shall clearly specify:

- The Contract number;
- The Work Order Number provided on the Work Order.
- A unique invoice number;
- Contractor's name and address;
- Contractor's Taxpayer identification number (FEIN);
- For each Deliverable accepted in the previous calendar month, provide separately by Deliverable:
 - Description of the accepted Deliverable, as specified in the Work Order
 - Names, Titles, Hours, Rates and Dates of

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- Performance for all of Contractor or its Subcontractor employees for hours of Work actually incurred in providing that Deliverable during the previous calendar month, including a total for all such Work.
- If the Work Order specifies that the Contractor is to be compensated for Travel and Living Expenses incurred in providing that Deliverable, the dates the expense was incurred, name of employee, and separate costs for air transportation, overnight lodging, private vehicle ground transportation (include origin, destination, and miles claimed).
 - If the Work Order specifies that the Contractor is to be compensated for Reimbursable Expenses incurred in providing that Deliverable, the date the expense was incurred, description of the expense, and amount of the expense.
 - A grand total for all hours, Travel and Living Expenses, and Reimbursable Expenses billed on the invoice, individually for each Deliverable and in total for the invoice, with a grand total
 - Preferred remittance address, if different from the mailing address
 - The DVBE dollars expended, if DVBE commitments were made.
- v. For Time and Materials Not to Exceed Basis Work Orders Not Provided On a Deliverables Basis, Contractor shall invoice as follows. Contractor's invoice(s) shall clearly specify:
- The Contract number;
 - The Work Order Number provided on the Work Order.
 - A unique invoice number;
 - Contractor's name and address;
 - Contractor's Taxpayer identification number (FEIN);
 - Names, Titles, Hours, Rates and Dates of Performance for all of Contractor or its Subcontractor employees for hours of Work actually incurred during the previous calendar month, including a total for all such Work.
 - If the Work Order specifies that the Contractor is to be compensated for Travel and Living Expenses, the dates the expense was incurred, name of employee, and separate costs for air transportation, overnight lodging, private vehicle ground transportation (include origin, destination, and miles claimed).
 - If the Work Order specifies that the Contractor is to be compensated for Reimbursable Expenses, the date the expense was incurred, description of the expense, and amount of the expense.
 - A grand total for all hours, Travel and Living Expenses, and Reimbursable Expenses billed on the invoice.
 - Preferred remittance address, if different from the mailing address
 - The DVBE dollars expended, if DVBE commitments were made.

.5. Retention:

The AOC shall withhold payment of an amount equal to 10 percent from all payments made for invoices submitted as above and paid. Upon successful completion of all of the Services and, if applicable, successful provision of all Deliverables under a Work Order, Contractor shall invoice, and the AOC shall pay the total of all amounts retained.

.6. Payment

- i. 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.
- ii. Payment shall be made by the AOC to the Contractor at the address specified on the invoice.
- iii. The AOC may withhold full or partial payment to the Contractor in any instance in which the Contractor has failed or refused to satisfy any material obligation provided for under this Agreement or the Work Order.

.7. Disallowance

If the Contractor claims or receives payment from the AOC that is later disallowed by the AOC, the Contractor 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 Contractor under this Agreement or any other agreement.

.8. Payment Does Not Imply Acceptance of Work

The granting of any payment by the AOC, or the receipt thereof by the Contractor, shall in no way lessen the liability of the Contractor to correct unsatisfactory work in connection with this Agreement.

.9. Release of Claims

The acceptance by the Contractor of its final payment due under this Agreement shall be and shall operate as a release to the State and the AOC of all claims and all liability to the Contractor 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 Contractor as outstanding as of the date of Contractor's submission of Contractor's final application for payment. Contractor's failure to identify any such claims shall operate as a release of all claims.

END OF EXHIBIT

EXHIBIT D
STATEMENT OF WORK

1. Project Description

Contractor shall, as authorized, provide the Services specified in this statement of work (“Statement of Work”, “SOW”) and as may be further specified in Statement of Work specified in Work Orders authorized under this Agreement

2. Schedule Of Work

The dates of performance and schedule applicable to the provision of the Work under this Agreement will be provided in authorized Work Order. Contractor agrees that it shall provide the Services of the specified Work Order within the dates of performance and according to said schedule.

3. Statement of Work

Contractor agrees to provide or perform, as specified in this Agreement, the following Services and tasks set forth in this section and as further elaborated in Work Orders when authorized under this Agreement, as well as any other services that are necessary, normal, customary, or incidental to the performance of Contractor’s responsibilities. Work Orders may contain additional terms and conditions regarding the Work that are applicable only to the Work Order in which authorized, however, no provision of a Work Order may act to modify or may conflict with the terms and conditions of this Agreement.

The scope of services required by this Agreement include some or all of the following Services:

- 3.1 **Planning research:** Review, synthesize, update and/or supplement as required completed trial court facilities master plans and/or court programs;
- 3.2 **Site analysis and consultation:** Perform site analyses, including test fits, parking, traffic, zoning, geotechnical, on- and off-site utility and related utilization studies; participate in and coordinate with AOC staff, legal counsel, consultants and real estate brokers in site selection and acquisition activities (Real Estate brokerage services are not included in scope of services of this RFQ);
- 3.3 **Land use entitlement:** Participate in the preparation of environmental studies and reports as required under CEQA and related local and state laws and regulations, and coordinate required mitigations with site and building design (Environmental site surveys and hazard documentation, EIR preparation, and site remediation services are not included in scope of services of this RFQ);
- 3.4 **Court planning:** Conduct court-wide operations master planning and analysis; conduct functional programming, design definition and space planning for court building functions;
- 3.5 **Architectural and engineering design services:** Provide architectural, structural, civil, mechanical, electrical, plumbing, security, acoustical, interior design, lighting, data/telecommunications, graphics, and related services which may be required in

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connection with planning, design and execution of renovation and or new building projects. Special services may be requested as warranted by specific projects, including but not limited to, campus planning, geotechnical engineering; land surveys; wind engineering; vibration control; life safety/code consulting; audio visual; physical and electronic security design; parking structure design; and parking revenue control;

- 3.6 **Code analysis:** Conduct and/or participate in building, planning, access, and historical code analyses and reviews for new and existing facilities;
- 3.7 **Entitlements and approvals:** Identify, coordinate, and support the acquisition of any required entitlements or approvals by local, state, and federal agencies;
- 3.8 **Sustainable Design:** Develop, analyze, and implement programs for sustainable site and building design, including LEED goals and documentation;
- 3.9 **Contracting and sourcing:** Provide consultation on and analysis of methods of project delivery methods, such as design/bid/build, design/build, and CM @ Risk; participate in preparation of associated conventional or unique contract documents required for procurement; (Legal services, construction management, and construction services are not included in the scope of services in this RFQ);
- 3.10 **Cost analysis and schedule planning:** Provide and/or participate in all aspects of project cost estimating and schedule planning, including construction estimating, life cycle costing, value engineering, critical path and special scheduling;
- 3.11 **Design services for furniture, fixtures and equipment:** Provide all services required to properly plan, design, specify and coordinate furniture, fixtures, special finishes and equipment;
- 3.12 **Site planning and landscape architecture:** Provide all services required to, design, specify and coordinate site design, including grading, utilities, parking lots, roads, driveways, hardscape, landscape, lighting, and irrigation;
- 3.13 **Construction contract administration:** Provide construction administration services, including field observations, submittal review, testing and inspection bid document preparation (testing laboratory or construction inspection services are not part of this RFQ), requisition and procurement of specialized pricing and consideration/negotiation of changes, and project contract completion, including punch list, warranty review, preparation of record drawings and closeout;
- 3.14 **Building Commissioning:** Participation in development of building commissioning documents and procedures; specification of commissioning procedures, and participation in commissioning program. (Specialized Commissioning agent services are not part of this RFQ);
- 3.15 **Move and occupancy planning:** Planning, design and execution of temporary relocations, move planning, and start-up assistance;

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- 3.16 **Public Art:** For projects that include a public art component provide the services of an artist experienced in creation and installation of artworks in and surrounding public buildings;
- 3.17 **Project Reviews:** Participate in peer and constructability reviews of projects.

END OF EXHIBIT

EXHIBIT E
SERVICES REQUEST FORM

This Services Request is made by the Judicial Council of California Administrative Office of the Courts (“AOC”) under Agreement @ with @Contractor N&A.

State to Complete:

The State’s Project Manager for this Services Request is:

Name: _____

Address: _____

Phone: _____

Fax: _____

OCCM Request No. _____

Date of Submission of OCCM Request: __/__/__

Contractor Required Proposal Date (5 Business Days following date of receipt): __/__/__

Work Order Details:

Description of Work Requested:

Is the Work to be provided on a Deliverables Basis?

Yes No

Requested Dates of Performance:

Start of the Work: __/__/__

Completion of the Work: __/__/__

How is the Work Order to be Paid for?

Fixed Price Basis

Time and Materials Not to Exceed Basis

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Contractor to Complete:

The Contractor's Project Manager for this Work Order shall be:

Name: _____
Address: _____
Phone: _____
Fax: _____

Agreed to Description of the Work (Statement of Work):

Agreed to Modified Dates of Performance:

Start of the Work: __/__/__
Completion of the Work: __/__/__

Detailed Project Schedule Attached

Date Scheduled	Responsible Party	Activity

Key Personnel to be Assigned to the Work:
(Identify Subcontractor personnel)

__(Name, Title)_____

Price:

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If payment is based on Deliverables, Provide a Payment Schedule:

Payment Amount:	Description of Deliverable:
\$	

Grand Total: \$ _____

Designated Subcontractor(s):

Name and Address _____

Name and Address _____

Date of Contractor's Proposal: ___/___/___

END OF EXHIBIT

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EXHIBIT F

WORK ORDER AUTHORIZATION FORM

State of California

STANDARD AGREEMENT —
STD. 2 (REV.5-91)

**APPROVED BY THE
ATTORNEY GENERAL**

Work Order Number [Work Order #]	Amendment Number
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER	

THIS AGREEMENT, made and entered into this @ day of @ , 200 @ , ("Effective Date")
in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE Business Services Manager	ENTITY Judicial Council of California / Administrative Office of the Courts 455 Golden Gate Ave. San Francisco, CA 94102
CONTRACTOR:	, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows:
THIS WORK ORDER IS ISSUED PURSUANT TO MASTER AGREEMENT # FOR CONSTRUCTION MANAGEMENT SERVICES BETWEEN THE STATE OF CALIFORNIA AND .

The Contractor is hereby authorized to, and shall provide the Work specified in the attached Work Order, OCCM Request # in accordance with the Agreement # and the Work Order.

The amount the State may pay the Contractor under this Work Order shall not exceed **\$(Grand Total from WO)**. This period of performance of the Work specified in this Work Order shall commence @date and expire @date.

[Optional] All Work that is provided by Contractor must be completed, and all invoices applicable to the Work must be submitted to and received by the AOC's Accounts Payable department no later than May 15, 20 . The State will not be responsible for payment for Work performed or for invoices received following May 15, .

IN WITNESS WHEREOF, this Agreement has been entered into by the parties hereto, effective upon the Effective Date.

STATE OF CALIFORNIA		CONTRACTOR		
ENTITY Judicial Council of California / Administrative Office of the Courts		CONTRACTOR (if other than an individual, state whether a corporation, partnership, etc.)		
BY (AUTHORIZED SIGNATURE) ▷		BY (AUTHORIZED SIGNATURE) ▷		
PRINTED NAME OF PERSON SIGNING Grant Walker		PRINTED NAME AND TITLE OF PERSON SIGNING		
TITLE Business Services Manager		ADDRESS		
AMOUNT ENCUMBERED BY THIS DOCUMENT \$0.00	PROGRAM/CATEGORY (CODE AND TITLE)	FUND TITLE		
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$0.00	(OPTIONAL USE)			
TOTAL AMOUNT ENCUMBERED TO DATE \$0.00	ITEM	CHAPTER	STATUTE	FISCAL YEAR
OBJECT OF EXPENDITURE (CODE AND TITLE)				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period of the expenditure stated above.		T.B.A. NO.	B.R. NO.	
SIGNATURE OF ACCOUNTING OFFICER ▷		DATE		

*Department of General Services
Use Only*
**EXEMPT FROM DEPARTMENT OF
GENERAL SERVICE APPROVAL.**

CONTRACTOR
 STATE ENTITY
 DEPT. OF GEN. SER.
 CONTROLLER

END OF EXHIBIT

EXHIBIT G

ACCEPTANCE AND SIGNOFF FORM

For Work Order No. _____

Date submitted by Contractor: _____

Deliverable Name: _____

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

2) Complete: yes no. If no, please identify incomplete aspects of the Work.

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

Please note level of satisfaction:

Poor Fair Good Very Good Excellent

Comments, if any:

Work is accepted.

Work is unacceptable as noted above.

Name: _____

Title: _____

Date: _____

END OF EXHIBIT

END OF AGREEMENT