

RFP Number: ISD-201002-CT

Project Title: Master Agreements for Technical Staff Augmentation Services

## **RFP Attachment B**

### **Master Agreement Terms and Conditions**

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**STANDARD PROVISION**  
**(EXHIBIT A)**

**1. Indemnification**

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

**2. Relationship of Parties**

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

**3. Termination for Cause**

A. Pursuant to this provision, the State may terminate this Agreement in whole or in part under any one of the following circumstances, by issuing a written Notice of termination for default to the Contractor:

- i. If the Contractor (a) fails to perform the services within the time specified herein or any extension thereof, (b) fails to perform any requirements of this Agreement, or (c) so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and, after receipt of a written Notice from the State specifying failure due to any of the preceding three (3) circumstances, the Contractor does not cure such failure within a period of five (5) business days or a longer period, if authorized in the Notice of failure; or,
- ii. If the Contractor should cease conducting business in the normal course, become insolvent or bankrupt, make a general assignment for the benefit of creditors, admit in writing its inability to pay its debts as they mature, suffer or permit the appointment of the receiver for its business or assets, merge with or be purchased by another entity, or avail itself of or become subject for a period of thirty (30) Days to any proceeding under any statute of any State authority relating to insolvency or protection from the rights of creditors.

B. In the event the State terminates this Agreement in whole or in part, due to the Contractor's failure to perform, the State may procure, upon such terms and in such manner as it may deem appropriate, supplies or services similar to those so terminated,

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and the Contractor shall be liable to the State for any excess costs for such similar supplies or services, subject to the limitations contained elsewhere herein; further, the Contractor shall continue the performance of this Agreement to the extent not terminated under this provision.

- C. The Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises out of acts of Force Majeure; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- D. If, after Notice of termination for default of this Agreement, it is determined for any reason that the Contractor was not in default under this provision, or that the default was excusable under this provision, the obligations of the State shall be to pay only for the services rendered at the rates set forth in the Agreement.
- E. The rights and remedies of either Party 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.

**4. No Assignment**

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

**5. Time of Essence**

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

**6. Validity of Alterations**

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

**7. Consideration**

The consideration to be paid to the Contractor under this Agreement shall be full compensation for all the Contractor's time, materials, costs and expenses incurred in the performance of this Agreement unless otherwise expressly provided.

*END OF STANDARD PROVISIONS (EXHIBIT A)*

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**SPECIAL PROVISIONS**  
**(EXHIBIT B)**

**1. Definitions**

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

- A. “**Agreement**” means the Master Agreement plus all Work Orders executed under the Master Agreement.
- B. “**Acceptance**” means the written acceptance issued to the Contractor by the State after the Contractor has completed a Deliverable, Submittal, or other Contract requirement, in compliance with the Contract Documents, including without limitation, Work Orders, and the Acceptance of the Work provision set forth in this exhibit.
- C. “**Administrative Director**” refers to that individual, or authorized designee, empowered by the State to make final and binding executive decisions on behalf of the State.
- D. “**After-Hours Maintenance and Support**” means performing technical maintenance and support activity Tasks of a Work Order after normal Working Hours on an as-needed basis when (i) required by the Work Order and (ii) specifically authorized in writing by the AOC’s Project Manager for that particular Work Order.
- E. “**Amendment**” means a written document issued by the State and signed by the Contractor which alters the Contract Documents and identifies the following: (i) a change in the Work; (ii) a change in Work Order Amount; (iii) a change in time allotted for performance; and/or (iv) an adjustment to the Agreement terms.
- F. “**Candidate**” refers to the individual(s) Contractor proposes in a WORF to be the Key Personnel to perform the Work set forth in a resulting Work Order.
- G. “**Classification**” refers to the description of the qualifications, capabilities, and abilities, generally required of the job/position, for technical staff augmentation services requested pursuant to this Master Agreement. Classifications are set forth in Exhibit C, Classifications, but additional Classifications may be added in writing by the AOC by Notice for incorporation via a subsequent Amendment.
- H. “**Confidential Information**” means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the State’s business or the business of its constituents. Confidential Information does not include (i) information that is already known by the receiving Party, free of obligation of confidentiality to the disclosing Party; (ii) information that becomes generally available to the public, other than as a result of disclosure by the receiving Party in breach of this Agreement; (iii)

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information that is independently developed by the receiving Party without reference to the Confidential Information; and (iv) information that the receiving Party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing Party.

- I. The “**Contract**” or “**Contract Documents**” constitute the entire integrated agreement between the State and the Contractor, as attached to and incorporated by a fully executed Standard Agreement Coversheet, including, without limitation, the Master Agreement and all related Work Orders. The terms “Contract” or “Contract Documents” may be used interchangeably with the term “**Agreement**.”
- J. The “**Contractor**” means the individual, association, partnership, firm, company, consultant, corporation, affiliates, or combination thereof, including joint ventures, contracting with the State to do the Contract Work. The Contractor is one of the Parties to this Agreement.
- K. “**Court(s)**” or “**Trial Court(s)**” means one or more of the fifty-eight (58) superior courts in the California state trial court system.
- L. “**Data**” means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- M. “**Day**” means calendar day, unless otherwise specified.
- N. “**Deliverable(s)**” or “**Submittal(s)**” means one or more items, if specified in the Contract Documents, that the Contractor shall complete and deliver or submit to the State for acceptance.
- O. “**Force Majeure**” means a delay which impacts the timely performance of Work for which neither the Contractor nor the State are liable because such delay or failure to perform was unforeseeable and beyond the control of the Party. Acts of Force Majeure include, but are not limited to:
  - i. Acts of God or the public enemy;
  - ii. Acts or omissions of any government entity;
  - iii. Fire or other casualty for which a Party is not responsible;
  - iv. Quarantine or epidemic;
  - v. Strike or defensive lockout; and,
  - vi. Unusually severe weather conditions.
- P. “**Home Base**” refers to the physical location set forth in a Work Order that identifies where the Contractor’s Key Personnel will be assigned to perform the Work of the Work Order.

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- Q. **“Key Personnel”** refers to the Contractor’s personnel named in Attachment 1, Contractor’s Key Personnel, of a Work Order whom the State has identified and approved to perform the Work of such Work Order. Qualifications of those Work Order Key Personnel are represented by the resumes set forth in Attachment 1, Contractor’s Key Personnel, of such Work Order, and their responsibilities are specified in the Work Order.
- R. **“Key Staff”** refers to the Contractor’s personnel named in Exhibit E, Contractor’s Key Staff, of the Master Agreement, whom the State has identified and approved to function in a key capacity in managing the work of the Contract.
- S. **“Master Agreement”** means the component of the Agreement that sets forth the terms and conditions under which the State retains the Contractor and the Contractor will provide technical staff augmentation services pursuant to executed Work Orders, if any.
- T. **“Material”** means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- U. **“Notice”** means a written document initiated by the authorized representative of either Party to this Agreement and given by:
- i. Depositing in the U. S. Mail (or approved commercial express carrier) prepaid to the address of the appropriate authorized representative of the other Party, which shall be effective upon date of receipt; or
  - ii. Hand-delivered to the other Party’s authorized representative, which shall be effective on the date of service.
- V. **“Party”** means either the AOC or Contractor, as the case may be.
- W. **“Project”** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State’s representatives.
- X. **“Staff Augmentation Work Order Coversheet”** or **“Staff Augmentation Work Order Amendment Coversheet”** means the form used by the State to enter into Work Orders or amend Work Orders under this Master Agreement. Staff Augmentation Work Order Coversheets and Staff Augmentation Work Order Amendments together with the integrated Contract Documents shall be executed as Contract Counterparts.
- Y. The **“State”** refers to the Judicial Council of California, Administrative Office of the Courts (**“AOC”**). The State is one of the Parties to this Agreement.

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- Z. **“Standard Agreement Coversheet”** or **“Standard Amendment Coversheet”** means the form used by the State to enter into agreements or amendments with other parties. Several originally signed, fully executed versions of the Standard Agreement Coversheet or Standard Amendment Coversheet, together with the integrated Contract Documents, shall each represent the Agreement or Amendment as an individual **“Contract Counterpart.”**
- AA. **“Stop Work Order”** means the written Notice, delivered in accordance with this Agreement, by which the State may require the Contractor to stop all, or any part, of the Work of this Agreement, for the period set forth in the Stop Work Order. The Stop Work Order shall be specifically identified as such and shall indicate that it is issued pursuant to the Stop Work provision in this Exhibit B.
- BB. **“Subcontractor”** shall mean an individual, firm, partnership, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of the Agreement. When the State refers to Subcontractor(s) in this document, for purposes of this Agreement and unless otherwise expressly stated, the term “Subcontractor” includes, at every level and/or tier, all subcontractors, suppliers, and materialmen.
- CC. **“Task(s)”** means one or more functions, if specified in the Contract Documents or Work Order, to be performed by the Contractor for the State.
- DD. **“Term”** refers to the period defined by a beginning date and an end date, in accordance with the terms and conditions set forth in the Agreement, during which the Contractor is authorized to provide the Contract Work. The possible Terms of the Agreement are described further in this Exhibit’s section 6, Agreement Term(s) and Options to Renew.
- EE. **“Third Party”** refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the State or the Contractor, which is not a party to this Agreement.
- FF. **“Travel Expense(s)”** shall mean the allowable, necessary travel, including air fare, mileage, local transportation, meals, lodging, and other travel related expenses, which are required of Contractor’s Key Personnel to perform the Work of a Work Order at a location away from the Home Base, and which are authorized and funded in the Work Order. Reimbursement for allowable Travel Expense(s) shall be as set forth in Exhibit C, Payment Provisions. Reimbursable Travel Expenses are not per diem and shall in no way be construed as a per diem for authorized and allowable Travel Expenses.
- GG. **“Work”** or **“Contract Work”** or **“Work to be Performed”** may be used interchangeably to refer to the service, labor, Materials, Data, and other items necessary for the execution and completion of the activities related to this Agreement to the satisfaction of the State. Work may also be defined to include Tasks,

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Deliverables, and/or Submittals required by the individual Work Order(s) that are performed or provided by the Contractor. The general nature of the Work of this Agreement is for Contractor to provide an undetermined number of high-quality, cost-effective, professional technical staff when and as needed, as more particularly described in Exhibit D, Work Order Process and Administration, and in any individual Work Order.

- HH. **“Work Order”** refers to a document, substantially in the form of **Attachment 2 of the Master Agreement** [for purposes of this RFP, this attachment is currently Attachment D-3 of the RFP], that is used by the State to authorize Work pursuant to this Master Agreement. Each Work Order, if any, will include details about the nature of the Work the Contractor will perform, the identity and qualifications of Contractor’s Key Personnel who will perform the Work, the timeline for completion of the Work, budget requirements, Tasks and responsibilities to be performed, Deliverables to be provided or other practical details. A Work Order is authorized when the Staff Augmentation Work Order Coversheet that is the first page of the Work Order has been bilaterally executed.
- II. **“Work Order Amount”** refers to the amount of funds set forth on the Staff Augmentation Work Order Coversheet or any subsequent Staff Augmentation Work Order Amendment Coversheet which constitutes the maximum amount that the State may pay to the Contractor for Work provided pursuant to each Work Order.
- JJ. **“Work Order Initial Term”** or **“WO Initial Term”** means the period of time from the Effective Date of a Work Order to the designated expiration date specified for that Work Order.
- KK. **“Work Order Option Term(s)”** or **“WO Option Term(s)”** means the designated period(s) of time set forth in a Work Order, if any, by which the Parties agree that the State may unilaterally elect to extend the Work Order beyond the WO Initial Term under the terms and conditions specified in the Work Order. Such Option Terms are generally in consecutive 12-month increments, but may be shorter or longer as specified in the Work Order.
- LL. **“Work Order Request Form”** refers to a document, substantially in the form of **Attachment 1 of the Master Agreement** [for purposes of this RFP, this attachment is currently Attachment D-2 of the RFP], that is used by the State to solicit the State’s professional technical staff requirements from the holders of each master agreement for professional technical staff requirements.
- MM. **“Working Hours”** refers to an eight (8) hour work shift on a business day.



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**2. Manner of Performance of Work**

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

**3. Termination Other Than for Cause**

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

**4. State's Obligation Subject to Availability of Funds**

- A. The State's obligation under this Agreement is subject to the availability of authorized funds. The State may terminate the Agreement, or any Work Order issued hereunder, or any part of the Contract Work, without prejudice to any right or remedy of the State, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or limited in any way prior to the expiration date set forth in this Agreement, or in any Amendment hereto, the State may terminate this Agreement, or any Work Order issued hereunder, in whole or in part, upon written Notice to the Contractor. Such termination shall be in addition to the State's rights to terminate for convenience or default.
- B. Payment shall not exceed the amount allowable for appropriation by Legislature. If the Agreement, or any Work Order issued hereunder, is terminated for non-appropriation:
  - i. The State will be liable only for payment in accordance with the terms of this Agreement, or any Work Order issued hereunder, for services rendered prior to the effective date of termination; and
  - ii. The Contractor shall be released from any obligation to provide further services pursuant to the Agreement, or any Work Order issued hereunder, as are affected by the termination.
- C. Funding for this Agreement, or any Work Order issued hereunder, beyond the current appropriation year is conditional upon appropriation by the Legislature of sufficient

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funds to support the activities described in this Agreement. Should such an appropriation not be approved, the Agreement, or any Work Order issued hereunder, may terminate at the close of the current appropriation year. The appropriation year ends on June 30 of each year.

**5. Stop Work**

- A. The State may, at any time, by written Notice to the Contractor, require the Contractor to stop all, or any part, of the Work of this Agreement, for a period up to ninety (90) Days after the Notice is delivered to the Contractor, and for any further period to which the Parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Stop Work Order during the period of Work stoppage. Within a period of ninety (90) Days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the Parties shall have agreed, the State shall either:
- i. Cancel the Stop Work Order; or
  - ii. Terminate the Work covered by the Stop Work Order as provided for in either of the termination provisions of this Agreement.
- B. If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume Work. The State shall make an equitable adjustment in the delivery schedule, the Contract Amount, or both, and the Agreement shall be modified, in writing, accordingly, if:
- i. The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Agreement; and
  - ii. The Contractor asserts its right to an equitable adjustment within thirty (30) Days after the end of the period of Work stoppage; however, if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Agreement.
- C. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the Termination Other Than For Cause provision or the State's Obligation Subject to Availability of Funds provision, as set forth under Exhibit B, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- D. The State shall not be liable to the Contractor for loss of profits because of the Stop Work Order issued under this provision.

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

- A. Until this Agreement is mutually signed and delivered, none of the terms and conditions of this Agreement shall have any legal force or effect, and any such prior commencement of performance by the Contractor shall be at the Contractor's own risk; provided, however, following mutual execution and delivery of this Agreement, the terms and conditions of this Agreement shall be deemed to apply equally to both subsequent and prior performance.
- B. The Agreement shall remain in effect from **April 6, 2011** through **March 31, 2013** ("**Initial Term**").
- C. The Parties agree that the State may elect to extend the Agreement beyond the Initial Term for up to three (3) consecutive optional one-year Terms, identified as follows, if authorized in writing in accordance with the terms and conditions of the Agreement:
  - i. **April 1, 2013** through **March 31, 2014** ("**First Option Term**").
  - ii. **April 1, 2014** through **March 31, 2015** ("**Second Option Term**").
  - iii. **April 1, 2015** through **March 31, 2016** ("**Third Option Term**").
- D. In the event the State elects to exercise an option to extend the Agreement, the Agreement will not exceed a total of five (5) years, as set forth in this provision, and the Parties will modify the Agreement via execution of the State's Standard Amendment Coversheet form.

**7. Agreement Administration/Communication**

- A. AOC Program Manager ("Program Manager").
  - i. The responsibilities of the State's Program Manager, **TBD**, include but are not limited to the following:
    - a) Acts as a liaison between the Contractor and the AOC, serving as the contact to whom the Contractor's Key Staff shall make all requests and other communications regarding the Master Agreement;
    - b) Proactively assists with resolution of issues regarding the Master Agreement;
    - c) Monitors and evaluates the Contractor's performance under the Master Agreement; and
    - d) Manages Classification listing.
  - ii. All requests and communications about the Master Agreement shall be made through the Program Manager.

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- B. AOC Work Order Project Manager (“Project Manager”).
- i. Each Work Order will identify the State’s representative to function in the role of Project Manager. The responsibilities of the State’s Project Manager include but are not limited to the following:
    - a) Provides direction regarding the Tasks and responsibilities of the Work Order;
    - b) Reviews, evaluates and approves submitted Deliverables;
    - c) Pre-approves any travel by the Key Personnel prior to Key Personnel incurring any Travel Expenses;
    - d) Pre-approves in writing After-Hours Maintenance and Support prior to Key Personnel incurring any After-Hours Maintenance and Support expenses;
    - e) Responsible for the day-to-day management of the Work Order, and
    - f) Monitors and evaluates the Key Personnel's performance under the Work Order.
  - ii. Except for Notices, all requests and communications about the Work to be performed under a specific Work Order shall be made through the Project Manager of that Work Order.

C. Notices

- i. Any Notice from the Contractor to the State shall be in writing and shall be delivered to the Program Manager as follows:

**TBD**, Program Manager  
Judicial Council of California  
Administrative Office of the Courts  
Information Services Division  
455 Golden Gate Ave.  
San Francisco, CA 94102

With a copy to:

Business Services Manager  
Judicial Council of California  
Administrative Office of the Courts  
Finance Division  
455 Golden Gate Ave.  
San Francisco, CA 94102

- ii. Other than for Notices, the Program Manager may be contacted as follows:

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Telephone: **TBD**  
Email: **TBD**

D. Notice to the Contractor shall be directed in writing to:

**TBD**

**8. Standard of Professionalism**

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

**9. Evaluation of Contractor**

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

**10. Acceptance of the Work**

A. The Project Manager shall be responsible for the sign-off acceptance of all the Work required and submitted pursuant to this Agreement. Prior to approval of the Work and prior to approval for payment, the Project Manager will apply the acceptance criteria set forth in subparagraph B of this provision, as appropriate, to determine the acceptability of the Work provided by the Contractor. Unsatisfactory ratings will be resolved as set forth in this provision.

B. Acceptance Criteria for Work (“**Criteria**”) provided by the Contractor pursuant to this Agreement:

i. Timeliness: The Work was delivered on time;

ii. Completeness: The Work contained the Data, Materials, and features required in the Contract; and

iii. Technical accuracy: The Work is accurate as measured against commonly accepted standard (for instance, a statistical formula, an industry standard, or de facto marketplace standard).

C. The Contractor shall provide the Work to the State, in accordance with direction from the Project Manager. The State shall accept the Work, provided the Contractor has delivered the Work in accordance with the Criteria. The Project Manager shall use the Acceptance and Signoff Form, provided as Attachment 6 to this Agreement’s Exhibit G, Attachments, to notify the Contractor of the Work’s acceptability.

D. If the State rejects the Work provided, the Project Manager shall submit to the Contractor a written rejection using Attachment 6, the Acceptance and Signoff Form,

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describing in detail the failure of the Work as measured against the Criteria. If the State rejects the Work, then the Contractor shall have a period of ten (10) business days from receipt of the Notice of rejection to correct the stated failure(s) to conform to the Criteria.

- E. If the Project Manager requests further change, the Contractor shall meet with the Project Manager, within three (3) business days of such request, to discuss changes for the final submission of the Work. The Contractor shall provide the Work within three (3) business days after this meeting, at which time the Work will be accepted or the question of its acceptability referred to the Administrative Director of the AOC and a principal of the Contractor, as set forth in subparagraph F below.
- F. If agreement cannot be reached between the Project Manager and the Contractor on the Work's acceptability, a principal of the Contractor and the Administrative Director of the AOC, or its designee, shall meet to discuss the problem. If agreement cannot be reached, in the reasonable judgment of the Administrative Director of the AOC, or its designee, and/or the Contractor fails to cure such deficiencies that are perceived in the Work to the reasonable satisfaction of the Administrative Director, or its designee, in the reasonable time established by the Administrative Director, the State may reject the Work and will notify the Contractor in writing of such action and the reason(s) for so doing. Upon rejection of the Work, the State may terminate this Agreement pursuant to the terms of section 3, as set forth in Exhibit A, Standard Provisions.

**11. Contractor's Personnel and Replacement of Personnel**

- A. The State reserves the right to disapprove the continuing assignment of any of the Contractor's personnel provided to the State under this Agreement if in the State's opinion, either the performance of the Contractor's personnel is unsatisfactory, or continued assignment of any of Contractor's personnel is not in the best interest of the State. The State agrees to provide Notice to the Contractor in the event it makes such a determination. If the State exercises this right, the Contractor shall immediately assign replacement personnel, possessing equivalent or greater experience and skills.
- B. If any of the Contractor's Key Staff become unavailable, or are disapproved in accordance with subparagraph A, above, during the term of this Agreement, the Contractor shall immediately assign replacement personnel acceptable to the Program Manager, possessing equivalent or greater experience and skills as that demonstrated in the resume set forth in Exhibit E, Contractor's Key Staff.
- C. If any of the Contractor's Key Personnel become unavailable, or are disapproved in accordance with subparagraph A, above, during the term of a Work Order, the Contractor shall immediately assign replacement personnel acceptable to the Project Manager, possessing equivalent or greater experience and skills as that demonstrated in the resume set forth in Attachment 1, Contractor's Key Personnel, of the relevant Work Order.

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- D. The Contractor shall endeavor to retain the same individuals on the Project during the performance of the Work of this Agreement. However, the Contractor may, with approval of the Project Manager, introduce personnel to the Project with specific skill sets or release personnel from the Project whose skill set is not needed at the time, except for the Contractor's Key Staff or Key Personnel.
- E. If any of the Contractor's Key Staff become unavailable or are disapproved and the Contractor cannot furnish a replacement acceptable to the State, the State may terminate this Agreement for cause pursuant to section 3, as set forth in Exhibit A, Standard Provisions.
- F. If any of the Contractor's Key Personnel become unavailable or are disapproved and the Contractor cannot furnish a replacement acceptable to the State, the State may terminate the relevant Work Order for cause pursuant to section 3, as set forth in Exhibit A, Standard Provisions.

**12. Subcontracting**

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

**13. Services Warranty**

The Contractor warrants and represents that each of its employees, independent contractors or agents assigned to perform any services or provide any technical assistance in planning, development, training, consulting or related services under the terms of this Agreement shall have the skills, training, and background reasonably commensurate with his or her level of performance or responsibility, so as to be able to perform in a competent and professional manner. The Contractor further warrants that the services provided hereunder will conform to the requirements of this Agreement. All warranties, including any special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and any other recipients of the services provided hereunder.

**14. Changes and Amendments**

- A. Changes or Amendments to any component of the Master Agreement can be made only with prior written approval from the Program Manager. Requests for changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. After the Program Manager reviews the request, a written decision shall be provided to the Contractor.

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Amendments to the Master Agreement shall be authorized via bilateral execution of a Standard Amendment Coversheet.

- B. Changes or Amendments to any component of a Work Order can be made only with prior written approval from the Project Manager. Requests for changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. Additional funds may not be encumbered under the Agreement due to an act of Force Majeure, although the performance period of the Agreement may be amended due to an act of Force Majeure. After the Project Manager reviews the request, a written decision shall be provided to the Contractor. Amendments to the Agreement shall be authorized via bilateral execution of a Work Order Amendment Form.
- C. The terms and conditions of this Master Agreement shall not be amended or changed by the terms of any Work Order, or any other type of document, even though the State may have accepted or signed such documents. In the event of a conflict with respect to the provisions of a Work Order and the Master Agreement, the terms and conditions of the Master Agreement shall prevail. No failure or delay by either Party in exercising any right, power or remedy with respect to any of its rights hereunder shall operate as a waiver thereof.

**15. Accounting System Requirement**

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

**16. Retention of Records**

The Contractor shall maintain all financial Data, supporting documents, and all other records relating to performance and billing under this Agreement for a period in accordance with State and Federal law, a minimum retention period being no less than four (4) years. The retention period starts from the date of the submission of the final payment request. The Contractor is also obligated to protect Data adequately against fire or other damage.

**17. Audit**

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

**18. Insurance Requirements**

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



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not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. For full coverage, each insurance policy shall be written on an “occurrence” form; excepting that insurance for professional liability, when required, may be acceptable on a “claims made” form. If coverage is approved and purchased on a “claims made” basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the work which is the subject of this Agreement.

- B. Minimum Scope and Limits of Insurance. The Contractor shall maintain insurance that covers the Contractor and the Assigned Personnel employed by the Contractor with limits no less than the following:
- i. Workers' Compensation at statutory requirements of the State of residency.
  - ii. Employers' Liability insurance shall not be less than **\$1,000,000.00** for injury or death for each occurrence.
  - iii. Comprehensive General Liability Insurance shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage “occurrence” form, with no coverage deletions. The limit shall not be less than **\$1,000,000.00** for each occurrence / **\$2,000,000.00** aggregate for bodily injury, property damage and personal injury. Coverage shall be:
    - (a) by “Additional Insured” endorsement add as insureds the State, its agents, and employees with respect to liability arising out of or connected with the service provided. In the event the Commercial General Liability policy includes a “blanket endorsement by contract,” the following language added to the certificate of insurance will satisfy the State’s additional insured requirement: “The State, its directors, agents and employees with respect to liability arising out of the work performed by or for the Contractor are additional insureds under a blanket endorsement”; and
    - (b) endorsed to specify that the Contractor’s insurance is primary and that any insurance or self-insurance maintained by the State shall not contribute with it.
  - iv. Business Automobile Liability Insurance coverage shall be at least as broad as the ISO Business Auto Coverage form covering Automobile Liability, code 1 “any auto.” The limit shall not be less than **\$1,000,000.00** each accident for bodily injury and property damage.

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- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the State. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the State and shall be the sole responsibility of the Contractor.
- D. Other Insurance Provisions.
- i. The General Liability policy required in this Agreement is to contain, or be endorsed to contain, the following provisions:
- (a) To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects the State, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the State, its officers, officials, employees or agents shall not contribute with the insurance or benefit the Contractor in any way; and
- (b) The Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- ii. In the event the Contractor will provide attorney, architectural, engineering, or other professional services, which require a "standard of care" against negligent acts, the Contractor will also maintain Professional Liability insurance, which covers the work provided by the Key Personnel, at not less than \$1,000,000.00 per claims made.
- E. The Contractor shall provide the State certificates of insurance satisfactory to the State evidencing all required coverages before Contractor begins any work under this Agreement, and complete copies of each policy upon the State's request.
- F. Subcontractors. The Contractor shall include any Subcontractors, including its Key Personnel, as insured under its policies, or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. Insurance coverage, provided by Subcontractors as evidence of compliance with the insurance requirements of this Agreement, shall be subject to all of the requirements stated herein.
- G. If at any time the foregoing policies shall be or become unsatisfactory to the State, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the State, the Contractor shall, upon Notice to that effect from the State, promptly obtain a new policy, and shall submit the same to the State, with the appropriate certificates and endorsements, for approval.

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H. All of the Contractor's policies shall be endorsed to provide advanced written Notice to the State of cancellation, nonrenewal, and reduction in coverage, within fifteen (15) Days, mailed to the following address: Judicial Council of California, Administrative Office of the Courts, Business Services Manager, 455 Golden Gate Ave., 7<sup>th</sup> Floor, San Francisco, CA 94102.

**19. Confidentiality**

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

**20. Copyrights and Rights in Data**

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

**21. Ownership of Results**

- A. Unless the Contractor and the State reach a written agreement to the contrary, the Contractor agrees for itself and its personnel that pursuant to the State's requirement (i) all documents, deliverables, software, systems designs, disks, tapes, and any other Data or Materials created in whole or in part by the Contractor in the course of or related to providing services to the State shall be treated as if it were "work for hire" for the State, and (ii) the Contractor will immediately disclose to the State all discoveries, inventions, enhancements, improvements, and similar creations

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(collectively, “**Creations**”) made, in whole or in part, by the Contractor in the course of or related to providing services to the State.

- B. All ownership and control of the above Data, Materials, and Creations, including any copyright, patent rights, and all other intellectual property rights therein, shall vest exclusively with the State, and the Contractor hereby assigns all right, title, and interest that the Contractor may have in such Data, Materials, and Creations to the State, without any additional compensation and free of all liens and encumbrances of any type. The Contractor affirms that the amount encumbered under this Agreement for the Work performed includes payment for assigning such rights to the State. The Contractor agrees to execute any documents required by the State to register its rights and to implement the provisions herein. Upon the State's written request, the Contractor shall provide the State with all this Data within thirty (30) Days of the request.
- C. The Contractor agrees not to assert any rights at common law, or in equity, or establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole, or part, or any manner or form, or authorize others to do so without the written consent of the State.

**22. Limitation on Publication**

The Contractor shall not publish or submit for publication any article, press release, or other writing relating to the Contractor's services for the State without prior review and written permission by the State.

**23. Limitation of Liability**

- A. The State shall not be responsible for loss of or damage to any non-State equipment arising from causes beyond the State's control.
- B. The Contractor indemnifies and holds harmless the State from and against all liability for personal injury or property damage caused by the Contractor's negligence or willful misconduct while performing its obligations pursuant to this Agreement on the State's premises. Any expiration or termination of this Agreement shall not affect the continuing obligations of the Parties described in this Agreement.

**24. Use of State or Court Provided Equipment**

Neither the State nor the Courts shall be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by the Contractor, or by any of its employees, Subcontractors or agents, even though such equipment may be provided to the Contractor by the State or Courts.

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**25. Conflict of Interest**

A. The Contractor and employees of the Contractor shall not participate in proceedings that involve the use of State funds or that are sponsored by the State if the person's partner, family, or organization has a financial interest in the outcome of the proceedings. The Contractor and employees of the Contractor shall also avoid actions resulting in or creating the appearance of (i) use of an official position with the government for private gain; (ii) preferential treatment to any particular person associated with this Agreement or the Work of this Agreement; (iii) loss of independence or impartiality; (iv) a decision made outside official channels; or (v) adverse effects on the confidence of the public in the integrity of the government or this Agreement.

B. The Contractor certifies and shall require any Subcontractor to certify to the following:

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

**26. Covenant Against Gratuities**

The Contractor warrants by signing this Master Agreement that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the Contractor or any agent, director, or representative of the Contractor, to any officer, official, agent, or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State will have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring, on the open market, any items which the Contractor agreed to supply, shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

**27. National Labor Relations Board**

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

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**28. Drug-Free Workplace**

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

**29. Nondiscrimination/No Harassment Clause**

- A. During the performance of this Agreement, the Contractor and its Subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. The Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- B. During the performance of this Agreement, the Contractor and its Subcontractors shall not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom the Contractor or its Subcontractors interact in the performance of this Agreement. The Contractor and its Subcontractors shall take all reasonable steps to prevent harassment from occurring.
- C. The Contractor shall comply with applicable provisions of the Fair Employment and Housing Act, California Government Code, Sections 12990 *et seq.*, and the applicable regulations promulgated under California Code of Regulations, title 2, Sections 7285 *et seq.* The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code, Section 12990, set forth in chapter 5 of division 4 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full.
- D. The Contractor and any of its Subcontractors shall give written Notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- E. The Contractor shall include the nondiscrimination/no harassment and compliance provisions of this clause in any and all subcontracts issued to perform Work under the Agreement.

**30. Americans with Disabilities Act**

By signing this Master 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.

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**31. California Law**

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

**32. Permits and Licenses**

The Contractor shall observe and comply with all federal, state, city, and county laws, rules, and regulations affecting services under this Agreement. The Contractor shall procure and keep in full force and effect during the term of this Agreement all permits and licenses necessary to accomplish the Work contemplated in this Agreement.

**33. Severability**

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

**34. Waiver**

The omission by either Party at any time to enforce any default or right, or to require performance of any of this Agreement's terms, covenants, or provisions by the other Party at the time designated, shall not be a waiver of the default or right, nor shall it affect the right of the Party to enforce those provisions later.

**35. Signature Authority**

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

**36. Survival**

The termination or expiration of the Agreement shall not relieve either Party of any obligation or liability accrued hereunder prior to or subsequent to such termination or expiration, nor affect or impair the rights of either Party arising under the Agreement prior to or subsequent to such termination or expiration, except as expressly provided herein.

**37. Dispute Resolution**

A. Project Managers Negotiations. The State's Project Manager and/or Program Manager and the Contractor's Account Manager shall attempt in good faith to informally and promptly resolve any disagreement that arises ("**Dispute**") that can be settled within the limits of authority granted them under this Agreement.

B. Dispute Notice. If the settlement of a disagreement is beyond the authority allowed the State's Project Manager and/or Program Manager and the Contractor's Account

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Manager under this Agreement, or if a disagreement has in the opinion of either Party persisted for an undue length of time, either Party may submit a written Notice to the other Party that the Parties will commence the procedure set forth in this section 37 to resolve the Dispute (“**Dispute Notice**”). The Dispute Notice shall include: (i) detailed factual information and supporting documentation in support of the submitting Party’s position; (ii) the specific Agreement provisions on which the Dispute is based; and (iii) if the Dispute involves a cost adjustment, the exact amount of the cost adjustment accompanied by all records supporting the submitting Party’s position. The Dispute Notice shall include a written statement signed by an authorized representative of the submitting Party indicating that the Dispute is made in good faith, that the supporting data and documents are accurate and complete, and that the amount requested, if any, accurately reflects the adjustment for which the submitting Party believes the other Party is responsible. To assist the other Party in its review of the Dispute, the submitting Party shall promptly comply with reasonable requests for additional information.

- C. Dispute Notice Response. Within fifteen (15) Days of receiving the Dispute Notice, the receiving Party shall provide a written response to the submitting Party’s Dispute Notice (“**Dispute Notice Response**”). The Dispute Notice Response shall include: (i) detailed factual information and supporting documentation in support of the receiving Party’s position; and (ii) if the Dispute involves a cost adjustment, state the exact amount that the receiving Party believes is at issue accompanied by all records supporting the receiving Party’s position.
- D. Senior Level Negotiations. If after fifteen (15) Days of receipt of the Dispute Notice Response by the submitting Party or, in the event that the receiving Party fails to timely submit a Dispute Notice Response, either Party may, by providing written Notice to the other Party, request that the Dispute be resolved by direct negotiations between senior level negotiators of the Parties (“**Senior Level Negotiations Notice**”). The senior level negotiators shall meet in person or by phone as often as they deem reasonably necessary to exchange information and attempt to resolve the Dispute within thirty (30) Days after the Senior Level Negotiations Notice is given to the other Party.
- E. Litigation. If the senior level negotiations do not result in resolution of the Dispute, either Party may pursue any legally available remedy.
- F. Confidentiality. All negotiations conducted pursuant to this section 37 are confidential and shall be treated as compromise and settlement negotiations to which California Evidence Code section 1152 applies. The mediation shall be confidential and shall be subject to the provisions of California Evidence Code section 703.5 and sections 1115 through 1128.
- G. Continuation of Work. Pending the final resolution of any Dispute arising under, related to, or involving this Agreement, Contractor agrees to diligently proceed with



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the performance any Work under Dispute in accordance with the provisions of this Agreement and the AOC's instructions. Contractor's failure to diligently proceed with performance in this manner will be considered a material breach of this Agreement.

**38. Entire Agreement**

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

*END OF SPECIAL PROVISIONS (EXHIBIT B)*

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**PAYMENT PROVISIONS  
(EXHIBIT C)**

1. Compensation for Contract Work

- A. For performing the work of this Agreement as set forth in a Work Order, the State shall compensate the Contractor for an amount not to exceed the Work Order Amount set forth in such Work Order and compensation shall be based upon the actual cost at the applicable Work Order rates, and reduced by the appropriate discount rate in accordance with this Exhibit.
- B. Except for the specific Travel Expenses set forth in section 3, below, when authorized and funded in a Work Order, the hourly rate(s) set forth in a Work Order include all costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for services rendered to the State.
- C. The Contractor shall not request nor shall the State consider any reimbursement for non-production work including but not limited to time spent traveling to and from the Home Base, job site or any living expenses.
- D. The Contractor shall not charge nor shall the State pay any overtime rate.
- E. Fully Burdened Labor Rates. In determining the fully burdened labor rate for individual Key Personnel for each Work Order, either section E.i. or E.ii applies, but not both for the same Key Personnel:
  - i) Fully burdened labor rates for Key Personnel in Work Orders awarded under this Master Agreement will be made up of the hourly rate Contractor pays to Key Personnel plus Contractor’s total mark-up (Contractor’s overhead and profit percentages). Contractor’s total mark-up percentage for the appropriate term shall not exceed the percentage set forth in the following Table 1:

**Table 1: Contractor’s Mark-up**

	<b>Initial Term</b>	<b>1st Option Term</b>	<b>2nd Option Term</b>	<b>3rd Option Term</b>
<b>Total Mark-up (Percent)</b>	<b>TBD</b>	<b>TBD</b>	<b>TBD</b>	<b>TBD</b>

OR

- ii) In the event Contractor uses a subcontracted company/firm to supply Key Personnel for a Work Order awarded under this Master Agreement, the fully

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burdened labor rate will only include the hourly rate proposer pays to Key Personnel plus Contractor's mark-up percentage rate for using a subcontracted firm. Contractor's subcontractor mark-up percentage for the appropriate term shall not exceed the percentage set forth in the following Table 2:

**Table 2: Contractor's Subcontractor Mark-up**

	Initial Term	1st Option Term	2nd Option Term	3rd Option Term
<b>Subcontractor Mark-up (Percent)</b>	TBD	TBD	TBD	TBD

- F. The States compensation of Contractor for the Work of Work Orders shall be discounted based on the number of concurrent Work Orders in place under the Master Agreement at the end of each calendar month, except for Travel Expenses which shall not be discounted. The Contractor shall apply the appropriate discount rate set forth in the following Table 3 when invoicing for each Work Order in place under the Master Agreement.

**Table 3: Discount Rates**

	Number of Concurrent Work Orders in Place				
	1-3	4-6	7-10	11-14	15+
<b>Percent (%) Discount to be Applied to Work Order(s)</b>	TBD	TBD	TBD	TBD	TBD

2. After-Hours Maintenance and Support

- A. When specified that After-Hours Maintenance and Support may be required in performing the Work of a particular Work Order pursuant to paragraph 8 of such Work Order, and that such After-Hours Maintenance and Support is subsequently authorized in writing by the AOC Project Manager, substantially in the form of **Attachment 5-C of the Master Agreement** [for purposes of this RFP, this reference is currently Attachment E-3 of the RFP], the State shall compensate the Contractor for the the After-Hours Maintenance and Support. Such compensation shall be at the hourly rate set forth in Attachment 4 of appropriate Work Order, provided such total actual cost shall not exceed the Not to Exceed Amounts set forth in the relevant Work Order's Attachment 4. Use of any such After-Hours Maintenance and Support account is limited to within the State's fiscal year (July 1 – June 30) specified in the relevant Work Order's Attachment 4.

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- B. Except for the specific Travel Expenses, when authorized as set forth in the relevant Work Order, the hourly rate(s) for After-Hours Maintenance and Support set forth in Attachment 4 of appropriate Work Order, is (are) inclusive of all costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for services rendered to the State.
  - C. The Contractor shall not exceed nor bill the State in excess of hours of service set forth in Attachment 4 of the appropriate Work Order for After-Hours Maintenance and Support.
  - D. The Contractor shall not charge nor shall the State pay any overtime rate for After-Hours Maintenance and Support.
  - E. The Contractor shall not request nor shall the State consider any reimbursement for non-production work including but not limited to time spent traveling to and from the job site or any living expenses with respect to After-Hours Maintenance and Support.
  - F. The Contractor shall include a signed After-Hours Maintenance and Support Authorization Form, substantially in the form of **Attachment 5-C of the Master Agreement** [for purposes of this RFP, this reference is currently Attachment E-3 of the RFP], to substantiate any and all invoices that contain a reimbursement request for After-Hours Maintenance and Support.
3. Compensation for Allowable Travel Expenses
- A. Provided travel of Contractor's Key Personnel away from Home Base has been specified as required in a Work Order, and the Work Order includes funding for Travel Expenses, the State shall reimburse the Contractor for Travel Expenses as follows:
    - i) The State shall reimburse the Contractor its actual expenses incurred for allowable Travel Expenses required to perform the Work of this Agreement subject to the reimbursement limitations set forth herein.
    - ii) **Commute travel from the Contractor's or Key Personnel's home or place of business to the designated Home Base set forth in a Work Order is not an authorized Travel Expense and there shall be no reimbursement of any such commute expenses.**
    - iii) The Contractor shall submit a written travel plan to the Project Manager, including estimated costs, for review and approval, at the beginning of the Project. The Contractor shall submit revised travel plans for review and approval when and as deemed necessary by the Project Manager.

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- iv) The Contractor shall submit original invoices and receipts for all Travel Expenses claimed for reimbursement. For ticketless air travel where an original receipt is not available, the Contractor shall submit either the traveler's printed airline itinerary email that includes payment confirmation or a copy of the traveler's credit card statement with the air travel charge(s) highlighted.
  - v) For necessary air transportation, the State will reimburse the Contractor for the actual cost incurred for coach class on a standard carrier.
  - vi) For overnight travel, in accordance with the California Victim Compensation and Government Claims Board (formerly State Board of Control) guidelines, the State will reimburse the Contractor for lodging expenses in an amount not to exceed **\$110.00** per Day, plus sales tax and energy surcharge. Within the counties of Alameda, San Francisco, San Mateo, and Santa Clara, the maximum rate is **\$140.00** per Day, plus sales tax and energy surcharge for lodging expenses. Meals shall be reimbursed at the actual cost not to exceed the following maximum amounts per person per Day: breakfast~**\$6.00**; lunch~**\$10.00**; dinner~**\$18.00**.
  - vii) For continuous travel of less than 24 hours, the following shall govern whether actual meal expenses up to the limits of subparagraph 3.A.vii), above, are reimbursable:
    - a) Breakfast may be claimed if travel begins one hour before normal work hours;
    - b) Dinner may be claimed if travel ends one hour after normal work hours; and
    - c) Lunch may not be claimed on trips of less than 24 hours.
  - viii) For necessary private vehicle ground transportation usage, the State will reimburse the Contractor at the then current IRS mileage reimbursement rate. Contractor must provide Mapquest<sup>®</sup>, or equivalent, printout to substantiate mileage claim.
  - ix) The total amount the State may pay the Contractor for allowable Travel Expenses under any Work Order shall be included in the Work Order Amount that is set forth in the Work Order.
- B. Contractor shall use the Expense Statement form set forth as **Attachment 5-D of this Master Agreement** when claiming reimbursement for Travel Expenses [for purposes of this RFP, this reference is currently Attachment E-4 of the RFP], and which shall not be included in either (i) the Monthly Summary Statement at the Master Agreement-Level (see Attachment 5-A of this Master Agreement) [for purposes of this RFP, this reference is currently Attachment E-1 of the RFP], or (ii) the Detailed

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Invoice at Work Order-Level (see Attachment 5-B of this Master Agreement) [for purposes of this RFP, this reference is currently Attachment E-2 of the RFP].

4. Direct Expenses

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

5. Other Expenses

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

6. Taxes

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

7. Method of Payment

- A. Upon providing the Work and/or Deliverable(s) of a Work Order, the Contractor shall submit an invoice package monthly for Work completed. The invoice package shall be made up of a monthly summary statement identifying certain information regarding all Work Orders issued under the Master Agreement, and separate, precise detailed invoices for each Work Order. After receipt of the invoice, the State will either approve the invoice(s) for payment or give the Contractor specific written reasons why part or all of the payment is being withheld and what remedial actions the Contractor must take to receive the withheld amount.
- B. Contractor shall submit claims for reimbursement of Travel Expenses no later than **60-days** after the end of the month in which the Key Personnel incurred any such Travel Expenses.
- C. The State will make payment in arrears after receipt of the Contractor's properly completed invoice package. The submitted invoice package shall be substantially in the form and substance as set forth in Attachment E, Sample Invoice Package, of this Master Agreement, and at a minimum include the following:

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Monthly Summary Statement at Master Agreement-Level

- i) The Contractor's name and address;
- ii) The taxpayer identification number (the Contractor's federal employer identification number);
- iii) Date of the summary statement;
- iv) The Master Agreement number;
- v) The appropriate discount rate (percentage) from the Master Agreement
- vi) Heading titled "**ISD Work Orders:**" and including the following for each ISD Work Order for the invoice period: **(ISD Work Orders are distinguished by an ISD prefix in the Work Order number)**
  - (a) Work Order Number
  - (b) Name of Key Personnel
  - (c) The subtotal amount for Work performed, Deliverable(s) made;
  - (d) The subtotal amount for After-Hours Maintenance and Support;
  - (e) The discount rate and discounted amount to be subtracted from the subtotals for Work performed, Deliverable(s) made, and After-Hours Maintenance and Support; and
  - (f) The net invoice amount for the Work Order;
- vii) A Subtotal for **ISD Work Orders**;
- viii) Heading titled "**SRO Work Orders:**" and including the following for each SRO Work Order for the invoice period: **(SRO Work Orders are distinguished by an SRO prefix in the Work Order number)**
  - (a) Work Order Number
  - (b) Name of Key Personnel
  - (c) The subtotal amount for Work performed, Deliverable(s) made;
  - (d) The subtotal amount for After-Hours Maintenance and Support;
  - (e) The discount rate and discounted amount to be subtracted from the subtotals for Work performed, Deliverable(s) made, and After-Hours Maintenance and Support; and
  - (f) The net invoice amount for the Work Order;
- ix) A Subtotal for **SRO Work Orders**; and
- x) A Total for all Work Orders.

Detailed Invoice at Work Order-Level

- i) The Contractor's name and address;
- ii) The taxpayer identification number (the Contractor's federal employer identification number);
- iii) The "Bill To" address;
- iv) A preferred remittance address, if different from the mailing address;
- v) Invoice date;
- vi) A unique invoice number;
- vii) The Master Agreement number;
- viii) The Work Order number;
- ix) Name of Key Personnel;
- x) The name of the AOC's Project Manager, as indicated on the Work Order;

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- xi) For Work performed, Deliverable(s) made, for the invoice period, include the following:
  - (a) A description of the completed Work;
  - (b) The dates and hours worked;
  - (c) The billing rate as set forth in the Work Order;
  - (d) The extended amount for each day worked; and
  - (e) A subtotal for Work performed, Deliverable(s) made, for the invoice period, including total hours worked and total extended amount for labor;
- xii) For After-Hours Maintenance and Support for the invoice period, include the following:
  - (a) The dates and hours worked for After-Hours Maintenance and Support ;
  - (b) The billing rate for After-Hours Maintenance and Support as set forth in the Work Order;
  - (c) The extended amount for each day After-Hours Maintenance and Support was provided;
  - (d) A subtotal for After-Hours Maintenance and Support for the invoice period, including total hours worked for After-Hours Maintenance and Support and total extended amount for After-Hours Maintenance and Support; and
  - (e) A copy of the signed After-Hours Maintenance & Support Authorization Form;
- xiii) A subtotal of Work performed, Deliverable(s) made, and After-Hours Maintenance and Support;
- xiv) The applicable discount rate (percentage) to be applied to Work performed, Deliverable(s) made, and After-Hours Maintenance and Support, and the discounted amount to be subtracted from the labor component [the sum of (the subtotal of Work performed Deliverable(s) made and After-Hours Maintenance and Support) X (discount rate)]; and
- xv) The net invoice amount for the Work Order.

Expense Statement

- i) Completed Expense Statement for each Work Order where reimbursement for Travel Expenses is being claimed, provided travel is specified as required and subsequently funded by a Work Order; and
- ii) Original invoices, receipts, or printouts are required to substantiate each expense item being claimed.

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

Judicial Council of California  
Administrative Office of the Courts  
c/o Information Services Division, Attn: **TBD**  
455 Golden Gate Avenue, 3<sup>rd</sup> Floor  
San Francisco, CA 94102-3688



**Attachment B**  
**Master Agreement Terms and Conditions**

E. Please note that invoices or vouchers not on printed bill heads shall be signed by the Contractor or the person furnishing the supplies or services.

8. Disallowance

If the Contractor claims or receives payment from the State for a service or reimbursement that is later disallowed by the State, the Contractor shall promptly refund the disallowed amount to the State upon the State's request. At its option, the State may offset the amount disallowed from any payment due or that may become due to the Contractor under this Agreement or any other agreement.

*END OF PAYMENT PROVISIONS (EXHIBIT C)*

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**Attachment B**  
**Master Agreement Terms and Conditions**

**WORK ORDER PROCESS AND ADMINISTRATION**  
**(EXHIBIT D)**

See RFP Attachment D-1

*END OF WORK ORDER PROCESS AND ADMINISTRATION (EXHIBIT D)*

**Attachment B**  
**Master Agreement Terms and Conditions**

**CONTRACTOR'S KEY STAFF**  
**(EXHIBIT E)**

1. The following individual, or equivalent as approved pursuant to Exhibit B, Special Provisions, paragraph 11, Contractor's Personnel and Replacement of Personnel, shall be the Key Staff designated to perform and function in a key capacity in managing the work of the Contract:

Name of Key Staff	Role
<b>TBD</b>	Account Manager
<b>TBD</b>	Accounting Lead
<b>TBD</b>	Sourcing Manager

2. The resumes of the Contractor's Key Staff, identified above, are attached to this Exhibit and set forth on the following page(s).

*END OF CONTRACTOR'S KEY STAFF (EXHIBIT E)*

**Attachment B**  
**Master Agreement Terms and Conditions**

**CLASSIFICATIONS**  
**(EXHIBIT F)**

See RFP Attachment C

*END OF CLASSIFICATIONS (EXHIBIT F)*

**Attachment B**  
**Master Agreement Terms and Conditions**

**ATTACHMENTS**  
**(EXHIBIT G)**

This Exhibit includes the following templates/forms:

- 1) Attachment 1, Sample Work Order Request Form
- 2) Attachment 2, Sample Work Order Form
- 3) Attachment 3, Sample Work Order Amendment Form (Bilateral)
- 4) Attachment 4, Sample Work Order Amendment Form (Unilateral)
- 5) Attachment 5, Sample Invoice Package
  - A. Monthly Summary Statement at Master Agreement-Level
  - B. Detailed Invoice at Work Order-Level
  - C. After-Hours Maintenance and Support Authorization
  - D. Expense Statement
- 6) Attachment 6, Acceptance of Work and Sign-Off Form

*END OF ATTACHMENTS (EXHIBIT G)*

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**Attachment B**  
**Master Agreement Terms and Conditions**

**SAMPLE WORK ORDER REQUEST FORM**  
**(ATTACHMENT 1)**

See RFP Attachment D-2

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**Master Agreement Terms and Conditions**

**SAMPLE WORK ORDER FORM**  
**(ATTACHMENT 2)**

See RFP Attachment D-3

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**Attachment B**  
**Master Agreement Terms and Conditions**

**SAMPLE WORK ORDER AMENDMENT FORM (BILATERAL)**  
**(ATTACHMENT 3)**

**(Not Yet Developed by AOC)**



RFP Number: ISD-201002-CT

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**Attachment B**  
**Master Agreement Terms and Conditions**

**SAMPLE WORK ORDER AMENDMENT FORM (UNILATERAL)**  
**(ATTACHMENT 4)**

**(Not Yet Developed by AOC)**

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**Attachment B**  
**Master Agreement Terms and Conditions**

**SAMPLE INVOICE PACKAGE**  
**(ATTACHMENT 5)**

See RFP Attachment E

**Attachment B**  
**Master Agreement Terms and Conditions**

**ACCEPTANCE OF WORK AND SIGN-OFF FORM**  
**(ATTACHMENT 6)**

*The remainder of this page intentionally left blank*

**Attachment B**  
**Master Agreement Terms and Conditions**

**ATTACHMENT 6**  
**ACCEPTANCE OF WORK AND SIGN-OFF FORM**

▶ Work Order No. \_\_\_\_\_ Master Agreement No. \_\_\_\_\_

▶ Description of Work for Deliverable No. \_\_\_\_\_ provided by Contractor:  
\_\_\_\_\_  
\_\_\_\_\_

▶ Date submitted: \_\_\_\_\_

▶ Work is:

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

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

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

▶ Please indicate the level of satisfaction:  Poor  Fair  Good  Very Good  Excellent

▶ Comments, if any:  
\_\_\_\_\_  
\_\_\_\_\_

▶ Work:  is accepted.  is unacceptable as noted above.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*(END OF ATTACHMENT 6)*

\*\*END OF MASTER AGREEMENT TERMS AND CONDITIONS\*\*  
\*\*RFP ATTACHMENT B\*\*