

ATTACHMENT 2

FORM OF PROGRAM MANAGEMENT SERVICES AGREEMENT

JUDICIAL COUNCIL OF CALIFORNIA STANDARD AGREEMENT rev Dec. 2023

AGREEMENT NUMBER
[@AGMT#]
FEDERAL EMPLOYER ID
[@FEIN]

1.	In this agreement (“Agreement”), the term “Contractor” refers to [@CONTRACTOR] , and the term “Judicial Council” or “Council” refers to the Judicial Council of California . Judicial Council and Contractor may be individually referred to herein as “Party” or collectively referred to herein as “Parties.”
2.	This Agreement is effective as of [@EFFDATE] (“Effective Date”) and expires on the later of either [@EXPDATE] or upon final payment (“Expiration Date”).
3.	The maximum amount the Council may pay Contractor under this Agreement is \$[@AMOUNT] (the “Contract Amount”).
4.	The purpose or title of this Agreement is: Program Management Services . <i>The purpose or title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.</i>
5.	The parties agree that this Agreement, made up of this coversheet, the appendixes listed below, and any attachments, contains the parties’ entire understanding related to the subject matter of this Agreement, and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties. Appendix A – Scope of Services Appendix B – Payment Provisions Appendix C – General Provisions Appendix D – Defined Terms Appendix E – Unruh Civil Rights Act and FEHA

JUDICIAL COUNCIL’S SIGNATURE	CONTRACTOR’S SIGNATURE
Judicial Council of California	CONTRACTOR’S NAME (if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.) [@CONTRACTOR]
BY (Authorized Signature) 	Entity Type: [@TYPE] License/Certification No.: [@CERT##] , expires [@CERTEXP] 
PRINTED NAME AND TITLE OF PERSON SIGNING Steven Bonde, Principal Manager, Procurement	PRINTED NAME AND TITLE OF PERSON SIGNING
DATE EXECUTED	DATE EXECUTED
ADDRESS Branch Accounting and Procurement 455 Golden Gate Avenue, 6 th Floor San Francisco, CA 94102	ADDRESS [@ADDRESS]

APPENDIX A

SCOPE OF SERVICES

1. Program Summary

Judicial Council Facilities Services oversees a portfolio of approximately 430 properties throughout the state.

- 1.1 Facilities Services oversees the project management, operation, and maintenance of the entire portfolio. Facilities Services is also responsible for overseeing the construction of 80 capital projects which were identified in Reassessment of Trial Court Capital Outlay Projects as adopted by the Judicial Council on November 14, 2019. Currently, 22 projects are funded for a total project cost of \$4 billion. In addition, Facilities Services oversees approximately 1,300 facility modification projects annually, with an annual facilities modification budget of \$80 million, including but not limited to special projects for new judgeships, development of lactation facilities, deferred maintenance, and other projects.
- 1.2 Judicial Council is looking to hire a firm (“Contractor”) to provide program management services. As set forth herein, the Initial Term of the Agreement shall be one (1) year. The Judicial Council may, at its sole option, extend the Agreement for nine (9) additional one-year terms. The current program management support services contract will expire on June 21, 2026. To ensure a smooth transition, the Judicial Council is planning for approximately five (5) months’ overlap between the current firm and the new Contractor. The Contractor will be expected to provide full-time support to Facilities Services under the direction of the Facilities Services’ Director or the Director’s designee.

2. Scope of Work for Program Manager (“Services”):

2.1 Transition / Overlap

The Contractor will develop and implement a transition plan with Judicial Council’s current program management services firm. The transition plan will determine when program functions and systems will be assumed by the selected Contractor to maintain program and project continuity.

The Contractor needs to be actively engaged during the transition period, and will be expected to attend meetings as needed by Judicial Council.

2.2 Program Management

2.2.1 Program Management Plan

Working closely with the Judicial Council and under the direction of the Judicial Council’s Program Manager, the Contractor will develop a Program Management Plan that establishes Judicial Council priorities and provide annual updates.

2.2.2 Five Year Program Goals

The Contractor will collaborate with Judicial Council in updating, implementing, and maintaining the Judicial Branch Five-Year Infrastructure Plan on an ongoing basis.

2.2.3 Programming support

- i. The Contractor will provide courthouse space programming support to Judicial Council standards.
- ii. The Contractor will provide support in maintaining the courthouse space programming model in Judicial Council Program Information and Controls (JPIC) system.

2.2.4 Re-prioritization support

The Contractor will assist Judicial Council in the re-prioritization of capital project needs on an as-assigned basis.

2.2.5 Budget Controls

- i. The Contractor will help develop projects budgets within the JPIC system that are based on the Judicial Council Cost Model's historical data. The Judicial Council Cost Model is derived from the actual costs of previous projects. This model helps estimate future courthouse budgets by analyzing the historical expenses of finished courthouses. Adjustments are made to the model for specific project factors such as site, infrastructure, and CEQA impacts.
- ii. Currently, the cost model includes data from twenty-seven courthouses, which have been grouped based on their size (number of courtrooms) into Small, Medium, Medium-Large, and Large categories. Data collection involved converting contractor bid breakdowns into cost models focused on building systems. For consistency across projects, costs were standardized using factors like location, time, market conditions and code changes. The Cost Model was developed by utilizing a statistical approach to analyze historical data for cost determinations.
- iii. The Contractor will be responsible for:
 - i. Maintaining each of the Cost Model's historical cost data and suggesting changes as necessary.
 - ii. Developing new project budgets utilizing cost model parametric.
 - iii. If required by Judicial Council, validate and maintain the Three Page Estimates (3PE) based on developed project budget.
 - iv. Updating and maintaining standardized cost ranges and providing templates for project managers to develop Estimated Value of Service for project-specific costs for:
 - (a) Criteria Architect (CrA) and associated engineers/Contractors.
 - (b) Performance Criteria
 - (c) Construction Manager – Agency (CMA) services.
 - (d) Architectural and engineering design for schematic design, design development, and working drawings.
 - (e) Post construction services.

2.2.6 Program Meetings and Reporting

- i. Conduct the weekly or bi-weekly (as required by Judicial Council) Program Meeting, produce agenda, provide recommendations and updates on program tasks to the Judicial Council, and issue meeting minutes.
- ii. Provide Monthly Program Escalation Report that summarizes current and leading construction market performance indicators, indexes, and forecasts. This report shall include details of competing projects located in nearby proximity with similar procurement times to Judicial Council's projects.
- iii. Provide a Quarterly Trends Report that is grouped by project delivery methods and summarizes program key performance indicators: budget, scope, schedule, and risk for the time covered. This report shall include an analysis of performance trends, standardized metrics, tables, graphs.
- iv. Provide a Quarterly Trends Report on new technology, policy, legislation that will be impacting the program, industry or process. This can include items related to new legislation, technology (AI), delivery methods and other items.
- v. Risk Management and Analysis for new laws or regulations impacting the program budget and schedule in conjunction with Legal Services.

2.2.7 Contracts

- i. Create for Judicial Council approval draft master template revisions of Request for Qualifications, Request for Proposals, and Agreements. Collaborate with different Judicial Council units, namely Legal Services, Risk Management, and Branch Accounting and Procurement to finalize and implement changes.
- ii. Perform project and Capital Outlay Program risk analysis and continually monitor risk management objectives and results.
- iii. Collaborate with project teams to acquire lessons learned from project experiences and post occupancy evaluations to improve upon processes and maintain high quality among projects. The Program Manager will present the lessons learned to Judicial Council for evaluation and inclusion into the program database. The Program Manager will categorize the lessons learned and collaborate with Judicial Council to promote implementation of the lessons.
- iv. Analyze lessons learned and post occupancy evaluation and make recommendations to the Judicial Council for California Trial Court Facility Standards (CTCFS) updates.
- v. Collaborate with Judicial Council Risk Management Unit to modify design and construction contracts to meet Owner-Controlled Insurance Program (OCIP) requirements.
- vi. Continually analyze and seek opportunities to enhance the program's processes to optimize resource utilization. Recommend improvements to Judicial Council.

2.2.8 Communication & Stakeholder Engagement

- i. At the request of Judicial Council, the Contractor will provide community and stakeholder engagement through in-person meetings, presentations, and speaking events to advocate for the Capital Outlay Program and communicate details of the program or its individual projects to the community.
- ii. The Contractor will conduct quarterly satisfaction surveys with the project teams' internal stakeholders on each project and provide survey results to Judicial Council.
- iii. The Contractor will conduct annual surveys to external stakeholders to gauge their trust in Judicial Council and its transparency.

2.2.9 Policy & Procedure Review and Updates

- i. Review existing Facilities Services Policies and Procedures update based on priorities identified by Judicial Council.
- ii. Provide expertise and help in drafting new policies and procedures.

2.2.10 Governance and Legislative Support

- i. Provide assistance to Judicial Council related to governance or the capital and the facilities projects.
- ii. Provide assistance for legislative support for larger capital projects, including experience in joint powers and special legislative funding.

2.2.11 Training

- i. Provide training to Judicial Council staff, including scheduling, budgeting and scoping of the projects, project procedures and policies. Coordinate with Legal Services on all contractual and legal compliance trainings, and Risk Management on prevailing wage, insurance, bond and other risk-related trainings.
- ii. Provide training to CMA's for the project procedures and policies as required by Judicial Council.
- iii. Provide training in Earned Value Analysis, Scheduling software, other items related to project management as requested by Judicial Council.

2.2.12 Presentations

- i. Provide presentations to Court Facilities Advisory Committee, Judicial Council or executive leadership, on an as-needed basis.

2.2.13 Analytics

- i. Contractor should provide analytics related to the performance indicators.
- ii. As requested by Judicial Council, be able to perform statistical analysis related to data sets provided.

2.2.14 New Technology

- i. Research and provide information on new construction industry technologies whether in design, construction, or program management.

2.3 Quality Assurance/Quality Control

2.3.1 Accuracy of Work Product:

- i. The Contractor will provide professional quality and technical accuracy of its work product in delivering the studies, reports, and

other information to Judicial Council, and will correct or revise any errors or omissions in the deliverables it generates.

- ii. Provide quality control and review of CMA's project reporting related to Capital outlay project fund forecasting, control, and reporting. Proposed change orders, change orders, construction funding contingency, and disputed claims.

2.3.2 **Compliance with Council Policies & Manuals:**

The Contractor must ensure that its practices, procedures, directions, and actions are compliant and consistent with the most recent policies and manuals adopted by Judicial Council.

2.3.3 **Procedures:**

Develop and update Quality Assurance Procedures and provide training and user support for Judicial Council Project Managers.

2.3.4 **Project Success Measures:**

At the completion of a project, the Contractor will evaluate the project's performance based on:

- i. Scope
- ii. Schedule
- iii. Budget
- iv. Client Satisfaction
- v. Team Satisfaction
- vi. Quality Metrics (Quality Success Factor Scorecard)

2.4 **Project Management Information Systems**

2.4.1 **Judicial Council Program Information and Controls (JPIC)**

- i. Judicial Council has developed a comprehensive solution for managing, reporting, and sharing project information across its various departments and stakeholders. JPIC is based on a SharePoint platform and serves as the core software of the project management efforts.
 - i. The Contractor will be responsible for onboarding new users through training sessions, supporting users as needed, and providing training and documentation for new or updated features. JPIC is utilized by a wide range of users, including Judicial Council employees, project managers, analysts, executives, external Contractors working on projects, court users, and facilities maintenance staff.
 - ii. The Contractor will be responsible for managing and controlling the multi-level user access to the various projects and modules in JPIC.
- ii. The Contractor will maintain JPIC's primary functions, which includes:
 - i. Standardized project data collection and reporting.
 - ii. Project document storage, including project-specific documents, Court Facilities Assessment Reports, and programming documents.
 - iii. Program-level reports and resources.
 - iv. Custom solutions for estimating project costs, managing project financials, and obtaining funding approvals.

- v. Integration with external data sources, including Judicial Council's Computer Aided Facilities Management tool (CAFM 2.0), ProCore or selected system, and California's statewide financial system (FI\$Cal).

2.4.2 Computer Aided Facility Management (CAFM)

- i. CAFM is based on IBM's TRIRIGA system that integrates technology into the management of facility operations, preventive maintenance schedules, asset management, building operations, work order processing, etc.
- ii. The Contractor will maintain the automatic import of data from CAFM into JPIC for the Facility Modifications (FM) and Work Orders (WO). This data supports program and project reports and dashboards to seamlessly merge JPIC and CAFM data.
- iii. Analyze data and establish data metrics / data analytics for work orders and other key performance indicators

2.4.3 Financial Information System for California (FI\$CAL)

- i. The Contractor will maintain the automatic import of project financial data from the FI\$CAL system into JPIC, ProCore, and CAFM. This data supports program and project reports and dashboards to merge JPIC and financial data.
- ii. The Contractor should have the ability to provide customized solutions using technology to ensure that the program needs are met.

2.4.4 ProCore

- i. Support the ongoing development and customization of the Procore system.
- ii. Provide technical support related to ProCore training, integration, and reporting. JPIC is integrated with ProCore to enhance the project management capabilities of JPIC's SharePoint.
- iii. Maintain project data automatic extraction into JPIC. This data supports program and project reports and dashboards to seamlessly merge SharePoint and ProCore data.

2.4.5 Training

The Contractor will provide training and continued support on the use and functionality of the JPIC system, including the interfacing with ProCore, FI\$CAL, and CAFM.

2.5 **Project Support**

2.5.1 Project Management Procedures

The Contractor will assist Judicial Council in maintaining project management procedures and forms and provide continuing training to designated users on the process to successfully implement and maintain all aspects of the project management processes. Contractor will facilitate review of the project management procedures and forms by internal stakeholders including but not limited to Legal Services, Risk Management, and Branch Accounting and Procurement as appropriate.

2.5.2 Schedule Planning & Controls

- i. Provide scheduling staff with at least 15 years of scheduling experience to work with Judicial Council Project Managers to update and maintain each project's master schedule in JPIC.

- ii. Manage and maintain Judicial Council's project master schedule template for acquisition, budget approval, professional procurement, design, and construction.
- iii. Monitor and assist Judicial Council Project Managers with the administration of construction contract scheduling provisions, including but not limited, to baseline schedule review, general contractors' monthly updates, time impact analyses, and completion planning. Generally, the services are reserved for construction manager agency on the project, however in special circumstances the Judicial Council can request this work from the program manager.
- iv. Reflect and analyze schedule performance of various projects in the Quarterly Trends Report.

2.5.3 Cost Estimating (as needed service)

- i. Prepare engineer's estimates for design-bid-build projects as needed.
- ii. Confirm projects' cost estimates produced by design build entities or architectural and engineering firms during schematic design, design development, and working drawings stages.
- iii. Provide detailed cost estimates for site and CEQA requirements to augment project budgets created by the cost model.
- iv. Provide budget estimates of various project features and perform comparison analyses as requested by Judicial Council.

2.5.4 Constructability Reviews & Peer Reviews (as needed service)

- i. Conduct constructability reviews during the design or construction phase of a project. Prepare a report identifying and addressing potential construction-related issues that might cause delays, increase costs, or result in poor quality outcomes before or during the construction begins.
- ii. Conduct peer reviews of design professionals' deliverables to ensure the quality, accuracy, and validity of the content.

2.5.5 Scheduling Analysis & Review (as needed service)

2.5.6 Project Reporting

- i. Oversee the monthly and quarterly progress reports production by the project teams and provide guidance on improvements prior to report finalization.
- ii. Maintain a user guide and provide training to those individuals and organizations responsible for providing the information necessary to produce the monthly and quarterly reports.
- iii. Attend the project monthly progress status meetings and provide advice on current project challenges being discussed.

2.5.7 PM/CM Training

- i. The Contractor will provide group and individual training on new or revised processes and procedures to Judicial Council's project management staff and construction management Contractors. Contractor shall coordinate training with Legal Services and Risk Management, and other internal stakeholders as appropriate.

2.5.8 **Staff support:**

- i. Judicial Council at its discretion may request staff support for activities that might be beneficial for the program.

2.6 **Assistance for Quality Compliance Unit (QCU)**

2.6.1 **California Trial Court Facility Standards (CTCFS) support:**

- i. Provide Engineering, technical studies, graphics and cost estimating support as needed, currently Judicial Council is updating the standards every three years to match the current building code cycle.
- ii. Align projects-related knowledge-sharing document and lessons learned with corresponding sections of Facilities Standards.
- iii. Prepare presentations for Court Facilities Advisory Committee (CFAC) on technical topics.

2.6.2 **California Appellate Court Facility Standards** (as needed service):

- i. Provide Engineering, technical studies, graphics and cost estimating support as needed, currently Judicial Council is updating the standards every three years to match the current building code cycle.
- ii. Align projects related knowledge sharing document and lessons learned with corresponding sections of Facilities Standards.
- iii. Prepare presentations for Court Facilities Advisory Committee (CFAC) on technical topics.

2.6.3 **Quality Compliance Unit (QCU) procedures**

- i. Maintain QCU procedures with ongoing changes and additions.
- ii. Expand the QCU database that has program-wide impact, examples include Contractor evaluations, AHJ and code related memos, technical studies, trainings, lessons learned.
- iii. Support Judicial Council staff for annual OSFM lessons learned workshop:
- iv. Gather lessons learned, determine cost impact, and identify the impacted corresponding sections of Facilities Standards.

2.7 **Assistance for Sustainability**

2.7.1 **Strategic planning (as needed)**

- i. Provide recommendations for energy efficiency, water conservation, integrating technologies such as low-flow fixtures, and EV charging infrastructure.
- ii. Identifying funding sources, grants, and incentives.

2.8 **Excluded Work**

- 2.8.1 Contractor is not authorized to provide legal services. Contractor shall be expected to identify potential issues requiring legal support and to bring those matters to the attention of the Judicial Council's project manager, identified in Section 4 below.

3. **Acceptance Criteria.** The Services and Deliverables must meet the following acceptance criteria or the Council may reject the applicable Services or Deliverables. Contractor will not be paid for any rejected Services or Deliverables.
 - 3.1 **Timeline.** Contractor must perform the Services and deliver the Deliverables according to the timelines directed by the Judicial Council:
4. **Project Managers.** The Judicial Council's project manager is: [Insert name]. The Judicial Council may change its project manager at any time upon notice to Contractor without need for an amendment to this Agreement. Contractor's project manager is: [Insert name]. Subject to written approval by the Judicial Council, Contractor may change its project manager without need for an amendment to this Agreement.
5. **Service Warranties.** Contractor warrants that: (i) the Services will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services; and (ii) Contractor will perform the Services in the most cost-effective manner consistent with the required level of quality and performance. Contractor warrants that each Deliverable will conform to and perform in accordance with the requirements of this Agreement and all applicable specifications and documentation. For each such Deliverable, the foregoing warranty shall commence for such Deliverable upon the Council's acceptance of such Deliverable and shall continue for a period of one (1) year following acceptance. In the event any Deliverable does not conform to the foregoing warranty, Contractor shall promptly correct all nonconformities to the satisfaction of the Council.
6. **Resources.** Contractor is responsible for providing any and all facilities, materials and resources (including personnel, equipment and software) necessary and appropriate for performance of the Services and to meet Contractor's obligations under this Agreement.
7. **Commencement of Performance.** This Agreement is of no force and effect until signed by both parties and all Council-required approvals are secured. Any commencement of performance prior to Agreement approval shall be at Contractor's own risk.
8. **Stop Work Orders.**
 - 8.1 The Council may, at any time, by Notice to Contractor, require Contractor to stop all or any part of the Services for a period up to ninety (90) days after the Notice is delivered to 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, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Services covered by the Stop Work Order during the period of stoppage. Within ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, the Council shall either (i) cancel the Stop Work Order; or (ii) terminate the Services covered by the Stop Work Order as provided for in this Agreement.

8.2 If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume the performance of Services. The Council shall make an equitable adjustment in the delivery schedule, the Contract Amount, or both, and the Agreement shall be modified, in writing, accordingly, if:

8.2.1 The Stop Work Order results in an increase in the time required for, or in Contractor's cost properly allocable to the performance of any part of this Agreement; and

8.2.2 Contractor requests an equitable adjustment within thirty (30) days after the end of the period of stoppage; however, if the Council decides the facts justify the action, the Council may receive and act upon a proposal submitted at any time before final payment under this Agreement.

8.3 The Council shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this provision.

9. Acceptance or Rejection

All Services and Deliverables are subject to acceptance by the Council. The Council may reject any Services or Deliverables that (i) fail to meet applicable acceptance criteria, (ii) are not as warranted, or (iii) are performed or delivered late (without prior consent by the Council). If the Council rejects any Service or Deliverable (other than for late performance or delivery), Contractor shall modify such rejected Service or Deliverable at no expense to the Council to correct the relevant deficiencies and shall redeliver such Service or Deliverable to the Council within ten (10) business days after the Council's rejection, unless otherwise agreed in writing by the Council. Thereafter, the parties shall repeat the process set forth in this section until the Council accepts such corrected Service or Deliverable. The Council may terminate that portion of this Agreement which relates to a rejected Service, or Deliverable at no expense to the Council if the Council rejects that Service or Deliverable (i) for late performance or delivery, or (ii) on at least two (2) occasions for other deficiencies.

END OF APPENDIX A

APPENDIX B

PAYMENT PROVISIONS

1. **General.** Subject to the terms of this Agreement, Contractor shall invoice the Council, and the Council shall compensate Contractor, as set forth in this Appendix B. The amounts specified in this Appendix shall be the total and complete compensation to be paid to Contractor for its performance under this Agreement. Contractor shall bear, and the Council shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature which Contractor incurs.
2. **Compensation for Services.**
 - 2.1 **Amount.** Contractor will invoice the Judicial Council for Services or Deliverables that the Council has accepted at the rates set forth in Attachment 1 to this Appendix B. The entries shall provide a description of the services rendered and time shall be billed in 30-minute increments.
3. **No Advance Payment.** The Council will not make any advance payment for Services.
4. **Expenses.** Except as set forth in this section, no expenses relating to the Services and Deliverables shall be reimbursed by the Council.
 - 4.1 **Allowable Expenses.** Contractor may submit for reimbursement, without mark-up, only the following categories of expense:
 - 4.1.1 Licensing and hosting fees, subject to prior written approval by the Judicial Council.
 - 4.1.2 Travel expenses subject to the limitation in Section 5.2.
 - 4.2 **Limit on Travel Expenses.** If travel expenses are allowed under Section 5.1 above: (i) all travel is subject to written preauthorization and approval by the Council, and (ii) all travel expenses are limited to the maximum amounts set forth in the Council's travel expense policy set forth in Attachment 2 to this Appendix B.
 - 4.3 **Expense Limit.** Contractor shall not invoice the Council, and the Council has no obligation to reimburse Contractor, for expenses of any type that exceed in the aggregate the amount of: \$[Dollar amount] for the Initial Term and \$[Dollar amount] for an Option Term, unless different amount is provided for in the Judicial Council's election for the Option Term.
 - 4.4 **Required Certification.** Contractor must include with any request for reimbursement from the Council a certification that 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 Council was sought for these costs, and Contractor will provide those records to the Attorney General upon request.

5. Invoicing and Payment

- 5.1 **Invoicing.** Contractor shall submit invoices to the Council in arrears no more frequently than monthly. Contractor's invoices must include information and supporting documentation acceptable to the Council. Contractor shall adhere to reasonable billing guidelines issued by the Council from time to time.
- 5.2 **Payment.** The Council will pay each correct, itemized invoice received from Contractor after acceptance of the applicable Services or Deliverables, in accordance with the terms of this Agreement. Notwithstanding any provision in this Agreement to the contrary, payments to Contractor are contingent upon the timely and satisfactory performance of Contractor's obligations under this Agreement.
- 5.3 **No Implied Acceptance.** Payment does not imply acceptance of Contractor's invoice, Services, or Deliverables. Contractor shall immediately refund any payment made in error. The Council shall have the right at any time to set off any amount owing from Contractor to the Council against any amount payable by the Council to Contractor under this Agreement.

- 6. **Taxes.** Unless otherwise required by law, the Council is exempt from federal excise taxes and no payment will be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The Council shall only pay for any state or local sales, service, use, or similar taxes imposed on the Services rendered or equipment, parts or software supplied to the Council pursuant to this Agreement.

ATTACHMENT 1**Hourly Rates**

Principal Consultant (Program Manager)	
Sr. Project Manager	
Admin	
Specialty Consultant	
Specialty Consultant	
Programming Consultant	
Cost Model Consultant	
Architect	
Mechanical Engineer	
Electrical Engineer	
Fire Life Safety Engineer	
Sr. Scheduler	
Scheduler	
Sr. Cost Estimator	
Cost Estimator	
Construction Specialist	
Software Engineer	
Software Architect	
Sustainability Consultant	
Economist	
Data Analyst	
Graphic Designer	

1. Commencing with the third Option Term, Hourly Rates will be adjusted upward each year based on application of the Consumer Price Index (CPI), West Region, All Urban Consumers Series (CPI-U), for the previous 12 months. Revised Hourly Rates for the Agreement in Option Terms shall not exceed the percentage difference of the most recently reported CPI for the previous 12 months; provided, however, that in no event shall the amount of the increase exceed three percent (3%) per year.
 - 1.1 As used in this Agreement, “CPI” means the unadjusted Consumer Price Index (above) as calculated by the California Department of Finance. The California Department of Finance posts CPI data on their website at the following link: <https://dof.ca.gov/forecasting/economics/economic-indicators/inflation/>.
 - 1.2 Notwithstanding the foregoing, should application of the CPI-U result in lower Hourly Rates than in effect at the time of the adjustment, it shall be deemed to be that no adjustment will be made, and Contractor’s Hourly Rates would remain unchanged for that Option Term.

ATTACHMENT 2

Judicial Council Travel and Living Expenses Guidelines

1. Reimbursement for Travel and Living Expenses is subject to the applicable provisions of and must be charged in accordance with the Judicial Council's Guidelines for Travel and Living Expenses as may be updated from time to time and which are hereby incorporated into this Agreement by reference. Contractor may submit a written request to the Judicial Council Project Manager to review applicable provisions of the Judicial Council's Guidelines for Travel and Living Expenses prior to incurring any costs in order to confirm the acceptability thereof. The Judicial Council's Guidelines for Travel and Living Expenses are posted at the following link: <https://courts.ca.gov/programs-initiatives/facilities/program-overview-and-resources>.
2. At Judicial Council's sole discretion, and **only if expressly specified by the Judicial Council in a Work Order and so agreed to by Contractor prior to performance of the Work**, the Judicial Council shall reimburse Contractor for actual and reasonable transportation, meals, and lodging expenses actually incurred by Contractor's and its subcontractors' employees when actually incurred in the course of their performance of the Work, but subject to the following:
 - 2.1. If transportation is authorized, the Judicial Council will reimburse Contractor only at the actual cost incurred for tickets for air, rail, bus, rental car, or other forms of public transportation. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler's itinerary may be submitted in lieu of a receipt.
 - A. All air transportation is limited to coach fares and must be booked a minimum of fourteen (14) Business Days prior to travel unless the Project Manager agrees in writing to a shorter period.
 - B. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of \$3.50 or more.
 - C. If private vehicle ground transportation expense is authorized, the Judicial Council will reimburse Contractor at the then published Federal mileage cents per mile, pursuant to <https://www.irs.gov/tax-professionals/standard-mileage-rates>.
 - 2.2. If overnight lodging is authorized, the Judicial Council will reimburse Contractor only at the actual cost incurred, up to the maximum daily amounts listed below. Receipts are required and each day of lodging claimed must be listed separately. Actual lodging cost per night, not to exceed the following rates supported by a zero-balance receipt, plus applicable tax (if not waived by the lodging establishment):
 - A. In-State - The Judicial Council will reimburse Contractor only for hotel room rental at the actual cost, but not to exceed the following:

County	Federal Fiscal Year 2026 ¹											
	2025 Oct	Nov	Dec	2026 Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
All counties except those listed below	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110
Alameda	\$145	\$145	\$145	\$145	\$145	\$145	\$145	\$145	\$145	\$145	\$145	\$145

¹ Actual cost plus occupancy tax and/or energy surcharge

County	Federal Fiscal Year 2026 ¹											
	2025 Oct	Nov	Dec	2026 Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
City of Santa Monica	\$273	\$273	\$273	\$273	\$273	\$273	\$273	\$273	\$273	\$273	\$273	\$273
Contra Costa	\$147	\$147	\$147	\$147	\$147	\$147	\$147	\$147	\$147	\$147	\$147	\$147
El Dorado	\$141	\$141	\$247	\$247	\$247	\$247	\$143	\$143	\$171	\$171	\$171	\$141
Fresno	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129
Humboldt	\$125	\$125	\$125	\$125	\$125	\$125	\$125	\$125	\$172	\$172	\$172	\$125
Inyo / NAWA China Lake	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142
Kern	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132
Los Angeles / Orange / Ventura / Edwards AFB (excluding the City of Santa Monica)	\$191	\$191	\$191	\$191	\$191	\$191	\$191	\$191	\$191	\$191	\$191	\$191
Madera	\$135	\$135	\$135	\$135	\$135	\$135	\$135	\$135	\$135	\$135	\$135	\$135
Marin	\$153	\$153	\$153	\$153	\$153	\$153	\$153	\$153	\$175	\$175	\$175	\$175
Mariposa	\$181	\$181	\$181	\$203	\$203	\$203	\$203	\$181	\$181	\$181	\$181	\$181
Mendocino	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129	\$129
Mono	\$139	\$139	\$195	\$195	\$195	\$195	\$139	\$139	\$139	\$139	\$139	\$139
Monterey	\$191	\$191	\$191	\$191	\$199	\$199	\$199	\$199	\$199	\$279	\$279	\$191
Napa	\$246	\$246	\$172	\$172	\$246	\$246	\$246	\$246	\$246	\$246	\$246	\$246
Nevada	\$142	\$142	\$169	\$169	\$169	\$146	\$146	\$146	\$173	\$173	\$173	\$142
Placer	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131
Riverside	\$186	\$186	\$186	\$186	\$186	\$186	\$186	\$141	\$141	\$141	\$141	\$141
Sacramento	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150
San Bernardino	\$124	\$124	\$124	\$124	\$124	\$124	\$124	\$124	\$124	\$124	\$124	\$124
San Diego	\$199	\$199	\$199	\$199	\$199	\$199	\$199	\$199	\$237	\$237	\$199	\$199
San Francisco	\$272	\$272	\$272	\$259	\$259	\$259	\$259	\$259	\$259	\$259	\$259	\$272
San Joaquin	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132	\$132
San Luis Obispo	\$163	\$163	\$163	\$163	\$163	\$163	\$163	\$163	\$203	\$203	\$163	\$163
San Mateo	\$183	\$183	\$183	\$183	\$183	\$183	\$183	\$183	\$183	\$183	\$183	\$183
Santa Barbara	\$205	\$205	\$205	\$205	\$205	\$205	\$205	\$205	\$205	\$262	\$262	\$205
Santa Clara	\$192	\$192	\$192	\$192	\$192	\$192	\$192	\$192	\$192	\$192	\$192	\$192
Santa Cruz	\$139	\$139	\$139	\$139	\$139	\$139	\$139	\$139	\$176	\$176	\$176	\$139
Sonoma	\$157	\$157	\$157	\$157	\$157	\$157	\$157	\$157	\$157	\$157	\$157	\$157
Tulare	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131	\$131
Yolo	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142	\$142

- B. Out-of-State – The Judicial Council will reimburse Contractor only for hotel room rental at the actual cost up to the federal lodging rate, plus occupancy tax and/or energy surcharge. The U.S. Department of State Standardized Regulations (federal) lodging rates are accessible on the internet at <http://www.gsa.gov/portal/category/100000>. (Click on “Per Diem Rates” under the TRAVEL pull-down menu;
- C. Meal and Incidental Expenses (M&IE) – The Judicial Council will reimburse Contractor a single amount per calendar day for actual M&IE incurred, less any provided meals. The standard maximum allowance for a single calendar day of travel, when that day is neither the first nor last day of travel, will be \$68. For the first and last day of travel during a multi-day trip, the maximum allowance will be up to 75 percent of the standard rate, or \$51. Likewise, for a single day trip lasting more than 12 but less than 24 hours, the maximum allowance will be up to 75 percent of the standard rate, or \$51. When meals are provided, the traveler must deduct the applicable meal cost from the daily allowance, based on the individual rates listed on the “Applicable M&IE Rates” chart appearing on page 3 of this document. Travelers are not eligible for M&IE reimbursement for travel of less than 12 hours.

D. M&IE reimbursement rates will be based on travel time frames as follows:

M&IE Time Frames		
When travel status is		Maximum reimbursement for actual expenses is
More than 12 but less than 24 hours		Actual expense up to 75% of the applicable M&IE standard rate per day (up to \$51)
24 hours or more, on	First day of travel	Actual expense up to 75% of the applicable M&IE standard rate per day (up to \$51)
	Full days of travel in between	Actual expense up to 100% of the applicable M&IE standard rate per day (up to \$68)
	Last day of travel	Actual expense up to 75% of the applicable M&IE standard rate per day (up to \$51)
Less than 12 hours		Not eligible for M&IE reimbursement

The applicable M&IE chart below provides the daily M&IE total as well as the individual meal rates to be used for deduction from the M&IE total, if any meals were furnished to the traveler. If a traveler is provided a meal on the first or last day of travel, they should deduct the applicable meal rate listed below from the \$51 maximum reimbursement rate.

Applicable M&IE Rates					
M&IE Total	Breakfast	Lunch	Dinner	Incidental Expenses	First & Last Day of Travel
Up to \$68	\$16	\$19	\$28	\$5	Up to \$51

- 2.2.1. The Judicial Council is not obligated to pay for, and Contractor shall not invoice for any hours of non-production Work expended by Contractor or its subcontractors' employees that are spent traveling to or from the location where the Service(s) are performed.
- 2.2.2. Travel and Living Expenses shall be billed to the Judicial Council at Contractor's actual cost, including any discounts or rebates accorded to Contractor or its subcontractors, and are not subject to any markup, fee, or other charge.
- 2.2.3. Notwithstanding the preceding, Contractor shall be required to ensure its workers are paid, and Judicial Council shall reimburse Contractor if and to the extent applicable for, all travel and/or subsistence payments pursuant to Labor Code sections 1773.1 and 1773.9 or as otherwise required by the Prevailing Wage Laws.

END OF APPENDIX B

APPENDIX C

GENERAL PROVISIONS

1. Provisions Applicable to Services

- 1.1 **Qualifications.** Contractor shall assign to this project only persons who have sufficient training, education, and experience to successfully perform Contractor's duties. If the Council is dissatisfied with any of Contractor's personnel, for any or no reason, Contractor shall replace them with qualified personnel.
- 1.2 **Turnover.** Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to perform Services.
- 1.3 **Background Checks.** Contractor shall cooperate with the Council if the Council wishes to perform any background checks on Contractor's personnel by obtaining, at no additional cost, all releases, waivers, and permissions the Council may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Council of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Council and performed by Contractor. Contractor shall ensure that the following persons are not assigned to perform services for the Council: (a) any person refusing to undergo such background checks, and (b) any person whose background check results are unacceptable to Contractor or that, after disclosure to the Council, the Council advises are unacceptable to the Council.

2. Contractor Certification Clauses. Contractor certifies that the following representations and warranties are true. Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly notify the Council if any representation and warranty becomes untrue. Contractor represents and warrants as follows:

- 2.1 **Authority.** Contractor has authority to enter into and perform its obligations under this Agreement, and Contractor's signatory has authority to bind Contractor to this Agreement.
- 2.2 **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 Council.
- 2.3 **No Gratuities.** Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement.
- 2.4 **No Conflict of Interest.** Contractor has no interest that would constitute a conflict of interest under PCC 10365.5, 10410 or 10411; Government Code

sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.

- 2.5 **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.
- 2.6 **No Litigation.** No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened that may adversely affect Contractor's ability to perform the Services.
- 2.7 **Compliance with Laws Generally.** Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor's business and services.
- 2.8 **Drug Free Workplace.** Contractor provides a drug free workplace as required by Government Code sections 8355 through 8357.
- 2.9 **No Harassment.** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring.
- 2.10 **Noninfringement.** The Services Deliverables, and Contractor's performance under this Agreement do not infringe, or constitute an infringement, misappropriation or violation of, any third party's intellectual property right.
- 2.11 **Nondiscrimination.** 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 sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 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 will notify in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of nondiscrimination.
- 2.12 **National Labor Relations Board Orders.** 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.

3. Insurance

- 3.1 **Basic Coverage.** Contractor shall provide and maintain at the Council's discretion and Contractor's expense the following insurance during the Term:
- 3.1.1 *Commercial General Liability.* The policy must be at least as broad as the Insurance Services Office (ISO) Commercial General Liability "occurrence" form, with coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. The policy must provide limits of at least \$1,000,000 per occurrence and annual aggregate.
 - 3.1.2 *Workers Compensation and Employer's Liability.* The policy is required only if Contractor has employees. The policy must include workers' compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1,000,000 per accident or disease.
 - 3.1.3 *Automobile Liability.* This policy is required only if Contractor uses an automobile or other vehicle in the performance of this Agreement. The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in Contractor's performance of this Agreement whether owned, non-owned, leased, or hired. The policy must provide combined single limits of at least \$1,000,000 per occurrence.
 - 3.1.4 *Professional Liability.* This policy is required only if Contractor performs professional services under this Agreement. The policy must cover liability resulting from any act, error, or omission committed in Contractor's performance of Services under this Agreement, at minimum limits of \$1,000,000 per occurrence and annual aggregate. If the policy is written on a "claims made" form, Contractor shall maintain such coverage continuously throughout the Term and, without lapse, for a period of three (3) years beyond the termination and acceptance of all Services provided under this Agreement. The retroactive date or "prior acts inclusion date" of any such "claims made" policy must be no later than the date that activities commence pursuant to this Agreement.
 - 3.1.5 *Unmanned Aircraft Liability Insurance.* If Contractor utilizes drones or any other unmanned aircraft, existing insurance coverage must include an endorsement for unmanned aircraft operations or Contractor must maintain a separate aircraft liability policy to cover unmanned aircraft operations with limits and coverage equal to or greater than \$1,000,000 per claim or per occurrence and \$2,000,000 annual aggregate. If Contractor does not have the applicable insurance, drone or any other unmanned aircraft usage will be prohibited.
- 3.2 **Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.
- 3.3 **Aggregate Limits of Liability.** The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case the annual aggregate limits of

liability must be at least two (2) times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.

- 3.4 **Deductibles and Self-Insured Retentions.** Contractor shall declare to the Council all deductibles and self-insured retentions that exceed \$100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to the Council's approval. Deductibles and self-insured retentions do not limit Contractor's liability.
- 3.5 **Additional Insured Endorsements.** Contractor's commercial general liability policy, automobile liability policy, and, if applicable, umbrella policy must be endorsed to name the following as additional insureds with respect to liabilities arising out of the performance of this Agreement: the State of California, the Judicial Council of California, and their respective elected and appointed officials, judicial officers, administrators, officers, agents, representatives, volunteers and employees.
- 3.6 **Certificates of Insurance.** Before Contractor begins performing Services, Contractor shall give the Council certificates of insurance attesting to the existence of coverage. Contractor shall provide prompt written notice to the Council in the event that insurance coverage is cancelled or materially changed from the coverage set forth in the current certificate of insurance provided to the Council. All Certificates of Insurance required under this section shall reference the contract by number and contract date on the face of the certificate.
- 3.7 **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.
- 3.8 **Required Policy Provisions.** Each policy must provide, as follows: (i) the policy is primary and noncontributory with any insurance or self-insurance maintained by the State of California, the Judicial Council of California, Judicial Branch Entities, and Judicial Branch Personnel, and the each insurer providing insurance under this Agreement expressly waives any and all rights of subrogation it may have against the State of California, the Judicial Council of California, Judicial Branch Entities and Judicial Branch Personnel; (ii) the insurance applies separately to each insured against whom a claim is made or a lawsuit is brought, to the limits of the insurer's liability; and (iii) each insurer waives any right of recovery or subrogation it may have against the State of California, the Judicial Council of California, and their respective elected and appointed officials, judicial officers, administrators, officers, agents, representatives, volunteers and employees for loss or damage.
- 3.9 **Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.

- 3.10 **Consequence of Lapse.** If required insurance lapses during the Term, the Council is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.
4. **Indemnity.** Contractor will defend (with counsel satisfactory to the Council or its designee), indemnify and hold harmless the Judicial Branch Entities and the Judicial Branch Personnel against all claims, losses, and expenses, including attorneys' fees and costs, that arise out of or in connection with (i) an act or omission of Contractor, its agents, employees, independent contractors, or subcontractors in the performance of this Agreement, (ii) a breach of a representation, warranty, or other provision of this Agreement, and (iii) infringement of any trade secret, patent, copyright or other third party intellectual property. This indemnity applies regardless of the theory of liability on which a claim is made or a loss occurs. This indemnity will survive the expiration or termination of this Agreement, and acceptance of any Services or Deliverables. Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the Council's prior written consent, which consent shall not be unreasonably withheld; and the Council shall have the right, at its option and expense, to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.
5. **Option Term.** The Council may, at its sole option, extend this Agreement for nine (9) one-year terms. In order to exercise an Option Term, the Council must send Notice to Contractor at least ninety (90) days prior to the end of the expiring Term. The exercise of an Option Term will be effective without Contractor's signature. In the event an Option Term is not exercised at the end of any given Term, the Agreement shall be deemed expired.
6. **Tax Delinquency.** Contractor must provide notice to the Council immediately if Contractor has reason to believe it may be placed on either (i) the California Franchise Tax Board's list of 500 largest state income tax delinquencies, or (ii) the California Department of Tax and Fee Administration's list of 500 largest delinquent sales and use tax accounts. The Council may terminate this Agreement immediately "for cause" pursuant to Section 7.2 below if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.
7. **Termination**
- 7.1 **Termination for Convenience.** The Council may terminate, in whole or in part, this Agreement for convenience upon thirty (30) days prior Notice. After receipt of such Notice, and except as otherwise directed by the Council, Contractor shall immediately stop Services as specified in the Notice.
- 7.2 **Termination for Cause.** The Council may terminate this Agreement, in whole or in part, immediately "for cause" if (i) Contractor fails or is unable to meet or perform any of its duties under this Agreement, and this failure is not cured within ten (10) days following Notice of default (or in the opinion of the Council, 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; or (iii) Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading.

7.3 **Termination upon Death.** This entire Agreement will terminate immediately without further action of the parties upon the death of a natural person who is a party to this Agreement, or a general partner of a partnership that is a party to this Agreement.

7.4 **Termination for Changes in Budget or Law.** The Council's payment obligations under this Agreement are subject to annual appropriation and the availability of funds. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the current appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement. The Council may terminate this Agreement or limit Contractor's Services (and reduce proportionately Contractor's fees) upon Notice to Contractor without prejudice to any right or remedy of the Council if: (i) expected or actual funding to compensate Contractor is withdrawn, reduced or limited; or (ii) the Council determines that Contractor's performance under this Agreement has become infeasible due to changes in applicable laws.

7.5 **Rights and Remedies of the Council**

7.5.1 *Nonexclusive Remedies.* All remedies provided in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Council immediately if Contractor is in default, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement. If Contractor is in default, the Council may do any of the following: (i) 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; (ii) require Contractor to enter into nonbinding mediation; (iii) exercise, following Notice, the Council's right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.

7.5.2 *Replacement.* If the Council terminates this Agreement in whole or in part for cause, the Council may acquire from third parties, under the terms and in the manner the Council considers appropriate, services equivalent to those terminated, and Contractor shall be liable to the Council for any excess costs for those services. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Council for such services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Council. Contractor shall continue any Services not terminated hereunder.

7.5.3 *Delivery of Materials.* In the event of any expiration or termination of this Agreement, Contractor shall promptly provide the Council with all originals and copies of the Deliverables, including any partially-completed Deliverables-related work product or materials, and any Council-provided materials in its possession, custody, or control. In the event of any termination of this Agreement, the Council shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the Council's termination is not for cause, the Council shall pay any fees due under this Agreement for Services performed or Deliverables completed and accepted as of the date of the Council's termination Notice.

7.6 **Survival.** Termination or expiration of this Agreement shall not affect the rights and obligations of the parties which arose prior to any such termination or expiration (unless otherwise provided herein) and such rights and obligations shall survive any such termination or expiration. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including any section of this Agreement that states it shall survive such termination or expiration.

8. **Assignment and Subcontracting.** Contractor may not assign or subcontract its rights or duties under this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the Council. Consent may be withheld for any reason or no reason. Any assignment or subcontract made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the parties and their permitted successors and assigns.

9. **Notices.** Notices must be sent to the following address and recipient:

If to Contractor:	If to the Council:
<u>[name, title, address]</u>	<u>[name, title, address]</u>
<u>With a copy to:</u>	<u>With a copy to:</u>

Either party may change its address for Notices by giving the other party Notice of the new address in accordance with this section. Notices will be considered to have been given at the time of actual delivery in person, three (3) days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service.

10. **Miscellaneous Compliance.**

10.1 **Union Activities Restrictions.** Contractor agrees that no Council funds received under this Agreement will be used to assist, promote or deter union organizing during the Term. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no Council funds were used for those expenditures. Contractor will provide those records to the Attorney General upon request.

- 10.2 **Domestic Partners, Spouses, Gender, and Gender Identity Discrimination.** Contractor is in compliance with, and throughout the Term will remain in compliance with: (i) PCC 10295.3 which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) PCC 10295.35, which places limitations on contracts with contractors that discriminate in the provision of benefits on the basis of an employee's or dependent's actual or perceived gender identity.
- 10.3 **Child Support Compliance Act.** Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the Term) all applicable state and federal laws relating to child and family support enforcement, including 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.
- 10.4 **Priority Hiring.** 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.
- 10.5 **Iran Contracting Act.** 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 Council to enter into this Agreement pursuant to PCC 2203(c).
- 10.6 **Recycling.** Without limiting the foregoing, if this Agreement includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable. Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible. 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.
- 10.7 **DVBE Commitment.** To the extent applicable, Contractor's failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of the Agreement. If Contractor used DVBE subcontractor(s) in connection with this Agreement: (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the Council approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must within sixty (60) days of receiving final payment under this Agreement certify in a report to the Council: (1) the total amount of money and percentage of work that Contractor committed to provide to each DVBE subcontractor and the amount each DVBE subcontractor received under the

Agreement; (2) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Agreement; (3) the amount each DVBE subcontractor received from Contractor in connection with the Agreement; and (4) that all payments under the Agreement have been made to the applicable DVBE subcontractors. Upon request by the Council, Contractor shall provide proof of payment for the work. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. Contractor will comply with all rules, regulations, ordinances and statutes that govern the DVBE program, including, without limitation, Military and Veterans Code section 999.5.

- 10.8 **Antitrust Claims.** Contractor shall assign to the Council all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the Council. Such assignment shall be made and become effective at the time the Council tenders final payment to Contractor. If the Council receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Council any portion of the recovery, including treble damages, attributable to overcharges that were paid by Contractor but were not paid by the Council as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by Contractor, the Council shall, within one (1) year from such demand, reassign the cause of action assigned under this part if Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the Council has not been injured thereby, or (b) the Council declines to file a court action for the cause of action.
- 10.9 **Good Standing.** Contractor is, and will remain for the Term, qualified to do business and in good standing in California.
- 10.10 **Four-Digit Date Compliance.** Contractor represents and warrants that it will provide only Four-Digit Date Compliant deliverables and services to the Council. "Four-Digit Date Compliant" deliverables and services can accurately process, calculate, compare, and sequence date data, including date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Agreement and does not limit the generality of warranty obligations set forth elsewhere in this Agreement.
- 10.11 **Small Business Preference Commitment.** To the extent applicable, Contractor's failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement. Contractor must within sixty (60) days of receiving final payment under this Agreement report to the Council the actual percentage of small/micro business participation that was achieved. If Contractor is a nonprofit veteran service agency ("NVSA"), Contractor must employ veterans receiving services from the NVSA for not less than 75 percent of the person-hours of direct labor required for the provision of services performed pursuant to this Agreement.

11. MISCELLANEOUS PROVISIONS

- 11.1 **Independent Contractor.** Contractor is an independent contractor to the Council. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the Council. Contractor has no authority to bind or incur any obligation on behalf of the Council. If any governmental entity concludes that Contractor is not an independent contractor, the Council may terminate this Agreement immediately upon Notice.
- 11.2 **GAAP Compliance.** Contractor maintains an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles.
- 11.3 **Audit.** Contractor must allow the Council or its designees to review and audit Contractor's (and any subcontractors') documents and records relating to this Agreement, and Contractor (and its subcontractors) shall retain such documents and records for a period of four (4) years following final payment under this Agreement. If an audit determines that Contractor (or any subcontractor) is not in compliance with this Agreement, Contractor shall correct errors and deficiencies by the twentieth (20th) day of the month following the review or audit. If an audit determines that Contractor has overcharged the Council five percent (5%) or more during the time period subject to audit, Contractor must reimburse the Council in an amount equal to the cost of such audit. This Agreement is subject to examinations and audit by the State Auditor for a period three (3) years after final payment.
- 11.4 **Licenses and Permits.** Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by applicable law for the performance of the Services. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any applicable law.
- 11.5 **Confidential Information.** During the Term and at all times thereafter, Contractor will: (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement, and (c) refrain from disclosing or permitting others to disclose any Confidential Information to any third party without obtaining the Council's express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to its employees or contractors who need to know that information in order to perform Services hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this section. The provisions of this section shall survive the expiration or termination of this Agreement. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than the greater of reasonable care and industry-standard care. The Council owns all right, title and interest in the Confidential Information. Contractor will notify the Council promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the

Council to protect such Confidential Information. Upon the Council's request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the Council or, if so directed by the Council, destroy all Confidential Information (in every form and medium), and (b) certify to the Council in writing that Contractor has fully complied with the foregoing obligations. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor's obligations under this section, that any such breach will likely result in irreparable harm, and that upon any breach or threatened breach of the confidentiality obligations, the Council shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.

12. **Ownership of Deliverables.** Unless otherwise agreed in this Agreement, Contractor hereby assigns to the Council ownership of all Deliverables, any partially-completed Deliverables, and related computer programming, work product, or materials. Contractor agrees not to assert any rights at common law, or in equity, or establish a copyright claim in any of these materials. Contractor shall not publish or reproduce any Deliverable in whole or part, in any manner or form, or authorize others to do so, without the written consent of the Council.
 - 12.1 **Publicity.** Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the Council.
 - 12.2 **Choice of Law and Jurisdiction.** California law, without regard to its choice-of-law provisions, governs this Agreement. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. 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.
 - 12.3 **Negotiated Agreement.** This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654.
 - 12.4 **Amendment and Waiver.** Except as otherwise specified in this Agreement, no amendment or change to this Agreement will be effective unless expressly agreed in writing by a duly authorized officer of the Council. A waiver of enforcement of any of this Agreement's terms or conditions by the Council is effective only if expressly agreed in writing by a duly authorized officer of the Council. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
 - 12.5 **Force Majeure.** Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by a force majeure. Force majeure, for purposes of this paragraph, is defined as follows: acts of war and acts of god, such as earthquakes, floods, and other natural disasters, such that performance is impossible.

- 12.6 **Follow-On Contracting.** Contractor may not submit a bid for, nor be awarded an agreement for, the providing of services, procuring goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of this Agreement.
- 12.7 **Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.
- 12.8 **Headings; Interpretation.** All headings are for reference purposes only and do not affect the interpretation of this Agreement. The word “including” means “including, without limitation.” Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.
- 12.9 **Time of the Essence.** Time is of the essence in Contractor’s performance under this Agreement.
- 12.10 **Counterparts.** This Agreement may be executed in counterparts, each of which is considered an original.

END OF APPENDIX C

APPENDIX D

DEFINED TERMS

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

“Agreement” is defined on the Coversheet.

“Contractor” is defined on the Coversheet.

“Confidential Information” means: (i) any information related to the business or operations of the Council, including information relating to the Council’s personnel and users; and (ii) all financial, statistical, personal, technical and other data and information of the Council (and proprietary information of third parties provided to Contractor) which is designated confidential or proprietary, or that Contractor otherwise knows, or would reasonably be expected to know, is confidential. Confidential Information does not include information that Contractor demonstrates to the Council’s satisfaction that: (a) Contractor lawfully knew prior to the Council’s first disclosure to Contractor, (b) a third party rightfully disclosed to Contractor free of any confidentiality duties or obligations, or (c) is, or through no fault of Contractor has become, generally available to the public.

“Contract Amount” is defined on the Coversheet.

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

“Deliverables” is defined in Appendix A.

“Effective Date” is defined on the Coversheet.

“Expiration Date” is defined on the Coversheet.

“Initial Term” is the period commencing on the Effective Date and ending on the Expiration Date designated on the Coversheet.

“Judicial Branch Entity” or **“Judicial Branch Entities”** means any California superior or appellate court, the Council of California, and the Habeas Corpus Resource Center.

“Judicial Branch Personnel” means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.

“Notice” means a written communication from one party to another that is (a) delivered in person, (b) sent by registered or certified mail, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address and recipient set forth in Appendix C.

“Option Term” means a period, if any, through which this Agreement may be or has been extended by the Council.

“PCC” refers to the California Public Contract Code.

“Services” is defined in Appendix A.

“Stop Work Order” is defined in Appendix B.

“Term” comprises the Initial Term and any Option Terms.

END OF APPENDIX D

APPENDIX E**UNRUH CIVIL RIGHTS ACT AND
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT CERTIFICATION**

Pursuant to Public Contract Code (PCC) section 2010, the following certifications must be provided when (i) submitting a bid or proposal to the Judicial Council of California for a solicitation of goods or services of \$100,000 or more, or (ii) entering into or renewing a contract with the Judicial Council of California for the purchase of goods or services of \$100,000 or more.

CERTIFICATIONS:

1. We are in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);
2. We are in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of the Title 2 of the Government Code);
3. We do not have any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, that is used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code); **and**
4. Any policy adopted by a person or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

The certifications made in this document are made under penalty of perjury under the laws of the State of California. I, the official named below, certify that I am duly authorized to legally bind the Contractor/proposer/vendor to the certifications made in this document.

COMPANY NAME <i>(Printed)</i>		FEDERAL ID NUMBER
BY <i>(Authorized Signature)</i>		
PRINTED NAME AND TITLE OF PERSON SIGNING		DATE EXECUTED
Executed in the County of	in the State of	

END OF APPENDIX E
END OF AGREEMENT