

STANDARD AGREEMENT —

STD. 2 (REV.5-91)

Contract Number	Amendment Number
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER	

THIS AGREEMENT is made and entered into this 1st day of July, 2009 ("Effective Date"), in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE Business Services Manager	ENTITY Judicial Council of California Administrative Office of the Courts 55 Golden Gate Ave. San Francisco, CA 94102	hereafter called the State, and
CONTRACTOR'S NAME		hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and deliverables as specified in Exhibit D.

Incorporated into this Agreement herewith, and attached hereto, are the following Contract Documents: (1) Exhibit A, Standard Provisions; (2) Exhibit B, Special Provisions; (3) Exhibit C, Payment Provisions; (4) Exhibit D, Work to be Performed and Work Authorization Administration, and (5) Exhibit E, Attachments, including Attachment 1, Work Authorization Request Form. In the event of a conflict between the Contract Documents, the following descending order of precedence shall govern: Exhibit A, Exhibit B, Exhibit C, Exhibit D and Exhibit E. Any Amendments, starting with the most recent, shall take precedence over the existing Contract Documents.

The purpose of this Agreement is to set forth the terms and conditions that apply to Contractor's furnishing of real estate appraisal services to the State. The State is not obligated to encumber funds as a result of entering into this Agreement with the Contractor, nor is it obligated to issue any number of Work Authorizations. Except as expressly provided in the Agreement, no liability shall attach to the State by reason of entering into this Agreement.

The Contract Amount shall not at any time during the Term of this Agreement exceed the "Total Amount Encumbered To Date" specified on this State Standard Agreement form, which is hereby used to enter into this Agreement, or the most recent of any subsequent State Standard Agreement form(s) issued to reinstate or amend this Agreement. As further set forth in Exhibit D, Work to Be Performed - Work Authorization Administration, the State, at its sole discretion, and from time to time, on a Work Authorization by Work Authorization basis, may authorize Work and the spending of funds by the issuance of Work Authorizations. Only Work Authorizations shall act to made funds available to Contractor for the performance of Work under this Agreement, as further specified in this Agreement.

As set forth in Exhibit D, Work to Be Performed - Work Authorization Administration, the State may request Work from the Contractor and the Contractor shall provide to the State competent personnel for the purpose of performing the Work. Any and all Work performed under this Agreement by such personnel will be authorized only when a Work Authorization has been bilaterally executed.

This Agreement shall be effective upon the Effective Date and shall, unless otherwise extended or reinstated as specified in this Agreement expire upon June 30, 2010 ("Expiration Date"). Each individual Work Authorization will include a Work Authorization number and establish a specific period of performance for the Work Authorization, however, regardless of any indications to the contrary in a Work Authorization, all Work to be performed pursuant to this Agreement must be completed not later than the Expiration Date, or, if this Agreement has been extended or reinstated, not later than the expiration date specified in said extension or reinstatement. The State shall not be liable for the payment for any Work performed following the Expiration Date of this Agreement.

IN WITNESS WHEREOF, this Agreement has been entered into by the parties hereto, effective upon the Effective Date.

STATE OF CALIFORNIA		CONTRACTOR			
ENTITY Judicial Council of California		CONTRACTOR (if other than an individual, state whether a corporation, partnership, etc.)			
BY (AUTHORIZED SIGNATURE) ▷		BY (AUTHORIZED SIGNATURE) ▷			
PRINTED NAME OF PERSON SIGNING Grant Walker		PRINTED NAME AND TITLE OF PERSON SIGNING			
TITLE Business Services Manager		ADDRESS Attn:			
AMOUNT ENCUMBERED BY THIS DOCUMENT \$	PROGRAM/CATEGORY (CODE AND TITLE)	FUND TITLE		<i>Department of General Services Use Only</i> EXEMPT FROM DEPARTMENT OF GENERAL SERVICE APPROVAL.	
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$0.00	(OPTIONAL USE)				
TOTAL AMOUNT ENCUMBERED TO DATE \$	ITEM	CHAPTER	STATUTE		FISCAL YEAR
	OBJECT OF EXPENDITURE (CODE AND TITLE)				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period of the expenditure stated above.		T.B.A. NO.	B.R. NO.		
SIGNATURE OF ACCOUNTING OFFICER ▷		DATE			

CONTRACTOR STATE ENTITY DEPT. OF GEN. SER. CONTROLLER

EXHIBIT A
STANDARD PROVISIONS

1. Indemnification

The Contractor agrees, to the fullest extent permitted by law, to indemnify, defend (with counsel satisfactory to the AOC), and hold harmless (collectively, "Indemnify") the State, the Judicial Council of California, the Administrative Office of the Courts, 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, contractors, representatives, volunteers and employees (individually, an "Indemnified Party") from any and all claims, lawsuits, losses, costs (including attorney fees and costs), liabilities, and damages arising from, related to or in connection with, in whole or in part, any of the following:

- (a) the Contractor's acts, errors or omissions committed or alleged to have been committed which arise out of rendering or failure to render the professional Services provided under the terms of this Agreement
- (b) the Contractor's breach of its obligations under this Agreement,
- (c) the Contractor's violation of any applicable law, rule, or regulation, and
- (d) a claim from or lawsuit by a third party, contractor, subcontractor, supplier, or 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 its agents or employees arising from, related to, or in connection with, the Contractor's performance of this Agreement.

This paragraph does not require the Contractor to Indemnify an Indemnified Party for such portion of any loss, cost, liability, or damage that arises solely from the negligence or intentional misconduct of the Indemnified Party.

2. Relationship of Parties

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

3. Termination for Cause

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

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Agreement or any other agreement, and the balance, if any, shall be paid to the Contractor upon demand.

4. No Assignment

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

5. 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, 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 Contractor under this Agreement shall in no event exceed the Contract Amount. Contractor shall be paid in accordance with the Payment Provisions set forth in Exhibit "C" of this Agreement. The State's payments to Contractor pursuant to this section shall constitute full compensation for all of Contractor's time, materials, costs and expenses incurred in the performance of this Agreement.

END OF EXHIBIT

EXHIBIT B
SPECIAL PROVISIONS

1. Definitions

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

- A. “**Acceptance**” means the e-mail notification, which shall be issued to the Contractor by the State’s Project Manager after the Contractor has completed a Deliverable, Submittal, or other Contract requirement as specified in an authorized Work Authorization, in compliance with the Contract Documents, including, without limitation, Exhibit D, Work to Be Performed and Work Authorization Administration.
- B. “**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.
- C. “**Amendment**” means a written document issued by the State and signed by the Contractor which alters the Contract Documents and identifies the following: (1) a change in the Work; (2) a change in Contract Amount; (3) a change in time allotted for performance; and/or (4) an adjustment to the Agreement terms.
- D. “**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) 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.
- E. The “**Contract**” or “**Contract Documents**” constitute the entire integrated agreement between the State and the Contractor, as attached to and incorporated by a fully executed State Standard Agreement form. The terms “Contract” or “Contract Documents” may be used interchangeably with the term “**Agreement.**”
- F. “**Contract Amount**” means the total amount encumbered under this Agreement for any payment by the State to the Contractor for performance of the Work, in accordance with the Contract Documents.
- G. 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.

- H. **“Data”** means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- I. **“Day”** means calendar day, unless otherwise specified.
- J. **“Deliverable(s)”** or **“Submittal(s)”** means one or more tangible items, if specified in the Contract Documents, that the Contractor shall complete and deliver or submit to the State for acceptance.
- K. **“Expenses”** means transportation, meals and lodging expenses actually incurred by Contractor’s employees in the course of performing the Services ordered under this Agreement.
- L. **“Fixed Price Basis”** means that Contractor shall be paid a set and fixed amount as complete payment for a particular Service. Said payment is inclusive of all costs, any materials needed to perform the Service, and all benefits, expenses, fees, overhead, and profits payable to the Contractor for Service rendered.
- M. **“Force Majeure”** means a delay which impacts the timely performance of Work 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:
- Acts of God or the public enemy;
 - Acts or omissions of any government entity;
 - Fire or other casualty for which a party is not responsible;
 - Quarantine or epidemic;
 - Strike or defensive lockout; and,
 - Unusually severe weather conditions.
- N. **“Hourly Rate Basis”** means that Contractor shall be paid at a fixed hourly rate for a Service performed under a Work Authorization, but not in total to exceed the Not to Exceed amount specified for that Service on said authorization.
- O. **“Key Personnel”** refers to the Contractor’s personnel named in Contractor’s Proposal, whom the State has identified and approved to perform the Work of the Contract. Roles of Key Personnel are set forth in Contractor’s Proposal.
- P. **“Material”** means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- Q. **“Notice”** means a written document initiated by the authorized representative of either party to this Agreement and given by:

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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

Hand-delivered to the other party's authorized representative, which shall be effective on the date of service.

- R. **“Not to Exceed Amount”** means the maximum amount of money that will be paid for a Service priced on an Hourly Basis, regardless of the actual number of hours necessary to perform that Service.
- S. **“Project”** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State's representatives.
- T. The **“State”** refers to the Judicial Council of California / Administrative Office of the Courts (**“AOC”**)
- U. **“State Standard Agreement”** means the form used by the State to enter into agreements with other parties.
- V. **“Subcontractor”** shall mean an individual, firm, partnership, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of the Agreement. When the State refers to Subcontractor(s) in this document, for purposes of this Agreement and unless otherwise expressly stated, the term **“Subcontractor”** includes, at every level and/or tier, all subcontractors, sub-consultants, suppliers, and materialmen.
- W. **“Task(s)”** means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- X. **“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.
- Y. **“Travel and Living Expenses”** means expenses for travel and living costs incurred by Contractor in pursuit of performance of the Work, which, when authorized in a Work Authorization, shall be paid for by the State, as further specified in Exhibit C.
- Z. **“Travel Plan”** means a written plan specifying the travel and living arrangements and costs, as specified in a written Work Authorization.
- AA. **“Work”** or **“Work to be Performed”** or **“Contract Work”** may be used interchangeably to refer to the service, labor, Materials, Data, and other items necessary for the execution, completion and fulfillment of the Agreement by the Contractor to the satisfaction of the State. Work may be defined to include Tasks, Deliverables, and/or Submittals, as required by the Contract.

BB. **“Work Authorization”** means written and signed documents that specify the Services to be performed, the price of the Services, and any Expenses applicable to the performance of the Work, including both a Contractor’s Proposal (Exhibit E, Attachment 2) signed by the Contractor, and a Work Authorization Form (Exhibit E, Attachment 3) signed by the State and the Contractor and referencing a particular Contractor’s Proposal and its price. Work Authorizations are authorized and become binding upon both Parties under the terms of this Agreement when fully signed as specified above.

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. 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.

4. 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.

5. Acceptance of the Work

A. The AOC Project Manager shall be responsible for the sign-off acceptance of all the Work required and submitted pursuant to this Agreement. 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:

- Timeliness: The Work was delivered on time;
- Completeness: The Work contained the Data, Materials (including number of copies), and features required in the Contract Documents; and

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- Technical accuracy: The Work is accurate as measured against commonly accepted standard (for instance, a statistical formula, an industry standard, regulatory code compliance, or de facto marketplace standard).
- C. The Contractor shall provide the Work to the State, in accordance with direction from the Project Manager and as provided for in Exhibit D. The State shall accept the Work, provided the Contractor has delivered the Work in accordance with the Criteria. The State's Project Manager shall issue a written communication to notify the Contractor of the Work's acceptability.
- D. If the State rejects the Work provided, the State's Project Manager shall submit to the Contractor a written rejection 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 agreement cannot be reached between the State's Project Manager and the Contractor on the Work's acceptability, a principal of the Contractor and the Administrative Director of the AOC, or its designee, shall meet to discuss the problem. If agreement cannot be reached, in the reasonable judgment of the Administrative Director of the AOC, or its designee, and/or the Contractor fails to cure such deficiencies that are perceived in the Work to 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 Standard Provisions paragraph 3, as set forth in Exhibit A.

6. Copyrights and Rights in Data, Material, and Deliverables

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

7. Ownership of Results

Any interest of the Contractor in any Data, Materials, and/or Deliverables in any form, or other documents and/or recordings prepared by the Contractor for performance of services under this Agreement shall become the property of the State. Upon the State's written request, the Contractor shall provide the State with all such Data (including data validation tools, such as software, or models), Materials, and/or Deliverables within thirty (30) Days of the request.

The Contractor agrees not to assert any rights at common law, or in equity, or establish any claim to statutory copyright in such Data, Materials, and/or Deliverables. The Contractor shall not publish or reproduce such Data, Materials, and/or Deliverables in whole, or part, or any manner or form, or authorize others to do so without the written consent of the State.

8. 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.

9. Contractor's Personnel--Replacement

- A. The Contractor shall, if so specified in authorized Work Authorization, provide certain Key Personnel to perform the Tasks and provide the Deliverables set forth in said Work Authorization. The Contractor's Project Manager, specified in an authorized Work Authorization shall:
- Serve as the primary contact with the State's personnel;
 - Manage the day to day activities of the Contractor's personnel;
 - Identify the appropriate resources needed;
 - Plan and schedule the Work;
 - Meet budget and schedule commitments on this Project;
 - Provide Progress Reports and Project Reviews in accordance with this Agreement;
 - Provides accurate and detailed information related to cost accounting to validate the invoice amount and
 - Manage the overall quality of the Deliverables and the Work performed.
- B. 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, the performance of the Contractor's personnel is unsatisfactory. 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.
- C. If any of the Contractor's Key Personnel, through no cause or fault of Contractor, become unavailable to perform the Work during the period specified in authorized Work Authorization, the Contractor shall immediately assign replacement personnel, acceptable to the State as possessing equivalent or greater experience and skills.
- D. The Contractor shall retain the same Key Personnel during the performance of the Work specified under an authorized Work Authorization. However, the Contractor may, with approval of the State's 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 Project Manager.
- E. If any of the Contractor's Key Personnel terminate their employment with Contractor during the period of performance of an authorized Work Authorization, the Contractor will supply a substitute acceptable to the State's Project Manager.

- 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 this Agreement for cause pursuant to Standard Provisions paragraph 3, as set forth in Exhibit A.

10. Agreement Term

The term of this Agreement shall commence and expire as specified on the Standard Agreement cover sheet signed to enter into this Agreement. This Agreement is of no force and effect until signed by both parties. Any commencement of performance prior to Agreement approval shall be done so at the Contractor's own risk; notice to proceed shall not be official until this Agreement is fully executed.

The State shall have the unilateral right to extend or reinstate this Agreement for two additional terms of 12 months by written notification to Contractor of said extension or reinstatement.

11. Termination Other Than for Cause

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

12. State's Obligation Subject to Availability of Funds

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

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2. The Contractor shall be released from any obligation to provide further services pursuant to the Agreement as are affected by the termination.

C. Funding for this Agreement beyond the current appropriation year is conditional upon appropriation by the Legislature of sufficient funds to support the activities described in this Agreement. Should such an appropriation not be approved, the Agreement may terminate at the close of the current appropriation year. The appropriation year ends on June 30 of each year.

13. Agreement Administration/Communication

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

Ms. Katherine Albertus, Project Manager
Office of Court Construction and Management
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3660

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

Tel.:
Fax:
E-mail: Subcontracting

The Contractor shall not subcontract this Agreement or services provided under this Agreement except to the specific subcontractors named in Exhibit C, unless the State's Project Manager agrees to such subcontracting in writing. No party to this Agreement shall in any way contract on behalf of or in the name of another party to this Agreement.

14. Changes and Amendments

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

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 three (3) 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 three (3) years after final payment under this Agreement.

18. Insurance Requirements

A. 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 AOC shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. 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.

- (i) Workers' compensation— Workers' compensation insurance prescribed by the laws of the State of California with limits at statutory minimums, including employers' liability coverage with limits not less than \$500,000 for each accident, \$500,000 as the aggregate disease policy limit, and \$500,000 as the disease policy limit for each employee. This coverage shall not be required where the Contractor has no employees.
- (ii) Commercial General Liability Insurance—Insuring 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 applicable solely to the Work performed under the terms of this Agreement. 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.

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- (iii) Professional Liability Insurance; Errors and Omissions —Covering the Contractor's, and the Contractor's employees, and agents for acts, errors or omissions committed or alleged to have been committed which arise out of rendering or failure to render the professional services required to perform the Work required under the terms of this Agreement. The policy shall provide limits of not less than \$2,000,000 per claim or per occurrence and \$2,000,000 annual aggregate applicable solely to the Services provided under the terms of this Agreement. 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 Work which is 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 activities commence pursuant to this Agreement.

B. General Requirements

- (i) 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 approved to do business in the State of California.
- (ii) For all insurance policies required by this Contract, 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 section.
- (iii) Before commencement of the Work, Contractor will provide the AOC with certificates of insurance, on forms acceptable to the AOC, as evidence that all required insurance is in full force and effect. The dollar amount of any SIR or deductible will be specified on the applicable certificate of insurance.
- (iv) If any of the required insurance policies expire during the term of the Contract, Contractor will immediately renew or replace the required insurance and provide a new certificate of insurance to the AOC. Contractor will ensure that any renewal insurance certificates are tendered to the AOC at least 10 following the expiration of the expiring insurance policy.
- (v) The insurance required by section 18.A(ii) as well as any excess liability or umbrella liability insurance that Contractor maintains in compliance with the terms of this section 18 must include the State, Judicial Council, and the AOC, including their respective elected and appointed officials,

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judges, subordinate judicial officers, officers, employees, and agents, if any, as additional insureds, but only with respect to liability assumed by Contractor under the terms of this Contract or liability arising out of the performance of the Work.

- (vi) Contractor waives any right of subrogation it may have against any of the State, Judicial Council, or the AOC, including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents for loss or damage arising out of the Services performed by Contractor under this Agreement, and the Contractor will require any insurer providing insurance required under section 18 to do the same.
- (vii) Contractor is responsible for and may not recover from the State, Judicial Council, or the AOC, 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 section 18.
- (viii) If Contractor fails to keep in effect at all times the specified insurance coverage, the AOC 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.
- (ix) If at any time the specified insurance policies become unsatisfactory to the AOC, the Contractor shall, upon notice to that effect from the AOC, promptly obtain a new policy, and shall submit the same to the AOC, with the appropriate certificates and endorsements, for approval.
- (x) The AOC and the County reserve the right to request certified copies of any of the insurance policies required under section 18.
- (xi) The Certificates of Insurance required under this section 18 and any ' advance written notice of any change or cancellation, shall be mailed to the individuals at the following addresses:

Ms. Katherine Albertus, AOC Project Manager
Office of Court Construction and Management
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102

with a copy to the AOC Business Services Manager:

Grant Walker, Business Services Manager
Judicial Council of California
Administrative Office of the Courts

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455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

C. Joint Ventures.

If the Contractor is an association, partnership, or other joint business venture, the insurance required in Section 18 above shall be provided by any one of the following methods, any of which shall be subject to all of the requirements stated herein:

- (i) Separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured.
- (ii) Joint insurance program with the association, partnership, or other joint business venture included as a named insured.

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. 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

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actions resulting in or creating the appearance of (1) use of an official position with the government for private gain; (2) preferential treatment to any particular person associated with this Agreement or the Work of this Agreement; (3) loss of independence or impartiality; (4) a decision made outside official channels; or (5) adverse effects on the confidence of the public in the integrity of the government or this Agreement.

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

Former 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.

21. Covenant Against Gratuities

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

22. National Labor Relations Board

By executing this Agreement, the Contractor certifies under penalty of perjury under the laws of the State of California that no more than one (1) final, un-appealable 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.

23. Drug-Free Workplace

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

24. 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

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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.

25. 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.

26. California Law

This Agreement shall be governed by California law without regard to any conflict of law rules that would direct the application of the laws of any other jurisdiction. The Contractor irrevocably consents to personal jurisdiction in California.

27. 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.

28. Waiver

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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.

29. Signature Authority

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

30. 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.

31. Entire Agreement

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

END OF EXHIBIT

EXHIBIT C
PAYMENT PROVISIONS

1. Contract Amount

The total amount owed by the State to Contractor under this Agreement for performing any and all Work authorized hereunder, and for all Travel and Living Expense and/or Reimbursable Expenses, shall not in total exceed the Total Amount Encumbered to Date authorized for this Agreement on the State Standard Agreement form signed to enter into this Agreement.

2. Compensation

- A. A general description of the scope and nature of Services that may be performed under this Agreement is given in Exhibit D. The State will provide Contractor with a Work Authorization Request Form, Attachment 1 of Exhibit E, detailing the Services the State desires to purchase and the location they will be provided at. The parties will confer to further elucidate the nature of the Services the State deems necessary.
- B. As further detailed in the Work Authorization Process specified in Exhibit D, the Contractor shall upon request provide written proposals for the Services to be performed. The proposals shall be priced according to the fixed prices and/or hourly rates specified in this Exhibit C or, if the Contractor so offers in its written proposal, fixed prices and/or hourly rates lower than those in this Exhibit C. If the parties have agreed that Contractor will incur travel and living expenses in the course of performance of the Work, Contractor shall specify in its proposal the amounts for said expenses, which must be in accordance with the Travel and Living Expense Guidelines given below.
- C. The total actual cost which the State may reimburse the Contractor under any individual Work Authorization, pursuant to this provision, including any travel, transportation, and/or living expenses, shall not exceed the amount specified on the face of the Work Authorization.
- D. Contractor shall, on a monthly basis, and in one invoice, bill the State for all accepted Work (and any authorized associated Travel and Living Expense) actually performed and/or incurred and accepted in the previous calendar month. Invoices shall be broken down on a Work Authorization by Work Authorization basis, and the invoiced detail for each Work Authorization shall show:
 - i. For any Services in a Work Authorization Priced on an Hourly Basis, Contractor shall invoice the State for the actual hours worked during that month at the rates specified in the Work Authorization, but not to exceed the Not to Exceed Total for that Service specified in the Work Authorization..

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- ii. For any Services in a Work Authorization priced on a Fixed Price Basis, Contractor shall invoice and the State shall compensate Contractor for the fixed price specified in the Work Authorization.
- iii. If a Work Authorization specifies that the State is obligated to pay Travel and Living Expenses, Contractor shall, in its monthly invoice, charge the State for the Travel and Living Expenses actually incurred in the performance of the Work.
- iv. Invoices must clearly indicate:
 - The Contract number, (which can be found in the upper right hand corner of the signature pages signed to enter into this Agreement), and Work Authorization Number Specified on the Work Authorization
 - A unique invoice number;
 - The Contractor's name and address;
 - Contractor's Taxpayer identification number;
 - A one line description of the Work Authorization, including a Work Authorization Number if designated by the AOC
 - Name and brief description of each Service Provided under that Work Authorization
 - If the Service is priced on a Fixed Price basis, the Fixed Price applicable to the Service as specified in the Work Authorization
 - If the Service is priced on a Hourly Rate basis, the Hourly Rate, Number of Hours actually worked, the Not to Exceed Amount specified in the Work Authorization, and the total amount invoiced for the Service, which shall not exceed the Not to Exceed Amount specified in the Work Authorization
 - Preferred remittance address, if different from the mailing address.

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

Judicial Council of California
Administrative Office of the Courts
c/o Finance Division, Accounts Payable
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102-3660

- v. The Contractor shall simultaneously submit a copy of the invoice to AOC's Project Manager.

3. Travel and Living Expense Guidelines

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1. Provided that reimbursement for Travel and Living Expenses is authorized in a Work Authorization, the State shall reimburse Contractor 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 State will reimburse Contractor only at the actual cost incurred. All air transportation is limited to coach fares and must be booked a minimum of fourteen (14) Days prior to travel, unless the Project Manager agrees to a shorter period in writing.
 - b. If overnight lodging expense is authorized, in accordance with the California Victim Compensation and Government Claims Board (formerly State Board of Control) guidelines, the State will reimburse Contractor only (i) for hotel room rental at the actual cost not to exceed **\$110.00** per Day, plus occupancy tax and/or energy surcharge; and (ii) for meals, at the actual cost not to exceed the following maximum amounts per person per Day: breakfast~**\$6.00**; lunch~**\$10.00**; dinner~**\$18.00**; and incidentals~**\$6.00**.
 - c. If private vehicle ground transportation expense is authorized, the State will reimburse Contractor at **\$0.55** cents per mile.
 - d. The State is not obligated to pay for, and Contractor shall not invoice for any hours of non-production time expended by the Contractor or its Subcontractor's employees that is spent traveling to or from the location where the Work is performed.
 - e. Travel and Living Expenses shall be billed to the State at Contractor's actual cost, including any discounts or rebates accorded to Contractor or its Subcontractors, and are not subject to any markup, fee, or other charge.
 - f. The Contractor shall maintain a file of original invoices for all travel and living related expenses. Upon the Project Manager's request, the Contractor shall provide copies of receipts for reimbursement of transportation, lodging, and meal expenses together with a time sheet.

4. 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.

5. Method of Payment

The State will make payment in arrears within sixty (60) days after receipt of the Contractor's properly completed invoice.

EXHIBIT C

Contractor's Fees and Hourly Rates

END OF EXHIBIT

EXHIBIT D
WORK TO BE PERFORMED AND
WORK AUTHORIZATION ADMINISTRATION

Contractor shall furnish without limitation all necessary labor, material, hardware, software, tools and equipment to complete the Work as described in this document, and as specified in a Work Authorization. Contractor will use available codes, standards, and technology to provide the service to the standard level of professional care.

1. Statement of Work

Details of Statement of Work and Work Authorization Process

END OF EXHIBIT

EXHIBIT E
ATTACHMENTS

This Exhibit includes the following form(s):

Work Authorization Form including:

Part 1: Services Request

Part 2, Pricing Proposal

Part 3: AOC Authorization Signature

**EXHIBIT E, ATTACHMENT 1
WORK AUTHORIZATION FORM**

WORK AUTHORIZATION FORM(S) TO GO HERE

END OF ATTACHMENT

END OF EXHIBIT