

RFP Title: **AOC On-Site Catering San Francisco**  
RFP Number: **CJER-030614-OCSF-CF**

**ATTACHMENT 2**  
**AOC MASTER AGREEMENT TERMS AND CONDITIONS**



**AOC MASTER AGREEMENT TERMS AND CONDITIONS**

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**ATTACHMENT 2**  
**AOC MASTER AGREEMENT TERMS AND CONDITIONS**

**STANDARD PROVISIONS**  
**(EXHIBIT A)**

**1. Indemnification\***

The Contractor shall indemnify, defend (with counsel satisfactory to the AOC), and save harmless the AOC and its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all other contractors, Subcontractors, suppliers, and laborers, and any other person, firm, or corporation furnishing or supplying Work, Materials, Data, or services in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor or its agents or employees in the performance of this Agreement.

**2. Relationship of Parties**

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

**3. Termination for Cause**

The AOC may terminate this Agreement and be relieved of the payment of any consideration to the Contractor if the Contractor fails to perform the provisions of this Agreement at the time and in the manner provided. If the Agreement is terminated, the AOC may proceed with the Work in any manner it deems proper. The cost to the AOC to perform this Agreement shall be deducted from any sum due the Contractor under this Agreement or any other agreement, and the balance, if any, shall be paid to the Contractor upon demand.

**4. No Assignment**

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

**5. Time of Essence**

Time is of the essence in Contractor's performance of Work.

**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 the Contractor under this Agreement shall be compensation for all the Contractor's expenses incurred in the performance of this Agreement, including travel and per diem, unless otherwise expressly provided.

*END OF STANDARD PROVISIONS (EXHIBIT A)*

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**SPECIAL PROVISIONS  
(EXHIBIT B)**

**1. Definitions**

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

- A. "**Administrative Director**" refers to that individual, or authorized designee, empowered by the AOC to make final and binding executive decisions on behalf of the AOC.
- B. The "**Administrative Office of the Courts**" refers to the Judicial Council of California, Administrative Office of the Courts ("**AOC**"). The AOC is one of the parties to this Agreement. The term "**AOC**" shall also include any individual designated to perform technical and/or administrative functions, as set forth herein.
- C. "**Amendment**" means a written document issued by the AOC and signed by the Contractor which alters the Contract Documents and identifies the following: (1) a change in the Work, excluding menu items specified in Exhibit E, which the Parties may mutually agree upon without an Amendment; (2) a change in Contract Amount; (3) a change in time allotted for performance; and/or (4) an adjustment to the Agreement terms.
- D. "**Authorized Personnel**" means those persons named in Exhibit F, Authorized Personnel, who are the only persons that may issue an order for catering services.
- E. "**Confidential Information**" means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the AOC'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.
- F. The "**Contract**" or "**Contract Documents**" constitute the entire integrated agreement between the AOC and the Contractor, as attached to and incorporated by a fully executed Standard Agreement Coversheet including, without limitation, the

Master Agreement and all related signed Menu Option Forms. The terms “Contract” or “Contract Documents” may be used interchangeably with the term “**Agreement.**”

- G. “**Contract Amount**” means the total amount encumbered under this Agreement for any payment by the AOC to the Contractor for performance of the Work, in accordance with the Contract Documents.
- H. The “**Contractor**” means the individual, association, partnership, firm, company, consultant, corporation, affiliates, subsidiaries, or combination thereof, including joint ventures, contracting with the AOC to do the Contract Work. The Contractor is one of the parties to this Agreement.
- I. “**Data**” means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- J. “**Day**” means calendar day, unless otherwise specified.
- K. “**Deliverable(s)**” or “**Submittal(s)**” means one or more items, if specified in the Contract Documents, that the Contractor shall complete and deliver or submit to the AOC for acceptance.
- L. “**Force Majeure**” means a delay which impacts the timely performance of Work which neither the Contractor nor the AOC are liable because such delay or failure to perform was unforeseeable and beyond the control of the party. Acts of Force Majeure include, but are not limited to:
- i. Acts of God or the public enemy;
  - ii. Acts or omissions of any government entity;
  - iii. Fire or other casualty for which a party is not responsible;
  - iv. Quarantine or epidemic;
  - v. Strike or defensive lockout; and,
  - vi. Unusually severe weather conditions.
- M. “**Master Agreement**” means the component of the Agreement that sets forth the terms and conditions under which the AOC retains the Contractor and the Contractor will provide catering services pursuant to a signed Menu Option Form.
- N. “**Material**” means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- O. “**Menu Option Form**” refers to the form substantially in the form and format of Exhibit E that is used for placing orders against the Master Agreement.



- P. **“Notice”** means a written document initiated by the authorized representative of either party to this Agreement and given by:
- i. 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
  - ii. Hand-delivered to the other party’s authorized representative, which shall be effective on the date of service.
- Q. **“Project”** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the AOC and the AOC’s representatives.
- R. **“Standard Agreement Coversheet”** refers to the form used by the AOC to enter into agreements with other parties. Several originally signed, fully executed versions of the Standard Agreement Coversheet, together with the integrated Contract Documents, shall each represent the Agreement as an individual **“Contract Counterpart.”**
- S. **“Standard Amendment Coversheet”** refers to the form used by the AOC to amend agreement with other parties.
- T. **“Subcontractor”** shall mean an individual, firm, partnership, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of the Agreement. When the AOC 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, suppliers, and materialmen.
- U. **“Stop Work Order”** means the written Notice, delivered in accordance with this Agreement, by which the AOC may require the Contractor to stop all, or any part, of the Work of this Agreement, for the period set forth in the Stop Work Order. The Stop Work Order shall be specifically identified as such and shall indicate that it is issued pursuant to the Stop Work provision in this Exhibit.
- V. **“Task(s)”** means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the AOC.
- W. **“Third Party”** refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the AOC or the Contractor, which is not a party to this Agreement.

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- X. **“Work” or “Work to be Performed” or “Contract Work”** may be used interchangeably to refer to the service, labor, Materials, Data, and other items necessary for the execution, completion and fulfillment of the Agreement by the Contractor to the satisfaction of the AOC. Work may be defined to include Tasks, Deliverables, and/or Submittals, as required by the Contract.

**2. Manner of Performance of Work**

The Contractor shall complete all Work specified in these Contract Documents to the AOC's satisfaction and in compliance with the Nondiscrimination/No Harassment Clause, as set forth in this Exhibit B.

**3. Termination Other Than for Cause**

- A. In addition to termination for cause under Exhibit A, Standard Provisions paragraph 3, the AOC may terminate this Agreement at any time upon providing the Contractor written Notice at least ten (10) Days before the effective date of termination. Upon receipt of the termination Notice, the Contractor shall promptly discontinue all services affected unless the Notice specifies otherwise.
- B. If the AOC terminates all or a portion of this Agreement other than for cause, the AOC shall pay the Contractor for the fair value of satisfactory services rendered before the termination, not to exceed the total Contract Amount.

**4. AOC's Obligation Subject to Availability of Funds\***

- A. The AOC's obligation under this Agreement is subject to the availability of authorized funds. The AOC may terminate the Agreement or any part of the Contract Work, without prejudice to any right or remedy of the AOC, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or limited in any way prior to the expiration date set forth in this Agreement, or in any Amendment hereto, the AOC may terminate this Agreement in whole or in part, upon written Notice to the Contractor. Such termination shall be in addition to the AOC'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:
  - i. The AOC will be liable only for payment in accordance with the terms of this Agreement for services rendered prior to the effective date of termination; and
  - ii. The Contractor shall be released from any obligation to provide further services pursuant to the Agreement as are affected by the termination.

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- 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.

**5. Stop Work**

- A. The AOC may, at any time, by written Notice to the Contractor, require the Contractor to stop all, or any part, of the Work of this Agreement, for a period up to ninety (90) Days after the Notice is delivered to the Contractor, and for any further period to which the parties may agree (“**Stop Work Order**”). The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Stop Work Order during the period of Work stoppage. Within a period of ninety (90) Days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the AOC shall either:
  - i. Cancel the Stop Work Order; or
  - ii. Terminate the Work covered by the Stop Work Order as provided for in either of the termination provisions of this Agreement.
- B. If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume Work. The AOC shall make an equitable adjustment in the delivery schedule, the Contract Amount, or both, and the Agreement shall be modified, in writing, accordingly, if:
  - i. The Stop Work Order results in an increase in the time required for, or in the Contractor’s cost properly allocable to the performance of any part of this Agreement; and
  - ii. The Contractor asserts its right to an equitable adjustment within thirty (30) Days after the end of the period of Work stoppage; however, if the AOC decides the facts justify the action, the AOC may receive and act upon a proposal submitted at any time before final payment under this Agreement.

**6. Agreement Administration/Communication**

- A. Under this Agreement, the Project Manager, TBD, shall monitor and evaluate the Contractor's performance. All requests and communications about the Work to be performed under this Agreement shall be made through the Project Manager. Any Notice from the Contractor to the AOC shall be in writing and shall be delivered to the Project Manager as follows:

TBD, Project Manager  
Judicial Council of California  
Administrative Office of the Courts  
455 Golden Gate Avenue, 6th Floor  
San Francisco, CA 94102-3688

- B. Notice to the Contractor shall be directed in writing to:

TBD

**7. Agreement Term(s) and Options to Renew**

- A. Until this Agreement is mutually signed and delivered, none of the terms and conditions of this Agreement shall have any legal force or effect, and any such prior commencement of performance by the Contractor shall be at the Contractor's own risk; provided, however, following mutual execution and delivery of this Agreement, the terms and conditions of this Agreement shall be deemed to apply equally to both subsequent and prior performance.
- B. The Agreement shall remain in effect from **July 1, 2014** through **June 30, 2015** ("**Initial Term**").
- C. The Parties agree that the AOC may elect to extend the Agreement beyond the Initial Term for up to three (3) consecutive optional one-year Terms, identified as follows, if authorized in writing in accordance with the terms and conditions of the Agreement:
- i. **July 1, 2015** through **June 30, 2016** ("**First Option Term**").
  - ii. **July 1, 2016** through **June 30, 2017** ("**Second Option Term**").
  - iii. **July 1, 2017** through **June 30, 2018** ("**Third Option Term**").

In the event the AOC elects to exercise an option to extend the Agreement, the Parties will modify the Agreement via execution of the AOC's Standard Amendment Coversheet form. The Agreement will not exceed a total of four (4) years.

**8. Subcontracting**

The Contractor shall not subcontract this Agreement or services provided under this Agreement, unless the AOC agrees to the subcontracting in writing. Any authorized subcontract(s) shall be executed in the same manner as this Agreement. No party to this Agreement shall in any way contract on behalf of or in the name of another party to this Agreement.

**9. Changes and Amendments**

Changes or Amendments to any component of the Contract Documents can be made only with prior written approval from the Project Manager. Requests for changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. Additional funds may not be encumbered under the Agreement due to an act of Force Majeure, although the performance period of the Agreement may be amended due to an act of Force Majeure. After the Project Manager reviews the request, a written decision shall be provided to the Contractor. Amendments to the Agreement shall be authorized via bilateral execution of a Standard Amendment Coversheet.

**10. Accounting System Requirement**

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

**11. Retention of Records**

The 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 AOC and Federal law, a minimum retention period being no less than four (4) years. The retention period starts from the date of the submission of the final payment request. The Contractor is also obligated to protect Data adequately against fire or other damage.

**12. Audit**

The Contractor shall permit the authorized representative of the AOC or its designee or both at any reasonable time to inspect or audit all Data relating to performance and billing to the AOC under this Agreement. The Contractor further agrees to maintain such Data for a period of four (4) years after final payment under this Agreement.

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**13. Insurance Requirements**

- A. General. The Contractor shall obtain and maintain the minimum insurance set forth in subparagraph B, below. 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. For full coverage, each insurance policy shall be written on an “occurrence” form; excepting that insurance for professional liability, when required, may be acceptable on a “claims made” form. If coverage is approved and purchased on a “claims made” basis, the Contractor warrants continuation of 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.
- B. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage and limits no less than the following:
- i. Workers' Compensation at statutory requirements of the state of residency.
  - ii. Employers' Liability with limits not less than **\$1,000,000.00** for each accident.
  - iii. Commercial General Liability Insurance with limits not less than **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage.
  - iv. Business Automobile Liability Insurance with limits not less than **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired automobile coverage, as applicable.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the AOC. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor’s liability to the AOC and shall be the sole responsibility of the Contractor.
- D. Other Insurance Provisions. The General Liability policy required in this Agreement is to contain, or be endorsed to contain, the following provisions:
- i. The AOC, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement.

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- ii. To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects the AOC, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the AOC, its officers, officials, employees or agents shall not contribute with the insurance or benefit the Contractor in any way,
  - iii. The Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- E. The Contractor shall provide the AOC certificates of insurance satisfactory to the AOC evidencing all required coverages before Contractor begins any Work under this Agreement, and complete copies of each policy upon the AOC's request.
- F. If at any time the foregoing policies shall be or become unsatisfactory to the AOC, as to form or substance, or if a company issuing any such policy 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.
- G. All of the Contractor's policies shall be endorsed to provide advanced written Notice to the AOC of cancellation, nonrenewal, and reduction in coverage, within fifteen (15) Days, mailed to the following address: Judicial Council, Administrative Office of the Courts, Business Services Manager, 455 Golden Gate Ave., **6<sup>th</sup> Floor**, San Francisco, CA 94104.

#### **14. Permits and Licenses**

The Contractor shall observe and comply with all federal, state, city, and county laws, rules, and regulations affecting services under this Agreement. The Contractor shall 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.

#### **15. Confidentiality**

- A. Both the AOC and the Contractor acknowledge and agree that in the course of performing the Work under this Agreement, the AOC may disclose Confidential Information to the Contractor.
- B. The 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 the Contractor may disclose the AOC's Confidential Information on a "need to know" basis to the Contractor's employees and Subcontractors and, as directed by the Project Manager, representatives of the

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AOC that are working on the Project. All such employees and Subcontractors of the Contractor shall have executed a confidentiality agreement with the Contractor requiring a promise of confidentiality concerning the Contractor's clients and business.

- C. The Contractor shall acquire no right or title to the Confidential Information. The Contractor agrees not to use the Confidential Information for any purpose except as contemplated pursuant to this Agreement. Notwithstanding the foregoing, the 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.

**16. Conflict of Interest**

- A. The Contractor and employees of the Contractor shall not participate in proceedings that involve the use of AOC funds or that are sponsored by the AOC if the person's partner, family, or organization has a financial interest in the outcome of the proceedings. The Contractor and employees of the Contractor 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.
- B. The Contractor certifies and shall require any Subcontractor to certify to the following:

Former AOC 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 (1) 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.

**17. Limitation on AOC's Liability**

The AOC shall not be responsible for loss of or damage to any non-AOC equipment arising from causes beyond the AOC's control.



**18. Standard of Professionalism**

The Contractor shall conduct all work consistent with professional standards for the industry and type of work being performed under the Agreement.

**19. Covenant Against Gratuities**

The Contractor warrants by signing this Agreement that 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 AOC with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the AOC will have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the AOC 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 the Contract.

**20. National Labor Relations Board**

By executing this Agreement, the Contractor certifies under penalty of perjury under the laws of the AOC of California that 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.

**21. Drug-Free Workplace**

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

**22. Nondiscrimination/No Harassment Clause**

- A. During the performance of this Agreement, the Contractor and its Subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. The Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- B. During the performance of this Agreement, 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

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performance of this Agreement. The Contractor and its Subcontractors shall take all reasonable steps to prevent harassment from occurring.

- C. The Contractor shall comply with applicable 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.
- D. 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.
- E. The Contractor shall include the nondiscrimination/no harassment and compliance provisions of this clause in any and all subcontracts issued to perform Work under the Agreement.

**23. Americans with Disabilities Act**

By signing this Agreement, Contractor assures the AOC 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.

**24. California Law**

This Agreement shall be subject to and construed in accordance with the laws of the State of California.

**25. Severability**

If any term or provision of this Agreement is found to be illegal or unenforceable, this Agreement shall remain in full force and effect and that term or provision shall be deemed stricken.

**26. Waiver**

The omission by either party at any time to enforce any default or right, or to require performance of any of this Agreement's terms, covenants, or provisions by the other party

at the time designated, shall not be a waiver of the default or right, nor shall it affect the right of the party to enforce those provisions later.

**27. Signature Authority**

The parties signing this Agreement certify that they have proper authorization to do so.

**28. 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.

**29. Evaluation of Contractor**

The AOC shall evaluate the Contractor's performance under the Agreement.

**30. Entire Agreement**

This Agreement, consisting of all documents as defined herein, constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties. No waiver, alteration, modification of, or addition to the terms and conditions contained herein shall be binding unless expressly agreed in writing by a duly authorized representative of the AOC.

*END OF SPECIAL PROVISIONS (EXHIBIT B)*

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**PAYMENT PROVISIONS  
(EXHIBIT C)**

1. Compensation

The Contractor's compensation for performing the Work as set forth in Exhibit D, Work to be Performed, shall not exceed the rates set forth in section 2, Pricing, below.

2. Pricing

A. Except for pricing adjustments, as set forth in Paragraph B, below, the pricing for the menu selection set forth in Exhibit E, *Menu Options*, shall be as follows:

Breakfast:	<u>\$TBD</u> per person
AM/PM Break:	<u>\$TBD</u> per person
Lunch:	<u>\$TBD</u> per person
Reception/Dinner:	<u>\$TBD</u> per person

The California State mandated maximum per person rates, inclusive of tax and gratuity are as follows:

Breakfast:	<b>\$8.00</b> per person
AM/PM Break:	<b>\$4.00</b> per person
Lunch:	<b>\$12.00</b> per person
Reception/Dinner:	<b>\$20.00</b> per person

B. Any increase(s) in the California State mandated maximum per person rates that occur(s) subsequent to the execution of the initial term of the Agreement shall be applied to Contractor's per person pricing on a prorated basis by amendment during execution of the next option term.

C. The above pricing includes: set-up, use of linen table cloths, delivery, and pick-up. No other additional charges shall apply.

3. Method of Payment

A. All invoices will be sent to the Project Manager or the Project Manager's designee within one (1) business day of the order in a mutually agreed upon manner.

B. Each individual invoice must include the following information:

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- i) Master Agreement Number TBD
- ii) Cost per meal
- iii) Number of meals served
- iv) Date of service
- v) Name of meeting
- vi) Room name

- C. For tracking purposes, each invoice must have its own specific invoice number.
- D. In an effort to ensure on time payment of invoices, Contractor shall submit monthly statements listing all unpaid invoices, to the attention of the Project Manager or the Project Manager's designee.
- E. The AOC will make all reasonable efforts to make payment with sixty (60) days of receipt of the Contractor's invoices.
- F. The Contractor will direct questions or concerns regarding payment of invoices to the Project Manager or the Project Manager's designee.

4. Direct Expenses

All fees and charges noted in this Agreement are inclusive of any and all anticipated Materials, fees, overhead, profits, and other costs and/or expenses incidental to the performance of the specified requirements under this Agreement.

5. Other Expenses

The AOC shall not consider reimbursement for costs not defined as allowable in this Agreement, including but not limited to any administrative or operating, expenses incurred during the performance of this Agreement.

6. Taxes

The AOC 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 AOC will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement.

7. Disallowance

If the Contractor claims or receives payment from the AOC for a service or reimbursement that is later disallowed by the AOC, the Contractor shall promptly refund the disallowed

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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.

*END OF PAYMENT PROVISIONS (EXHIBIT C)*

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**WORK TO BE PERFORMED  
(EXHIBIT D)**

1. Work Requirements

- A. Upon Contractor's receipt of an order, the Contractor shall provide catering services to the following AOC facility:

Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102

B. Menu Items:

- i. Menu items and options shall be as specified in **Exhibit E, Menu Options**.
- ii. Prior to introduction of any new items to the menu options in Exhibit E, Contractor will schedule a tasting with AOC management staff.
- iii. Upon mutual agreement by the parties, the parties may modify only the menu items and options in Exhibit E, but not the per-person pricing. The AOC's submission of a modified order to the Contractor, and the Contractor's acceptance and fulfillment of such order shall constitute mutual agreement by the parties.

C. Order Placement:

- i. Orders shall be placed using a **Menu Options/ Order Placement Form** containing the information substantially the same as in Exhibit E.
- ii. Only those orders received by e-mail or fax containing a signature from any one of the authorized personnel named in Exhibit F, shall be considered valid. Any order attempted to be placed by persons other than authorized personnel shall be considered invalid and if such an order is fulfilled by Contractor, the invalid order shall not be billable to the AOC.
- iii. Menu selection changes may be made to a previously placed order up to one (1) business day in advance of event time/date.
- iv. Changes in the number of meals without penalty (increase or decrease) may be made by 3:00 pm on the business day preceding the scheduled delivery.
- v. Full cancellation of orders previously placed, may be made up to one (1) business day in advance of event time/date.

D. Delivery/Set-up & pick-up:

- i. All orders are to be delivered and set-up by the specified “set-up” time on the *Menu Options/ Order Placement Form*.
- ii. Any orders late by 30 minutes or more will be at no charge to the AOC.
- iii. All deliveries will be made to the loading dock, and via the service elevator. If the service elevator is unavailable, the Contractor will contact the AOC Receptionist at \_\_\_TBD\_\_\_ prior to using the public elevator.
- iv. If the Contractor anticipates a late delivery, they will immediately call the AOC Receptionist at \_\_\_TBD\_\_\_ with an estimated time of arrival.
- v. Prior to room set-up, the Contractor will always check in at the Reception desk upon arrival to the AOC, to receive any last minute information or instructions (i.e., room changes).
- vi. All catering equipment (serving utensils etc.) must be cleared from the building no earlier than 3:30 P.M., and no later than 6:00pm on day of delivery (with the exception of days when late afternoon or early evening receptions are scheduled to take place).

E. Presentation:

- i. The display of catered items must include at a minimum the following items:
  - a) Carafes are used for orange juice service.
  - b) Linen table clothes are used on buffet surfaces.
  - c) Professionally printed food labels are used on buffets for indication of coffee type, and vegetarian selection at a minimum.

F. Inventory:

- i. The Contractor agrees to keep at the AOC, an inventory of a minimum of the following:
  - a) 100 plates, 200 sets of eating utensils (plastic forks, knives, spoons and paper napkins etc.), and 200 plastic cups, and two airpots at all times.
  - b) Contractor must keep a supply of seasonings, teas, sweeteners, in a



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supply closet as well.

- ii. Contractor will be responsible for monitoring and replenishing inventory as necessary.

G. **Unscheduled Visits:**

The Contractor agrees to periodic unscheduled tours of the catering facility by the AOC staff.

H. **Problem Resolution:**

- i. The AOC requires direct access to a management representative with the Contractor, in order to gain immediate and accurate information and problem resolution.
- ii. The Contractor will ensure prompt problem resolution, with appropriate and concise follow-up to the AOC's Project Manager.

*END OF WORK TO BE PERFORMED (EXHIBIT D)*

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**MENU OPTIONS**  
**(EXHIBIT E)**

**TBD**

*END OF MENU OPTIONS (EXHIBIT E)*

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**AUTHORIZED PERSONNEL  
(EXHIBIT F)**

2. Authorized Personnel

A. The following are the only persons that may issue an order for catering services:

- i. **TBD**
- ii. **TBD**

B. From time to time, the Project Manager, **TBD**, may add or delete names in section 1, above, and must do so in writing by e-mail. The Project Manager is the only person that may add or delete names.

*END OF AUTHORIZED PERSONNEL (EXHIBIT F)*

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## **JBCL APPENDIX**

*This JBCL Appendix contains the provisions required for compliance with Public Contract Code (“PCC”), part 2.5, enacted under Senate Bill 78 (Stats. 2011, ch. 10), and the Judicial Branch Contracting Manual (“JBCM”) adopted pursuant to that law. In this appendix, (i) “Agreement” refers to the agreement into which this appendix is incorporated, (ii) “JBE” refers to the California judicial branch entity that is a party to the Agreement, (iii) “Contractor” refers to the other party to the Agreement, and (iv) “Consulting Services” refers to those services described in chapter 8, appendix C, section 1 of the JBCM.*

**1. Contractor Certification Clauses.** Contractor certifies that the following representations and warranties are true. Contractor shall cause these representations and warranties to remain true during the term of this Agreement, and Contractor shall promptly notify the JBE if any representation and warranty becomes untrue.

**1.1. Non-discrimination.\*** Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California’s Fair Employment and Housing Act (Government Code section 12990 et seq.) and associated regulations (Code of Regulations, title 2, section 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor’s obligations of non-discrimination.

**1.2. National Labor Relations Board.\*** No more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.

**1.3. Not an Expatriate Corporation.** Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC 10286.1, and is eligible to contract with the JBE.

**2. Provisions Applicable Only to Certain Agreements.** The provisions in this section are *applicable only to the types of agreements specified in the title of each subsection*. If the Agreement is not of the type described in the title of a subsection, then that subsection does not apply to the Agreement.

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

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

**2.3. Agreements of \$100,000 or More.** Contractor certifies that it is, and will remain for the term of the Agreement, in compliance with PCC 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits regarding marital or domestic partner status. Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the term of this Agreement) all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq. Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**2.4. Agreements for Services over \$200,000 (Excluding Consulting Services).** Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.

**2.5. Agreements of \$1,000,000 or More.** Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“Iran List”) created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending \$20,000,000 or more in credit to another person, for forty-five (45) days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the JBE to enter into this Agreement pursuant to PCC 2203(c).

**2.6. Agreements for the Purchase of Goods.** Contractor shall not sell or use any article or product as a “loss leader” as defined in Business and Professions Code section 17030.

**2.7. Agreements for the Purchase of Certain Goods, and Printing, Parts Cleaning, Janitorial, and Building Maintenance Services Agreements.** If Contractor will sell to the JBE, or use in the performance of this Agreement, goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), then with respect to those goods: (i) Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible, and (ii) upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.

**2.8. Agreements for Furnishing Equipment, Materials, Supplies, or for Laundering Services.** Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the JBE under this Agreement have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and PCC 6108. Contractor agrees to cooperate fully in providing reasonable access to Contractor's records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under this section and shall provide the same rights of access to the JBE.

**2.9. Agreements for which Contractor Has Committed to Achieve DVBE Participation.** Contractor shall within sixty (60) days of receiving final payment under this Agreement certify in a report to the JBE: (i) the total amount the prime Contractor received under this Agreement; (ii) the name and address of any disabled veterans business enterprise ("DVBE") that participated in the performance of this Agreement; (iii) the amount each DVBE received from the Contractor; (iv) that all payments under this Agreement have been made to the DVBE; and (v) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

**2.10. Agreements Resulting from Competitive Solicitations.** Contractor shall assign to the JBE all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the JBE. Such assignment shall be made and become effective at the time the JBE tenders final payment to the Contractor. If the JBE receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the JBE any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the JBE as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by the Contractor, the JBE shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the JBE has not been injured thereby, or (b) the JBE declines to file a court action for the cause of action.

**2.11. Agreements for Legal Services.** Contractor shall: (i) adhere to legal cost and billing guidelines designated by the JBE; (ii) adhere to litigation plans designated by the JBE, if applicable; (iii) adhere to case phasing of activities designated by the JBE, if applicable; (iv)

submit and adhere to legal budgets as designated by the JBE; (v) maintain legal malpractice insurance in an amount not less than the amount designated by the JBE; and (vi) submit to legal bill audits and law firm audits if so requested by the JBE, whether conducted by employees or designees of the JBE or by any legal cost-control provider retained by the JBE for that purpose. Contractor may be required to submit to a legal cost and utilization review as determined by the JBE. If (a) the value of this Agreement is greater than \$50,000, (b) the legal services are not the legal representation of low- or middle-income persons, in either civil, criminal, or administrative matters, and (c) the legal services are to be performed within California, then Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the Agreement equal to the lesser of either (A) thirty (30) multiplied by the number of full time attorneys in the firm's offices in California, with the number of hours prorated on an actual day basis for any period of less than a full year or (B) the number of hours equal to ten percent (10%) of the contract amount divided by the average billing rate of the firm. Failure to make a good faith effort may be cause for non-renewal of this Agreement or another judicial branch or other state contract for legal services, and may be taken into account when determining the award of future contracts with a judicial branch entity for legal services.

**2.12. Agreements Allowing for Reimbursement of Contractor's Costs.\*** Contractor must include with any request for reimbursement from the JBE a certification that the Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Contractor incurs costs or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the JBE was sought for these costs, and Contractor will provide those records to the Attorney General upon request.

**2.13. Agreements Performed in California by Contractors that are Corporations, LLCs, or LLPs.** Contractor is, and will remain for the term of the Agreement, qualified to do business and in good standing in California.

**2.14. Agreements that the JBE Cannot Terminate for Convenience.** The JBE's obligations under this Agreement are subject to the availability of applicable funds. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the initial appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement. Upon notice, the JBE may terminate this Agreement in whole or in part, without prejudice to any right or remedy of the JBE, for lack of appropriation of funds. Upon termination, the JBE will pay Contractor for the fair value of work satisfactorily performed prior to the termination, not to exceed the total contract amount.

*END OF JBCL APPENDIX*

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