

RFP Title: Actuarial Services for GASB 43/45 Compliance

RFP #: FIN MM 0412-NN



ATTACHMENT 2 – STANDARD AGREEMENT

JUDICIAL COUNCIL OF CALIFORNIA, ADMINISTRATIVE OFFICE OF THE COURTS
STANDARD AGREEMENT COVERSHEET rev 11-11

AGREEMENT NUMBER [Agreement Number]
FEDERAL EMPLOYER ID NUMBER [Fed. Employer ID Number]

- In this agreement (the “Agreement”), the term “Contractor” refers to [Contractor name], and the term “AOC” refers to the Judicial Council of California, Administrative Office of the Courts.
 - This Agreement becomes effective as of [Date] (the “Effective Date”) and expires on [Date].
 - The title of this Agreement is: **Actuarial Services for GASB 43/45 Compliance.**
- The title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of the Agreement.
- The maximum amount that the AOC may pay Contractor under this Agreement is \$[Dollar amount].
 - The parties agree to the terms and conditions of this Agreement and acknowledge that this Agreement (made up of this coversheet, the following exhibits, and any attachments) contains the parties’ entire understanding related to the subject matter of this Agreement. If there are any inconsistent terms in the exhibits, the following is the descending order of precedence: Exhibits C, D, B, and A.

Exhibit A – Scope of Work	Exhibit E –Resumes
Exhibit B – Payment Provisions	Exhibit F – Acceptance and Sign-Off Form
Exhibit C – Standard Provisions	Exhibit G – AOC Travel Rate Guidelines
Exhibit D – Special Provisions	

AOC’S SIGNATURE	CONTRACTOR’S SIGNATURE
Judicial Council of California, Administrative Office of the Courts	CONTRACTOR’S NAME (if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.) [Contractor name]
BY (Authorized Signature) 	BY (Authorized Signature)  DO NOT SIGN
PRINTED NAME AND TITLE OF PERSON SIGNING [Name and title]	PRINTED NAME AND TITLE OF PERSON SIGNING [Name and title]
ADDRESS Attn: Business Services Unit 455 Golden Gate Avenue San Francisco, CA 94102	ADDRESS [Contractor Address; include addressee]

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EXHIBIT A – Scope of Work
(Actual Final Scope of Work to be determined with Selected Firm)

1. Introduction

The Contractor shall provide to the AOC based on the Government Accounting Standard Board Statements No. 43 and No. 45, reports for each California Trial Court fulfilling the requirements and disclosures of those statements. The contractor will also provide the data used as the basis for the development of those reports.

2. Background

Two (2) prior OPEB actuarial studies of the trial courts were respectively conducted in 2007 and 2009. According to the actuarial study submitted to the AOC in January 2011, as of 2009/10, all 58 trial courts have complied with the requirements of GASB 43/45. All existing actuarial valuation reports for each county will be made available to them, as well as templates used for prior periods.

Post-employment benefits may be provided through a county retirement system, CalPERS, or directly through other benefit providers. Each trial court, because it is an independent entity, has its own unique benefit package. As of the 2009/2010 Valuation Report, five (5) trial courts offer no OPEB and others may offer more than one, depending upon provisions of applicable collective bargaining agreements.

3. Agreement Term(s) and Options to Renew

Until this Agreement is mutually signed and delivered, nor 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, there terms and conditions of this Agreement shall be deemed to apply equally to both subsequent and prior performance.

The Agreement shall remain in effect for a one year period from June 1, 2012 through May 31, 2013.

The parties agree that the AOC may elect to extend the Agreement up to two (2) optional Terms, identified as follows, if authorized in writing in accordance with the terms and conditions of this Agreement:

- 1st year option: from June 1, 2013 through May 31, 2014.
- 2nd year option: from June 1, 2014 through May 31, 2015.

In the event the AOC elects to exercise one or more options to extend the Agreement, as set forth in this provision, the parties will memorialize the extension via bilateral execution of the AOC's Standard Agreement form.

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In the event any option Term is exercised under this Agreement, Contractor’s fees shall not exceed during any option period the previous twelve (12) months change in the San Francisco Bay Area Consumer Price Index as published by the U.S. Bureau of Labor Statistics.

4. Trial Court Sizes Classifications

Small Courts

1	Alpine	12	Kings	23	Plumas
2	Amador	13	Lake	24	San Benito
3	Butte	14	Lassen	25	Sierra
4	Calaveras	15	Madera	26	Siskiyou
5	Colusa	16	Mariposa	27	Sutter
6	Del Norte	17	Mendocino	28	Tehama
7	El Dorado	18	Merced	29	Trinity
8	Glenn	19	Modoc	30	Tuolumne
9	Humboldt	20	Mono	31	Yolo
10	Imperial	21	Napa	32	Yuba
11	Inyo	22	Nevada		

Medium Courts

1	Contra Costa	7	San Joaquin	13	Solano
2	Fresno	8	San Luis Obispo	14	Sonoma
3	Kern	9	San Mateo	15	Stanislaus
4	Marin	10	Santa Barbara	16	Tulare
5	Monterey	11	Santa Cruz	17	Ventura
6	Placer	12	Shasta		

Large Courts

1	Alameda	4	Riverside	7	San Diego
2	Los Angeles	5	Sacramento	8	San Francisco
3	Orange	6	San Bernardino	9	Santa Clara

5. Contractor Project Manager Responsibilities

- A. The Contractor’s Project Manager will have the following responsibilities under this Contract:

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- i. Responsible for the end results and for day-to-day Project management;
- ii. Serves as the Contractor’s primary contact;
- iii. Works closely with AOC Project Manager;
- iv. Provides on-going status reports to AOC management;
- v. Manages, prepares, and refines the Contract’s end results;
- vi. Proactively assists with resolution of issues with any aspect of the Work;
- vii. Proactively anticipates Project deviations and is responsible for taking immediate corrective action;
- viii. Works with Project Manager to manage and coordinate work and knowledge transfer; and
- ix. Responsible for management of Project budget within constraints of Work requirements.

6. AOC Responsibilities

The AOC Project Manager will be responsible for managing, scheduling, and coordinating all Project activities, including Project plans, timelines, and resources, and escalating issues for resolution to AOC management. The AOC Project Manager will also be responsible for resolving issues related to this project with the Superior Courts if/when they arise.

7. Work Requirements

A. Meetings

The Contractor is required to introduce its team to the AOC GASB 43/45 Project Team at the Kick-off Meeting and report on the progress of the project through weekly meetings that will take place throughout the duration of the project.

The purpose of the kick-off meeting is to introduce project team members, review roles and responsibilities, and identify and discuss key assumptions. The Contractor will discuss their preliminary project plan during this meeting too. Receive comments and gather feedback for refining their project plan.

The Contractor will engage in weekly meetings with the AOC project management team to discuss the progress of the project. These meetings can be held as conference calls with the requirement that at least one meeting a month be held at the AOC office in San Francisco. At each meeting the project plan will be reviewed and modified if necessary, court check-off sheets will be reviewed, discussion of any current or perceived future problems will be discussed, any questions regarding the project from either party should be brought up and discussed, and the goals for the next week should be agreed upon. The weekly meeting should be guided by the following agenda:

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- i. Review, comment and/or revise prior week meeting notes.
- ii. Accomplishments
- iii. Review, comment and/or modify the project plan.
- iv. Review and comment on court check-off sheets which are active.
- v. Discuss problems or any new concerns.
- vi. Develop an Issues List to track problems or concerns.
- vii. Review, comment and/or update the outstanding issues list.
- viii. Submission of documents for approval.
- ix. Set goals for the following week.
- x. Preparation of meeting notes will be produced by the Contractor's Project Manager and will be due at least one day prior to the next meeting.

Deliverables: Project kick-off meeting and development of a draft project management plan as well as weekly project status reports.

B. Data Collection

The data collection component of this Scope of Work must be carefully managed by the Contractor to ensure data integrity and will build on existing data from prior period reports. The information required should be reported in two categories: 1) plan information and, 2) census data on each plan member.

The Contractor will be assigned a Trial Court Liaison for each Court for the purpose of securing and updating data and related documents. The Contractor will compile a list of documents required for each Court and then use that list to track documents as they are received. The Contractor will then catalogue and electronically store all related documents for future updates.

The Contractor will obtain census information on all members of the court community that belongs to an OPEB plan, now or in the future. The information gathered will be data that is necessary to complete the required actuarial work required by GASB. This information will be collected with the cooperation of the trial courts or whoever may possess the information.

Deliverables: Final Project Management Plan and weekly project status reports.

C. Database

The Contractor is required to update information in an electronic database using the existing data as starting point, and make any associated changes subject to the AOC Project Manager's approval. The information should be accessible by the AOC and the Trial Court Liaison.

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The OPEB database should be available to the AOC for use in future valuations so that the GASB requirement of comparing two prior valuations with the current year can be accomplished. The information contained in the database will also give the AOC or Contractor the ability to determine if any major changes have taken place from one valuation to another.

The information should be entered into the database by the Contractor as the information is gathered. This will ensure that the actuarial work can begin as soon as all of the information is collected for any particular court.

Deliverables: Weekly project reports.
Updates of any information for the final report.

D. Actuarial Work

The actuarial work phase of the project will produce the information required to comply with GASB 43/45. It is the responsibility of the Contractor to employ properly qualified and licensed actuaries as recognized by the actuary profession to perform the tasks required by this project.

Prior valuation report actuarial assumption(s) will be reviewed with the AOC Project Management. Some assumptions may be determined by either an OPEB Plan or a Pension Plan. All assumptions should be presented and approved by the AOC GASB 43/45 Project Manager.

The actuarial valuation provided by the Contractor for each trial court plan must follow GASB 43/45 standards and must include at a minimum the following information or a written explanation as to why such information is not included or required:

1. The actuarial present value of total projected benefits.
2. Actuarial accrued liability.
3. Actuarial value of assets.
4. The unfunded actuarial accrued liability.
5. Normal Cost.
6. Annual required contribution of the employer(s) – as a level dollar amount and as a level percentage of covered payrolls.
7. Net OPEB obligation for each court disclosure under GASB Statement 45.

The Contractor will prepare the annual gain/loss analysis to determine reasons for changes in the unfunded actuarial accrued liability whenever a prior actuarial valuation is available to support such an analysis.

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The Contractor will determine the implicit rate subsidy, if any, and the impact it would have on the OPEB liability.

Deliverables: Valuation and review of draft reports for each court.
Weekly project status reports.

E. Report Writing

An original copy of each court's report, plus an electronic version (PDF format) will be submitted to the AOC Project Manager, who will forward the report to the State Controller's Office to be included in the State's Comprehensive Annual Financial Report. The AOC Project Manager will be responsible for distributing reports to courts.

Deliverables: Submission of final report to the State Controller's Office to be included in the State's Comprehensive Annual Financial Report.

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**EXHIBIT B
Payment Provisions**

(Actual Final Payment Provisions to be determined with Selected Firm)

1. Contract Amount

- A. The total amount the AOC may pay to the Contractor under this Agreement for performing the Work set forth in Exhibit A, Scope of Work, and any allowable expenses, shall be the actual and fixed price costs not to exceed the Contract Amount of **\$XXX,000.00**, as set forth in this Exhibit.

- B. The Contractor has estimated the costs and expenses necessary to complete the Work. The AOC’s acceptance of the Contractor’s price does not (1) imply that the AOC approves of or adopts the Contractor’s plan, means, methods, techniques, or procedures required to perform the Work, nor (2) relieve the Contractor from the sole responsibility for the accuracy of its estimate and timely completion of the Work of this Agreement within the total amount for compensation set forth herein

2. General

The Contractor shall invoice once a month based on the required documentation once approvals specified in this exhibit have been obtained.

Payment Terms: Net 45 days from receipt of invoice.

Payments are for the first year; optional years shall be negotiated between the AOC and Contractor.

Payments on invoices will be based on the following fee schedule:

Deliverables For 32 Small Courts	Key Personnel (Names and Titles for key personnel)	Hourly Rate	Estimated Hours	Not to Exceed Amount
Project kick-off meeting and development of a draft Project Management Plan				
Final Project Management Plan				
Weekly Project Status Reports				

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which shall be invoiced once a month.				
Valuation and review of draft Reports for each court				
Submission of final reports accompanied by data base and support documentation files				
Process improvement and recommendations for next GASB 43/45 compliance cycle				
Total Not to Exceed Amount				

Deliverables For 17 Medium Courts	Key Personnel (Names and Titles for key personnel)	Hourly Rate	Estimated Hours	Not to Exceed Amount
Project kick-off meeting and development of a draft Project Management Plan				
Final Project Management Plan				
Weekly Project Status Reports which shall be invoiced monthly				
Valuation and review of draft Reports for each courts				
Submission of final reports accompanied by data base and support documentation files				
Process improvement and recommendations for next GASB 43/45 compliance cycle				
Total Not to Exceed Amount				

Deliverables For 9 Large Courts	Key Personnel (Names and Titles for key personnel)	Hourly Rate	Estimated Hours	Not to Exceed Amount
Project kick-off meeting and development of a draft Project				

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Management Plan				
Final Project Management Plan				
Weekly Project Status Reports which shall be invoiced monthly				
Valuation and review of draft Reports for each courts				
Submission of final reports accompanied by data base and support documentation files				
Process improvement and recommendations for next GASB 43/45 compliance cycle				
Total Not to Exceed Amount				

The initial Contract Term shall be for one (1) year with two (2) options to extend the Term. If the AOC elects to extend the Term of the Contract, any agreed upon price adjustment (whether an increase or decrease) may not exceed during any option period the previous twelve (12) months change in the San Francisco Bay Area Consumer Price Index as published by the U.S. Bureau of Labor Statistics.

Fees may be negotiated depending on changes in GASB 43/45 requirements, fluctuation in scope of work due to decline/increases in number of courts, changes in number of employees beyond 15% range of current number and other material factors as determined by the AOC.

3. Invoicing

The AOC will make payment in arrears after receipt of the Contractor's properly completed invoice. Invoices shall clearly indicate the following:

- (a) The Contract number;
- (b) A unique invoice number;
- (c) The Contractor's name and address;
- (d) Taxpayer identification number (the Contractor's federal employer identification number);
- (e) Description of the completed Work, including services rendered, Task(s) performed, and Deliverable(s);
- (f) Line items shall be broken out by the size of the court and the total amount owed (e.g. 32 small courts, 17 medium courts and 9 large courts).
- (g) Anticipated work for the next billing cycle
- (h) The contractual charges, including the appropriate progress payment, or expenses, if allowable under this Agreement; and,
- (i) Preferred remittance address, if different from the mailing address.

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The 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 94102-3688**

4. Expenses

4.1 Allowable Expenses. Contractor may submit for reimbursement, without mark-up, only the following approved categories of expenses: personnel, materials, travel, and lodging. .

4.2 Limitation on Travel Expenses. Travel will be reimbursed in accordance with the AOC travel rate guidelines (see Exhibit G).

5. Availability of Funds. The AOC's obligation to compensate Contractor is subject to the availability of funds. The AOC shall notify Contractor if funds become unavailable or limited during the Term.

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EXHIBIT C STANDARD PROVISIONS

Note to Proposers: Each Proposer must state in its proposal whether it accepts the standard contract terms and conditions in the form presented below. Any exceptions, if at all, must be identified with the proposal submission, *Attachment 3: Proposer’s Acceptance of Terms and Conditions*.

In addition, each Proposer must submit a redlined copy of this Attachment 2, Standard Agreement detailing any exceptions taken.

Terms identified below with an **asterisk (*)** are **mandatory minimum terms** of the contract, and making any material exception will render a proposal non-responsive. Exceptions taken to other terms and conditions may negatively impact the proposal evaluation score.

1. Indemnification (*)

The Contractor shall indemnify, defend (with counsel satisfactory to the State), and save harmless the State and its officers, agents, and employees from any and all claims and losses (collectively, “Losses”) arising from, related to or in connection with, in whole or in part: (i) a breach by Contractor or its Subcontractors of any of its obligations under this Agreement, (ii) the negligent or wrongful acts or omissions of the Contractor or its employees, agents, or Subcontractors in connection with the performance of the Services; or (iii) the infringement by the Work (including the Contractor Intellectual Capital) on a third party’s intellectual property right, except to the extent any such Losses are attributable to the negligence or wrongful acts or omissions of an indemnified party.

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 State 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 and, provided that such failure is capable of cure, does not cure any such failure within fifteen business days of receipt of notice detailing such breach. If the Agreement is terminated, the State may proceed with

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the Work in any manner it deems proper. The cost to the State 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 State, the Contractor shall not assign this Agreement in whole or in part.

5. 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.

6. 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.

7. Time of Essence

Time is of the essence in the Contractor's performance of this Agreement.

END OF EXHIBIT C

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EXHIBIT D Special Provisions

Note to Proposers: Each Proposer must state in its proposal whether it accepts the standard contract terms and conditions in the form presented below. Any exceptions, if at all, must be identified with the proposal submission, *Attachment 3: Proposer’s Acceptance of Terms and Conditions*.

Terms identified below with an **asterisk (*)** are **mandatory minimum terms** of the contract, and making any material exception will render a proposal non-responsive. Exceptions taken to other terms and conditions may negatively impact the proposal evaluation score.

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 State to make final and binding executive decisions on behalf of the State.
- B. “**Amendment**” means a written document issued by the State and signed by the Contractor which alters the Contract Documents and identifies the following: (i) a change in the Work; (ii) a change in Contract Amount; (iii) a change in time allotted for performance; and/or (iv) an adjustment to the Agreement terms.
- C. “**Confidential Information**” means: (i) trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the business of any California court or county; (ii) health and personal information, and information relating to employment benefits and retirement benefits; (iii) information relating to the State’s business which is marked or designated as confidential at or prior to disclosure; (iv) the Work Product, or (v) any information that would appear to a reasonably prudent person to be non-public, confidential or proprietary in nature. 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)

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information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.

- D. The “**Contract**” or “**Contract Documents**” constitute the entire integrated agreement between the State and the Contractor, as attached to and incorporated by a fully executed State Standard Agreement form. The terms “Contract” or “Contract Documents” may be used interchangeably with the term “**Agreement**.”
- E. “**Contract Amount**” means the total amount encumbered under this Agreement for any payment by the State to the Contractor for performance of the Work, in accordance with the Contract Documents.
- F. 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. The Contractor is one of the parties to this Agreement.
- G. “**Data**” means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- H. “**Day**” means calendar day, unless otherwise specified.
- I. “**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 State for acceptance.
- J. “**Force Majeure**” means a delay which impacts the timely performance of Work which neither the Contractor nor the State are liable for 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.
- K. “**Material**” means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.

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- L. “**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.
- M. “**Project**” refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State’s representatives.
- N. The “**State**” refers to the Judicial Council of California / Administrative Office of the Courts (“**AOC**”).
- O. “**State Standard Agreement**” means the form used by the State to enter into agreements with other parties. Several originally signed, fully executed versions of the State Standard Agreement, together with the integrated Contract Documents, shall each represent the Agreement as an individual “**Contract Counterpart**.”
- P. “**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 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, suppliers, and material men.
- Q. “**Task(s)**” means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- R. “**Third Party**” refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the State or the Contractor, which is not a party to this Agreement.
- S. “**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 State. Work may be defined to include Tasks, Deliverables, and/or Submittals, as required by the Contract.

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1. Representations and Warranties. Contractor certifies that the following representations and warranties are true:

- A. *Authority.* Contractor is qualified to do business and in good standing in the State of California. Contractor has authority to enter into and perform its obligations under this Agreement, which constitutes a valid and binding obligation of Contractor. Contractor’s signatory has authority to bind Contractor to this Agreement
- B. *Not an Expatriate Corporation.* Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1, and is eligible to contract with the Court.
- C. *Sales and Use Tax Collection.* Contractor collects and remits sales and use taxes as and to the extent required under the Revenue and Taxation Code.
- D. *No Conflict of Interest.* Contractor has no interest that would constitute a conflict of interest under Public Contract Code sections 10365.5, 10410 or 10411; which, in general, limit entering into (1) follow-on contracts with a consultant who would benefit thereby from the consultant’s advice provided under the first contract, or (ii) contract with former employees of the Judicial Council of California and entities under its oversight; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.
- E. *No Interference with Other Contracts.* To the best of Contractor’s knowledge, this Agreement does not create a material conflict of interest or default under any of Contractor’s other contracts.
- F. *No Litigation.* No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or, to Contractor’s knowledge, threatened against or affecting Contractor or Contractor’s business, financial condition, or ability to perform this Agreement, except any suit, action, arbitration, proceeding, or investigation that individually or in the aggregate with others will not or would not have a material adverse affect on Contractor’s business, the validity or enforceability of this Agreement, or Contractor’s ability to perform this Agreement.

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- G. *Compliance with Laws Generally.* Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor’s business and services, and pays all undisputed debts when they come due.
- H. *Work Eligibility.* All personnel assigned to perform this Agreement are legally authorized to work in the United States and possess valid proof of work eligibility.
- I. *Special Provisions regarding Domestic Partners, Spouses, and Gender Discrimination.* If this Agreement provides for total Compensation of more than \$100,000, Contractor is in compliance with Public Contract Code section 10295.3, which, subject to specified exceptions, generally prohibits discrimination in the provision of benefits between employees with spouses and employees with domestic partners, or discriminates between employees with spouses or domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminates between same-sex and different-sex domestic partners of employees or between same-sex and different-sex spouses of employees.
- J. *Special Provisions regarding Compliance with the Child Support Compliance Act.* If Contractor is a private entity, and this Agreement provides for Compensation of \$100,000 or more:
 - 1. Contractor recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - 2. Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- K. *Union Organizing.* As required under Government Code sections 16645 – 16649, contractor has not used any funds received from the Judicial Council of California under this Agreement to assist, promote, or deter union organizing.

2. Manner of Performance of Work (*)

The Contractor shall complete all Work specified in these Contract Documents to the State’s satisfaction and in compliance with (i) the Governmental Accounting Standards

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Board (GASB) Statements, (ii) all applicable laws, and (iii) the Nondiscrimination/No Harassment Clause set forth in this Exhibit B.

3. Termination Other Than for Cause (*)

- A. In addition to termination for cause under Exhibit C, Standard Provisions paragraph 3, the State 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 State terminates all or a portion of this Agreement other than for cause, the State shall pay the Contractor for the fair value of satisfactory services rendered before the termination, not to exceed the total Contract Amount.

4. 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 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 the 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:
 - i. The State 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.
- 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.

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5. Agreement Administration/Communication

- A. Under this Agreement, the Project Manager, 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 State shall be in writing and shall be delivered the Project Manager as follows:

Project Manager
Judicial Council of California
Administrative Office of the Courts
2255 North Ontario Street, Suite 200
Burbank, CA 91504

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

Contractor
Attn: Project Manager
Address 1
Address City, State and Zip Code

6. Subcontracting

The Contractor shall not subcontract this Agreement or services provided under this Agreement, unless the State 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.

7. Contractor's Personnel – Replacement

The Contractor shall endeavor to retain the same individuals assigned under this Agreement during the performance of the Work of this Agreement. However, the Contractor may, with approval of the State's Project Manager, release personnel from the Agreement who become unavailable due to separation of employment or whose skill set is no longer is required to complete the Work under this Agreement.

Any substitution or prolonged absence of the personnel who were specifically identified in the original proposal, as accepted, must be approved. Failure to obtain acceptance shall constitute a major breach of this Agreement.

The State reserves the right to disapprove the continuing assignment of any of the Contractor's personnel provided to the State under this Agreement if in the Stat's opinion, the performance of the Contractor's personnel is unsatisfactory. The State

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agrees to provide Notice to the Contractor in the event it makes such a determination. If the State exercises this right, the Contractor shall immediately assign replacement personnel, possessing equivalent or greater experience and skills.

If any of the Contractor's Key Personnel become unavailable during the term of this Agreement, the Contractor shall immediately assign replacement personnel, possessing equivalent or greater experience and skills as that demonstrated in the resume set forth in Exhibit E Standard Provisions, Paragraph 3.

If the Contractor cannot or does not furnish replacement acceptable to the State, the State may terminate this Agreement for cause pursuant to Exhibit C Standard Agreement paragraph 3-*Termination for Cause*.

8. Acceptance of the Work

- A. The AOC Project Manager shall be responsible for the sign-off acceptance of all the Work required and submitted pursuant to this Agreement using the Acceptance and Sign-off Form included in this Agreement as Exhibit F. Prior to approval of the Work and prior to approval for payment, the Project Manager will apply the acceptance criteria set forth in subparagraph B of this provision, as appropriate, to determine the acceptability of the Work provided by the Contractor. Unsatisfactory ratings will be resolved as set forth in this provision.
- B. Acceptance Criteria for Work ("Criteria") provided by the Contractor pursuant to this Agreement:
 - a. Timeliness: The Work was delivered on time;
 - b. Completeness: The Work contained the data, materials and features as required under this Agreement Scope of Services, including the data organization and clarity.
 - c. Technical Accuracy: The Work is accurate as measured against commonly accepted standards for actuarial work and quality assurance, specifically GASB 43/45.
- C. If the AOC rejects the Work provided, the AOC's Project Manager shall submit to the Contractor a written rejection using the Acceptance and Sign-Off Form, describing in detail the failure of the Work as measured against the Criteria. If the State rejects the Work, then the Contractor shall have a period of ten (10) business days from receipt of the Notice of rejections to correct the stated failure(s) to conform to the Criteria. (This timeframe may be shorter, depending upon AOC deadline requirements to other agencies concerning the Work required under this Agreement.
- D. If the AOC Project Manager requests further change, the Contractor shall meet with the Project Manager, within three (3) business days of such request, to discuss

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changes for the final submission of the Work. The Contractor shall provide the Work within three (3) business days after this meeting, at which time the Work will be accepted or the question of its acceptability referred to the Administrative Director of the AOC and a principal of the Contractor as set forth in this Agreement.

- E. If agreement cannot be reached between the AOC's Project Manager and the Contractor on the Work's acceptability, a principal of the Contractor and the Administrative Director of the AOC, or its designee, shall meet to discuss the problem. If agreement cannot be reached, in the reasonable judgment of the Administrative Director of the AOC, or its designee, and/or the Contractor fails to cure such deficiencies that are perceived in the Work to reasonable satisfaction of the Administrative Director, the AOC may reject the Work and will notify the Contractor in writing of such action and the reason(s) for so doing. Upon rejection of the Work, the AOC may terminate this Agreement pursuant to the terms of the Standard Provisions, Termination for Cause.

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 State Standard Agreement.

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 State 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.

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12. Audit (*)

The 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. The Contractor further agrees to maintain such Data for a period of three (3) years after final payment under this Agreement.

13. Insurance Requirements (*)

The Contractor shall obtain and maintain the minimum insurance set forth in subparagraph B, below. By requiring such minimum insurance, the State 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.

A. **Minimum Scope and Limits of Insurance.** The Contractor shall maintain coverage and limits no less than the following:

- i. In the event Contractor has employees: Workers' Compensation at statutory requirements of the State of residency.
- ii. In the event Contractor has employees: 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.
- v. *Professional Liability.* The policy must cover liability resulting from errors or omissions committed in Contractor’s performance of Services under this Agreement, at minimum limits of \$1 million per claim.

B. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured

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retentions must be declared to, and approved by, the State. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the State and shall be the sole responsibility of the Contractor.

- C. **Other Insurance Provisions.** The General Liability policy required in this Agreement is to contain, or be endorsed to contain, the following provisions:
- i. The State, 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.
 - ii. To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects the State, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the State, 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.
- D. The Contractor shall provide the State certificates of insurance satisfactory to the State evidencing all required coverages before Contractor begins any Work under this Agreement, and complete copies of each policy upon the State's request.
- E. If at any time the foregoing policies shall be or become unsatisfactory to the State, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the State, the Contractor shall, upon Notice to that effect from the State, promptly obtain a new policy, and shall submit the same to the State, with the appropriate certificates and endorsements, for approval.
- F. All of the Contractor's policies shall be endorsed to provide advanced written Notice to the State of cancellation, nonrenewal, and reduction in coverage, within fifteen (15) Days, mailed to the following address: Judicial Council, Administrative Office of the Courts, Senior Manager, Business Services, 455 Golden Gate Avenue, 7th Floor, San Francisco, CA 94102-3688.
- G. **Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and commercial umbrella liability insurance.
- H. **Aggregate Limits of Liability.** The basic coverage limits of liability may be

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subject to annual aggregate limits. If this is the case the annual aggregate limits of liability must be at least two times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.

- I. **Additional Insured Status.** Contractor shall require Contractor’s commercial general liability insurer, Contractor’s commercial automobile liability insurer, and, if applicable, Contractor’s commercial umbrella liability insurer to name the courts and Judicial Branch Personnel as additional insureds with respect to liability arising out of Contractor’s Services under this Agreement.
- J. **Qualifying Insurers.** For insurance to satisfy the requirements of this section, all required insurance must be issued by an insurer with an A.M. Best rating of A – or better that is approved to do business in the State of California.
- K. **Required Policy Provisions.** Each policy must provide, as follows:
 - i. *Insurance Primary; Waiver of Subrogation.* The basic coverage provided is primary and non-contributory with any insurance or self-insurance maintained by the Court, Judicial Branch Entities and Judicial Branch Personnel, and the basic coverage insurer waives any and all rights of subrogation against Judicial Branch Entities and Judicial Branch Personnel; and
 - ii. *Separation of Insureds.* The commercial general liability policy, or, if maintained in lieu of that policy, the commercial umbrella liability policy, applies separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer’s liability.
- L. **Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods:
 - i. *Separate.* Separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or
 - ii. *Joint.* Joint insurance program with the association, partnership, or other joint business venture included as a named insured.

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M. **Consequences of Lapse.** If required insurance lapses during the Term, the Court is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

14. Default and Remedies

14.1 Default. A default exists under this Agreement if:

- i. Contractor fails or is unable to meet or perform any of Contractor's duties under this Agreement, and this failure is not cured within 30 days' following notice of default or is not capable of being cured within this cure period;
- ii. Contractor or Contractor's creditors file a petition as to Contractor's bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business;
- iii. Contractor makes or has made under this Agreement any representation or warranty that is or was incorrect, inaccurate, or misleading;
- iv. Any act, condition, or thing required to be fulfilled or performed by Contractor to (i) enable Contractor lawfully to enter into or perform its obligations under this Agreement, (ii) ensure that these obligations are legal, valid, and binding, or (iii) make this Agreement admissible when required is not fulfilled or performed.

15. Notice. Contractor shall notify the AOC immediately if Contractor defaults, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement.

16. Remedies.

- i. *Available Remedies.* The AOC may do any of the following:
- ii. Withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor;
- iii. Require Contractor to enter into non-binding mediation;
- iv. Exercise, following notice, the AOC's right of early termination of this Agreement as provided below; and

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- v. Seek any other remedy available at law or in equity.
- vi. *Remedies Cumulative.* All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy.

17. Effect of Expiration and Early Termination; Survival.

- i. Upon the Termination Date:
- ii. The AOC shall be released from compensating Contractor for Services, other than those Contractor satisfactorily performed before the Termination Date, and for any indirect costs.
- iii. Without prejudice to the AOC, Contractor shall be released from performing Services.
- iv. Contractor shall return to the AOC any equipment purchased or built with AOC funds, with costs incurred by Contractor being reimbursed by the AOC.

18. Ownership of Results (*)

Any Data in any form, or other documents, deliverables and/or recordings prepared by Contractor in connection with the provision of the Work (collectively, “Work Product”) under this Agreement shall become the sole and exclusive property of the State. Notwithstanding anything contained herein to the contrary, the Contractor shall retain its rights in its methodologies, know how, models, and tools (collectively, the “Contractor Intellectual Capital”). Contractor hereby grants to the State and the Superior Courts of California a non-exclusive, transferable, sublicenseable (through multiple tiers), worldwide, perpetual, irrevocable, fully-paid and royalty-free license to use, reproduce, make derivative works of, perform, display, and distribute any Contractor Intellectual Capital incorporated in the Work or Work Product. Contractor represents and warrants that it has the authority and sufficient legal rights in the Contractor Intellectual Capital to license the Contractor Intellectual Capital pursuant to the foregoing sentence.

19. Confidentiality (*)

- A. Both the State and the Contractor acknowledge and agree that in the course of performing the Work under this Agreement, the State 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 State’s Confidential Information on a “need to know” basis to the Contractor’s

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employees and Subcontractors and, as directed by the Project Manager, representatives of the State that are working on the Project. Contractor shall inform such Subcontractors and employees of the confidentiality obligations contained herein and shall require any such Subcontractors of the Contractor to execute a confidentiality agreement with the Contractor requiring a promise of confidentiality concerning the Confidential Information and the Contractor's clients and business. Contractor will be responsible for its employees' and Subcontractors' confidentiality obligations.

- 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.
- 20. Competitively Bid Contracts; Antitrust Claims.** If Services or goods under this Agreement were obtained by means of a competitive bid, Contractor shall comply with the requirements of Government Code sections set out below.
- A. Contractor shall assign to the AOC 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 AOC pursuant to the bid. Such assignment shall be made and become effective at the time the AOC tenders final payment to the Contractor. (Government Code section 4552.)
- B. If the AOC receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the AOC any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the AOC as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (Government Code section 4553.)
- C. Upon demand in writing by the Contractor, the AOC 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 (1) the AOC has not been injured thereby, or (2) the AOC declines to file a court action for the cause of action. (Government Code section 4554.)

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21. Conflict of Interest (*)

- A. The Contractor and employees of the Contractor directly involved in matters relating to this Agreement shall not participate in proceedings that involve the use of State funds or that are sponsored by the State 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 directly involved in matters relating to this Agreement shall also avoid actions resulting in or creating the appearance of (i) use of an official position with the government for private gain; (ii) preferential treatment to any particular person associated with this Agreement or the Work of this Agreement; (iii) loss of independence or impartiality; (iv) a decision made outside official channels; or (v) 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 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 (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.

22. 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 State 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 State will have the right to terminate the Contract, 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 State 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.

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23. 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.

24. National Labor Relations Board

By executing this Agreement, the 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 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.

25. Drug-Free Workplace

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

26. 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 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.

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- 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.

27. Notices

Notices under this Agreement must be in writing. Notices may be delivered in person, via a reputable express carrier, or by registered or certified mail (postage pre-paid). Notice is effective on receipt; however, any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified will be treated as effective on the first day that the notice was refused, unclaimed, or deemed undeliverable. Notices must be addressed to the individual(s) in the signature block of this Agreement. Either party may change its address for receipt of notice by entering a different recipient and address below or by giving notice at any time to the other party in the manner permitted by this paragraph.

If to the AOC:

If to Contractor:

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

E-mail: _____

E-mail: _____

27. Miscellaneous Provisions; Interpretation

27.1 Independent Contractor. Contractor is an independent contractor to the AOC. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the AOC.

27.2 Special Provisions for Agreements Providing for Compensation of \$50,000 or more; Union Activities Restrictions. As required under Government Code sections 16645-16649, if this Agreement provides for total Compensation of \$50,000 or more to Contractor, then the covenants in this section apply to Contractor’s activities. Contractor shall not:

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- i. Assist, promote, or deter union organizing by employees performing work under state or judicial branch contracts;
- ii. Use the AOC's funds received under this Agreement to assist, promote or deter union organizing; or
- iii. For any business conducted under this Agreement, use any property of the AOC to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote, or deter union organizing, unless the state or judicial branch property is equally available to the general public for holding meetings.

If Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor shall maintain records sufficient to show that no reimbursement from the state's and AOC's funds has been sought for these costs, and provide those records to the Attorney General upon request.

28. 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.

29. California Law

This Agreement shall be subject to and construed in accordance with the laws of the State of California. Jurisdiction for any legal action arising from this agreement shall exclusively reside in state or federal courts located in California, and the parties hereby consent to the jurisdiction of such courts.

30. 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.

31. 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

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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.

32. Signature Authority

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

33. 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.

34. 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 State.

END OF EXHIBIT D

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Exhibit E

Resumes

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**Exhibit F
ACCEPTANCE AND SIGN-OF FORM**

Description of Work provided by Contractor:

Date submitted: _____

Work is:

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 ATTACHMENT

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EXHIBIT G
AOC Travel Rate Guidelines

The policy and limits on reimbursable travel-related expenses are listed below.

Lodging – Receipts are required and each day of lodging claimed must be listed separately. Maximum rates are listed below.

1. In-state - Actual costs are reimbursable up to a maximum of \$110 per day, plus tax and energy surcharge. Within the counties of Alameda, San Francisco, San Mateo, and Santa Clara, the maximum rate is \$140, plus tax and energy surcharge.
2. Out-of-state – Actual costs are reimbursable with appropriate prior written approval.

Meals – Actual costs are reimbursable up to the limits stated below for continuous travel of more than 24 hours.

1. Breakfast – Up to \$6.
2. Lunch – Up to \$10.
3. Dinner – Up to \$18.

For continuous travel of less than 24 hours, actual expenses up to the above limits are reimbursable if:

1. Travel begins one hour before normal work hours – Breakfast may be claimed.
2. Travel ends one hour after normal work hours – Dinner may be claimed.

Lunch may not be claimed on trips of less than 24 hours.

Incidental Expenses – Up to \$6 per day. Incidentals are not reimbursable for one-day trips; they may only be claimed after 24 hours.

Transportation – The actual cost of tickets for air, rail, bus, rental car, or other forms of public transportation is reimbursable. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler's itinerary may be submitted in lieu of a receipt.

1. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of \$3.50 or more.
2. Mileage – Personal vehicle mileage is reimbursable at an AOC mileage rates as adjusted annually. Mileage reimbursement rate as of the effective date of this Agreement is \$____

Other Business Expenses – Actual cost is reimbursable. Receipts are required for all other business expenses authorized in the Agreement, regardless of the amount claimed.