



REQUEST FOR PROPOSALS

JUDICIAL COUNCIL OF CALIFORNIA

REGARDING:

**PROPERTY CLAIMS
ADMINISTRATION SERVICES**

RFP #JBCP-2015-11-JT

PROPOSALS DUE:

**TUESDAY, OCTOBER 20, 2015,
NO LATER THAN 3:00 PM
PACIFIC TIME**

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OBJECTIVE

The purpose of this Request for Proposals (**RFP**) is to solicit and award a contract to one (1) qualified selected service provider to provide property claim investigation, loss estimating, and claim valuation services to the Judicial Council for occurrences affecting the Judicial Council, trial courts, and the Courts of Appeal that may be insured under any one or more of the following lines of commercial insurance: builder's risk, commercial property, equipment breakdown, inland marine, or commercial crime; warranty, or self-insured under a form of indemnification and/or loss financing agreement.

The primary service of the investigation for the purpose of obtaining information in the course of adjusting or otherwise participating in the completion of any assigned occurrence must be performed by employed staff of the service provider. However, sub-consultants may be utilized, with the prior authorization of the Judicial Council, to provide auditors, accountants, appraisers, or other professionals required for producing and certifying particulars or details necessary to arrive at the value of the damages resulting from an occurrence.

Additional information about and documents pertaining to this solicitation, including electronic copies of the solicitation documents can be found on the California Courts' Website, at www.courts.ca.gov/rfps.htm.

1.0 BACKGROUND INFORMATION

- 1.1 The Judicial Council of California (the "**Judicial Council**"), chaired by the Chief Justice of California, is the chief policy making agency of the California judicial system. The California Constitution directs the Judicial Council to improve the administration of justice by surveying judicial business, recommending improvements to the courts, and making recommendations annually to the Governor and the Legislature. The council also adopts rules for court administration, practice, and procedure, and performs other functions prescribed by law. The Judicial Council is the staff agency for the council and assists both the council and its chair in performing their duties.
- 1.2 The Risk Management Unit is part of the Capital Program office, which is the division of the Judicial Council responsible for the planning, design, construction, and risk management of court facilities for the trial and appellate courts in California.
- 1.3 The Judicial Council services court facilities in all 58 counties of the State of California. Such court facilities are over 345 buildings with 15 million square footage of court occupied space.
- 1.4 The Judicial Council experiences an average of 166 incidents involve water intrusion, fire, or other caused damage to property annually. Of these 166 occurrences approximately 30 will require a field investigation and preparation of a statement of loss necessary to effect and insurance recovery or a recovery from a third party.

2.0 TERM OF THE AGREEMENT

2.1 The services are expected to be performed by the selected service provider from the contract effective date (tentatively early September 2015) through June 30, 2018 (the “Initial Term”) with up to two (2) consecutive one-year option terms, to extend the agreement under the same terms and conditions in effect for the Initial Term, not to exceed a total contract period of five (5) years. The consecutive one-year options, if any, shall be exercised at the sole discretion of the Judicial Council.

These option terms are defined as follows:

- First Option Term: July 1, 2018 through June 30, 2019
- Second Option Term: July 1, 2019 through June 30, 2020

2.2 All work delivered under a contract pursuant to this RFP will be completed by **June 30, 2018**

3.0 TIMELINE FOR THIS RFP

The Judicial Council has developed the following list of key events related to this RFP. All dates are subject to change at the discretion of the Judicial Council.

<i>EVENT</i>	<i>TIME & DATE</i>
RFP issued	September 17, 2015
Deadline for submitting requests to the Judicial Council for additional information, clarifications and/or RFP modifications. E-mail all questions, using "Attachment K" (provided herein) for Submission of Questions to: CapitalProgramSolicitations@jud.ca.gov	No later than 12:00 Noon (PST) September 28, 2015
As needed, Judicial Council will post answers to participants' requests for additional information, clarifications or RFP modifications, on the California Courts website pertaining to this RFP, Bidders/Solicitations page, located at: http://www.courts.ca.gov/rfps.htm	October 2, 2015
Deadline for receipt of proposals and End of solicitation specifications protest period.	Not later than 3:00 PM (PST) October 20, 2015
Posting of Short-listed Firms (Estimated)	October 27, 2015
Interviews of Short-listed Firms, if needed (Estimated)	November 4-5, 2015
Notice of Intent to Award (Estimated)	November 13, 2015

4.0 RFP ATTACHMENTS

4.1 The following attachments are included as part of this RFP:

<i>ATTACHMENT</i>	<i>TITLE and DESCRIPTION</i>
Attachment A:	STANDARD PROVISIONS
Attachment B:	SPECIAL PROVISIONS
Attachment C:	ADMINISTRATIVE RULES GOVERNING RFPs (NON-IT SERVICES)
Attachment D:	JUDICIAL BRANCH CONTRACT LAW PROVISIONS
Attachment E:	DVBE PARTICIPATION FORM
Attachment F:	SAMPLE CONTRACT AGREEMENT

4.2 The following attachments are included as part of this RFP. They shall be completed and returned, as applicable:

Attachment G:	PROPOSER’S ACCEPTANCE OF TERMS AND CONDITIONS Proposer must complete this form and submit the completed certification with its sealed Technical Proposal under Tab #1.
Attachment H:	GENERAL CERTIFICATIONS Proposer must complete this form and submit the completed certification with its sealed Technical Proposal under Tab #4.
Attachment I:	PAYEE DATA RECORD FORM This form contains information the Judicial Council requires to process payments. Return the completed form with its sealed Technical Proposal under Tab #4.
Attachment J:	DARFUR CONTRACTING ACT CERTIFICATION FORM Proposer must complete the Darfur Contracting Act Certification and submit the completed certification with its sealed Technical Proposal under Tab #4.
Attachment K:	RFP SUBMISSION OF QUESTIONS FORM <i>If applicable</i> , this form is for vendor questions submitted per the RFP schedule shown in Section 3 above

5.0 SUBMISSIONS OF PROPOSALS

- 5.1 Proposals should provide straightforward, concise information that satisfies the requirements of Section 7 (“Proposal Contents”). All printed materials shall be furnished on 8-1/2” x 11” paper, no foldouts, and printing on one-side only wherever possible. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the RFP’s instructions and requirements, and completeness and clarity of content.
- 5.2 The Proposer must submit the proposal in two parts, the technical proposal and the cost proposal. Both Technical and Cost proposals are submitted to the Judicial Council in a single exterior envelope; each part will be separately sealed using an interior envelope.
- 5.2.1 The Proposer must submit **one (1) original and three (3) copies** of the Technical Proposal. The original document must be signed by an authorized representative of the Proposer. The Technical Proposals (original and three copies combined) must be placed in a single sealed interior envelope which is clearly labeled with your firm’s name, the RFP number and “Technical Proposals”.
- 5.2.2 The Proposer must submit **one (1) original and three (3) copies** of the Cost Proposal. The original document must be signed by an authorized representative of the Proposer. The Cost Proposals (original and three copies combined) must be placed in a single sealed interior envelope which is clearly labeled with your firm’s name, the RFP number and “Cost Proposals”.
- 5.2.3 The Proposer must submit a complete electronic version of each proposal on CD-ROM or USB flash drive. *The files contained on the CD/drive should be in editable/unprotected WORD or EXCEL formats, as well as PDF.* Electronic proposals shall be enclosed with printed versions in their respective interior envelopes.
- 5.3 Only written proposals will be accepted. The Proposer must write the RFP title and number on the outside of the sealed exterior envelope. Proposals must be submitted by registered or certified mail, courier service (e.g. FedEx), or delivered by hand to the following address. Proposals may not be submitted by facsimile or email.
- Judicial Council of California
Finance Office, Business Services Unit
Attn: Nadine McFadden, RFP: _____
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688
- 5.4 Proposals must be received by the date and time listed on the coversheet of this RFP. Late proposals will not be accepted.

6.0 STATEMENT OF THE WORK

- 6.1 When services are requested, the service providers will provide the following services within the timeframes noted:
- i. Provide a dedicated (but not necessarily exclusive) project manager with extensive knowledge and experience in the conducting and managing investigations of direct physical damage and destruction occurrences, determining the insurability of resultant damage and expense, preparing statements of loss and managing the ultimate disposition of assigned claims through resolution with insurance companies, other contractually responsible parties, and/or subrogation actions, as needed.
 - ii. Provide one or more qualified property claims professionals, and associated subject matter specialists available to be assigned to investigate, evaluate and conclude property damage and destruction occurrences pursuant to insurance policy and other contractual terms and conditions.
 - iii. Contract services directly related to this agreement must be provided from an office(s) located in California; data storage shall be confined to servers physically located within the Continental United States.
 - iv. Furnish and maintain a system operating 24-hour, 7 days per week to receive notices (incident reports) by telephone and/or email of occurrences, which may be the subject of a property damage claim. Service provider shall acknowledge such notices by placing a return call/email to the source person within two (2) hours of such initial notice during business hours, or within 24 hours during non-business hours.
 - v. Upon Service Provider's receipt of a notice of an occurrence from the Judicial Council, and within 24 hours of such receipt: 1) assign the notice of occurrence a unique file number, 2) assign the file to a qualified person, and 3) provide the Judicial Council with the file number and assigned property claim professional's name and contact information.
 - vi. Contact the person assigned by the Judicial Council as its primary contact person to initiate the occurrence investigation and analysis process.
 - vii. Within 72 hours of the initial notice of occurrence conduct an on-site inspection of the property damage and provide a brief initial summary report to the Judicial Council utilizing a form of report previously approved by the Judicial Council.
 - viii. Identify, analyze and document the cause and origin of the occurrence that may result in property loss or damage, and/or business interruption loss.
 - ix. Provide an analysis of whether, and to what extent, the property loss or damage, and/or business interruption loss resulting from an occurrence is covered by insurance, or another entity's risk financing program, e.g. a county's self-insurance program.
 - x. Provide an analysis of any possible sources of recovery or subrogation, in addition to property insurance companies or another entity's risk financing program (e.g. a county's self-insurance program) that may be responsible for the loss or damage.
 - xi. For each file, keep an activity log, maintain documentation of any investigation and all telephone conversations, discussions, or meetings, which shall be available for review by the Judicial Council at any reasonable time.

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- xii. Under direction of the Judicial Council, work with repair and restoration contractors to develop a detailed scope of work for all emergency response, repair, restoration, and if necessary relocation work.
- xiii. If appropriate, prepare an independent estimate of damages using Xactimate or similar software, or with the prior approval of the Judicial Council an independent construction estimating firm.
- xiv. Under the direction of the Judicial Council, work with trial court or appellate court to obtain an inventory of the damaged contents, such as furniture, fixtures, equipment and records.
- xv. Under the direction of Judicial Council staff, work with any involved insurance company, or other entity's claim adjusters, and collaborate to establish necessary loss reports and establish appropriate loss reserves, if applicable.
- xvi. Within thirty (30) calendar days of receipt of a claim from Judicial Council, send to the Judicial Council an initial full captioned a report, utilizing a form of report previously approved by the Judicial Council, containing cause or origin information, a detailed evaluation of the damages, a description of the nature and timing of any remaining work necessary to submit a proof of loss to any insurance company or other entity's self-insurance program, and an initial estimate of the cost of direct damages, extra expense, business interruption, and allocated claim investigation and analysis.
- xvii. Updates to the initial report are due every thirty (30) calendar days following the initial full captioned report until the file is closed.
- xviii. Maintain a detailed record of all repair and restoration work, and repair and/or replacement of damaged, destroyed, or stolen furniture, fixtures, and equipment.
- xix. In cooperation with the Judicial Council prepare and submit required proof of loss documentation to any involved insurance company, or other entity's responsible for restoration payments, and work with the Judicial Council to resolve the loss.
- xx. Provide a monthly loss report, in EXCEL format, indicating all open and closed claims, the cause of each occurrence, the nature of the loss or damage, the estimated cost of the loss, the estimated final recovery from insurance or other source, and the estimated allocated claim investigation and analysis cost.
- xxi. Assist the Judicial Council to develop, distribute, implement through staff training, and maintain current a property loss or damage investigation procedure, process and checklist for its use.
- xxii. If requested, attend loss related settlement and mediation conferences and hearings, and provide analysis and opinion on the best approach to resolve issues with insurance companies and other entity's claim and legal representatives.
- xxiii. Maintain and store all closed files for a period of three years following approval from the Judicial Council to close the file, with the condition that the file can be retrieved within three (3) business days of service provider's receiving a request from the Judicial Council.
- xxiv. Not less than ninety (90) days prior to the end of the three year file retention period advise the Judicial Council of the upcoming destruction of the claim file so that the Judicial Council can concur with the file's destruction or make arrangements to take possession of the file.
- xxv. Provide a list of any proposed subcontractor's including DVBE certified

subcontractors, their qualifications, their key personnel resumes, the services being proposed, and their fee schedules (as part of the Cost Proposal, see section 7.2 below).

7.0 PROPOSAL CONTENTS

- 7.1 Technical Proposal. The following information must be included in the Technical Proposal. A proposal lacking any of the following information may be deemed non-responsive at the sole discretion of the Judicial Council.

Technical proposals shall be presented in a bound format, with sections below identified by specific tab. Proposals should: 1) be responsive to the Judicial Council's stated needs as further stated below; 2) identify high standards of skill, knowledge, ability and experience of staff tentatively assigned to support this contract; and 3) clearly demonstrate proposer's services are proactive and goal-oriented.

- 7.1.1 GENERAL INFORMATION (Tab #1) — Such general information about Proposer shall not exceed 5 single-sided pages

7.1.1.1 Proposer's name, address, telephone and fax numbers, and federal tax identification number. *Note that if Proposer is a sole proprietor using his or her social security number, the social security number shall be omitted from this tab, but must be furnished on the Payee Data Form provided herein.*

7.1.1.2 Name, title, address, telephone number, and email address of the individual who will act as Proposer's designated representative authorized to bind the entity in contract for purposes of this RFP.

7.1.1.3 Proposer's location of offices and office contact information.

7.1.1.4 Proposer must indicate full and unconditional acceptance of this RFP and collective attachments/exhibits ~~–or–~~ clearly identify exceptions as further defined below.

- i. For full and unconditional acceptance of this RFP and collective terms/conditions, Proposer shall complete Attachment "G", Proposer's Acceptance of Terms and Conditions and submit the signed certification with its proposal.
- ii. An "exception" includes any addition, deletion, qualification, limitation or other change.
- iii. If exceptions are identified, the Proposer must also submit a redlined version of the text that clearly tracks itemized proposed change(s), and a written explanation or rationale for each exception and/or proposed change.
- iv. A proposal that takes excessive and material exception(s) -- addition, deletion and/or other modification -- may be deemed non-responsive. The Judicial Council, in its sole discretion, will determine what constitutes excessive and material exception.

7.1.1.5 Proposer's affirmation of each of the following:

- i. Service Provider (firm or staff) has five (5) or more years of experience as a property claims service provider in the State of California
- ii. Service Provider's assigned project manager must have extensive knowledge of applicable California laws and regulations governing public works contracts, prevailing wages, disabled veterans enterprise requirements, claims and immunities.
- iii. Service Provider represents that it has the qualifications and skills necessary to perform the services under the contract in a competent and professional manner without the day-to-day directions of the Judicial Council.
- iv. Service Provider's services will be performed in accordance with the generally accepted principles and practices applicable to the industry/profession.
- v. Service Provider warrants that the Service Provider and Service Provider's employees and sub-contractors (all tiers) are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to the Service Provider's performance of these Services.

7.1.2 EXPERIENCE (Tab #2) — Proposer's applicable experience and ability to meet the RFP deliverable requirements, both in terms of scope and scheduling. Such experience shall not exceed 5 single-sided pages

- 7.1.2.1 An overview of the Proposer's business activities, including a description, and the duration and extent, of the Proposer's experience in investigating and evaluating property damage occurrences and submitting claims to insurance companies or other responsible parties, and achieving appropriate resolutions. Particular emphasis should be placed on work for California public entities.
- 7.1.2.2 For each key staff member who would work on this project, a resume describing the individual's background, training, and experience, including the individual's ability and experience in providing the proposed services..
- 7.1.2.3 Provide a list of any proposed subcontractor's including DVBE-certified subcontractors, their qualifications, their key personnel resumes, the services being proposed, and their fee schedules (as part of the Cost Proposal, see section 7.2 below)
- 7.1.2.4 Names, addresses, and telephone numbers of five (5) clients for whom the Proposer has provided similar services, with a general description of the services provided. The Judicial Council may check references listed by Proposer.

7.1.3 METHODOLOGY (Tab #3) — Describe Proposer's means and methods to furnish the services/reports required herein. This description shall not exceed 3 single-sided pages, exclusive of the sample reports required under sections 7.1.3.3 and 7.1.3.4 below.

7.1.3.1 Description of how the proposed services will be provided including how the services will meet the Judicial Council's service requirements.

7.1.3.2 Description of how Proposer will provide prompt service response to all 58 counties in the State of California. Particular emphasis should be placed on timeliness of Proposer's response as well as efforts to minimize such cost impact to the Judicial Council as best possible for travel and related expenses.

7.1.3.3 Sample of both the initial report required under section 6.1 vii, above, and the full captioned report required under section 6.1 xvi, above.

7.1.3.4 Sample of monthly loss summary report required under section 6.1 xx, above.

7.1.4 SUPPORT DOCUMENTS (Tab #4) — The Judicial Council requires that certain additional certifications, attachments, and forms be completed and provided as part of your Proposal. These include:

7.1.4.1 Proposer must complete Attachment H, General Certifications Form and submit the signed certification with its proposal.

7.1.4.2 Proposer must complete Attachment J, Payee Data Record Form and submit the signed certification with its proposal.

7.1.4.3 Proposer must complete Attachment K, Darfur Contracting Act Certification Form and submit the signed certification with its proposal.

7.1.4.4 Proposer must provide copies of its current California business license(s), and applicable certifications/credentials. Proposer must also provide copies of its applicable professional licenses, certifications and/or credentials for key personnel intended to service this account.

7.2 Cost Proposal.

7.2.1 Compensation will be paid on a time and materials basis including reimbursable transportation, meals, lodging and miscellaneous expense. Hourly rates shall be quoted for each job title of key personnel (both service provider's and subcontractor's) title proposed. Hourly rates shall be all inclusive of general and administrative overhead (including all office related expenses), employee related costs, including any allowance for overtime pay, and profits.

7.2.2 Only the additional reimbursable transportation, meals, lodging and miscellaneous expense expense, as set forth in sections 7.2.4 and 7.2.5 below, will be considered for reimbursement. The Cost Proposal must include a proposed fee schedule for the key personnel position titles listed in TABLE #1 below, and a warranty that the Proposer has read and agrees with the reimbursement schedule for transportation, meals, lodging and miscellaneous expense presented in sections 7.2.4 and 7.2.5 below.

7.2.3 The Judicial Council shall reimburse the service provider on a time and material basis according to the hourly fee schedule for key personnel presented in TABLE #1 below:

TABLE #1: Fee Schedule for Key Personnel	
<i>Category</i>	<i>Hourly rate</i>
Project Manager	
Senior Level Adjuster	
Adjuster	
Appraiser	
Auditor	
Accountant	
Other Professional	

7.2.4 The Judicial Council shall reimburse service provider for actual and reasonable transportation, meals, and lodging expenses actually incurred by Contractor's and its Subcontractor's employees in the course of their performance of the Work, but subject to the following:

- a. If air transportation is authorized, the Judicial Council will reimburse Contractor only at the actual cost incurred. All air transportation is limited to coach fares and when possible should be booked a minimum of eight (8) days prior to travel, unless the Judicial Council's Project Manager agrees to a shorter period.
- b. If overnight lodging expense is authorized, the Judicial Council will reimburse Contractor only for:
 - 1) Hotel room rental supported by a receipt clearly indicating a zero balance due at the actual cost not to exceed \$110.00 per Day, plus occupancy tax and/or energy surcharge
- c. Meals will be reimbursed at the actual cost not to exceed the following maximum amounts per person per Day: breakfast~\$8.00; lunch~\$12.00; dinner~\$20.00; and incidentals~\$6.00

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- d. For necessary private vehicle ground transportation usage, the Judicial Council will reimburse the Contractor at the published IRS rate per mile, but only for mileage to and from any assigned location greater than fifty (50) miles from the office location stated in the response to the RFP.

7.2.5 Other miscellaneous expenses, at Service Provider's actual cost, may be reimbursed as indicated in the TABLE #2 below. All such expenses shall have prior approval from the Judicial Council's Project Manager.

Table #2: Table of Reimbursable Expenses -			
<i>Category</i>	<i>JCC Provided</i>	<i>Service Provider Provided</i>	<i>Reimbursable Expense</i>
Office space		X	
Primary on site computers		X	
Hard drive and associated peripherals necessary to store electronic investigation records and photos			X
Copies and related supplies (paper, toner, ink, binders, etc.)		X	
Drawings and specifications (at cost)			X
Safety equipment and supplies		X	
Specialized tools and equipment necessary for investigations e.g. cameras, recorders, scientific equipment, etc.		X	

Price Proposals provided in any format that differ in any respect to the prescribed format may result in the disqualification of the Proposal from consideration for an award.

NOTE: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code.

8.0 OFFER PERIOD

A Proposer's proposal is an irrevocable offer for ninety (90) days following the proposal due date. In the event a final contract has not been awarded within this ninety (90) days, the Judicial Council reserves the right to negotiate extensions to this period. The Judicial Council may release all offers upon issuance of a Notice to Award. (See RFP, section 3.0 for *Timeline For This RFP*.)

9.0 EVALUATION OF PROPOSALS

At the time proposals are opened, each proposal will be checked for the presence or absence of the required proposal contents. The Judicial Council may reject submittals which are found to be incomplete or defective, and the Judicial Council may also waive any immaterial deviation. However, such waiver shall not excuse a firm from full compliance with the specifications and/or requirements stated herein. Determination(s) of incomplete, defective submittals, and the applicable materiality shall be exercised by the Judicial Council at it's sole discretion.

An evaluation panel composed of predominately Judicial Council staff will subsequently review and score each submittal based on a 100-point scale using the criteria set forth in the table below. Upon completing the initial review and evaluation of submittals, the Judicial Council will establish a ranked listing of valid and qualified submittals based on the initial evaluation scores.

CRITERIA (applicable RFP Section)	MAXIMUM NUMBER OF POINTS
Proposer's qualifications and resources (§ 7.1.1)	30
Experience and demonstrated abilities (§ 7.1.2)	20
Methodology to meet project goals (§ 7.1.3)	20
Cost Proposal (§ 7.2)	30
Maximum Score	100

For any determination by the evaluation panel which finds six (6) or fewer valid and qualified submittals, the Judicial Council will invite all such parties to interview. In the event that more than six submittals are found valid and qualified, then invitations will be extended to **only the six (6) highest scored Firms**. Selected firms will be notified of their interview date, time and location.

10.0 INTERVIEWS AND NEGOTIATION

The Judicial Council may conduct interviews with Proposers to clarify aspects set forth in their proposals or to assist in finalizing the ranking of top-ranked proposals. The interviews may be conducted in person or by phone. If conducted in person, interviews will be held at the Judicial Council's office in San Francisco. The Judicial Council will not reimburse Proposers for any costs incurred in traveling to or from the interview location.

Following interviews, the Judicial Council will re-evaluate and re-score firms based on the initial submittal plus any information obtained in the interview process and/or reference checks. These revised scores will be used by the Judicial Council to seek and execute a mutual agreement beginning with the single highest-scoring firm. If mutually-agreed terms cannot be reached with one firm, the Judicial Council may cease negotiations with such firm by written notice and begin negotiations with the next highest scoring firm.

The Judicial Council will award the contract services herein "all or none" to one (1) successful provider.

11.0 RIGHTS

The Judicial Council reserves the right to reject any and all proposals, in whole or in part, as well as the right to issue similar RFPs in the future. This RFP is in no way an agreement, obligation, or contract and in no way is the Judicial Council or the State of California responsible for the cost of preparing a proposal. One copy of each proposal will be retained by the Judicial Council for official files and will become a public record.

12.0 CONFIDENTIAL OR PROPRIETARY INFORMATION

California judicial branch entities are subject to Rule 10.500 of the California Rule of Court (viewable online at www.courtinfo.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_500), which governs public access to judicial administrative records.

If information submitted in a proposal contains material noted or marked as confidential and/or proprietary that, in the Judicial Council's sole opinion, meets the disclosure exemption requirements of Rule 10.500, then that information will not be disclosed upon a request for access to such records. If the Judicial Council finds or reasonably believes that the material so marked is not exempt from disclosure, the Judicial Council will disclose the information regardless of the marking or notation seeking confidential treatment.

Notwithstanding the above, the California Public Contract Code requires the public inspection of certain proposals. If required to do so by the Public Contract Code, the Judicial Council may disclose all information contained in a proposal, including information marked as confidential or proprietary.

13.0 JUDICIAL BRANCH CONTRACTING MANUAL

This procurement, and any resulting contract, are being conducted and will be administered in accordance with the provisions of the Judicial Branch Contracting Manual ("JBCM") in addition to the Administrative Rules posted to the Website of this RFP. In the event of a conflict of terms between documents, the following order of precedence shall apply: (1) JBCM; (2) this RFP document and any documents it references; (3) the Administrative Rules.

The JBCM can be accessed at <http://www.courts.ca.gov/documents/jbcl-manual.pdf> for additional information.

By the act of submission of a Proposal, prospective Brokers agree to be bound as set forth in the provisions above. If a prospective Broker has objections to the Administrative Rules or to this RFP, they shall be governed in accordance with the JBCM as to solicitations-specific protests.

14.0 DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS

- 14.1 The Judicial Council does not require that your DVBE program be developed, or that your DVBE compliance forms be submitted with your Proposal, nor will an early submission influence the evaluation of your Proposal.
- 14.2 DVBE Forms are provided with this RFP for your later convenience in submitting the forms. Submission of your DVBE compliance forms will be required following notification of intent to award and prior to the signing of the Legal Agreement. See also the "DVBE Form" posted to the RFP website.
- 14.3 For additional details regarding DVBE participation contact the Executive Branch's internal website at <http://www.dgs.ca.gov/default.htm>, or by phone to the Office of Small Business and DVBE Certification at 916-375-4940.

15.0 PROTESTS

Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contract Manual (see www.courts.ca.gov/documents/jbcl-manual.pdf). Failure of a Proposer to comply with the protest procedures set forth in that chapter will render a protest inadequate and non-responsive, and will result in rejection of the protest. The deadline for the Judicial Council to receive a solicitation specifications protest is the due date and time for submittal of proposals. Protests must be sent to:

Judicial Council of California
Finance Office, Business Services Unit
Attn: Protest Hearing Officer, RFP # _____
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688

- *Indicate "RFP NUMBER ____" and the NAME OF YOUR ORGANIZATION at lower left corner of outer packing of your Proposal.*
- *Mark the outside of your communication with the words "BID PROTEST" in large letters in a prominent place.*

Protests may be submitted in person. If a Protest is to be submitted in person, it must be submitted at the reception desk of the Judicial Council on the 6th floor, 455 Golden Gate Avenue, San Francisco, CA 94102. This desk is open between the hours of 9 AM and 5 PM, Monday through Friday, Judicial Council business days. Protesting proposers are advised to obtain a handwritten receipt for their Proposal from the Judicial Council receptionist when submitting in this manner. Submissions made at other Judicial Council locations or in any other manner will not be considered valid.

END OF RFP

EXHIBIT A — STANDARD PROVISIONS

1. Indemnification

- 1.1. Contractor agrees to the fullest extent permitted by law, to indemnify, defend (with counsel satisfactory to the Judicial Council), and hold harmless (collectively, "Indemnify") the State of California, the Judicial Council, the Courts, the Counties, justices, judges, subordinate judicial officers, court executive officers, court administrators, and any and all of their officers, agents, contractors, representatives, volunteers and employees (individually, an "Indemnified Party") from any and all claims, lawsuits, losses, costs (including reasonable attorney fees and costs), liabilities, and damages arising from, related to or in connection with, in whole or in part, any of the following:
 - 1.1.1. Contractor's or any of its employees' or Subcontractor's negligent acts or omissions, or intentional misconduct, including without limitation any criminal acts;
 - 1.1.2. Contractor's breach of its obligations under this Agreement;
 - 1.1.3. Contractor's or any of its employees' or Subcontractor's violation of any applicable law, rule, or regulation; and/or
 - 1.1.4. any claim or lawsuit by any third party, Contractor, Subcontractor, supplier, worker, or any other person, firm, or corporation, (i) furnishing or supplying Work, Services, Materials, or supplies in connection with the performance of this Agreement, or (ii) who may be injured or damaged by the Contractor or any of its Subcontractors agents, or employees when such claim arises from, is related to, or is in connection with, the Contractor's performance under this Agreement.
- 1.2. This Article 1 does not require the Contractor to Indemnify an Indemnified Party for that portion of any loss, cost, liability, or damage to the extent that portion arises from the negligence or intentional misconduct of the Indemnified Party.

2. Relationship of Parties

Contractor and its employees and Sub-Consultants, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the Judicial Council.

3. Cost Recovery - Termination for Cause

The Judicial Council may terminate this Agreement in accordance with the provisions of the Article entitled "Termination" set forth in Exhibit B, however, if this Agreement is terminated for cause, the Judicial Council may proceed with the Work in any manner it deems proper and

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the cost to the Judicial Council to obtain performance of the Work shall be deducted from any sum due Contractor under this Agreement.

4. No Assignment

Contractor shall not voluntarily or involuntarily assign (e.g. assignment by operation of law), encumber, novate, or otherwise transfer or delegate ("Assign") all or any interest in this Agreement ("Assignment") without the prior advance written consent of the Judicial Council. Any request from Contractor to Assign this Agreement shall be provided to Judicial Council in the form of a Notice. The Judicial Council shall have the right to impose conditions upon any Assignment, including a guaranty agreement with Contractor. The Judicial Council's consent to Assignment shall be evidenced by a written agreement between the Parties. The Judicial Council shall consent to such Assignment only if assignee assumes in writing all of the Contractor's obligations hereunder; however, unless otherwise explicitly specified in the assignment agreement, Contractor shall not be released from its obligations hereunder by reason of such assignment. Any voluntary Assignment by Contractor or Assignment by operation of law (e.g. involuntarily assignment) of all or any portion of Contractor's interest in this Agreement shall be deemed a default allowing the Judicial Council to exercise all remedies available to it under this Agreement and applicable law.

5. Time of Essence

Time is of the essence in this Agreement.

6. Validity of Alterations

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

7. Consideration

The consideration to be paid to Contractor under this Agreement shall in no event exceed the Compensation duly owed Contractor as specified in Exhibit C, Payment and Invoicing Provisions, and shall constitute Contractor's sole and complete consideration for all of Contractor's efforts, costs, and expenses incurred in the performance of any Services provided as a result of this Agreement even if such efforts, costs, or expenses do not result in an actual purchase of insurance by the Judicial Council, as well as any other efforts, costs, or expenses incurred or experienced as a consequence of this Agreement,

END OF EXHIBIT

EXHIBIT B — SPECIAL PROVISIONS

1. Definitions

- 1.1. Additional terms defined in the Contract Documents shall apply to this Agreement and to all authorized Work Orders. Term(s) defined in an authorized Work Order shall apply only to that particular Work Order.
 - 1.1.1. "Amendment" means a Standard Agreement Form substantially in the format of the Standard Agreement Form used to enter into this Agreement and any documents it explicitly references, that, when signed by the Parties, modifies the provisions of this Agreement.
 - 1.1.2. "Article" a part of the text of this Agreement as referred to in the text of this Agreement.
 - 1.1.3. "Business Day" means days of the week excluding Saturday and Sunday, and State holidays.
 - 1.1.4. "Confidential Information" means trade secrets, financial, statistical, personnel, technical, or any other data or information relating to the Judicial Council's, the Courts' or the State's business, or the business of its constituents.
 - 1.1.5. "Contractor" means the firm contracting with the Judicial Council.
 - 1.1.6. "Court(s)" means one or more of the superior or appellate courts in the State's court system.
 - 1.1.7. "Day" means calendar day.
 - 1.1.8. "Fixed Price" means that the price to be charged for a Service is not subject to change throughout the Term of this Agreement.
 - 1.1.9. "Force Majeure" means a delay which impacts the timely performance of Work or otherwise delays the Project, for which neither Contractor, its Sub-Consultant(s') nor the Judicial Council are liable because such delay or failure to perform was unforeseeable and beyond the control of the affected Party(ies). Acts of Force Majeure include, but are not limited to:
 - 1.1.9.1. Acts of God or the public enemy;
 - 1.1.9.2. Acts or omissions of any government entity;
 - 1.1.9.3. Fire or other casualty for which a Party is not responsible;
 - 1.1.9.4. Quarantine or epidemic;
 - 1.1.9.5. Strike or defensive lockout; and
 - 1.1.9.6. Unusually severe weather conditions.

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Force Majeure does not include failures or delays caused by Contractor and/or its Sub-Consultant(s).

- 1.1.10. "GAAP" means Generally Accepted Accounting Principles.
- 1.1.11. "Judicial Branch Entity(ies)" or "JBE" means and includes any or all of the following California state entities - the Judicial Council; the Supreme Court; the Court(s) of Appeal; and the Superior Court(s).
- 1.1.12. "Key Personnel" refers to Contractor personnel or personnel of Sub-Consultant(s) that are designated as "Key Personnel" and identified by name in Exhibit F.
- 1.1.13. "Material(s)" means and includes any type of tangible item provided to the Judicial Council by Contractor and/or by its Sub-consultants, including but not limited to, written reports.
- 1.1.14. "Notice" means a written document provided in accordance with the provisions of the Article entitled "Notice" set forth in this Exhibit B.
- 1.1.15. "Program" refers to the totality of work contemplated or performed under a request made by the Judicial Council's Project Manager in accordance the process specified in Exhibit E, the Statement of Work.
- 1.1.16. "Service(s)" means and includes authorized action(s) that are performed by the Contractor's or its Sub-Consultant(s). Service(s) that may be requested and are to be provided if so requested are specified in Exhibit E, the Statement of Work.
- 1.1.17. "Standard Agreement Form" means the printed form used by the Judicial Council to authorize any Work Orders or Amendments.
- 1.1.18. "State" refers to the State of California.
- 1.1.19. "Statement of Work" is the description of Services that may be requested and are to be provided if so requested, as specified in Exhibit E.
- 1.1.20. "Sub-Consultant(s)" shall mean and include any individual, firm, partnership, agent, or corporation having a contract, purchase order, or agreement with the Contractor or with any Sub-Consultant of any tier for the performance of Service(s) or provision of the insurance, in whole or in part, relating to this Agreement. When reference is made to a Sub-Consultant(s) in this Agreement, it shall include every level and/or tier, of Contractor's Sub-Consultants, agents, suppliers, and/or materialmen.
- 1.1.21. "Third Party" refers to any individual, organization, agent, or any combination thereof that is not a party to this Agreement.

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2. Services to be Provided and Manner of Performance of Work

2.1. Contractor shall provide Services when requested by the Judicial Council Project Manager and in accordance with the provisions of this Agreement. Services shall be provided to the Judicial Council's satisfaction, in compliance with Exhibit E, the Statement of Work, and in the best interests of the Judicial Council and not those of the Contractor.

3. Standard of Care

3.1. In no event shall the Services be performed in a manner that is less than the standard of care prescribed by law and considered generally acceptable in the insurance and insurance brokerage industries.

4. Accuracy of Information

4.1. The Judicial Council shall be solely responsible for the accuracy and completeness of information and other documents furnished to Contractor and/or insurers by the Judicial Council and the Judicial Council shall sign any required application for insurance.

4.2. The Judicial Council recognizes and agrees that all insurance coverage placed in connection with this Agreement and all Services, evaluations, reports and recommendations provided by Contractor hereunder are based on data and information furnished by the Judicial Council.

4.3. Contractor will be under no obligation to investigate or verify the completeness or accuracy of any such data or information, nor will Contractor have any liability for any errors, deficiencies or omissions in any Services, evaluations, reports or recommendations provided to, or any insurance coverage placed on behalf of, the Judicial Council that are based on such inaccurate or incomplete data or information.

4.4. The Judicial Council understands that the failure to provide all necessary information to an insurer, whether intentional or by error, could result in the impairment or voiding of coverage.

5. Work Guarantee

5.1. If the Judicial Council's Project Manager identifies defect(s) or deficiencies in the Services, Contractor shall, remedy the defect(s) and/or deficiencies to the satisfaction of the Judicial Council. Contractor shall have a period of ten (10) Business Days following receipt of a written communication from the Judicial Council's Project Manager informing Contractor of the existence of a defect or deficiency in which to provide a cure. In no event shall the Judicial Council be responsible for any costs or expenses incurred by Contractor to remedy any such defect(s) or deficiency(ies).

6. Acceptance

6.1. The Judicial Council's Project Manager will apply the following criteria in determining whether the Service(s) requested are acceptable:

6.1.1. Timeliness: The Service was provided on time and according to schedule;

6.1.2. Completeness: The Service(s) were provided in accordance with all provisions of this Agreement; and

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- 6.1.3. Technical accuracy: The Services complied with any specific standards requested by the Judicial Council Project Manager.
 - 6.2. If the Judicial Council's Project Manager finds that a Service has not been acceptably performed, Contractor shall provide a cure in accordance with the provisions of this Agreement.
 - 6.3. If the Judicial Council's Project Manager finds a Service unacceptable and Contractor disputes such action, the Parties agree to first attempt to settle their dispute according to the disputes resolution process set forth below.
7. **Dispute Resolution Process**
 - 7.1. Informal Negotiations. If the dispute does not involve an issue that requires submission of a Notice pursuant to the Article entitled "Notice" of this Agreement, the respective Parties' Project Managers shall make a good faith attempt to promptly resolve the dispute by informal negotiation.
 - 7.2. Demand. If the dispute involves an issue that requires submission of a Notice pursuant to the Article entitled "Notice" herein, or if the dispute is not settled in a timely manner pursuant to informal negotiations between the Parties' Project Managers, either Party may issue a Demand to the other Party as follows. The Party submitting a Demand ("Submitting Party") must issue a written statement (the "Demand"), in the form of a Notice, to the other Party ("Receiving Party"). The Demand must be submitted in compliance with the provisions of the Article entitled "Notice" herein, and (i) be fully supported by detailed factual information and supporting documentation; (ii) state the specific Agreement provisions on which the Demand is based; (iii) if the Demand regards a cost adjustment, state the exact amount of the cost adjustment sought; and (iv) must be accompanied by pertinent records supporting the Demand. The Demand shall include a written statement signed by an authorized representative of the Submitting Party indicating that the Demand is made in good faith, that the supporting data and documents are accurate and complete, and provide reasoning to support their contention that the amount (if any) requested reflects an adjustment in payment the Submitting Party believes is equitable.
 - 7.3. Response to Demand. The Receiving Party shall, within ten (10) Business Days, provide a final written response ("Final Response") or request additional information deemed necessary to prepare a Final Response. The Final Response shall state whether the Receiving Party accepts or rejects the Demand. The Final Response must be provided to the Submitting Party in the form required by the Article of this Agreement entitled "Notice". If the Receiving requests additional information to prepare the Final Response, the Submitting Party shall promptly comply with the Receiving Party's request for such information. Any delay caused by Submitting Party's failure to respond to a request for additional information shall extend the 10 Business Day period within which the Receiving Party must provide a Final Response, however, unless otherwise agreed to by the Parties in writing, in no event shall the time period allowed for a Final Response be extended beyond twenty (20) Business Days following the date on which the Submitting

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Party issues the Demand. Regardless of any request(s) for additional information, a Failure on the part of the Receiving Party to provide a Final Response within these twenty (20) Business Days shall be deemed a rejection of the Demand. .

- 7.4. Senior Level Negotiations. If the Demand is rejected and the Submitting Party provides written Notice that it will continue to pursue the Demand, or if the time period allowed for a Final Response to the Demand has expired without issuance of a Final Response, the Parties shall attempt to resolve the Demand by negotiations between assigned senior representatives of the Parties. The representatives shall meet as often as they deem reasonably necessary to resolve the Demand. The senior representatives of the Parties shall make a good faith effort to resolve the Demand within thirty (30) Business Days (or such longer period as they may agree to in writing) following the date on which the Submitting Party provides written Notice that it will continue to pursue the Demand or the date on which the time period allowed for a Final Response to the Demand has expired without issuance of a Final Response.
- 7.5. Mediation. If the Demand is not resolved by negotiations of the Party's assigned representatives, the Parties shall submit the dispute to mediation prior to either Party initiating an action in court.
- 7.6. Litigation. If, after mediation the Parties have not resolved the dispute, either Party may initiate an action in a court of competent jurisdiction. In the event of litigation of a dispute arising from or related to this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and costs.
- 7.7. Confidentiality. All discussions and negotiations conducted pursuant to this dispute resolution process prior to litigation are confidential and shall be treated as compromise and settlement negotiations to which California Evidence Code Section 1152 apply. Mediation shall be confidential and shall be subject to the provisions of California Evidence Code Sections 703.5 and 1115 through 1128.
- 7.8. Performance During Dispute and Claim Resolution Process. Unless otherwise directed in writing by the Judicial Council, Contractor shall diligently proceed with performance of the Services at the same time that a dispute is addressed via this Disputes Resolution Process. Contractor's failure to diligently proceed with performance of the Services will be considered a material breach of this Agreement.

8. Termination

8.1. Termination for Cause.

- 8.1.1. If the Judicial Council determines that the Contractor has failed to provide the Services in accordance with the provisions of this Agreement or has otherwise materially failed to meet an obligation of this Agreement, the Judicial Council may terminate this Agreement in full by providing a Notice of termination specifying the reasons for Contractor's termination.

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8.2. Termination for Non-Appropriation of Funds.

- 8.2.1. Funding for the Services contemplated by this Agreement is conditioned upon appropriation by the California Legislature of sufficient funds and allocation of those funds by the Judicial Council to activities that will require use of the Services.
- 8.2.2. By Notice to the Contractor the Judicial Council may terminate this Agreement in full for lack of appropriation of funds, or for any other withdrawal, reduction or limitation imposed by the Judicial Council's budget, funding or financial resources. Such termination shall not constitute a breach of the Agreement by Judicial Council.

8.3. Termination for Convenience.

- 8.3.1. The Judicial Council shall have the option, at its sole discretion, to terminate this Agreement at any time during the term hereof for convenience and without cause, upon issuance of Notice to the Contractor.

9. Actions of the Contractor Upon Termination

- 9.1. Immediately upon receipt of a any Notice of termination, Contractor shall, unless otherwise instructed in writing by the Judicial Council, proceed with diligence to take all actions necessary to effect the rapid and economical termination of the Services provided under this Agreement and to minimize any liability that might accrue to the Contractor, the Judicial Council, or Third Party(s) as a result of such termination.
- 9.2. The Judicial Council, at its sole discretion, may dictate when and how a termination for convenience or a termination for non-appropriation of funds will be brought into effect. Such actions may include, but are not limited to, the following:
 - 9.2.1. When termination will be effective.
 - 9.2.2. When the termination of performance of certain Services be effective.
 - 9.2.3. When Sub-consultants are to be notified of the termination.
 - 9.2.4. The scheduling of any Services to be provided prior to the effective date of the termination.

10. Effect of Termination

10.1. Termination For Cause.

In addition to the other rights and remedies accorded it in this Agreement, if this Agreement is terminated for cause the Judicial Council may deduct from any payment(s) owed Contractor at the time of termination:

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10.1.1. Any undisputed amount owed the Judicial Council; and

10.1.2. An amount that Judicial Council reasonably determines necessary to remedy or obtain performance of the Services by a Third Party.

10.2. Termination For Non-Appropriation or Convenience.

In the event of a termination for non-appropriation of funds or a termination for convenience, the Judicial Council shall pay Contractor for any Services already performed and duly owed under this Agreement.

11. **Copyrights and Rights in Data, Material, and Deliverables**

All copyrights and rights in any Data, or Materials, produced with funding from this Agreement that may presumptively vest in Contractor are hereby assigned to the Judicial Council.

12. **Ownership of Data**

12.1. Everything created, developed or produced in the course of the Contractor's provision of the Services, including, without limitation, all drawings and specifications, reports, records, files, documents, memoranda, schedules, recordings, information and other material(s) or data (collectively, "Data") in any form, prepared, or in the process of being prepared, are works made for hire by the Contractor for the Judicial Council and are the sole property of the Judicial Council without any payment of compensation other than that duly owed under this Agreement.

12.2. The Judicial Council owns all of the right, title and interest, in and to the Data, including, without limitation, all trademarks, copyrights, trade secrets, patents, and any and all other intellectual property rights therein (collectively, the "Intellectual Property Rights").

12.3. To the extent that any of the Data or the Intellectual Property Rights are not works for hire, the Contractor hereby irrevocably assigns its entire right, title and interest in and to all such Data and the Intellectual Property Rights therein, to the Judicial Council.

12.4. At the Judicial Council's request, the Contractor will assist the Judicial Council in the Judicial Council's prosecution, perfection, and registration of any or all Intellectual Property Rights in the Data. The Contractor irrevocably appoints the Judicial Council as its attorney in fact, coupled with an interest, to take all actions and execute and file all documents that the Judicial Council deems necessary to perfect the Judicial Council's interest and Intellectual Property Rights in the Data as set forth herein.

12.5. The Judicial Council shall be entitled to access the Data in whatever form, including, without limitation CAD, at all times during the term of the Agreement. Any such Data in the possession of the Contractor or in the possession of any Sub-consultant upon completion or termination of the Agreement or any authorized Work Order shall be

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immediately delivered to the Judicial Council. If any Data are lost, damaged or destroyed before final delivery to the Judicial Council, the Contractor shall replace it at its own expense and the Contractor assumes all risks of loss, damage or destruction of or to such Data.

12.6. The Judicial Council expressly acknowledges and agrees that the Data to be provided by Contractor under the Agreement may contain certain design details, features and concepts from the Contractor's pre-existing best practices, which are, and shall remain, the sole and exclusive property of Contractor. Nothing herein shall be construed as a limitation on the Contractor's right to re-use such design details, features and concepts on other projects, in other contexts, or for other clients.

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

13. Limitation on Publication

13.1. The Contractor shall not publish or submit for publication any article, press release, or other writing relating to this Agreement or to the Services being provided to the Judicial Council without prior review and receipt of written approval by the Judicial Council.

13.2. Any request for a review of any such article, press release, or other writing shall be made to the Judicial Council in the form of a Notice.

13.3. The Judicial Council will endeavor to complete its review within thirty (30) days of submission to the Judicial Council, and, if approval is denied, the Judicial Council will provide reasons for its denial.

14. Personnel

14.1. Contractor shall provide all personnel and obtain and provide all Sub-consultant personnel and services necessary to provide the Services contemplated by this Agreement.

14.2. The Judicial Council and the Contractor agree that certain personnel designated in Exhibit F as Key Personnel are essential to the performance of the Services because of their education and experience.

14.3. Contractor's Project Manager is part of the Key Personnel and Contractor's Project Manager's name and contact information are provided in Exhibit F.

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14.4. Replacement of Key Personnel and/or Sub-Consultant(s)

- 14.4.1. Any change in Key Personnel and/or Sub-Consultant(s) must, at the sole discretion of the Judicial Council's Project Manager, be approved in advance, in writing. Any such change shall be memorialized in an Amendment modifying Exhibit F.
- 14.4.2. The Judicial Council has the right, at its sole discretion and without cause, to request replacement of, any assigned Key Personnel and/or Sub-Consultant(s).
- 14.4.3. If, through no fault, action, or inaction of Contractor, any Key Personnel and/or Sub-Consultant(s) become incapacitated or otherwise rendered unable to work during the term of the Agreement, Contractor shall promptly designate replacement Key Personnel and/or Sub-Consultant(s) that possesses equivalent education, experience and skills.
- 14.4.4. If the Contractor cannot furnish replacement Key Personnel and/or Sub-Consultant(s) acceptable to the Judicial Council, the Judicial Council shall have the right to terminate this Agreement for default.

15. Project Managers

- 15.1. The project managers ("Project Manager(s)") assigned by the Judicial Council and Contractor shall act as their respective Party's authorized representatives and shall:
 - 15.1.1. Manage the day to day activities necessary to provide and receive the Services;
 - 15.1.2. Serve as the primary contact with the other Party's Project Manager.
 - 15.1.3. Manage the day to day activities of their personnel;
 - 15.1.4. Cooperate with any Third Parties involved in the performance or receipt of the Services;
 - 15.1.5. Plan and schedule the performance of the Services;
 - 15.1.6. Ensure that budget and schedule commitments are met; and
 - 15.1.7. Ensure the overall quality of the Services provided.
- 15.2. With the exception of the actions that require a Notice, the Project Managers are allowed to resolve issues and disputes that arise with relation to the performance and receipt of the Services.

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15.3. Contractor's Project Manager shall, if the Judicial Council so specifies in Exhibit E, Statement of Work, be responsible for providing written progress reports in accordance with the requirements of the Statement of Work.

15.4. The name and address of the Judicial Council's Project Manager is provided in Exhibit C.

15.5. The name and address of the Contractor's Project Manager is provided in Exhibit F.

16. Background Checks

16.1. If the Contractor assigns persons (whether employees or Sub-consultant employees) to provide Services under this Agreement that require that person have access to the computer systems (whether on-site or by remote access) of the Judicial Council or access to the premises of the Judicial Council or other Judicial Branch entities, the Judicial Council shall have the right, but not the obligation, to conduct a background check or to require the Contractor to conduct a background check, as permitted by law, on all such persons before the Judicial Council will grant such persons access to Judicial Council facilities or computer systems.

16.2. Contractor will cooperate, and will ensure that its Sub-consultant(s) cooperate if the Judicial Council chooses to itself perform any such background check, and will promptly notify the Judicial Council of the name of any person that refuses to undergo a background check

16.3. If the Judicial Council requires a background check and a Contractor employee or Sub-Consultant employee refuses to undergo or fails the background check, that person shall not be engaged by the Contractor in performance of the Services.

16.4. Contractor shall obtain all Contractor and Sub-Consultant employee releases, waivers, or permissions necessary for the Judicial Council to perform a background checks or required to release the results of a background check to the Judicial Council.

16.5. Any costs and expenses incurred with regard to background checks are the sole responsibility of the Contractor and will not be reimbursed by the Judicial Council.

17. Agreement Term

17.1. The Term of this Agreement is specified on the Standard Agreement Coversheet signed to execute this Agreement. and any extension thereof shall be

17.2. Any extension of the Term shall be specified in an Amendment to this Agreement.

18. Judicial Council's Payment Obligations

18.1. Payments to be made under this Agreement shall be paid from the funds of and by the State of California ("State Funds") and are not made by the Judicial Council.

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18.2. Notwithstanding anything in this Agreement to the contrary, it shall not be deemed an event of default if the State is unable to make any payment(s) as a result of the State of California's failure to timely approve and adopt a state budget.

18.3. Should the State fail to make any payment as a result of the State of California's failure to timely approve and adopt a state budget, Contractor shall continue to provide the Services and the Judicial Council shall promptly make any payment(s) duly owed upon approval and adoption of a budget by the State of California.

19. Notice

19.1. Notice must be provided in any of the following events:

19.1.1. In the event of a request to assign, novate, or change the name of either party to this Agreement;

19.1.2. In the event of any claim of a material breach of this Agreement; or

19.1.3. In the event that a Third Party claim or dispute is brought or threatened against Contractor or its Sub-consultant(s) and that claim or dispute alleges facts that would, if proven true, support a claim of a material breach of this Agreement by Contractor; or

19.1.4. Whenever otherwise required in this Agreement.

19.2. A Notice must:

19.2.1. Be in writing;

19.2.2. Identify this Agreement, citing both the Agreement Name and Agreement Number given on the Standard Agreement Coversheet.

19.2.3. Unambiguously identify itself as a Notice brought in accordance with the provisions of the Article entitled "Notice" of this Agreement;

19.2.4. Be delivered in person, by a pre-paid reputable express mail carrier, or by registered or certified mail (postage pre-paid). If delivered in person, the Notice must be delivered to the reception desk of the Judicial Council on the 6th Floor at 455 Golden Gate Ave., San Francisco, CA 94102-3660; and a written receipt obtained from the Judicial Council;

19.2.5. Be addressed to the representative(s) of the Parties as follows:

If provided to the Judicial Council:

Mr. Stephen Saddler
Manager, Business Services

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Judicial Council of California
455 Golden Gate Ave., FL 6
San Francisco, CA 94102-3660

If provided to Contractor:

@

19.3. Notice is effective on the date of receipt; however, if the date of receipt does not occur upon a Business Day, Notice is effective on the first Business Day following the date of receipt.

19.4. Any correctly addressed Notice that is refused, lays unclaimed, or is not deliverable because of an act or omission of the Party to whom submitted will be deemed effective as of the date that the Notice was refused, unclaimed, or deemed undeliverable.

20. Subcontracting

20.1. Contractor shall not subcontract the Work to be provided under this Agreement except to the Subcontractor(s) approved by the Judicial Branch Contract Manager at the time Contractor provides alternative insurance policies for consideration for purchase.

20.2. No Party to this Agreement shall in any way contract on behalf of or in the name of another Party to this Agreement.

20.3. Contractor shall ensure that all Subcontractors comply with the provisions of this Agreement applicable to Subcontractors.

21. Changes and Amendments

21.1. Amendments to any of the Contract Documents by the Judicial Council can be made only with the written approval of:

Mr. Stephen Saddler
Manager, Business Services
Judicial Council of California
455 Golden Gate Ave.
Business Services, FL 6
San Francisco, CA 94102-3660

or his duly appointed designee.

21.2. Any request for a change to the terms and conditions of this Agreement must be submitted to the other Party in writing in the form of a Notice and must be accompanied by a narrative description of the proposed change and the reasons for the requested change.

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21.3. After a review of the request, a written decision shall be provided to other Party.

21.4. Amendments to this Agreement shall be made only by bilateral execution of a Standard Agreement Coversheet.

22. Accounting System Requirement

Contractor shall maintain an adequate system of accounting and internal controls that meets GAAP.

23. Retention of Records and Audits

23.1. Contractor must retain and maintain easily available all Records pertaining to Contractor's performance of its obligations undertaken under this Agreement.

23.2. Contractor shall ensure that its Subcontractor(s') retain and maintain easily available all Records pertaining to Subcontractor(s') performance of actions undertaken as a result of this Agreement.

23.3. Records ("Records") include but are not limited to any books, reports, accounts, estimates, documents, detailed financial information, quotations, certified payrolls, invoices, or any other documentation or evidence, as well as any documents utilized in the preparation of quotations, Invoices, Disputes, litigation and any Claims. Records must be maintained in accordance with industry standards and GAAP and practices, consistently applied.

23.4. The provisions of this Article 23 shall not apply to any work product that is the result of Contractor's or Subcontractor(s') collaboration with legal counsel or to any of Contractor's or Subcontractor(s') confidential or proprietary information that does not fall within the definition of a Record as given above.

23.5. Contractor shall ensure that the Judicial Council and/or its designated representative(s) will have access upon twenty-four (24) hours advance written notice, at all times during Contractor's or Subcontractor(s') normal business hours, to all Records for the purposes of inspection, audit, and copying. Contractor shall, and shall ensure that consultant(s') shall, at no cost to Judicial Council, provide access and proper facilities for such purposes.

23.6. Contractor shall ensure that all Subcontractor(s) are bound to all provisions of this Article 23.

23.7. Records must be retained and available throughout the period of the term of this Agreement and for a period of five (5) years following the Expiration Date of this Agreement, or until five (5) years after final settlement of all Disputes, Claims, or litigation to which the Records relate, whichever date occurs later.

23.8. If an audit or Judicial Council internal review reveals that the Contractor and/or its Subcontractor(s') have overcharged the Judicial Council, Contractor will immediately

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pay to the Judicial Council the overcharged amount plus interest effective from the date of receipt of overpayment. The rate of interest will be equal to eighteen percent (18%) per year or the maximum rate permitted by applicable law, whichever is less. Audit(s) or Judicial Council internal review(s) will be conducted at the Judicial Council's expense, unless an audit or review reveals that the Contractor and/or its Subcontractor(s) has overcharged the Judicial Council by ten percent (10%) or more, in which case the Contractor will reimburse the Judicial Council for all costs and expenses incurred by the Judicial Council in connection with such audit or review, including direct and indirect costs associated with Judicial Council representatives.

23.9. The obligations of this Article 23 shall survive the expiration of and any termination of this Agreement.

24. Accounting System Requirements

Contractor shall maintain and shall ensure that its Subcontractor(s) maintain an adequate system of accounting and internal controls that meets GAAP.

25. Insurance

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

25.1.1. Workers' Compensation: The Contractor shall maintain statutory workers' compensation coverage for all its employees who will be engaged in the performance of the Contract, and employer's liability with limits not less than \$1,000,000 for each accident \$1,000,000 disease policy limit, \$1,000,000 disease – each employee.

25.1.2. Commercial General Liability Insurance — Covering liability arising from premises, operations, independent Contractors, products and completed operations, personal injury and advertising injury, and liability assumed under contract. The policy shall provide limits of not less than \$2,000,000 per occurrence and \$2,000,000 annual aggregate. The insurance must apply separately to each insured against whom a claim is made or lawsuit is brought, subject only to the insurance policy's limit of liability.

25.1.3. Commercial or Business Automobile Liability Insurance — Covering liability arising out of a motor vehicle, including owned, non-owned, leased, and hired

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vehicles assigned to or used in connection with the Project. The policy shall provide combined single limits of not less than \$1,000,000 per accident or loss.

- 25.1.4. Professional Liability Insurance; Errors and Omissions — Covering the Contractor's acts, errors or omissions committed or alleged to have been committed which arise out of rendering or failure to render the Services provided under the terms of this Agreement. The policy shall provide limits of not less than \$1,000,000 per claim or per occurrence and \$1,000,000 annual aggregate. If the policy is written on a "claims made" form, the Contractor shall continue such coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the Services which are the subject of this Agreement. The retroactive date or "prior acts inclusion date" of any such "claims made" policy must be no later than the date that Services commence pursuant to this Agreement.
- 25.2. Additional Insured Endorsements. All policies required in this Article 25 with the exception of Workers' Compensation and Professional Liability, must be endorsed to name the following as additional insureds with respect to liabilities arising out of the Contractor's Services for the Judicial Council under this Agreement: the State of California, the Judicial Council of California, the State's trial courts, appellate courts, justices, judges, subordinate judicial officers, court executive officers, court administrators, and any and all of their officers, agents, representatives, volunteers and employees.
- 25.3. Required Policy Provisions. Each policy required above must provide that:
- 25.3.1. The policy is primary and non-contributory with any insurance or self-insurance programs carried or administered by the State of California, the Judicial Council of California, the State's trial courts, or appellate courts.
- 25.3.2. The policy shall apply separately to each insured against whom a claim is made and/or a lawsuit is brought, except with respect to the limits of the insurer's liability.
- 25.3.3. The Contractor will provide the Judicial Council with thirty (30) days' advance written notice of any change or cancellation, mailed to the following addresses:

Mr. Stephen Saddler
Manager, Business Services
Judicial Council of California
455 Golden Gate Ave., FL 6
San Francisco, CA 94102-3660

And to:

Mr. Jim Mullen
Judicial Branch Capital Program

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Judicial Council of California
455 Golden Gate Ave., FL 8
San Francisco, CA 94102-3660

- 25.4. The insurer waives any and all rights of subrogation against the State of California, the Judicial Council of California, the State's trial courts, appellate courts, justices, judges, subordinate judicial officers, court executive officers, court administrators, and any and all of their officers, agents, representatives, volunteers or employees except for Professional Liability coverage.
- 25.5. Waiver of Claims: Contractor shall waive any right of recovery or subrogation it may have against any of the State of California, the Judicial Council of California, or the State's trial courts, appellate courts, justices, judges, subordinate judicial officers, court executive officers, court administrators, and any and all of their officers, agents, representatives, volunteers or employees for loss or damage for any loss arising out of the Services performed by Contractor under this Agreement, and the Contractor will require any insurer providing insurance required under this Article 25.5 to do the same.
- 25.6. Qualifying Insurers. Contractor will maintain, or cause to be maintained, insurance issued by an insurance company or companies that are rated "A-VII" or higher by A. M. Best's key rating guide, and are authorized to do business in the State of California.
- 25.7. Deductibles and Self-Insured Retentions. For all insurance policies required by this Agreement, Contractor will declare any deductible or self-insured retention (SIR). Contractor will be responsible for reimbursement of any deductible to its insurer. Contractor will administer any self-insurance program in a commercially reasonable manner that ensures sufficient funds are available to cover all losses Contractor must insure against under the terms of this Article 25.
- 25.8. Contractor is responsible for and may not recover from the State of California, the Judicial Council of California, or any Superior Court of California, including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents, if any, any deductible or self-insured retention that is connected to the insurance required under this Article 25.
- 25.9. If Contractor fails to keep in effect at all times the specified insurance coverage, the Judicial Council may, in addition to any other remedies it may have, declare the Contract to be in breach and withhold all progress payments and retentions until the breach is cured, or terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.
- 25.10. No Reduction or Limit of the Contractor's Obligation. Insurance affected or procured by the Contractor shall not reduce or limit the Contractor's contractual obligation to indemnify and defend the Judicial Council. Acceptance of the Contractor's insurance by the Judicial Council shall not relieve or decrease the liability of the Contractor hereunder.

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25.11. Joint Ventures. If the Contractor is an association, partnership, or other joint business venture, the insurance required above shall be provided by any one of the following methods:

25.11.1. Separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured.

25.11.2. Joint insurance program with the association, partnership, or other joint business venture included as a named insured.

25.12. Evidence of Coverage. Before commencing any work under this Agreement, the Contractor must furnish to the Judicial Council certificates of insurance and applicable endorsements, in form and with insurers satisfactory to the Judicial Council, evidencing that all required insurance coverage is in effect. The Judicial Council reserves the right to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificates and endorsements must be sent to the Judicial Council Project Manager.

With a copy to:

Mr. Stephen Saddler
Manager, Business Services
Attn: Insurance Certificate, Contract # *(Enter Contract Number from 1st page upper left of this Agreement)*
Judicial Council of California
455 Golden Gate Ave., FL 6
San Francisco, CA 94102-3660

25.13. Consequences of Lapse. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the Judicial Council receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the Judicial Council may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

26. Judicial Council Court Representation

26.1. The Judicial Council has the authority to act on behalf of any Judicial Branch Entity and to bind said entity with regard to any matters relating to this Agreement.

26.2. Any Judicial Branch Entity the Contractor provides Services for is an intended third party beneficiary. In the event that that such a JBE gives Contractor conflicting instructions or makes conflicting determinations with respect to any matter affecting Contractor's performance of its obligations, the Contractor shall notify the Judicial Council Project Manager who shall have the authority and responsibility for resolution of any such conflict.

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27. Confidentiality

- 27.1. Both the Judicial Council and Contractor acknowledge and agree that in the course of providing the Services under this Agreement, the Judicial Council may disclose Confidential Information to Contractor and/or its Subcontractors.
- 27.2. Contractor shall not disclose any Judicial Council Confidential Information to any Third Party and shall exercise reasonable care to prevent such disclosure.
- 27.3. In the event Contractor is required to disclose Confidential Information to Contractor's employees, Subcontractors or Subcontractor's employees in order to provide Services hereunder, Contractor shall execute a confidentiality agreement of its own authorship with such parties. The confidentiality agreement shall require the same duty of nondisclosure and duty to exercise reasonable care imposed upon Contractor under this Agreement, and shall require that such parties may only use the Confidential Information for the purpose of providing the Services and for no other purpose. Other than Contractor's employees, Subcontractors or Subcontractor's employees Contractor may not disclose Confidential Information to any party without the prior written approval of the Judicial Council's Project Manager.
- 27.4. Neither Contractor nor its Subcontractors shall acquire a right or title in or to the Confidential Information as a result of any disclosure contemplated hereunder. Notwithstanding the foregoing, Contractor may disclose Confidential Information (i) to the extent necessary to comply with any law, rule, regulation or applicable ruling; or (ii) as appropriate to respond to any summons or subpoena.
- 27.5. The Judicial Council reserves the right to disclose any Materials provided under this Agreement to Third Parties for the purpose of validation of the quality of Contractor's work and to employ the Materials for their intended purpose.
- 27.6. Contractor agrees that monetary damages are inadequate to remedy any breach or threatened breach of this Article 27 and, accordingly, consents to injunctive relief for any breach or threatened breach hereof without the posting of any bond.

28. Trade Secret, Patent and Copyright Indemnification

- 28.1. Contractor shall hold the Judicial Council, the Judicial Branch Entities, the State, and their respective officers, agents, and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used by Contractor or its Subcontractors in performance of the Services.
- 28.2. Contractor, at its own expense, shall defend any action brought against the Judicial Council, the Judicial Branch Entities, and/or the State, and their respective officers, agents, and employees, to the extent that such action is based upon a claim that any Data or Materials supplied by Contractor or its Subcontractors infringes a United States patent or copyright or violates a trade secret. Contractor shall pay all costs and damages finally

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- awarded against the Judicial Council, the Judicial Branch Entities, and/or the State and their respective officers, agents, and employees, in any such action. Such defense and payment shall be conditioned on the following:
- 28.2.1. That Contractor shall be notified within a reasonable time in writing by the Judicial Council of any notice of such claim; and,
 - 28.2.2. That Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, the Judicial Council, the Judicial Branch Entities and/or the State shall have the option to participate in such action at its own expense.
- 28.3. Should the Data or Materials, become the subject of a claim of infringement of a United States patent or copyright or a trade secret, the Judicial Council shall permit Contractor at its option and expense either to procure for the Judicial Council and/ or the appropriate Judicial Branch Entities the right to continue using the Data or Materials, or to replace or modify the same so that they become non-infringing. If in the sole opinion of the Judicial Council none of these options can reasonably be taken, or if the use of such Data or Materials by the Judicial Council and/or the Judicial Branch Entities is prevented by injunction, Contractor agrees to take back such Data or Materials and make every reasonable effort to assist the Judicial Council and/or the Judicial Branch Entities in procuring equivalent substitute Data or Materials. If, in the sole option of the Judicial Council, the return of such infringing Data or Materials diminishes the usefulness of other Data or Materials acquired from Contractor, Judicial Council shall then have the sole option of terminating any then continuing Services under which the Data or Materials are still being provided, in their entirety, without penalty or termination charge, and Contractor agrees to take back any such Data or Materials and refund all amounts that the Judicial Council has paid Contractor for said Services, less a reasonable amount for use of such Data or Materials by the Judicial Council.

29. Licenses

- 29.1. Contractor shall ensure that Contractor and its employees, and its Subcontractor(s) and their employees or agents providing Services under this Agreement shall have and shall at all times maintain throughout the duration of their performance of the Services all appropriate license(s) required under law to provide the Service(s). Contractor shall ensure that both Contractor's own employees and those of its Subcontractor(s) are regularly monitored to ensure compliance with this provision of the Agreement.
- 29.2. If the possession of a license(s) is required under law for the provision of a Service, Contractor shall ensure that such Service will either be performed by an appropriately licensed individual or be performed under the direct supervision and with the review and approval of an appropriately licensed individual.
- 29.3. Contractor shall provide immediate Notice to the Judicial Council in the event that any license required to be held by Contractor or any of its Subcontractor(s) or any of their

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- employees or agents is suspended, cancelled, or expires during a period in which they are performing Service(s) that require a license.
- 29.4. Contractors and individuals required by law to be licensed are licensed and regulated by the California Contractors' State License Board which has jurisdiction to investigate complaints if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. Any questions concerning licensed individuals or organizations may be referred to the California Contractors State License Board.
- 29.5. If no license is required of an individual performing Services, Contractor shall ensure that such individuals possess the appropriate skills, training, and background reasonably commensurate with the responsibility assigned, so as to be able to perform in a competent and professional manner in accordance with generally accepted industry standards.
- 30. Conflict of Interest**
- 30.1. Contractor does not, and agrees that it shall not have any direct or indirect interest that conflicts in any manner or degree with the Judicial Council's use of Contractor to provide the Services contemplated under this Agreement, including but not limited to the purchase of insurance, in the Judicial Council's best interests.
- 30.2. Contractor agrees that it shall not have any ownership, partnership, or other type of interest beneficial to Contractor in any Third Party entity that benefits from the disbursement of State Funds under this Agreement.
- 30.3. Contractor shall ensure that its employees as well as all Subcontractor's employees and agents comply with the provisions of Articles 30.1 and 30.2.
- 30.4. Contractor itself shall ensure and shall ensure that its employees, as well as all Subcontractor employees and agents avoid actions resulting in or creating the/an appearance (1) that their relationship with the State resulting from this Agreement is used for any private gain or in any other manner unsanctioned by this Agreement; (2) of any preferential treatment to any particular person or organization involved in activity which results in the use of State Funds under this Agreement; (3) of any loss of independence or impartiality on the part of the State, the Judicial Council, the Judicial Branch Entities, or the Contractor; (4) that any action performed as a result of this Agreement is / was /or will be made outside official channels; or (5) that may adversely affect the confidence of the public in the integrity of the State, the Judicial Council, the Judicial Branch Entities, and/or their respective employees or other agents.
- 30.5. Contractor shall immediately disclose to the Judicial Council any circumstance or situation that arises in which Contactor's interest(s), or those of its Subcontractors, or of the employees or agents of either conflict with the best interest(s) of the State. Contractor shall provide immediate written Notice to the Judicial Council describing any such circumstance or situation. Notwithstanding anything herein to the contrary, it is acknowledged and agreed that the Judicial Council shall have no right hereunder to

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require or otherwise direct Contractor to breach, terminate or otherwise amend any relationship with another party.

- 30.6. Contractor certifies and shall require its Subcontractor to certify that Judicial Council employees or agents involved in decisions that cause a disbursement of State Funds under this Agreement will not be awarded a contract with Contractor and/or Subcontractor for a period of two (2) years from their date of separation from the Judicial Council.

31. Covenant Against Gratuities

31.1. Contractor warrants that neither Contractor itself nor any of its employees, nor Subcontractors or their employees or agents have provided or shall at any time provide any gratuity, in any form, including but not limited to money, tangible item(s), services, or intangible benefit(s) to any Judicial Council or Judicial Branch Entity employee or agent for the purpose of securing or having secured award of this Agreement to Contractor.

31.2. Contractor warrants that neither Contractor itself nor any of its employees, nor Subcontractors or their employees or agents have provided or shall at any time provide any gratuity, in any form, including but not limited to money, tangible item(s), services, or intangible benefit(s), to any Judicial Council or Judicial Branch Entity employee or agent for the purpose of securing an outcome favorable to any party from a decision that results in a disbursement of State Funds under this Agreement.

31.3. Contractor agrees that if Contractor has knowledge that any gratuity from any party was or is to be provided to any Judicial Council or Judicial Branch Entity employee or agent for the purpose of securing a favorable outcome to any party from a decision that results in a disbursement of State Funds under this Agreement, Contractor will provide immediate written Notice of the same to the Judicial Council.

31.4. Contractor shall ensure that its employees as well as Subcontractor's employees and agents comply with the provisions of Article 31.3.

31.5. For breach or violation of any of the aforesaid warranties or promises, the Judicial Council will have the right to terminate this Agreement, and any loss or damage sustained by the Judicial Council in procuring, on the open market, any Services that Contractor has agreed to supply, shall be borne and paid for by the Contractor. The rights and remedies of the Judicial Council provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

32. Submitting False Claims; Monetary Penalties

The Judicial Council shall be entitled to remedy any false claims, as defined in California Government Code Section 12650 et seq., made to the Judicial Council by the Contractor or any Subcontractor under the standards set forth in Government Code Section 12650 et seq. Any Contractor or Subcontractor who submits a false claim shall be liable to the Judicial Council for three times the amount of damages that the Judicial Council sustains because of

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the false claim. A Contractor or Subcontractor who submits a false claim shall also be liable to the Judicial Council for (a) the costs, including attorney fees, of a civil action brought to recover any of those penalties or damages, and (b) a civil penalty of up to \$10,000 for each false claim.

33. Responsibility for Equipment, Real Property

33.1. Neither the Judicial Council nor any Judicial Branch Entity shall be responsible for any damage to persons or property that result from the use, misuse, or failure of any equipment used by the Contractor or its Subcontractor(s) or their employees even though such equipment is furnished by the Judicial Council or a JBE.

34. Independent Contractor

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

35. Payment of Income Taxes

The Contractor shall pay, when due, all applicable income taxes, including estimated taxes, incurred as a result of the compensation that accrues to Contractor as a result of this Agreement. The Judicial Council is exempt from federal excise taxes and no payment will be made for any taxes levied on the Contractor's or any Subcontractor's employees' wages. The Contractor agrees to indemnify, defend and hold the Judicial Council harmless for any claims, costs, losses, fees, penalties, interest or damages (including attorney fees and costs) suffered by the Judicial Council resulting from the Contractor's failure to comply with this provision. The Judicial Council may offset any taxes paid by the Judicial Council as a result of the Contractor's breach of this provision against any amounts owed Contractor.

36. National Labor Relations Board

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

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37. Drug-Free Workplace

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

38. Certifications

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

- 38.1. No Harassment. The Contractor and its Subcontractor(s') shall not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom the Contractor or its sub-consultants interact in the performance of this Agreement. The Contractor and its sub-consultants shall take all reasonable steps to prevent harassment from occurring.
- 38.2. FEHA. The Contractor shall comply with the provisions of the Fair Employment and Housing Act, California Government Code, Sections 12990 et seq., and the applicable regulations promulgated under California Code of Regulations, title 2, Sections 7285 et seq. The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code, Section 12990, set forth in chapter 5 of division 4 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full.
- 38.3. Compliance with Americans with Disabilities Act. The Contractor complies with applicable provisions of the Americans with Disabilities Act ("ADA") of 1990 (42 U.S.C. Section 12101 et seq.), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.
- 38.4. Notice to Labor Organizations. The Contractor and any of its Subcontractor(s') shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- 38.5. Compliance. The Contractor shall include the nondiscrimination, no harassment, and compliance provisions of this Article 38 in any and all subcontracts issued to perform Services under this Agreement. Contractor has, unless exempt, complied with the nondiscrimination program requirements. (Government Code, Section 12990 (subdivisions a-f) and CCR, Title 2, Section 8103 et seq.)
- 38.6. Prohibited Financial Conflict of Interest. The Contractor and its sub-consultants presently have no interest and will not acquire any interest which would present a conflict of interest pursuant to California Government Code Sections 1090 et seq. and 87100 et seq., during the performance of Services pursuant to this Agreement. The Contractor further certifies that, to the best of its knowledge after due inquiry, no employees or agents of the Judicial Council are now, nor in the future will they be, in any manner interested directly or indirectly in this Agreement, or in any profits expected to arise from this Agreement, as set forth in California Government Code Sections 1090 et seq., and 87100 et seq.

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

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

39. **Force Majeure**

Neither Party shall be liable for damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is due to an act of Force Majeure.

40. **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.

41. **Judicial Branch Contract Law Provisions**

This Agreement incorporates the terms and conditions set forth in the attachment entitled "Judicial Branch Contract Law Provisions" attached to this Agreement. If there is any conflict between a provision in the attachment and any other provision of this Agreement, the provision contained in the attachment prevails.

42. **General**

42.1. Survival. The termination or expiration of this 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 for herein.

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

42.3. Waiver.

42.3.1. Any waiver of any term or condition of this Agreement must be made in the form of an Amendment and executed by an authorized representative of the waiving party and any such waiver shall not be construed as a waiver of any succeeding breach of the same or other term or condition of this Agreement.

42.3.2. The omission by either Party at any time to remedy any default or enforce any right, or to require performance in accordance with the terms and conditions of this Agreement at the time designated shall not act as a waiver of the default or

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right, nor shall it affect the right of that party to enforce those provisions at a later date.

- 42.4. Severability. The provisions of this Agreement are separate and severable. Should any court hold that any provision of this Agreement is invalid, void or unenforceable, then (i) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (ii) such provision shall be enforced to the maximum extent possible so as to effect the reasonable intent of the Parties and shall be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable.
- 42.5. Time is of the Essence. Time is of the essence in this Agreement.
- 42.6. Governing Law; Jurisdiction
- 42.6.1. This Agreement, and all of the rights and duties of Contractor and the Judicial Council arising out of or related to this agreement or to the relationship of Contractor and the Judicial Council, are governed by the laws of the State of California without regard to its conflicts of law rules. This provision applies to all claims and causes of action that Contractor has or may acquire against the Judicial Council, whether based on contract, tort, statute, or anything else.
- 42.6.2. Contractor agrees that any claims that it has or may acquire against the Judicial Council shall be commenced in and decided exclusively by a court of competent jurisdiction located in the State of California. Contractor agrees to submit to the personal and exclusive jurisdiction of courts located in the State of California. Contractor waives all defenses and arguments that the courts located in the State of California constitute an inconvenient forum based upon the residence or domicile of Contractor, the location of the work that is the subject of the litigation or the location of witnesses, the location of documents, or anything else.
- 42.7. Agreement Construction. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given their reasonable interpretation.
- 42.8. Public Contract Code References. Public Contract Code references create duties of the Contractor under this Agreement; however, the references do not imply that the Judicial Council is subject to the Public Contract Code.
- 42.9. Entire Agreement. This Agreement constitutes the entire agreement between the Parties as regards its subject matter, and supersedes all previous agreements, proposals, negotiations, representations and commitments, whether oral or written, with regard thereto.

END OF EXHIBIT

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ATTACHMENT "C" -- ADMINISTRATIVE RULES GOVERNING RFPs (NON-IT SERVICES)

1. COMMUNICATIONS WITH THE JUDICIAL COUNCIL OF CALIFORNIA ("JUDICIAL COUNCIL") REGARDING THE RFP

Except as specifically addressed elsewhere in the RFP, Proposers must send any communications regarding the RFP to capitalprogramsolicitations@jud.ca.gov (the "Solicitations Mailbox"). Proposers must include the RFP Number in the subject line of any communication.

2. QUESTIONS REGARDING THE RFP

Proposers interested in responding to the RFP may submit questions via email to the Solicitations Mailbox on procedural matters related to the RFP or requests for clarification or modification of the RFP no later than the deadline for questions listed in the timeline of the RFP. Once submitted, questions become part of the procurement file and are subject to disclosure; Proposers are accordingly cautioned not to include any proprietary or confidential information in questions. If the Proposer is requesting a change, the request must set forth the recommended change and the Proposer's reasons for proposing the change. Questions or requests submitted after the deadline for questions will not be answered. Without disclosing the source of the question or request, a copy of the questions and the JBE's responses will be made available.

3. ERRORS IN THE RFP

- A. If, before the proposal due date and time listed in the timeline of the RFP, a Proposer discovers any ambiguity, conflict, discrepancy, omission, or error in the RFP, the Proposer must immediately notify the Judicial Council via email to the Solicitations Mailbox and request modification or clarification of the RFP. Without disclosing the source of the request, the Judicial Council may modify the RFP before the proposal due date and time by releasing an addendum to the solicitation.
- B. If a Proposer fails to notify the Judicial Council of an error in the RFP known to Proposer, or an error that reasonably should have been known to Proposer, before the proposal due date and time listed in the timeline of the RFP, Proposer shall propose at its own risk. Furthermore, if Proposer is awarded the agreement, Proposer shall not be entitled to additional compensation or time by reason of the error or its later correction.

4. ADDENDA

- A. The Judicial Council may modify the RFP before the proposal due date and time listed in the timeline of the RFP by issuing an addendum. It is each Proposer's responsibility to inform itself of any addendum prior to its submission of a proposal.
- B. If any Proposer determines that an addendum unnecessarily restricts its ability to propose, the Proposer shall immediately notify the Judicial Council via email to the Solicitations Mailbox no later than one day following issuance of the addendum.

5. WITHDRAWAL AND RESUBMISSION/MODIFICATION OF PROPOSALS

A Proposer may withdraw its proposal at any time before the deadline for submitting proposals by notifying the Judicial Council in writing of its withdrawal. The notice must be signed by the Proposer. The Proposer may thereafter submit a new or modified proposal, provided that it is received at the Judicial Council no later than the proposal due date and time listed in the timeline of the RFP. Modifications offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed in the timeline of the RFP.

6. ERRORS IN THE PROPOSAL

If errors are found in a proposal, the Judicial Council may reject the proposal; however, the Judicial Council may, at its sole option, correct arithmetic or transposition errors or both on the basis that the lowest level of detail will prevail in any discrepancy. If these corrections result in significant changes in the amount of money to be paid to the Proposer (if selected for the award of the agreement), the Proposer will be informed of the errors and corrections thereof and will be given the option to abide by the corrected amount or withdraw the proposal.

7. RIGHT TO REJECT PROPOSALS

- A. Before the proposal due date and time listed in the timeline of the RFP, the Judicial Council may cancel the RFP for any or no reason. After the proposal due date and time listed in the timeline of the RFP, the Judicial Council may reject all proposals and cancel the RFP if the Judicial Council determines that: (i) the proposals received do not reflect effective competition; (ii) the cost is not reasonable; (iii) the cost exceeds the amount expected; or (iv) awarding the contract is not in the best interest of the Judicial Council.
- B. The Judicial Council may or may not waive an immaterial deviation or defect in a proposal. The Judicial Council's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a Proposer from full compliance with RFP specifications. Until a contract resulting from this RFP is signed, the Judicial Council reserves the right to accept or reject any or all of the items in the proposal, to award the contract in whole or in part and/or negotiate any or all items with individual Proposers if it is deemed in the Judicial Council's best interest. A notice of intent to award does not constitute a contract, and confers no right of contract on any Proposer.
- C. The Judicial Council reserves the right to issue similar RFPs in the future. The RFP is in no way an agreement, obligation, or contract and in no way is the Judicial Council or the State of California responsible for the cost of preparing the proposal.
- D. Proposers are specifically directed **NOT** to contact any Judicial Council personnel or consultants for meetings, conferences, or discussions that are related to the RFP at any time between release of the RFP and any award and execution of a contract. Unauthorized contact with any Judicial Council personnel or consultants may be cause for rejection of the Proposer's proposal.

RFP #JBCP-2015-11-JT Request for Property Claims Administration Services
ATTACHMENT "C" -- ADMINISTRATIVE RULES GOVERNING RFPS (NON-IT SERVICES)

8. EVALUATION PROCESS

- A. An evaluation team will review all proposals that are received by the appropriate deadline to determine the extent to which they comply with RFP requirements.
- B. Proposals that contain false or misleading statements may be rejected if in the Judicial Council's opinion the information was intended to mislead the evaluation team regarding a requirement of the RFP.
- C. During the evaluation process, the Judicial Council may require a Proposer's representative to answer questions with regard to the Proposer's proposal. Failure of a Proposer to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.
- D. In the event of a tie, the contract will be awarded to the winner of a single coin toss. The coin toss will be witnessed by two Judicial Council employees. The Judicial Council will provide notice of the date and time of the coin toss to the affected Proposers, who may attend the coin toss at their own expense.

9. DISPOSITION OF MATERIALS

All materials submitted in response to the RFP will become the property of the Judicial Council and will be returned only at the Judicial Council's option and at the expense of the Proposer submitting the proposal.

10. PAYMENT

- A. Payment terms will be specified in any agreement that may ensue as a result of the RFP.
- B. **THE COURT DOES NOT MAKE ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provided in the agreement between the Judicial Council and the selected Proposer. The Judicial Council may withhold ten percent of each invoice until receipt and acceptance of the final deliverable. The amount of the withhold may depend upon the length of the project and the payment schedule provided in the agreement between the Judicial Council and the selected Proposer.

11. AWARD AND EXECUTION OF AGREEMENT

- A. Award of contract, if made, will be in accordance with the RFP to the highest scored proposal that satisfies all the requirements of the RFP and any addenda thereto (including any administrative or technical requirements), except for such immaterial defects as may be waived by the Judicial Council.
- B. A Proposer submitting a proposal must be prepared to use a standard Judicial Council contract form rather than its own contract form.

- C. The Judicial Council will make a reasonable effort to execute any contract based on the RFP within forty-five (45) days of selecting a proposal that best meets its requirements. However, exceptions taken by a Proposer may delay execution of a contract.
- D. Upon award of the agreement, the agreement shall be signed by the Proposer in two original contract counterparts and returned, along with the required attachments, to the Judicial Council no later than ten (10) business days of receipt of agreement form or prior to the end of June if award is at fiscal year-end. Agreements are not effective until executed by both parties. Any work performed before receipt of a fully-executed agreement shall be at Proposer's own risk.

12. FAILURE TO EXECUTE THE AGREEMENT

The period for execution set forth in Section 11 ("Award and Execution of Agreement") may only be changed by mutual agreement of the parties. Failure to execute the agreement within the time frame identified above constitutes sufficient cause for voiding the award. Failure to comply with other requirements within the set time constitutes failure to execute the agreement. If the successful Proposer refuses or fails to execute the agreement, the Judicial Council may award the agreement to the next qualified Proposer.

13. NEWS RELEASES

News releases or other publicity pertaining to the award of a contract may not be issued without prior written approval of the Judicial Council's Business Services Administrator.

14. ANTI-TRUST CLAIMS

- A. In submitting a proposal to the Judicial Council, the Proposer offers and agrees that if the proposal is accepted, Proposer will assign to the Judicial 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 the Proposer for sale to the Judicial Council pursuant to the proposal. Such assignment shall be made and become effective at the time the Judicial Council tenders final payment to the Proposer. (See Government Code section 4552.)
- B. If the Judicial Council receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Proposer shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Judicial Council any portion of the recovery, including treble damages, attributable to overcharges that were paid.
- C. Upon demand in writing by the Proposer, the Judicial Council shall, within one year from such demand, reassign the cause of action assigned under this section if the

RFP #JBCP-2015-11-JT Request for Property Claims Administration Services
ATTACHMENT "C" -- ADMINISTRATIVE RULES GOVERNING RFPS (NON-IT SERVICES)

Proposer has been or may have been injured by the violation of law for which the cause of action arose and (a) the Judicial Council has not been injured thereby, or (b) the Judicial Council declines to file a court action for the cause of action. (See Government Code section 4554.)

15. AMERICANS WITH DISABILITIES ACT

The Judicial Council complies with the Americans with Disabilities Act (ADA) and similar California statutes. Requests for accommodation of disabilities by Proposers should be directed to the Solicitations Mailbox.

ATTACHMENT "D"
JUDICIAL BRANCH CONTRACT LAW PROVISIONS

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

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

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

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

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

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

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

RFP #JBCP-2011-11-JT Request for Property Claims Administration Services

ATTACHMENT "D" -- Judicial Branch Contract Law Provisions

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

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

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

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

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

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

ATTACHMENT "D" -- Judicial Branch Contract Law Provisions

requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.

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

2.9. Agreements relating to DVBE Incentive. This section is applicable if Contractor received a disabled veteran business enterprise ("DVBE") incentive in connection with this Agreement. 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 JBE 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 JBE: (1) the total amount of money Contractor 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. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

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

ATTACHMENT "D" -- Judicial Branch Contract Law Provisions

incurred in obtaining that portion of the recovery. Upon demand in writing by the Contractor, the JBE shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the JBE has not been injured thereby, or (b) the JBE declines to file a court action for the cause of action.

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

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

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

2.14. Agreements that the JBE Cannot Terminate for Convenience. The JBE's obligations under this Agreement are subject to the availability of applicable funds. Funding beyond the initial appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement. Upon notice, the JBE may terminate this Agreement in whole or in part, without prejudice to any right or remedy of the JBE, if expected or actual funding is withdrawn, reduced, or limited in

ATTACHMENT "D" -- Judicial Branch Contract Law Provisions

any way. If this Agreement is terminated for nonavailability of funds, the JBE will pay Contractor for the fair value of work satisfactorily performed prior to the termination, not to exceed the total contract amount.

2.15 Agreements relating to small business preference. This section is applicable if Contractor received a small business preference in connection with this Agreement. 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 JBE 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 production of goods and the provision of services performed pursuant to this Agreement.

END OF EXHIBIT

RFP #JBCP-2015-11-JT Request for Property Claims Administration Services

Attachment "E" -- DVBE Participation Form

Firm Name:

This Project has a DVBE participation goal of three percent (3%) (DVBE Participation Goal). The selected Proposer must document its DVBE compliance with the DVBE Project Goal by completing the DVBE Participation Form.

Submission of your DVBE compliance forms will be required following notification of intent to award and prior to the signing of the Legal Agreement.

Complete Parts A & B

“Contractor’s Tier” is referred to several times below; use the following definitions for tier:

- 0 = Prime or Joint Contractor;
 - 1 = Prime subcontractor/supplier;
 - 2 = Subcontractor/supplier of level 1 subcontractor/supplier
-

DVBE PARTICIPATION FORM - PART A – COMPLIANCE WITH DVBE

FIRM

Company Name: _____
 Nature of Work: _____ Tier: _____
 Claimed Value: DVBE \$ _____
 Percentage of Total Contract Amount: DVBE _____%

SUBCONTRACTORS/SUB-SUBCONTRACTORS/PROPOSERS/SUPPLIERS

1. Company Name: _____
 Nature of Work: _____ Tier: _____
 Claimed Value: DVBE \$ _____
 Percentage of Total Contract Amount: DVBE _____%

2. Company Name: _____
 Nature of Work: _____ Tier: _____
 Claimed Value: DVBE \$ _____
 Percentage of Total Contract Amount: DVBE _____%

3. Company Name: _____
 Nature of Work: _____ Tier: _____
 Claimed Value: DVBE \$ _____
 Percentage of Total Contract Amount: DVBE _____%

GRAND TOTAL: DVBE _____%

I hereby certify that the Contract Price, as defined herein, is the amount of \$_____.
 I understand that the Contract Price is the total dollar figure against which the DVBE participation requirements will be evaluated.

<i>Name of Firm</i>	
<i>Signature of Person Signing for Firm</i>	
<i>Name (printed) of Person Signing for Firm</i>	
<i>Title of Above-Named Person</i>	
<i>Date</i>	

DVBE PARTICIPATION FORM - PART B – CERTIFICATION

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a Disabled Veterans Business Enterprise complies with the relevant definition set forth in California Code of Regulations, Title 2, section 1896.61, and Military and Veterans Code, section 999.

IT IS MANDATORY THAT THE FOLLOWING BE COMPLETED ENTIRELY;
FAILURE TO DO SO WILL RESULT IN IMMEDIATE REJECTION.

<i>Name of Firm</i>	
<i>Signature of Person Signing for Firm</i>	
<i>Name (printed) of Person Signing for Firm</i>	
<i>Title of Above-Named Person</i>	
<i>Date</i>	

End of DVBE Participation Form

RFP #JBCP-2015011-JT Request for Property Claims Administration Services
Attachment "F" Sample Contract Agreement

JUDICIAL COUNCIL OF CALIFORNIA
STANDARD AGREEMENT COVERSHEET

AGREEMENT NUMBER

@

SAMPLE COVERSHEET

FEDERAL EMPLOYER ID NUMBER

@

1. This Agreement is between the Judicial Council of California ("Judicial Council"), and @ ("Contractor"). Judicial Council and Contractor may be individually referred to herein as "Party" or collectively referred to herein as "Parties."
2. The term ("Term") of this Agreement shall commence on MM DD, 2015 (the "Effective Date") and shall expire on MM DD, 2017 (the "Expiration Date").
3. The title of this Agreement is: **Property Claims Administration Services Agreement 2015 – 2017.**
4. The maximum amount payable to Contractor under this Agreement shall not at any time exceed the Compensation duly owed Contractor in accordance with the provisions of Exhibit C, Invoicing and Payment Provisions.
5. The parties agree to the terms and conditions of this Agreement and acknowledge that the Agreement consists of this Standard Agreement Coversheet, the Contract Documents and any attachments thereto, and any subsequently executed Amendment(s). The following is the descending order of precedence that shall prevail in interpretation of the Contract Documents: Standard Agreement Coversheet, Exhibits A, B, G, E, C, D, and F. Any Amendment, starting with the most recently executed, shall take precedence over the previous Amendment(s) and Contract Documents, but only to the extent specified in that Amendment.
6. The following documents, and any documents explicitly referenced by them, shall be individually or collectively referred to as the "Contract Document(s)":
 - This Standard Agreement Coversheet
 - The Standard Agreement Forms/Coversheets used to execute any future Amendments;
 - Exhibit A - Standard Provisions;
 - Exhibit B - Special Provisions;
 - Exhibit C - Invoicing and Payment Provisions; [Extracted from Section 7.2 of the RFP](#)
 - Exhibit D - Prices; [Extracted/negotiated from Proposer's schedule of hourly rates](#)
 - Exhibit E - Statement of Work [Extracted from Section 6 of the RFP](#)
 - Exhibit F - Key Personnel [Extracted/negotiated from Proposer's submittal information](#)
 - Exhibit G – Judicial Branch Contracting Law Provisions.

Signature Block – Judicial Council

Signature Block – Contractor

Attachment "G"
PROPOSER'S ACCEPTANCE OF TERMS AND CONDITIONS

Instructions:

Initial the appropriate choice below; sign and return this completed attachment with your Technical Proposal as further defined in the RFP document.

_____ Proposer accepts the RFP documents, terms and conditions without exception.

OR

_____ Proposer herein proposes exception(s) and/or modification(s) to the RFP per documents (hard-copy) attached behind this sheet. Proposer must also submit both of the following: (i) an electronic copy of the same document in WORD format that displays a red-lined version of the proposed text, and (ii) a written explanation or rationale for each exception or proposed modification. *Note that total replacement of the RFP and/or attachments in their entirety may render a proposal non-responsive as exercised at the sole discretion of the Judicial Council.*

..... NUMBER OF SHEETS/PAGES ATTACHED HEREIN

NAME OF COMPANY-FIRM
BY (Authorized Signature) 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING

Attachment "H" -- GENERAL CERTIFICATIONS FORM

Check the box below, if agreed, and sign this attachment. Please note that the JBE will reject a proposal from a Proposer that does not indicate acceptance of these clauses.

CONFLICT OF INTEREST. Proposer has no interest that would constitute a conflict of interest under California Public Contract Code (PCC) sections 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.

SUSPENSION OR DEBARMENT. Proposer certifies that neither Proposer nor any of Proposer's intended subcontractors is on the California Department of General Services' list of firms and persons that have been suspended or debarred from contracting with the state because of a violation of PCC 10115.10, regarding disabled veteran business enterprises.

TAX DELINQUENCY. Proposer certifies that it is not on either (i) the California Franchise Tax Board's list of 500 largest state income tax delinquencies, or (ii) the California Board of Equalization's list of 500 largest delinquent sales and use tax accounts.

CONFLICT MINERALS. Proposer certifies that either (i) it is not a scrutinized company as defined in PCC 10490(b), or (ii) the goods or services the Proposer would provide to the JBE are not related to products or services that are the reason the Proposer must comply with Section 13(p) of the Securities Exchange Act of 1934. (Note: PCC 10490(b) defines a "scrutinized company" as "a person that has been found to be in violation of Section 13(p) of the Securities Exchange Act of 1934 by final judgment or settlement entered in a civil or administrative action brought by the Securities and Exchange Commission and the person has not remedied or cured the violation in a manner accepted by the commission on or before final judgment or settlement.")

Check this box to indicate full acceptance of the clauses above.

NAME OF COMPANY-FIRM
BY (<i>Authorized Signature</i>) 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING

Attachment “J” -- DARFUR CONTRACTING ACT CERTIFICATION

Pursuant to Public Contract Code (PCC) section 10478, if a bidder currently or within the previous three years has had business activities or other operations outside of the United States, it must either (i) certify that it is not a “scrutinized company” as defined in PCC 10476, or (ii) receive written permission from the Judicial Council to submit a bid.

<i>Company Name (Printed)</i>	<i>Federal ID Number</i>
-------------------------------	--------------------------

To submit a bid to the Judicial Council, you must complete **ONLY ONE** of the following three paragraphs.

To complete paragraph 1 or 2, simply check the corresponding box.

To complete paragraph 3, check the corresponding box **and** complete the certification for paragraph 3.

- 1. We do not currently have, and we have not had within the previous three years, business activities or other operations outside of the United States.

OR

- 2. We are a “scrutinized company” as defined in PCC 10476, but we have received written permission from the JUDICIAL COUNCIL to submit a bid pursuant to PCC 10477(b). *A copy of the written permission from the JUDICIAL COUNCIL is included with our bid.*

OR

- 3. We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we **certify below** that we are not a “scrutinized company” as defined in PCC 10476.

CERTIFICATION FOR PARAGRAPH 3:

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the bidder to the clause in paragraph 3. This certification is made under the laws of the State of California.

<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of _____</i> <i>in the State of _____</i>