

ATTACHMENT 2 Standard Terms and Conditions

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1. In this agreement (the “Agreement”), the term “Contractor” refers to **TBD (“Contractor”)** and the term “AOC” refers to the Judicial Council of California, Administrative Office of the Courts.

 2. This Agreement becomes effective as of **TBD** (the “Effective Date”) and expires on **August 29, 2014**

 3. The title of this Agreement is: California Risk Assessment Pilot Project (CaLRAPP): Inter-Rater Reliability Studies.
The title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of the Agreement.

 4. The maximum amount that the AOC may pay Contractor under this Agreement is **TBD**

 5. The parties agree to the terms and conditions of this Agreement and acknowledge that this Agreement (made up of this coversheet, the following recitals, exhibits, and any attachments) contains the parties’ entire understanding related to the subject matter of this Agreement. If there are any inconsistent terms in the exhibits, the following is the descending order of precedence: JBCL Appendix, Exhibits A, B, C, D, E, and F.
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Exhibit A –Standard Provisions

Exhibit B – Special Provisions

Exhibit C – Payment Provisions

Exhibit D – Work To Be Performed

Exhibit E – Key Personnel

Exhibit F – Attachments, including Attachment 1, Acceptance & Signoff Form

JBCL Appendix

NOTE: As set forth in Section 4 of the RFP: The provisions marked with an (*) are minimum contract terms and conditions (“Minimum Terms”). A proposal that takes a material exception (addition, deletion, or other modification) to a Minimum Term will be deemed nonresponsive. The AOC, in its sole discretion, will determine what constitutes a material exception.

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EXHIBIT A
STANDARD PROVISIONS

1. Indemnification

The Contractor shall indemnify, defend (with counsel satisfactory to the AOC), and save harmless the AOC 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, if any, in the performance of this Agreement. (*)

2. Relationship of Parties

The Contractor and the agents and employees of the Contractor, if any, 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 AOC 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 AOC 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,

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- 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 AOC terminates this Agreement in whole or in part, due to the Contractor's failure to perform, the AOC may procure, upon such terms and in such manner as it may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the AOC 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 AOC 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 AOC, the Contractor shall not assign this Agreement in whole or in part.

5. Time of Essence

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

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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 compensation for all the Contractor's expenses incurred in the performance of this Agreement, including travel and per diem, unless otherwise expressly provided.

END OF EXHIBIT A

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EXHIBIT B
SPECIAL PROVISIONS

1. Definitions

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

- A. "**Administrative Director**" refers to that individual, or authorized designee, empowered by the AOC to make final and binding executive decisions on behalf of the AOC.
- B. "**Amendment**" means a written document issued by the AOC 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.
- C. "**Confidential Information**" means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the AOC'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.
- D. The "**Contract**" or "**Contract Documents**" constitute the entire integrated agreement between the AOC and the Contractor, as attached to and incorporated by a fully executed Standard Agreement form. The terms "Contract" or "Contract Documents" may be used interchangeably with the term "**Agreement.**"
- E. "**Contract Amount**" means the total amount encumbered under this Agreement for any payment by the AOC to the Contractor for performance of the Work, in accordance with the Contract Documents.
- F. The "**Contractor**" means the individual, association, partnership, firm, company, Contractor, corporation, affiliates, subsidiary, or combination thereof, including joint ventures, contracting with the AOC to do the Contract Work. The Contractor is one of the parties to this Agreement.

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- G. **“Data”** means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- H. **“Day”** means calendar day, unless otherwise specified.
- I. **“Deliverable(s)”** or **“Submittal(s)”** means one or more items, if specified in the Contract Documents, that the Contractor shall complete and deliver or submit to the AOC for acceptance.
- J. **“Disabled Veteran’s Business Enterprise”** or **“DVBE”** means a business entity that has complied with the requirements under California law to become certified by the California Office of Small Business Certification and Resources as a business owned and operated by a disabled veteran of the United States military, naval or air services.
- K. **“Force Majeure”** means a delay which impacts the timely performance of Work which neither the Contractor nor the AOC 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.
- L. **“Grant”** means the State Justice Institute Grant # SJI-13-I-209.
- M. **“Key Personnel”** refers to the Contractor’s personnel named in Exhibit E, Contractor’s Key Personnel, whom the AOC has identified and approved to perform the Work of the Contract. Qualifications of Key Personnel are represented by the resumes set forth in Exhibit E. Roles of Key Personnel are set forth in Exhibit D, Work to be Performed.
- N. **“Material”** means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- O. **“Milestone(s)”** means one or more events or dates, if specified in the Contract Documents, by which Work, as identified, must be provided by the Contractor.

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- P. **“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.
- Q. **“Project”** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the AOC and the AOC’s representatives.
- R. **“State Justice Institute”** or **“SJI”** is the federal entity from which the Grant originated. SJI is a Third Party to this Agreement, but retains some rights pursuant to the terms and conditions set forth in the Grant # SJI-13-I-209.
- S. The **“AOC”** refers to the Judicial Council of California / Administrative Office of the Courts.
- T. **“Standard Agreement”** means the form used by the AOC to enter into agreements with other parties. Several originally signed, fully executed versions of the Standard Agreement, together with the integrated Contract Documents, shall each represent the Agreement as an individual **“Contract Counterpart.”**
- U. **“Stop Work Order”** means the written Notice, delivered in accordance with this Agreement, by which the AOC 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.
- 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 AOC 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 approved 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 AOC.
- X. **“Third Party”** refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint

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ventures, other than the AOC or the Contractor, which is not a party to this Agreement.

- Y. “**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 AOC. Work may be defined to include Tasks, Deliverables, and/or Submittals, as required by the Contract.

2. Manner of Performance of Work

The Contractor shall complete all Work specified in these Contract Documents to the AOC'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 paragraph 3, the AOC 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 AOC terminates all or a portion of this Agreement other than for cause, the AOC shall pay the Contractor for the fair value of satisfactory services rendered before the termination, not to exceed the total Contract Amount.

4. AOC's Obligation Subject to Availability of Funds (*)

- A. The AOC's obligation under this Agreement is subject to the availability of authorized funds. The AOC may terminate the Agreement or any part of the Contract Work, without prejudice to any right or remedy of the AOC, 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 AOC may terminate this Agreement in whole or in part, upon written Notice to the Contractor. Such termination shall be in addition to the AOC's rights to terminate for convenience or default.
- B. Payment shall not exceed the amount allowable for appropriation by Legislature. If the Agreement is terminated for non-appropriation:
- i. The AOC 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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- ii. The Contractor shall be released from any obligation to provide further services pursuant to the Agreement as are affected by the termination.
- C. Funding for this Agreement beyond the current appropriation year is conditional upon appropriation by the Legislature of sufficient funds to support the activities described in this Agreement. Should such an appropriation not be approved, the Agreement may terminate at the close of the current appropriation year. The appropriation year ends on June 30 of each year.
5. Stop Work
- A. The AOC 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 AOC 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 AOC 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 AOC decides the facts justify the action, the AOC may receive and act upon a proposal submitted at any time before final payment under this Agreement.

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- 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 AOC's Obligation Subject to Availability of Funds provision, as set forth under Exhibit B, the AOC shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- D. The AOC shall not be liable to the Contractor for loss of profits because of the Stop Work Order issued under this provision.

6. Agreement Administration/Communication

A. Under this Agreement, the Project Manager, named below, 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.

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

TBD, Project Manager
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688

- ii. Other than for Notices, the AOC's Project Manager may be contacted as follows:

Telephone: TBD
Facsimile: TBD
Email: TBD

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

TBD
TBD
TBD

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7. 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.

8. Evaluation of Contractor

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

9. 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 AOC, in accordance with direction from the Project Manager. The AOC shall accept the Work, provided the Contractor has delivered the Work in accordance with the Criteria. The AOC’s Project Manager shall use the Acceptance and Signoff Form, provided as Attachment 1 to this Agreement, to notify the Contractor of the Work’s acceptability.
- D. If the AOC rejects the Work provided, the AOC’s Project Manager shall submit to the Contractor a written rejection using Attachment 1, the Acceptance and Signoff Form, describing in detail the failure of the Work as measured against the Criteria. If the AOC 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

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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 AOC's Project Manager and the Contractor on the Work's acceptability, a principal of the Contractor and the Administrative Director of the AOC, or its designee, shall meet to discuss the problem. If agreement cannot be reached, in the reasonable judgment of the Administrative Director of the AOC, or its designee, and/or the Contractor fails to cure such deficiencies that are perceived in the Work to the reasonable satisfaction of the Administrative Director, or its designee, in the reasonable time established by the Administrative Director, the AOC may reject the Work and will notify the Contractor in writing of such action and the reason(s) for so doing. Upon rejection of the Work, the AOC may terminate this Agreement pursuant to the terms of Standard Provisions paragraph 3, as set forth in Exhibit A.

10. Subcontracting

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

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 Personnel become unavailable, or are disapproved in accordance with 11.A, above, during the term of this Agreement, the Contractor shall immediately assign replacement personnel acceptable to the State's Project Manager, possessing equivalent or greater experience and skills as that demonstrated in the resumes set forth in Exhibit E, Contractor's Key Personnel.

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- C. 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 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 Contact.
- D. 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.

12. Services Warranty

The Contractor warrants and represents that each of its employees, independent contractors or agents, if any, 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 AOC, its successors, assigns, customer agencies, and any other recipients of the services provided hereunder.

13. 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 Standard Agreement.

14. Accounting System Requirement

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

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15. 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.

16. Audit

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

17. 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 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. For full coverage, each insurance policy shall be written on an “occurrence” 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 coverage and limits no less than the following:
- i. Commercial General Liability Insurance with limits not less than \$500,000.00 for each occurrence, Combined Single Limit Bodily Injury and Property Damage.
 - ii. Business Automobile Liability Insurance with limits not less than \$500,000.00 for each occurrence, Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired automobile coverage, as applicable.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the AOC. The deductible and/or self-insured

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retention of the policies shall not limit or apply to the Contractor's liability to the AOC and shall be the sole responsibility of the Contractor.

- D. Other Insurance Provisions. The General Liability policy required in this Agreement is to contain, or be endorsed to contain, the following provisions:
- i. The AOC, its officers, officials, employees and agents are to be covered, in accordance with Contractor's blanket additional insured endorsement, as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement.
 - ii. To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects the AOC, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the AOC, its officers, officials, employees or agents shall not contribute with the insurance or benefit the Contractor in any way,
 - iii. The Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- E. The Contractor shall provide the AOC certificates of insurance satisfactory to the AOC evidencing all required coverages before Contractor begins any Work under this Agreement, and complete copies of each policy upon the AOC's request.
- F. If at any time the foregoing policies shall be or become unsatisfactory to the AOC, as to form or substance, or if a company issuing any such policy shall be or 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.
- G. If the Contractor is authorized by the AOC to subcontract or assign, the Contractor shall include any Subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. Insurance coverages provided by Subcontractors as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.
- H. All of the Contractor's policies shall be endorsed to provide advanced written Notice to the AOC of cancellation, nonrenewal, and reduction in coverage, within fifteen (15) Days, and worker's compensation within 30 days mailed to the following address: Judicial Council, Administrative Office of the Courts, Business Services Manager, 455 Golden Gate Ave., 6th Floor, San Francisco, CA 94102-3688.

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18. Confidentiality

- A. Both the AOC and the Contractor acknowledge and agree that in the course of performing the Work under this Agreement, the AOC 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 AOC's Confidential Information on a "need to know" basis to the Contractor's employees and approved Subcontractors (if any) and, as directed by the Project Manager, representatives of the AOC 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.

19. 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 AOC.

20. Ownership of Results

- A. Any interest of the Contractor in Data 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 AOC. Upon the AOC's written request, the Contractor shall provide the AOC with all this Data within thirty (30) Days of the request.
- B. 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 AOC.

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21. Ownership of Intellectual Property, Etc.

- A. Unless the Contractor and the AOC reach a written agreement to the contrary, the Contractor agrees for itself and its personnel that pursuant to the AOC's requirement (a) 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 AOC shall be treated as if it were "work for hire" for the AOC, and (b) the Contractor will immediately disclose to the AOC all discoveries, inventions, enhancements, improvements, and similar creations (collectively, "**Creations**") made, in whole or in part, by the Contractor in the course of or related to providing services to the AOC.
- 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 AOC, and the Contractor hereby assigns all right, title, and interest that the Contractor may have in such Data, Materials, and Creations to the AOC, 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 AOC. The Contractor agrees to execute any documents required by the AOC to register its rights and to implement the provisions herein.

22. Protection of Proprietary Software and Other Proprietary Data

- A. The AOC agrees that all Data and Materials appropriately marked or identified in writing as proprietary, and furnished hereunder, are provided for the AOC's exclusive use for the purposes of this Agreement only. All such proprietary Data shall remain the property of the Contractor. The AOC agrees to take all reasonable steps to insure that such proprietary Data are not disclosed to others, without prior written consent of the Contractor.
- B. The AOC will use reasonable efforts to insure, prior to disposing of any media, that any licensed Data and Materials contained thereon have been erased or otherwise destroyed.
- C. The AOC agrees that it will take appropriate action by instruction, agreement, or otherwise, with its employees or other persons permitted access to licensed software and other proprietary Data, to satisfy its obligations under this Agreement with respect to use, copying, modification, protection, and security of proprietary software and other proprietary Data.

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23. 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 AOC without prior review and written permission by the AOC.

24. Limitation of Liability

- A. The AOC shall not be responsible for loss of or damage to any non-AOC or equipment arising from causes beyond the AOC's control.
- B. The Contractor indemnifies and holds harmless the AOC 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 AOC premises. Any expiration or termination of this Agreement shall not affect the continuing obligations of the parties described in this Agreement.

25. Use of AOC Provided Equipment

The AOC 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 furnished, rented, or loaned to the Contractor by the AOC.

26. 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 AOC 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, if any, shall also avoid 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 AOC 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

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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.

27. 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 AOC 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 AOC will have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the AOC 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 AOC 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.

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. Americans with Disabilities Act

By signing this Agreement, Contractor assures the AOC 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.

30. California Law

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

31. 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.

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32. 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.

33. 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.

34. Signature Authority

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

35. 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.

36. 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 AOC.

END OF EXHIBIT B

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EXHIBIT C
PAYMENT PROVISIONS

1. Contract Amount

- A. The AOC shall pay the Contractor a not to exceed amount per Deliverable for performing the Work of this Agreement, upon completion and acceptance of each Deliverable, as set forth in Table 1, below.
- B. The total amount the AOC may pay to the Contractor under this Agreement for performing the Work set forth in Exhibit D, Work to be Performed, shall not exceed the Contract Amount of **TBD**, as set forth in this Exhibit.
- C. The Contractor has thoroughly calculated its costs and expenses necessary to complete the Work at the not to exceed amounts set forth herein. The AOC's acceptance of the Contractor's price does not (1) imply that the AOC approves of or adopts the Contractor's plan, means, methods, techniques, or procedures required to perform the Work, nor (2) relieve the Contractor from the sole responsibility for the accuracy of its costs and expenses and timely completion of the Work of this Agreement within the total amount for compensation set forth herein.

2. Compensation for Contract Work

- A. For performing the Work of this Agreement as set forth in Paragraph 1, Work Requirements, of Exhibit D, Work To Be Performed, the AOC shall compensate the Contractor upon the completion and Acceptance of each Deliverable at the not to exceed amounts set forth in Table 1 below, provided the Contractor completes each Deliverable as set forth in Paragraph 1, Work Requirements, of Exhibit D, Work To Be Performed, and the AOC accepts each Deliverable as set forth in Exhibit B, Paragraph 9.

Table 1: Not to exceed amounts for Deliverables

Deliverable #	Deliverable Description	Not to Exceed Amount	Invoice Due By
1	Complete dataset including all data collected, entered, and analyzed as part of the study, a complete data dictionary of variables, and syntax used for analyses.	TBD	August 29, 2014
2	Materials used and produced to assess the inter-rater reliability of officers administering the risk and needs assessment instruments to diverse clientele in the four counties, including but not limited to, case vignettes, video/CD-ROM/DVD materials, other documents/materials.	TBD	August 29, 2014

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3	Four site-specific final professional-level reports including a project summary, results, recommendations and sustainment. Results, recommendations and sustainment information must address the objectives outlined in Section 2.2. Project Objectives. Each of the four site-specific final professional-level reports shall be provided electronically to the AOC and the individual county.	TBD	August 29, 2014
4	Final professional-level report for the entire project (all 4 sites) that includes a project summary, methodology, results, challenges, recommendations for increasing inter-reliability, and plans that outline the sustainment of ongoing inter-rater reliability efforts. This final report shall be submitted electronically to the AOC. In addition, final study findings shall be presented (via video conference or teleconference to AOC staff	TBD	August 29, 2014
6	Presentation materials (e.g., power point documents, instructional documents, or other materials created as part of the inter-rater reliability study).	TBD	August 29, 2014

- B. Except for transportation, meals, and lodging, the not to exceed amounts set forth above in Table 1, includes all costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for services rendered to the AOC.
- C. The Contractor shall not request nor shall the AOC 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.
- D. The total amount the AOC may pay the Contractor, pursuant to this provision, shall not exceed **TBD**.

3. Transportation, Meals, and Lodging Expenses

- A. The AOC shall reimburse the Contractor for actual expenses incurred for reasonable and necessary transportation, meals, lodging, and other travel-related expenses required to perform the Work of this Agreement.
- B. The Contractor shall submit a written travel plan to the Project Manager prior to incurring any travel expenses, including the reason for the trip, number of persons traveling, types of expenses the Contractor expects to incur and the estimated costs. Prior approval of the travel plan is required.

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- C. For necessary air transportation, the AOC will reimburse the Contractor for 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 otherwise in writing.
- D. For overnight travel, in accordance with the California Department of Human Resources guidelines, the AOC will reimburse lodging expenses incurred while traveling, at Contractor's actual cost. Lodging costs may not exceed \$150 (per day per person), plus tax and energy surcharge in San Francisco county; \$125 (per day per person), plus tax and energy surcharge in Monterey and San Diego counties; \$120 (per day per person), plus tax and energy surcharge in Los Angeles, Orange and Ventura counties; \$140 (per day per person), plus tax and energy surcharge in Alameda, San Mateo, and Santa Clara counties; or \$110 (per day per person), plus tax and energy surcharge in all other California counties. Meals shall be reimbursed at the actual cost not to exceed the following maximum amounts per person per Day: breakfast~\$8.00; lunch~\$12.00; dinner~\$20.00; and/or incidentals~\$6.00
- E. For necessary private vehicle ground transportation usage, the AOC will reimburse the Contractor at the applicable IRS-approved rate per mile.
- F. Upon the Project Manager's request, the Contractor shall provide copies of receipts for reimbursement of transportation, lodging, and meal expenses.
- G. The total actual cost which the AOC may reimburse the Contractor, pursuant to this provision, shall not exceed **TBD**.

2. 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.

3. Other Expenses

Except for the specific travel expenses as set forth herein, the AOC 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.

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4. Taxes

The AOC 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 AOC 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

A. The Contractor shall submit an invoice for Work provided upon completion of the Work, as set forth in Exhibit D, Work to be Performed, but no more often than once a month. After receipt of invoice, the AOC will either approve the invoice 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. The AOC will make payment in arrears after receipt of the Contractor's properly completed invoice. Invoices shall clearly indicate:

- i. The Contract number;
- ii. A unique invoice number;
- iii. The Contractor's name and address;
- iv. Taxpayer identification number (the Contractor's federal employer identification number);
- v. Description of the completed Work, including the name of Contractor performing the Work, services rendered, Deliverable(s) performed, and/or Deliverable(s) made, as appropriate;
- vi. The date each Deliverable is completed; and
- vii. Preferred remittance address, if different from the mailing address.

C. 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 Fiscal Services, Accounts Payable
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688

6. Final Invoicing

A. Contractor must submit invoices for Services provided by no later than the "Invoice Due By" identified in Table 1, above. The AOC may not be responsible for payment of Invoices received after the "Invoice Due By" date.

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- B. For the very last invoice to be processed against this Agreement, Contractor will identify it as the “Final Invoice.”

7. Disallowance

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

8. Payment Does Not Imply Acceptance of Work

The granting of any progress payment by the AOC as provided in this Exhibit, shall in no way lessen the liability of the Contractor to replace unsatisfactory Work or Material, even if the unsatisfactory character of such Work or Material may not have been apparent or detected at the time such payment was made. Materials, Data, components, or workmanship that do not conform to Exhibit D, Work to Be Performed, shall be rejected and shall be replaced by the Contractor without delay.

END OF EXHIBIT C

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EXHIBIT D
WORK TO BE PERFORMED

1. Work Requirements

The Contractor shall perform the following tasks:

- A. Assess the inter-rater reliability of the existing risk and needs assessment tools used by the Adult Probation Departments in the following four CalRAPP counties: Santa Cruz, San Francisco, Napa, and Yolo.
- B. Determine probation officer levels of training (e.g., hours of training received) and experience (e.g., number of risk and needs assessments administered) with the risk and needs assessment tools in each of the four counties
- C. Assess the inter-rater reliability of the risk assessment portion of the tools across probation staff in each department
- D. Assess the inter-rater reliability of the needs assessment portion of the tools across probation staff in each department
- E. Provide site-specific recommendations for each probation department that address ways to improve inter-rater reliability
- F. Provide site-specific plans for each probation department that outline the sustainment of an ongoing inter-rater reliability process in each county

2. Project Timeline and Task Plan

TBD

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3. Deliverables

The Contractor shall deliver the Deliverables by the due dates in Table 1, below.

Table 1: Deliverables and Due Dates

Deliverable Number	Deliverable Description	Due Date
1	Complete dataset including all data collected, entered, and analyzed as part of the study, a complete data dictionary of variables, and syntax used for analyses.	TBD
2	Materials used and produced to assess the inter-rater reliability of officers administering the risk and needs assessment instruments to diverse clientele in the four counties, including but not limited to, case vignettes, video/CD-ROM/DVD materials, other documents/materials.	TBD
3	Four site-specific final professional-level reports including a project summary, results, recommendations and sustainment. Results, recommendations and sustainment information must address the objectives outlined in Section 2.2. Project Objectives. Each of the four site-specific final professional-level reports shall be provided electronically to the AOC and the individual county.	TBD
4	Final professional-level report for the entire project (all 4 sites) that includes a project summary, methodology, results, challenges, recommendations for increasing inter-reliability, and plans that outline the sustainment of ongoing inter-rater reliability efforts. This final report shall be submitted electronically to the AOC. In addition, final study findings shall be presented (via video conference or teleconference to AOC staff-	TBD
5	Presentation materials (e.g., power point documents, instructional documents, or other materials created as part of the inter-rater reliability study).	TBD

4. Key Personnel Roles and Responsibilities

A. Contractor’s Project Manager will have the following roles and responsibilities:

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- i. Responsible for the end results and for day-to-day Project management;
- ii. Serves as the Contractor's primary contact;
- iii. Works closely with the AOC's Project Manager;
- iv. Manages, prepares, and refines the Contract's end results;
- v. Proactively assists with resolution of issues with any aspect of the Work;
- vi. Proactively anticipates Project deviations and is responsible for taking immediate corrective action;
- vii. Works with the AOC's Project Manager to manage and coordinate work and knowledge transfer; and
- viii. Responsible for management of Project budget within constraints of Work requirements.
- ix. Provides monthly project reports by the 15th of each month describing project progress, challenges encountered and remedial actions taken, and next steps, including proposed completion dates associated with these steps.

5. AOC Responsibilities

The AOC Project Manager will be responsible for managing, scheduling, and coordinating all Project activities, including Project plans, timelines, and resources, and escalating issues for resolution to AOC management.

6. Authority and Approval

The Contractor is not authorized to make final and binding decisions or approvals on behalf of the AOC. As required in this Agreement, the Contractor will obtain the necessary approvals from the AOC Project Manager and/or the Business Services Manager as may be required.

END OF EXHIBIT D

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EXHIBIT E
CONTRACTOR'S KEY PERSONNEL

1. The following individual, or equivalent as approved pursuant to Exhibit B, Special Provisions, paragraph 10, Contractor's Personnel and Replacement of Personnel provision of the Agreement, shall be the Key Personnel designated to perform the Work of this Agreement:

Name of Contractor's Key Personnel	Title
TBD	Project Manager
TBD	TBD
TBD	TBD

2. The resume of Contractor's Key Personnel is included in this Exhibit.

END OF EXHIBIT E

RFP Title: California Risk Assessment Pilot Project: Inter-Rater Reliability Studies
RFP Number: CJCSO-1301-RB

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EXHIBIT F
ATTACHMENTS

This Exhibit includes the following form(s):

Attachment 1, Acceptance & Signoff Form

END OF EXHIBIT F

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EXHIBIT F
ATTACHMENT 1
ACCEPTANCE & SIGNOFF FORM

Description of Work provided by Contractor:

Date submitted: _____

Work is:

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

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

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

Please note level of satisfaction:

Poor Fair Good Very Good Excellent

Comments, if any:

Work is accepted.

Work is unacceptable as noted above.

Name: _____

Title: _____

Date: _____

END OF ATTACHMENT

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JBCL APPENDIX

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

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

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

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

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

2. Provisions Applicable Only to Certain Agreements. The provisions in this section are ***applicable only to the types of agreements specified in the title of each subsection***. If the Agreement is not of

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the type described in the title of a subsection, then that subsection does not apply to the Agreement.

- 2.1. Agreements over \$10,000.** This Agreement is subject to examinations and audit by the State Auditor for a period of three years after final payment.
- 2.2. Agreements over \$50,000.** No JBE funds received under this Agreement will be used to assist, promote or deter union organizing during the term of this Agreement (including any extension or renewal term).
- 2.3. Agreements of \$100,000 or More.** Contractor certifies that it is, and will remain for the term of the Agreement, in compliance with PCC 10295.3, which places limitations on contracts with contractors who discriminate in the provision of benefits regarding marital or domestic partner status. Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the term of this Agreement) all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq. Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 2.4. Agreements for Services over \$200,000 (Excluding Consulting Services).** Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with PCC 10353.
- 2.5. Agreements of \$1,000,000 or More.** Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“Iran List”) created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending \$20,000,000 or more in credit to another person, for forty-five (45) days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the JBE to enter into this Agreement pursuant to PCC 2203(c).
- 2.6. Agreements for the Purchase of Goods.** Contractor shall not sell or use any article or product as a “loss leader” as defined in Business and Professions Code section 17030.
- 2.7. Agreements for the Purchase of Certain Goods, and Printing, Parts Cleaning, Janitorial, and Building Maintenance Services Agreements.** If Contractor will sell to the JBE, or use in the performance of this Agreement, goods specified in PCC 12207 (for example,

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certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), then with respect to those goods: (i) Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible, and (ii) upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.

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

2.9. Agreements for which Contractor Has Committed to Achieve DVBE Participation. Contractor shall within sixty (60) days of receiving final payment under this Agreement certify in a report to the JBE: (i) the total amount the prime Contractor received under this Agreement; (ii) the name and address of any disabled veterans business enterprise ("DVBE") that participated in the performance of this Agreement; (iii) the amount each DVBE received from the Contractor; (iv) that all payments under this Agreement have been made to the DVBE; and (v) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

2.10. Agreements Resulting from Competitive Solicitations. Contractor shall assign to the JBE all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the JBE. Such assignment

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shall be made and become effective at the time the JBE tenders final payment to the Contractor. If the JBE receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the JBE any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the JBE as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by the Contractor, the JBE shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the JBE has not been injured thereby, or (b) the JBE declines to file a court action for the cause of action.

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

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

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

2.14. Agreements that the JBE Cannot Terminate for Convenience. The JBE's obligations under this Agreement are subject to the availability of applicable funds. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the initial appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement. Upon notice, the JBE may terminate this Agreement in whole or in part, without prejudice to any right or remedy of the JBE, for lack of appropriation of funds. Upon termination, the JBE will pay Contractor for the fair value of work satisfactorily performed prior to the termination, not to exceed the total contract amount.