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| **JUDICIAL COUNCIL OF CALIFORNIA**  **STANDARD AGREEMENT** rev Dec 2019 | | | AGREEMENT NUMBER |
| **[@AGMT#]** |
| FEDERAL EMPLOYER ID |
| **[@FEIN]** |
| 1. | In this agreement (“Agreement”), the term “Contractor” refers to **[@CONTRACTOR],** and the term “Judicial Council” or “Council” refers to the **Judicial Council of California**. | | |
| 2. | This agreement is effective as of **[@EFFDATE]** (“Effective Date”) and expires on the later of either **[@EXPDATE]** or upon final payment (“Expiration Date”). | | |
| 3. | The maximum amount the Council may pay Contractor under this Agreement is **$[@AMOUNT]** (the “Contract Amount”). | | |
| 4. | The purpose or title of this Agreement is: **Special Inspections and Materials Testing at the New Modesto Courthouse.**  *The purpose or title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.* | | |
| 5. | The parties agree that this Agreement, made up of this coversheet, the appendixes listed below, and any attachments, contains the parties’ entire understanding related to the subject matter of this Agreement, and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties. | | |
| Appendix A – Goods and Services  Attachment 1 to Appendix A – Duties and Performance  Attachment 2 to Appendix A – Contractor’s Key Personnel and Subcontractors  Appendix B – Payment Provisions  Attachment 1 to Appendix B – Billing Rates for Services  Attachment 2 to Appendix B – Judicial Council’s Travel and Living Expenses Guidelines  Attachment 3 to Appendix B – Request for Payment  Appendix C – General Provisions  Appendix D – Defined Terms  Appendix E – Judicial Council Tool Policy  Appendix F – Judicial Council Background Check Policy  Appendix G – Public Works Contracts and Prevailing Wage Laws  Appendix H – Prevailing Wage and Related Labor Requirements Certification (\*)  Appendix I – Workers' Compensation Certification (\*)  Appendix J – Unruh Civil Rights Act and FEHA (\*)  Appendix K – Disabled Veteran’s Business Enterprise Participation Certification (\*\*)  \* Contractor shall complete and sign Appendix H, I, and J and return the originals of these documents to the Judicial Council prior to commencing any work on the Project (as those terms are defined in the Contract Documents).  \*\* Contractor shall complete and sign Appendix K upon completion of the Project and prior to final payment. | | |
| **JUDICIAL COUNCIL’S SIGNATURE** | | **CONTRACTOR’S SIGNATURE** | |
| **Judicial Council of California** | | CONTRACTOR’S NAME *(if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.)* | |
| **[@CONTRACTOR]**  Entity Type: [@TYPE] | |
| BY *(Authorized Signature)* | | BY *(Authorized Signature)* | |
| ✍ | | ✍ | |
| PRINTED NAME AND TITLE OF PERSON SIGNING | | PRINTED NAME AND TITLE OF PERSON SIGNING | |
| Christine Powlan, Supervisor, Facilities Contracts | |  | |
| DATE EXECUTED | | DATE EXECUTED | |
|  | |  | |
| ADDRESS | | ADDRESS | |
| Branch Accounting and Procurement  455 Golden Gate Avenue, 6th Floor  San Francisco, CA 94102 | | [@ADDRESS] | |

APPENDIX A

GOODS AND SERVICES

1. Background and Purpose
   1. The New Modesto Courthouse project (“Project”) is the building construction and associated site development of a new trial court facility. The Project located at 701 10th Street, Modesto, California, is comprised of twenty-seven courtrooms, accommodating approximately 350 judges and court support staff. The building will have eight (8) above grade and one below grade levels; approximately 315,000 gross square feet, 135 feet high; Type 1A high-rise life-safety construction; the building structure is a steel special moment resisting frame; building enclosure is lightweight composite precast concrete, metal panel and window wall; the Project includes, but is not limited to, all building structure, enclosure, interior improvements, detention spaces, fire protection, mechanical, electrical, telecommunication, audio visual, and security systems.
   2. The site development is approximately 2.75 acres and is relatively flat; it has been cleared of buildings and above grade improvements. The Project generally includes removal of existing foundations, and underground utilities as further defined in the construction documents. Underground utilities shall be relocated by other parties under the terms of a property agreement between the Judicial Council and the City of Modesto.
   3. The site development includes but is not limited to site preparation, underground utilities, landscape, hardscape, on-site, on-grade driveways, surface parking lot; utility & receiving yard; secured bus sallyport, a one-story utilities building, security barriers, fencing, and gates.
   4. The Project is designed to be certified “Silver” by the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED) Program.
   5. The hard construction budget is $249,000,000 and is currently in the contract award phase. The Construction Phase is anticipated to commence in the fall of 2021, with estimated start and completion dates as follows:
      1. Estimated start date: November 13, 2021
      2. Estimated completion date: November 13, 2024
   6. Project Team:
      1. Architectural/Engineering Firm: Skidmore, Owings, & Merrill LLP
      2. Construction Management Agency: Kitchell CEM
      3. Construction Manager at Risk: McCarthy Building Companies, Inc.
   7. The location where the work is performed will be referred to as the “Project Location”.
2. Services
   1. Description of Services. Contractor shall perform the following Special Inspections and Materials Testing (“Laboratory”) services (collectively the “Services”): Working in coordination with the Project Inspector, review, test, inspect and document existing conditions, architectural or engineering documents, construction materials and assemblies according to applicable codes, regulations, and standards.
      1. Laboratory Services include, at the direction of the Judicial Council, the inspection and required testing of the following elements of construction:
         1. Soils (grading, excavation, and filling)
         2. Asphalt concrete (hot mix asphalt and rubberized hot mix asphalt)
         3. Foundations (piles and piers)
         4. Reinforcing steel
         5. Concrete
         6. Shotcrete
         7. Precast concrete
         8. Masonry
         9. Post installed anchors and dowels (installation and proof load testing)
         10. Fire-resistant materials (sprayed and mastic & intumescent)
         11. Fire-resistant penetrations and joints
         12. Firestop assemblies and details
         13. Structural steel
         14. High strength bolting
         15. Nondestructive testing (NDT)
      2. Laboratory services required for the Project above are further described in Exhibit 2 Special Inspections and Materials Testing Duties and Performance.
      3. Licensing and Certification. All Contractors and subcontractors, employees or agents thereof, performing work for this Project must have, at the time of proposal and at all times throughout the duration of their performance of the work, all appropriate, valid license(s) and certification(s) required under law to provide the work being performed, satisfactory evidence of which may be requested by the Judicial Council at any time. The Contractor must ensure that the work will at all times be performed either by an appropriately certified individual or, when legally permissible, under the direct supervision of an appropriately certified individual.
      4. Minimum Qualifications. The Contractor and key personnel proposed to be assigned responsibilities on this Project must be highly qualified and have extensive experience in all aspects of site and facility inspection and testing on similar projects. Minimum qualifications shall include:
         1. Significant experience and successfully completed projects of similar facilities within the last five (5) years.
         2. Required licenses and certifications to provide the specified services, including:
            1. Laboratory: fully staffed office, inspector commute location, and DSA accepted materials testing laboratory within two hundred miles of the Project site.
            2. Lead Special Inspector: International Code Council (ICC), American Welding Society (AWS), DSA, or required certification in the specific aspect of the work to be inspected, plus five (5) years construction inspection experience.
            3. Special Inspector: ICC, AWS, DSA, or required certification in the specific aspect of the work to be inspected, plus three (3) years construction inspection experience.
         3. Capability and experience in providing on‐site and off-site inspections of similar facilities.
         4. Capability and experience in providing materials sampling and testing as required for the Project.
         5. Experience in working with entities in the quality control of similar facilities.
      5. Compliance with prevailing wage laws as further described in Appendix G.
      6. Department of Industrial Relations (DIR) public works registration is required for this Project. Contractor must list its current and active DIR public works registration number on Appendix H, Prevailing Wage and Related Labor Requirements Certification.
   2. **Description of Deliverables.** Contractor shall deliver to the Council the following work products (“Deliverables”):
      1. Deviation or non-conforming notices, test reports, daily reports, and monthly activity logs as specified in Duties and Performance, Attachment 1 to Appendix A.
      2. Milestone Verified Report(s)
      3. Final Verified Report(s)
   3. **Acceptance Criteria.**  The Services and Deliverables must meet the following acceptance criteria or the Council may reject the applicable Services or Deliverables. Contractor will not be paid for any rejected Services or Deliverables.
      1. *Timeliness*. The Services were completed, and the Deliverables were delivered on time.
      2. *Completeness*. The Services and Deliverables contained the materials and features required in the Agreement.
      3. *Technical Accuracy*. The Services and Deliverables are accurate as measured against commonly accepted standards (for example, a statistical formula, an industry standard, or de facto marketplace standard).
   4. **Timeline.** Contractor must perform the Services and deliver the Deliverables according to the following timeline:
      1. As specified in Duties and Performance, Attachment 1 to Appendix A.
   5. **Project Managers.** The Council may change its project manager at any time upon notice to Contractor without need for an amendment to this Agreement.
   6. **Contractor’s Key Personnel**
      1. Contractor shall use adequate numbers of qualified individuals with suitable training, education, experience, skill, licenses and certifications to perform the Services. The Contractor has been selected to perform the Services herein, in part, because of the skills and expertise of the key individuals and/or firms (collectively “Contractor’s Key Personnel”) that are listed in Attachment 2 to Appendix A. Substitution or replacement of the individuals and/or firms identified in Attachment 2 to Appendix A is not allowed except with written approval of the Judicial Council, which the Judicial Council can withhold at the Judicial Council’s sole discretion.
      2. If the designated lead or any Key Personnel fail to perform to the satisfaction of the Judicial Council upon written notice the Contractor will have fifteen (15) calendar days to remove that person from the Project and replace that person with one acceptable to the Judicial Council. All lead or key personnel for any subcontractor must also be designated by any subcontractor and are subject to all conditions stated in this section.
      3. Contractor shall be responsible for all costs associated with replacing any of Contractor’s Key Personnel, including the additional costs to familiarize replacement personnel with the Services or the Project. If the Contractor does not furnish replacement personnel acceptable to the Judicial Council, the Judicial Council may terminate this Agreement for cause.
      4. Contractor represents that Contractor’s Key Personnel have no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of the Services and that no person having any such interest shall be employed by Contractor.
   7. **Subcontractors**. Contractor shall contract for or employ at Contractor’s expense, subcontractor(s) to the extent deemed necessary for completion of its Services on the Project. The names and contact information of subcontractor(s) are set forth in Attachment 2 to Appendix A. The Judicial Council reserves the right to reject the Contractor’s use of any particular subcontractor. Nothing in the foregoing procedure shall create any contractual relationship between the Judicial Council and any subcontractor(s) employed by the Contractor under terms of the Agreement.
   8. **Service Warranties.** Contractor warrants that: (i) the Services will be rendered with promptness and diligence and will be executed in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services; and (ii) Contractor will perform the Services in the most cost-effective manner consistent with the required level of quality and performance. Contractor warrants that each Deliverable will conform to and perform in accordance with the requirements of this Agreement and all applicable specifications and documentation. For each such Deliverable, the foregoing warranty shall commence for such Deliverable upon the Council’s acceptance of such Deliverable and shall continue for a period of one (1) year following acceptance. In the event any Deliverable does not to conform to the foregoing warranty, Contractor shall promptly correct all nonconformities to the satisfaction of the Council.
   9. **Resources.** Contractor is responsible for providing any and all facilities, materials and resources (including personnel, equipment and software) necessary and appropriate for performance of the Services and to meet Contractor's obligations under this Agreement. On-site shared office space for temporary use will be provided.
   10. **Commencement of Performance.** This Agreement is of no force and effect until signed by both parties and all Council-required approvals are secured. Any commencement of performance prior to Agreement approval shall be at Contractor's own risk.
   11. **Stop Work Orders.** 
       1. The Council may, at any time, by Notice to Contractor, require Contractor to stop all or any part of the Services for a period up to ninety (90) days after the Notice is delivered to Contractor, and for any further period to which the parties may agree (“Stop Work Order”). The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Services covered by the Stop Work Order during the period of stoppage. Within ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, the Council shall either (i) cancel the Stop Work Order; or (ii) terminate the Services covered by the Stop Work Order as provided for in this Agreement.
       2. If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume the performance of Services. The Council shall make an equitable adjustment in the delivery schedule, the Contract Amount, or both, and the Agreement shall be modified, in writing, accordingly, if:
          1. The Stop Work Order results in an increase in the time required for, or in Contractor’s cost properly allocable to the performance of any part of this Agreement; and
          2. Contractor requests an equitable adjustment within thirty (30) days after the end of the period of stoppage; however, if the Council decides the facts justify the action, the Council may receive and act upon a proposal submitted at any time before final payment under this Agreement.
       3. The Council shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this provision.
3. Acceptance or Rejection

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

END OF APPENDIX

**ATTACHMENT 1 TO APPENDIX A**

**DUTIES AND PERFORMANCE  
SPECIAL INSPECTIONS AND MATERIALS TESTING**

1. **Purpose**. To provide the Judicial Council of California, Judicial Branch Facilities Services project managers, Architects, and construction contractors clarification of the duties of the Judicial Council contracted special inspections and materials testing laboratory (“Laboratory”) as required to ensure performance under the California Administrative Code (California Code of Regulations, Title 24).

## The Architect shall establish the extent of the testing and special inspection program consistent with the applicable codes and needs of the particular project and shall issue specific instructions to the Project Manager, the Project Inspector, and the Laboratory and Special Inspectors prior to start of construction.

## The Judicial Council will select and contract for a Laboratory to conduct all special inspections and materials testing; costs for all special inspections and materials testing will be paid for by the Judicial Council.

1. **Glossary**

## “Architect” means collectively the architect(s), engineer(s), and other professional consultant(s) under contract to the Judicial Council as the designer of record responsible for the preparation and coordination of the drawings and technical sections for the project and to provide design and construction documentation, and construction administration services for the project. Individuals shall be appropriately licensed to practice in the State of California.

## “Continuous Inspection” means the full-time observation of work requiring special inspection by a Project Inspector who is continuously present in the area where the work is being performed.

## “Inspection” means inspection of selected materials, equipment, installation, fabrication, erection or placement of components and connections, to ensure compliance with approved construction documents and referenced standards as required by applicable codes or its referenced standards.

## “Inspection Plan” means a written plan provided to the Project Inspector of those portions of the project that will be inspected on a Continuous Inspection basis versus a Periodic Inspection Basis, The Inspection Plan will be provided to the Project Inspector after it has been developed following consultation between the Judicial Council, the Architect, and the Contractor.

## “Inspector of Record” or “IOR” means the designated and approved Lead Project Inspector responsible for ensuring that all code-prescribed inspections and administrative duties are completed, including supervision of assistant Project Inspectors and monitoring of Special Inspectors. The Inspector of Record may utilize one or more assistant Project Inspectors to assist in performing inspection and administrative duties on a project.

## “On-site Project Manager” (OSPM) means the independent contractor employed by the Judicial Council to provide on-site project representation to ensure control of the scope of the work; project scheduling; optimum use of design and construction firm’s skills and talents; avoidance of delays, changes, and disputes; and enhancing project design and construction quality. The OSPM is responsible exclusively to the Judicial Council and acts in the Judicial Council's interests throughout each stage of the project.

## “Periodic Inspection” means the intermittent observation of work requiring inspection by a Project Inspector who is present in the area where the work has been or is being performed and at the completion of the work. All work requiring inspection shall remain accessible and exposed until approved by the Project Inspector.

## “Project Inspector” means the person or firm contracted with by the Judicial Council for the purpose of carrying out the requirements of this Procedure and its appendices.

## “Project Manager” means a person(s) employed or hired by Judicial Council in-charge of the overall project.

## “Quality” means the degree to which the project and its components meet the Judicial Council’s expectations, objectives, standards, intended purpose, as determined by measuring conformity of the project to the plans, specifications, and applicable standards and codes.

## “Quality Assurance” means the application of planned systematic methods to verify that the work is being conducted in conformity with the quality standards required and in conformance with the California Building Code, and the contract documents. Quality Assurance is provided by the Judicial Council.

## “Quality Compliance Manager” or “Manager of Quality Compliance” means the person employed by the Judicial Council in charge of its construction Quality Compliance unit and Quality Assurance on the construction-sites.

## “Quality Control” means the review, certification, inspection, and testing of project components, including persons, systems, materials, documents, techniques, and workmanship to determine whether or not such components conform to the plans, specifications, applicable standards, codes, and project requirements. The Construction Contractor provides Quality Control over all portions of their work, including their subcontractors.

## “Special Inspection” means the careful and thorough examination and documentation of a specific construction procedure (e.g. welding, masonry placement, etc.) for a project. Note that material identification and other related responsibilities are also generally a part of the special inspector's duties.

## “Special Inspector” means specially qualified individuals employed by an Judicial Council approved testing laboratory, or hired directly by the Judicial Council to perform special Inspection work as specifically defined in a scope of work specified by the Architect and/or required by applicable code. The Project Inspector may act in the capacity of the Special Inspector if properly qualified and with the consent of the Judicial Council.

1. **Duties and Performance of the Laboratory**
   1. Attend pre-construction meetings.
   2. Review shop drawings and submittals from construction contractors.
   3. Provide materials testing and special inspections of work in progress to ensure compliance with State and local building codes, architect's plans and specifications, and the requirements of the Judicial Council.
   4. The Laboratory shall also notify the Project Inspector as to the disposition of materials noted on laboratory testing, and/or special inspection, reports as not conforming to the Judicial Council approved documents.
2. **Special Inspections**
   1. Special inspection by inspectors specially approved by Judicial Council may be required on certain types of construction work as described in the approved construction documents.
   2. Judicial Council may require Special Inspectors for types of construction in addition to those listed in Chapter 17 of Title 24, Part 2 if found necessary because of the special use of materials or methods of construction.
   3. Judicial Council may require Special Inspectors for any off-site fabrication procedures that preclude the complete inspection of the work after assembly.
   4. Special Inspectors shall be in the direct employ of the testing laboratory, and if not, subcontractors must be specifically approved by Judicial Council.
   5. Special Inspectors may be required to be approved by Judicial Council for each individual project prior to performing inspections. Approval of a Special Inspector’s resume and certifications shall be made on a case by case basis.
   6. A Special Inspector shall have had at least three years’ experience in construction work or inspection responsibilities on one or more projects similar to the project for which the inspector is applying, shall have a thorough knowledge of the building materials of his or her specialty, and shall be able to read and interpret plans and specifications.
   7. Judicial Council may require evidence of the proposed inspector's knowledge and experience by successful completion of a written and/or oral examination by the applicant before approval is granted.
   8. Construction work that the Special Inspector finds not to be in compliance with the approved plans and specifications, shall be reported immediately to the Project Inspector, the Project Inspector will review the work under question and if found in agreement will then contact the Construction Contractor about the deviated work. If it cannot be corrected immediately the Architect, and the Project Manager shall be notified.
   9. Special Inspectors shall submit reports the same day to the Project Inspector Project Manager, the Architect, the Contractor, and the Project Inspector. Reports of special inspections performed on-site shall be submitted to the Project Inspector and Judicial Council Manager of Quality Compliance on the day the inspections were performed. Reports shall include all special inspections made regardless of whether such inspections indicate that the work is satisfactory or unsatisfactory.
   10. Special inspection reports shall include a description of all sampling of materials performed and/or witnessed. Reports shall clearly state whether the work was inspected in accordance with the requirements of the Judicial Council approved construction documents for the project. Reports shall also clearly state whether the work inspected met the requirements of the Judicial Council approved construction documents.
   11. The acceptance or approval of Special Inspectors may be withdrawn by Judicial Council if the Special Inspector fails to comply with any part of this code or the standards referenced on the approved plans and specifications.
3. **Tests**
   1. General. Tests of materials are required as set forth in the applicable regulations. Whenever there is insufficient evidence of compliance with any of the provisions of the code or evidence that any material or construction does not conform to the requirements of the code, Judicial Council may require tests as proof of compliance to be made. Test methods shall be as specified by the California Building Code, the Architect of Engineer, or by other recognized and accepted test standards. If there are no recognized and accepted test methods for the proposed alternate, the Architect shall submit written test procedures for review and acceptance by Judicial Council.
   2. Performance of Tests
      1. Test samples or specimens of material for testing shall be taken by a representative of the testing facility. The Project Inspector may, if qualified and other duties permit, be authorized in writing by Judicial Council Manager of Quality Compliance to sample test specimens.
      2. In general samples are selected at random; however, if there is reason to believe that specific materials may be defective, sample locations may be selected by the Project Inspector, Architect, or Project Manager or designee. In no case shall the Contractor or vendor select the sample or specimens.
      3. Sampling, handling, transportation, preparation of samples and testing shall be in accordance with the standards as provided for in the approved plans, specifications and in the applicable building regulations.
      4. Where a sample has failed to pass the required tests the Architect, subject to the approval of Judicial Council, may permit retest of the sampled material.
   3. Payments. The Judicial Council will pay for all tests, but if so specified the amount or a portion thereof may be collected from the Contractor by the Judicial Council. When in the opinion of the Architect, additional tests are required because of the manner in which the Contractor executes the work, such tests shall be paid for by the Judicial Council, but if so specified the amount paid may be collected from the Contractor by the Judicial Council. Examples of such tests are: tests of material substituted for previously accepted materials, retests made necessary by the failure of material to comply with the requirements of the specifications, and load tests necessary because certain portions of the structure have not fully met specification or plan requirements.
   4. Test Reports
      1. One copy of all test reports shall be forwarded to Project Manager, the Architect, Judicial Council Quality Compliance Manager, and the Project Inspector by the testing facility within 5 days of the date of the test. Such reports shall include all tests made, regardless of whether such tests indicate that the material is satisfactory or unsatisfactory. Records of special sampling operations as required shall also be reported.
      2. The reports shall show that the material or materials were sampled and tested in accordance with the requirements of these guidelines and with the approved plans and specifications. In the case of materials such as masonry, concrete or steel, test reports shall show the specified design strength.
      3. All reports of test results shall also definitely state whether or not the material or materials tested comply with requirements of the plans and specifications. Reports of test results of materials not found to be in compliance with the requirements of the plans and specifications shall be forwarded immediately.
   5. Final Report. Each testing facility shall submit to Project Manager, the Architect, and the Project Inspector at the completion of the testing program a final report covering all of the tests and inspections that were required to be made by that facility. Such report shall be furnished any time that work on the project is suspended, or services of the testing laboratory are terminated, covering the tests up to that time.
      1. The final report shall be signed, under penalty of perjury, by the California registered engineer charged with engineering managerial responsibility for the testing facility. The report shall indicate that all tests and inspections were made as required by the approved plans and specifications and shall list any noncompliant tests or inspections that have not been resolved by the date of the report. In the event that not all required tests or inspections were made by the laboratory making this report, those tests or inspections not made shall be listed on the report.
4. **Standard of Care**. The following shall be the minimum standard of care with respect to any services assigned in an agreement or contract:
   1. Laboratory represents that Laboratory has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the Judicial Council. Laboratory's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to judicial branch entities. Laboratory's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
   2. Laboratory hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
   3. Laboratory shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Laboratory understands that the Judicial Council relies upon such professional quality, accuracy, completeness, and coordination by Laboratory in performing the Services.
   4. Laboratory shall ensure that any individual performing Work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the Work assigned to them.

Appendix 1 - Observation of Construction by the Architect

## The Judicial Council requires that the observation of the work of construction, reconstruction, rehabilitation, alteration, or addition shall be under the charge of the Architect.

## A geotechnical engineer or his or her qualified representative shall perform special inspection of the placement and compaction of fills according to the approved construction documents. The geotechnical engineer shall submit reports of each site visit to the Project Inspector, with copies to the Project Manager and the Architect.

Appendix 2 – PROJECT INSPECTION (For reference only)

1. **Duties of the Project Inspector for Special Inspections and Materials Testing**
   1. The Project Inspector shall act as the Judicial Council Quality Assurance Program representative during any special inspections and/or tests.
   2. The Project Inspector may obtain personal knowledge of the work of construction, either on-site or off-site, performed under the inspection of Special Inspectors.
   3. The Project Inspector may obtain personal knowledge that materials used in the construction conform to the Judicial Council approved documents by verifying test reports performed by accepted testing facilities, verifying materials certifications shipped with the materials, or other means as specified in the Judicial Council approved documents and referenced codes and standards.
   4. The Project Inspector shall be responsible for monitoring the work of the Special Inspectors and testing laboratories to ensure that the testing program is satisfactorily completed.
   5. The Project Inspector shall be responsible for supervising the work of all assistant inspectors. The exercise of reasonable diligence to obtain the facts shall be required.
2. **Duties and Performance of the Project Inspector** 
   1. The Project Inspector(s) will in consultation and with the approval of the Judicial Council, designate one or more qualified individuals to perform specific duties in accordance with this procedure.
   2. The Project Inspector will comply with the qualification and performance requirements outlined in California Building Code.
   3. If more than one Project Inspector is needed at a single project site the inspection firm, will in consultation and with the approval of the Judicial Council, designate one Project Inspector as the “Lead Project Inspector” or “Inspector of Record”.
      1. If a Lead Project Inspector has been designated that person will be responsible to ensure the requirements of this procedure are followed on the project site and manage the assignments of his/her subordinate inspectors.
   4. The Project Inspector acts under the direction of the Manager of Quality Compliance, or his or her designee, within the Judicial Council Facilities Services Quality Compliance Unit.
   5. The Project Inspector will coordinate, consult, and communicate with the Project Manager, and the Judicial Council’s on-site representative if different from the Project Manager (on an established basis).
   6. With the exception of a circumstance involving immediate danger to life or property, the Project Inspector does not have the authority to direct the Construction Contractor in the execution of the work, nor to stop the work of construction.
      1. Should the Project Inspector stop work due to damage to life or property, the Project Inspector shall immediately notify the OSPM who will be responsible to make further notifications within the Judicial Council management hierarchy.
   7. The Project Inspector’s responsibilities include:
      1. A thorough understanding of all requirements of the construction documents.
      2. Timely review of all approved changes made to construction documents throughout the construction process.
      3. Inspection of the construction work in progress, in accordance with the Project Inspection Plan for compliance with the requirements of the approved construction documents.
      4. Identification, documentation, and reporting of deviations in the construction from the requirements of the approved construction documents and applicable code.
      5. Submittal of verified reports on forms provided by the Judicial Council.
      6. Participation in all final inspections and preparation of rework items lists.
      7. At the conclusion of inspection services on the Project any outstanding deviations must be noted on the Final Verified Report.
   8. The Project Inspector is responsible to pre-inspect for all jurisdictional and special inspections prior to calling and scheduling the inspection with the jurisdiction having authority.
   9. The Project Inspector will perform Continuous or Periodic inspection as established under the Project Inspection Plan developed under Section 7.0 of the Project Inspector Duties and Performance Procedure.
      1. Continuous inspection means the full-time observation of work requiring special inspection by a Project Inspector who is continuously present in the area where the work is being performed.
      2. Periodic Inspection means the intermittent observation of work requiring inspection by a Project Inspector who is present in the area where the work has been or is being performed and at the completion of the work. All work requiring special inspection shall remain accessible and exposed until approved by the Special Inspector.
   10. The Project Inspector is prohibited from performing functions associated with actual construction work such as:
       1. Performing construction work;
       2. Ordering or purchasing materials;
       3. Directing the work of the Construction Contractor, subcontractor(s), volunteer labor, or any entity performing construction work;
       4. Coordinating or scheduling the construction work; or
       5. Performing Quality Control of construction. Quality Control is the responsibility of the Construction Contractor. Quality Assurance is the responsibility of the Judicial Council and its inspectors.
3. **Project Inspector’s Job File**
   1. The Project Inspector shall coordinate with the OSPM to ensure that the following records are maintained at the job site during construction, in an organized and readily accessible electronic or paper file (collectively the Job File). It is not necessary that both the Project Inspector and the OSPM maintain the documents, only that they are available to both parties:
      1. Approved (stamped and initialed) plans and specifications (printed copy).
      2. A copy of the Inspection Plan.
      3. Approved submittals as required by approved plans (printed copy).
      4. Project addenda and change orders.
      5. Construction change documents with a log of all construction changes.
      6. Copies of Construction Contractor submittals (construction schedules, shop drawings, certificates, product labels, concrete trip tickets, etc.).
      7. Communication log referencing all project construction related communications, such as Construction Contractor’s requests for information (RFI) and Architect’s supplemental instructions, and project related meeting minutes and/or notes.
      8. Inspection Requests, Correction Notices, and Notices of Non-Compliance with logs (summary record) including resolution status for each deviation.
      9. Evidence of continuous or periodic inspection, such as daily inspection reports.
      10. Materials testing and special inspection reports.
      11. Judicial Council, State Fire Marshal, and Board of State and Community Corrections field trip notes from prior visits with copies provided to the Architect, Construction Manager and Project Manager indicating resolution of each field trip note item requiring action.
      12. Applicable California Building Standards Codes (Title 24): Part 1 (Administrative Code); Part 2, Volumes 1 and 2 (Building Code); Part 3 (Electrical Code); Part 4 (Mechanical Code); Part 5 (Plumbing Code); Part 6 (Energy Code), Part 9 (Fire Code), and Part 11 (Green Code). The code edition must be as referenced on the approved plans and specifications. The Project Inspector should have access to applicable structural referenced standards, as needed for particular project inspection activity. Structural Standards are referenced in Chapter 35, CBC, Title 24 Part 2 Vol 2 of 2.
      13. Applicable NFPA Standards (NFPA is referenced in Chapter 35 of the CBC)
      14. Construction Contractor's Project Site Safety Program
      15. Inspector generated Inspector’s Request for Clarification (IRFC)
      16. Bulletins and Architect’s Supplementary Instructions issued by Architect
      17. Quality Control documentation generated by the Construction Contractor.
      18. Copy of State Fire Marshal on-site inspection records and daily reports.
   2. The Job File records listed above may be maintained in paper (i.e. hard copy) and/or electronic format, unless otherwise specified above. Appendix 1 ‒ Guidelines for Completion of Project Inspector’s Daily Report provides guidance for required record- keeping. At the completion of the project, the Project Inspector shall transfer the Job File, with the exception of building codes and reference standards, to the Judicial Council, which shall maintain the Job File as part of the permanent Judicial Council records.
4. **Project Inspector’s Comprehension of the Construction Documents**
   1. The inspector must study and fully comprehend the requirements of the construction documents in order to provide competent inspection of the work. It is necessary for the inspector to possess a thorough understanding of the requirements of the plans and specifications before that portion of the work is performed.
   2. The inspector must:
      1. Consult with the responsible Architect(s), via a written memorandum or email to resolve any uncertainties in the inspector’s comprehension of the plans and specifications prior to construction of that portion of the work.
      2. Review requirements for each phase of the construction with the Construction Contractor prior to commencing that phase of the work. Good communications will prevent construction errors from occurring.
      3. Readily identify non-compliant work as the construction progresses, to facilitate prompt corrective action.
      4. Verify code-compliant implementation of the materials testing and special inspection program.
   3. The Project Inspector must direct any IRFC’s regarding document interpretation to the Architect with a copy to the Construction Contractor, the Judicial Council Project Manager, and the Construction Manager.
5. **Inspection of the Work**
   1. Inspection means complete and timely inspection of the work on either a Continuous Inspection or Periodic Inspection basis as determined in the Inspection Plan and periodic consultation with the Architect, the Project Manager, and the Construction Manager charged with the administration of the construction of the Project. The Judicial Council requires prompt Inspection of the work as it progresses. The Judicial Council also requires that prompt notification be made to the Construction Contractor of any deviation, so that the deviation can be immediately corrected.
   2. The Lead Project Inspector must have personal knowledge of the construction, obtained through a Project Inspector’s own physical inspection of the work in all stages of its progress.
   3. When a Special Inspector(s) or approved assistant Project Inspector(s) are used on a project, the Lead Project Inspector’s personal knowledge may include that knowledge obtained from these individuals. The Lead Project Inspector must keep a log of time spent on the project site by all inspectors.
6. **Records of Inspections**
   1. The Project Inspector must maintain detailed records of all Inspection Requests. The inspector’s records must provide a comprehensive and timely documentation of the inspected work, promptly identifying all compliant and non-compliant construction. These records must be readily accessible and maintained in an organized manner.
   2. The following is a list of the Inspection records that must be maintained at the job site:
      1. A systematic record of those materials and assemblies delivered to the Project site that according to the Project Inspection Plan require an inspection before being incorporated into the work, e.g. switch gears, chillers, boilers, air handling units and other high value components with long lead times for replacement.
      2. A systematic record of the Inspection of all work required by code and the construction documents. This may be provided through the Inspection Request process or the Project Inspector's process management system. The inspector must also record the resolution of reported deviations through the Inspection Request process.
      3. Special Inspection Records per Title 24, Part 2, Volume 2, such as concrete placement operations, welding operations, pile penetration blow counts, and other records as specified on the approved construction documents.
      4. Copy of the Daily Report that includes Project Inspector’s and assistant Project Inspector(s)’s time spent at the Project site, or with the prior approval of the Manager of Quality Compliance at an offsite project location where Inspection is required. The time should be reported on the Daily Report and the Monthly Document Log.
      5. Construction procedure records. The Project Inspector shall keep a record of certain phases of construction procedure including, but not limited to, the following:
         1. Concrete placing operations. The record shall show the time and date, and ambient temperature/weather conditions of placing concrete and the time and date of removal of forms in each portion of the structure.
         2. Welding operations. The record shall include identification marks of welders, lists of defective welds, manner of correction of defects, etc.
         3. Pile driving operations. The record shall include penetration under the last 10 blows for each pile when piles are driven for foundations.
      6. Construction project log. The inspector shall maintain construction logs on-site at all times including, but not limited to, the following:
         1. A log of all deviation notices. The log shall reference all applicable details and specification sections related to nonconforming materials and workmanship including field change documents, change orders, addenda and deferred approvals. The log shall describe all corrective actions taken whether performed in accordance with Judicial Council approved documents or not, the current status of each deviation issue and the resolution for each issue.
         2. Copies of all deviation notices, daily reports, test reports, special inspection reports, RFI’s and IRFC’s, responses to RFI’s and IRFC’s, interpretations and clarifications from the Architect, and other applicable documents required to provide a complete record of the construction.
      7. All such records shall be kept on the project site until the completion of the work and shall be readily accessible to Judicial Council personnel during site visits. These records shall be made a part of the permanent project records.
7. **Communications Required of the Project Inspector**
   1. The Project Inspector must maintain records of all communications. These records must be readily accessible and maintained in an organized manner. The date and recipients of all communications must be clearly indicated.
   2. The Project Inspector is required to provide the following communications during the course of a construction project:
      1. Notify and schedule the State Fire Marshall when construction elements are ready for inspection
      2. Notify the Board of State and Community Corrections when holding cells are ready for inspection
      3. Submit daily and monthly activity reports on forms provided by the Judicial Council
      4. Submit daily site safety reports
   3. The Project Inspector shall provide the following notices in writing (e-mail is acceptable):
      1. *Correction Notices*: When the Project Inspector identifies deviations from the approved plans and specifications, the Project Inspector must verbally notify the Construction Contractor. If the deviation is not immediately corrected, the Project Inspector is required to promptly issue a written Correction Notice to the Construction Contractor, with a copy sent to the Architect and the Project Manager. The status and resolution of all Correction Notices must be tracked on a log.
      2. *Notice of Non-Compliance*: When a Project Inspector finds work that is in progress or is complete and is found to be defective or nonconforming in a material respect, a Notice of Non-Compliance shall be issued after verbally notifying the Construction Contractor. The Project Inspector shall notify the following parties, immediately in writing, of the Notice of Non-Compliance the Construction Contractor, the Architect, the Judicial Council field representative, the Project Manager, and the Manager of Quality Compliance. The status and resolution of all Notice of Non-Compliance must be tracked on a log.
      3. *Daily Reports*: The Project Inspector shall submit daily reports on a form provided by the Judicial Council directly to Manager of Quality Compliance as more specifically stipulated in Appendix A to this procedure.
      4. *Final Verified Reports*: When any of the following occurs, a Final Verified Report shall be submitted a form provided by the Judicial Council.
         1. Work on the project is suspended for a period of more than one month.
         2. The services of the Project Inspector are terminated for any reason prior to completion of the project and such termination is not a result of work stoppage.
         3. The entire project is complete. (see below instead, this is duplicative of 13.0) Architect.
      5. Electronic copies of all Daily Reports, Inspection Requests, Correction Notices, and Notices of Non-Compliance shall be emailed to the Judicial Council Manager of Quality Compliance, or his or her designee.
      6. *Project Inspector Final Verified Report*: The Project Inspector shall make and submit directly to Judicial Council Manager of Quality Compliance the Final Verified Report.
8. **Inspector’s Monitoring of the Special Inspection and Materials Testing Program.** The Project Inspector is responsible for monitoring the work of any Special Inspectors and materials testing laboratories to ensure that all special inspections and materials testing required for the project are satisfactorily completed in accordance with the approved documents.
   1. The Project Inspector must monitor the following aspects of the Special Inspection and Materials Testing Program:
      1. With 48 hours advance notice by an Inspection Request from the Construction Contractor make the necessary arrangement for the materials testing lab and Special Inspectors to perform the required material sampling or special Inspection.
      2. Verify that all required material sampling and special Inspections have been performed. The Project Inspector is also responsible to observe any Special Inspector’s on-site presence, performance of duties, and the Special Inspector’s documentation of complying and non-complying work.
      3. Receive, review, and approve with a digital stamp all invoices from the Special Inspector before they are sent to the Judicial Council for processing.
      4. Review all materials test and special Inspection reports.
      5. Issue any Notice of Non-Compliance resulting from the findings of the Special Inspector.
      6. Report the status and resolution of deviations reported by any materials testing lab or Special Inspector on daily reports.
9. **Judicial Council Oversight**
   1. The Judicial Council Quality Compliance (QC) Manager, or staff designated and assigned by the Quality Compliance Manager, conducts oversight of each project through review of documents and monthly construction-site visits. Each site visit typically includes the following:
      1. Monitoring of the Project Inspector’s administration and documentation of project Inspection activities;
      2. Observation of construction; and
      3. Documentation in the form of meeting minutes of the monthly Quality Compliance meeting at the construction-site will be written and published by the firm providing Construction Manager Agency (CMA) services for each project.
      4. The following project team members will be invited to the monthly Quality Compliance meeting:
         1. JCC Project Manager
         2. JCC Quality Compliance Manager and designated staff
         3. CMA representative
         4. Office of the State Fire Marshal (OSFM) – Deputy State Fire Marshal assigned to the project
         5. Lead Project Inspector (Inspector of Record)
         6. Representative of the firm providing Special Inspection & Materials Testing
         7. Construction Manager at Risk (CMR) – Project Manager
         8. Construction Manager at Risk (CMR) – Superintendent
         9. Construction Manager at Risk (CMR) – Quality Manager
         10. Architect of Record
   2. Job File Review. The Judicial Council Quality Compliance Manager or designated Quality Compliance staff shall evaluate the Project Inspector’s administration of the project through a job file review. The purpose of the job file review is to verify completeness of the Project Inspector’s records, communicate with the Project Inspector and responsible Architect, and address any project documentation or other issues during construction to facilitate timely project completion. The job file review is a project record, which is maintained in the Judicial Council project files. Copies are provided to the Project Inspector, the Judicial Council Quality Compliance Manager, and the Project Manager after completion of each job file review.
   3. Observation of Construction by Judicial Council. If needed, as part of the monthly Quality Compliance meeting, the Quality Compliance Manager or designated Quality Compliance staff conducts a site walk to make observations as necessary to ascertain that Inspections have been completed diligently. During the site visit, the Judicial Council Quality Compliance Manager or designated Quality Compliance staff may provide guidance to the Project Inspector, as needed, to ensure enforcement of construction documents.
   4. Judicial Council Field Trip Notes. See 10.1.3 above. The meeting minutes may include informational comments, including construction status and guidance given to the Project Inspector. The meeting minutes become a part of the Judicial Council project records.
10. **Process Completion Steps and Next Steps**
    1. The project inspection process for each project is complete at the time that all of the following are complete:
       1. The project has filed its Notice of Completion with the County
       2. All change orders making claim for additional cost or time are closed
       3. All outstanding work, either in the form of a punch list item, or warranty work are closed
       4. The Project Inspector has filed its Final Verified Report
       5. The Project Inspectors Job File has been turned over to, and accepted by, the Judicial Council
       6. The Project Inspector has participated in the formal Lessons Learned Review for the project.
    2. The Project Manager and Quality Compliance Manager or designated Quality Compliance staff will conduct a formal Lessons Learned review that includes representatives of the Architect, the Contractor, and the quality team within 60 days of final completion of the project to discuss and make suggestions on areas of improvement. The minutes of the meeting will be maintained in the Lessons Learned Database.
    3. The Judicial Council Quality Compliance Manager will issue a Contract Completion Memo to the Project Inspector as the Judicial Council’s advice of project completion.
11. **Dispute Resolution**
    1. The purpose of this procedure is to establish a process to apply logical and systematic methods to manage project construction quality. The Judicial Council establishes its right to inspect and test the quality of the work through the terms and conditions of its contract between the Judicial Council and the Construction Contractor. The terms and conditions of the contract between the Judicial Council and the Construction Contractor clearly establish that the responsibility for the quality of the work rests with the Contractor and any inspection or testing done by the Judicial Council is for the Judicial Council’s benefit and does not accrue to the benefit of the Contractor.
    2. The Project Inspector is charged with the identification of deviations from the approved plans and specifications on behalf of the Judicial Council. The Project Inspector will notify the Construction Contractor of any such deviations pursuant to section 9.0 of this procedure. The following process will be utilized when the Construction Contractor disagrees with a deviation notice:
       1. Should the Construction Contractor agree with the Correction Notice and/or the Notice of Non-Compliance then no further activity is necessary.
       2. Should the Construction Contractor not agree with the Correction Notice and/or the Notice of Non-Compliance then the Construction Contractor shall notify the Project Manager, who shall contact and discuss the deviation notice with the Judicial Council Manager of Quality Compliance.
       3. The desired outcome of the meeting between the Project Manager and the Judicial Council Manager of Quality Compliance is to develop a single position concerning any deviation notice that can be communicated to the Construction Contractor. In developing this position, the assistance of the Architect and any other available subject matter experts should be utilized.
       4. The Project Manager will communicate the Judicial Council’s position to the Construction Contractor as the Judicial Council’s representative.
       5. Should the Construction Contractor disagree with the Judicial Council’s position the Construction Contractor’s may request the matter will be elevated to the Facilities Services Director. Before being considered by the Facilities Services Director, the Architect shall issue an opinion concerning the matter, which shall be forwarded to the Facilities Services Director who shall make a final decision.
    3. Disputes concerning Correction Notices and/or the Notices of Non-Compliance can also be resolved under the terms and conditions of the contract between the Judicial Council and the Construction Contractor, which establishes the following Project quality related responsibilities for the Contractor:
       1. Maintain a construction quality control program and perform such inspections that will ensure that the work is being performed in conformance with the contract documents.
       2. Maintain complete inspection records and make them available to the Judicial Council.
       3. Notify the Judicial Council in writing, at least 24 hours in advance, of any inspection or testing required of the Judicial Council and its Inspector of Record.
       4. Should work be performed outside of the established hours of construction operations, then the Contractor must provide the Judicial Council with 48 hours advance notice of any inspection or testing required of the Judicial Council and its Inspector of Record.
       5. If work is found to be defective the Contractor shall perform the work as designated by the Judicial Council, and then within the time period established by the terms and conditions of the contract between the Judicial Council and the Contractor provide a written protest of the direction to perform the work.
       6. The resolution of any protest to perform work will be resolved pursuant to the terms and conditions of the contract for construction between the Judicial Council and the Contractor.

APPENDIX 3 - PROJECT SITE SAFETY

1. **Project Site Safety Plan**
   1. The Construction Contractor is responsible to develop and enforce the Project Site Safety Plan that is in conformance with federal, State and local laws, rules, regulations and ordinances.
   2. The Judicial Council has instituted an Owner Controlled Insurance Program (OCIP) at the Project site. The OCIP insurer, Old Republic Insurance Company and the OCIP Administrator, Willis Insurance Services of California will periodically conduct on-site inspections of the Project to ensure compliance with the Project Site Safety Plan and established state occupational safety standards.
   3. The OCIP safety inspection team will coordinate with the Project Inspector for each site visit, will debrief the Construction Contractor and the Project Inspector following an inspection, and will copy the Project Inspector on all safety inspection reports.
   4. With the assistance of the OCIP insurer and the OCIP Administrator the Construction Contractor is responsible for accident investigation and mitigation planning. The Project Inspector will be provided for comment and monitoring any accident mitigation plan prepared by the Construction Contractor.
      1. *Activity Hazard Analyses*
      2. The Construction Contractor is, as part of its Project Site Safety Plan, responsible to prepare, maintain and implement an Activity Hazard Analysis that will define the activities being performed and identify the sequences of work, specific hazards anticipated, site conditions, materials and control measures to be implemented to eliminate or reduce each hazard associated with a work related activity of sequence.
      3. If the Project Inspector feels work is being performed in an unsafe manner, then he or she should request a copy of the Activity Hazard Analysis associated with the work to ensure compliance with the Project Site Safety Plan.
      4. The Project Inspector may call upon the OCIP safety inspection team at any time for advice and consultation, including a site visit.

APPENDIX 4 - GUIDELINES FOR COMPLETION OF SPECIAL INSPECTION REPORT

1. **Duties of the Special Inspector**
   1. Completion:
      1. Prepare and submit a separate inspection report for each and every day the Special Inspector is at the Project site, or a site directly related to the Project during construction of the project.
      2. For Construction Start date, use the date the Contractor mobilizes on the project site to begin construction (or demolition, if demolition work is included in the project scope and in the approved construction documents).
      3. Inspection reports shall continue until the Final Verified Report is submitted.
      4. For any buildings occupied prior to completion of the entire project scope, the Inspector shall indicate the date of the final verified report filed for each building occupied prior to project completion.
   2. Format & Content. Use the Report Template provided by the Judicial Council.
   3. Distribution. The reports shall be addressed to the Judicial Council Quality Compliance Manager.
      1. A copy shall be forwarded to the following individuals:
         * 1. Project Inspector of Record,
           2. Judicial Council Project Manager,
           3. Architect,
           4. Construction Contractor,
           5. Judicial Council Manager of Quality Compliance, and
           6. Judicial Council inspection administrative coordinator.
   4. Inspection Report Template.
      1. Keep the report brief, generally one or two pages in length and include the following:
         * 1. Date of Report,
           2. Judicial Council File No.,
           3. Name of Contractor,
           4. Name of Architect in Charge, and
           5. Name of Judicial Council on-site representative.
      2. *Summary of Materials Testing & Special Inspections Performed*: List any material sampling or special inspections performed on-site or off-site. List any material tests performed on-site. List the results of performed tests and special inspections.
      3. *Instructions Received from the Architect(s)*: List any documents or issued instructions regarding the materials testing and special inspection program. Record any significant absence of the Project Inspector from the job-site when work is progressing, and approved provision for special inspection during this time.
      4. *Problems, Concerns or Unusual Conditions*: List any problems, concerns or unusual conditions with testing & special inspection program, or assistant inspection work that occurred. Indicate to whom the issue has been directed for review.

END OF ATTACHMENT

**ATTACHMENT 2 TO APPENDIX A**

**CONTRACTOR’S KEY PERSONNEL AND SUBCONTRACTORS**

|  |  |  |  |
| --- | --- | --- | --- |
| 1. **Key Personnel** | | | |
| **Name** | **Title** | **Role** | **Certification(s)/number(s)** |
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| 1. **Subcontractors** | | | |
| **Name /**  **Phone/Email** | **Address** | **Area of Specialization** | **Certification(s)/number(s)** |
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END OF ATTACHMENT

APPENDIX B

PAYMENT PROVISIONS

1. General. Subject to the terms of this Agreement, Contractor shall invoice the Council, and the Council shall compensate Contractor, as set forth in this Appendix B. The amounts specified in this Appendix shall be the total and complete compensation to be paid to Contractor for its performance under this Agreement. Contractor shall bear, and the Council shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes or expenses of any nature which Contractor incurs.
2. Compensation for Services
   1. Contract Amount. The total amount that may be paid under this Agreement shall at all times be set forth on the Agreement Coversheet as the “Contract Amount.” Contractor shall be compensated on a time and materials basis up to but not to exceed the total Contract Amount as set forth herein.
   2. Contractor will invoice for Services or Deliverables that the Council has accepted:
      1. Special Inspections and Materials Testing
   3. Contractor shall be compensated at the Billing Rates applicable to Contractor’s or its subcontractor’s employees and fixed-prices as specified in Attachment 1 to Appendix B, plus authorized Travel and Living Expenses and Reimbursable Expenses as specified below, if authorized, up to but not to exceed the total Contract Amount. Contractor shall invoice only for hours or expenses actually incurred by Contractor or its subcontractor’s employees in pursuit of the Work.
   4. Travel Time. The Judicial Council is not obligated to pay for, and Contractor shall not invoice for any hours of non-production work expended by the Contractor or its subcontractor’s employees that are spent traveling to or from the Project Location and travel to or from any offsite location within a two hundred-mile radius of either the Contractor’s designated office, testing laboratory, or the Project site. Notwithstanding the preceding, the Judicial Council may in its own discretion authorize and approve payment for travel time, but only when Contractor has specifically included line items for these costs in the form of a prior written approval from the Judicial Council Project Manager or designee.
      1. If Contractor receives preauthorization and approval for travel time costs, these costs shall not exceed the amount approved. Additionally, travel time shall not be used as a basis for calculating overtime and shall not be used as basis for any other fee calculations (such as overtime premiums or administrative costs) that may be owed to Contractor.
      2. The Judicial Council is not obligated to preauthorize requests for travel time costs and may reject such requests due to budgetary constraints or any other reason at the Judicial Council’s sole discretion.
      3. Contractors should consider the use of a local work force or software for conducting remote inspections, when practical to avoid unnecessary travel costs.
      4. Contractor must have a fully staffed office, inspector commute location, and certified laboratory within two hundred miles of the Project site.
   5. Overtime and Minimum Shift Duration. Except as set forth in this section, no overtime or minimum shift duration shall be reimbursed by the Council. Notwithstanding the preceding, the Judicial Council will pay overtime and minimum shift duration for those workers who are subject to the Prevailing Wage Laws to the extent that those workers are entitled to overtime and minimum shift duration pursuant to the Prevailing Wage Laws.
      1. *Overtime*. All overtime shall be preapproved in writing by the Judicial Council Project Manager or designee. Unapproved overtime shall not be compensated.
   6. **Withholding**. When making a payment tied to the acceptance of Deliverables, the Council shall have the right to withhold ten percent (10%) of each such payment until the Council accepts the final Deliverable.
   7. No Advance Payment. The Council will not make any advance payment for Services.
3. Expenses. Except as set forth in this section, no expenses relating to the Goods, Services, and Deliverables shall be reimbursed by the Council.
   1. Allowable Expenses. Contractor may submit for reimbursement, without mark-up, only the following categories of expense:
      1. Preauthorized Travel and Living Expenses for travel to an offsite location exceeding a two hundred-mile radius from either the Contractor’s designated office, testing laboratory, or the Project site.
      2. Reimbursable expenses subject to written preauthorization and approval by the Judicial Council Project Manager or designee.
   2. Limit on Travel Expenses. Reimbursement for Travel and Living Expenses is subject to the provisions given below:
      1. If travel expenses are allowed under Section 3.1 above: (i) all travel is subject to written preauthorization and approval by the Judicial Council Project Manager or designee, and (ii) all travel expenses are limited to the lower of the actual cost or the maximum amounts set forth in the Judicial Council’s Travel and Living Expenses Guidelines, given in Attachment 2 to Appendix B.
      2. Reimbursement for preauthorized and approved Travel and Living Expenses cannot be used as the basis for any other fee calculations (such as overtime premiums or administrative costs) that may be owed to Contractor.
      3. Preauthorization requests and invoices of approved Travel and Living Expenses must be costed out in accordance with the Judicial Council’s Travel and Living Expenses Guidelines. When required by law, California Department of Industrial Relations (DIR) travel and subsistence rates may be utilized based upon the worker’s specific classification, however, the Judicial Council’s preauthorization and invoice requirements still apply.
   3. Required Certification. Contractor must include with any request for reimbursement from the Council a certification that Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Contractor incurs costs or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the Council was sought for these costs, and Contractor will provide those records to the Attorney General upon request.
4. Invoicing and Payment
   1. Invoicing. Contractor shall submit invoices to the Council in arrears no more frequently than monthly for all Services actually provided, all Approved Travel and Living Expenses incurred, and all Reimbursable Expenses incurred in the previous month. Contractor’s invoices must include information and supporting documentation acceptable to the Council. Contractor shall adhere to reasonable billing guidelines issued by the Council from time to time. The invoice must include the Judicial Council Request for Payment form with backup documentation attached.
      1. Contractor’s invoice(s) shall clearly specify:
         1. The Contract number;
         2. A unique sequential invoice number;
         3. Contractor’s name and address;
         4. Contractor’s Taxpayer identification number (FEIN);
         5. Invoice detail lines should provide, at a minimum, the following:
            1. For Contractor or its Subcontractors Work, the work date, employee number (if applicable), employee name, activity number, title/description, quantity, unit of measure, billing rate per unit, and extended amounts.
            2. For Travel and Living Expenses, the dates the expense was incurred, name of employee, and separate costs for air transportation, overnight lodging, private vehicle ground transportation (include origin, destination, and miles claimed).
            3. For Reimbursable Expenses, the date the expense was incurred, description of the expense, and amount of the expense.
         6. A grand total for all hours, Travel and Living Expenses, and Reimbursable Expenses billed on the invoice.
         7. Preferred remittance address, if different from the mailing address; and
         8. The DVBE dollars expended, if DVBE commitments were made.
      2. Invoice detail lines should be sorted as follows:

Charges for Work subject to Prevailing Wage

* + - 1. Sort detail by date work was performed
      2. Sub-sort each day into Prevailing Wage Group 1-4 order
      3. Sub-sort groups into numerical order by Activity

Charges for Professional and Support Staff

* + - 1. Sort detail by date work was performed
      2. Sub-sort daily detail into numerical order by Activity

Charges for Equipment Fees

* + - 1. Sort detail by date equipment was used
      2. Sub-sort daily detail into numerical order by Activity

Charges for Tests and Other Fixed Price Costs

* + - 1. Sort detail by date tests or other activities were performed
      2. Sub-sort daily detail into numerical order by Activity

Travel and Living Expenses / Reimbursable Expenses

* + - 1. Sort detail by date travel or expense was incurred
      2. Sub-sort daily detail into numerical order by Activity
    1. Invoice backup documentation includes, but is not limited to, the following:
       1. Breakdown of charges on company letterhead
       2. Receipts of expenses
       3. Mileage verification on maps
       4. Council PM approval emails for preauthorized reimbursable expenses and overtime charges
    2. The Contractor shall email the invoice to [FacilitiesServicesInvoices@jud.ca.gov](mailto:FacilitiesServicesInvoices@jud.ca.gov), with a copy to the Judicial Council Project Manager.
  1. Payment. The Council will pay each correct, itemized invoice received from Contractor after acceptance of the applicable Goods, Services, or Deliverables, in accordance with the terms of this Agreement. Notwithstanding any provision in this Agreement to the contrary, payments to Contractor are contingent upon the timely and satisfactory performance of Contractor’s obligations under this Agreement.
     1. The Judicial Council will endeavor to pay invoices within sixty (60) business days after receipt of a correctly formatted, itemized invoice. In no event shall the Judicial Council be liable for interest or late charges for any late payments.
     2. The Judicial Council may withhold full or partial payment to the Consultant in any instance in which the Contractor has failed or refused to satisfy any material obligation provided for under the Agreement.
  2. No Implied Acceptance. Payment does not imply acceptance of Contractor’s invoice, Goods, Services, or Deliverables. Contractor shall immediately refund any payment made in error. The Council shall have the right at any time to set off any amount owing from Contractor to the Council against any amount payable by the Council to Contractor under this Agreement.
  3. Release of Claims. The acceptance by the Contractor of its final payment due under the Agreement shall be and shall operate as a release to the Judicial Council of all claims and all liability to the Consultant for everything done or furnished in connection with the Agreement (including every act and neglect of the Judicial Council), with the exception of any claims that are expressly identified by the Contractor as outstanding as noted on the face of Contractor’s final invoice. Consultant’s failure to identify any such claims shall operate as a release of all claims.

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

**END OF APPENDIX**

**ATTACHMENT 1 TO APPENDIX B**

**BILLING RATES FOR SERVICES**

(This space reserved for the Contractor’s Billing Rates and Not to Exceed Cost Proposal)

**[INSERT BILLING RATES FROM RFP ATTACHMENT 10]**

**[INSERT NOT TO EXCEED COST PROPOSAL]**

END OF ATTACHMENT

**ATTACHMENT 2 TO APPENDIX B**

JUDICIAL COUNCIL’S EXPENSE AND TRAVEL REIMBURSEMENT GUIDELINES

1. **Contractor Travel and Living Expenses.** At the Judicial Council’s sole discretion, and only if expressly specified by the Judicial Council and so agreed to by Contractor prior to performance of the Work, the Judicial Council shall reimburse Contractor for actual and reasonable transportation, meals, and lodging expenses actually incurred by Contractor’s and its Subcontractors’ employees when actually incurred in the course of their performance of the Work, but subject to the following:
   1. If transportation is authorized, the Judicial Council will reimburse Contractor only at the actual cost incurred for tickets for air, rail, bus, rental car, or other forms of public transportation. The lowest cost ticket available must be purchased. Receipts are required for rental cars and air travel. For ticketless travel, the traveler’s itinerary may be submitted in lieu of a receipt.
      1. All air transportation is limited to coach fares and must be booked a minimum of fourteen (14) Business Days prior to travel unless the Judicial Council Project Manager or designee agrees in writing to a shorter period.
      2. The actual costs of cab fare, public parking, and tolls are reimbursable. Receipts are required for all expenses of $3.50 or more.
      3. If private vehicle ground transportation expense is authorized, the Judicial Council will reimburse Contractor at the then published Federal mileage cents per mile, pursuant to <https://www.irs.gov/tax-professionals/standard-mileage-rates>.
   2. If overnight lodging is authorized, the Judicial Council will reimburse Contractor only at the actual cost incurred, up to the maximum daily amounts listed below. Receipts are required and each day of lodging claimed must be listed separately.
      1. In-State - The Judicial Council will reimburse Contractor only for hotel room rental at the actual cost, but not to exceed:
         1. $250.00/day in San Francisco County, plus occupancy tax and/or energy surcharge;
         2. $125.00/day in Monterrey and San Diego Counties, plus occupancy tax and/or energy surcharge;
         3. $120.00/day in Los Angeles, Orange, and Ventura Counties, plus occupancy tax and/or energy surcharge;
         4. $140.00/day in Alameda, San Mateo, and Santa Clara Counties, plus tax and energy surcharge; or
         5. $110.00/day in all other California counties, plus tax and energy surcharge.
      2. Out-of-State – The Judicial Council will reimburse Contractor only for hotel room rental at the actual cost, plus occupancy tax and/or energy surcharge;
      3. Meals and Incidentals – The Judicial Council will reimburse Contractor only for the actual cost for continuous travel of more than 24 hours, but not to exceed the following maximum amounts per person per day:
         1. Breakfast up to $8.00/day;
         2. Lunch up to $12.00/day;
         3. Dinner up to $20.00/day;
         4. Incidentals up to $6.00/day.

For continuous travel of less than 24 hours, actual expenses up to the above limits are reimbursable as follows:

* + - 1. Travel begins one hour before normal work hours – Breakfast may be claimed.
      2. Travel ends one hour after normal work hours – Dinner may be claimed.
      3. Lunch may not be claimed on trips of less than 24 hours.
      4. Incidentals may not be claimed on trips of less than 24 hours.
    1. Reimbursement for Travel and Living Expenses is subject to the provisions of and must be charged in accordance with the Judicial Council’s Guidelines for Travel and Living Expenses.
    2. The Judicial Council is not obligated to pay for, and Contractor shall not invoice for any hours of non-production Work expended by the Contractor or its Subcontractors’ employees that are spent traveling to or from the location where the Service(s) are performed.
    3. Travel and Living Expenses shall be billed to the Judicial Council at Contractor’s actual cost, including any discounts or rebates accorded to Contractor or its Subcontractors, and are not subject to any markup, fee, or other charge.
    4. Notwithstanding the preceding, Contractor shall ensure its workers are paid for all travel and/or subsistence payments pursuant to Labor Code sections 1773.1 and 1773.9 or as otherwise required by the Prevailing Wage laws. When required by law, travel and subsistence rates determined by the Department of Industrial Relations (DIR) for the worker’s specific classification may be utilized, and the Judicial Council will reimburse Contractor for travel and subsistence at the rates determined by the DIR.

1. **Other Business Expenses**. At the Judicial Council’s sole discretion, and only if expressly specified by the Judicial Council and so agreed to by Contractor prior to performance of the Work, the Judicial Council shall reimburse Contractor for other business expenses actually incurred by Contractor’s and its Subcontractors’ employees when actually incurred in the course of their performance of the Work. Receipts or documentation are required for all other business expenses, regardless of the amount claimed.

END OF ATTACHMENT

**ATTACHMENT 2 TO APPENDIX B**

**REQUEST FOR PAYMENT**

[](file:///C:\Users\MTopete\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\T5LZLG1F\Request%20for%20Payment%20V6%20-%20No%20Retention.pdf)(This space reserved for the Judicial Council Request for Payment form)

APPENDIX C

GENERAL PROVISIONS

1. Provisions Applicable to Services
   1. Qualifications. Contractor shall assign to this project only persons who have sufficient training, education, and experience to successfully perform Contractor’s duties. If the Council is dissatisfied with any of Contractor’s personnel, for any or no reason, Contractor shall replace them with qualified personnel.
   2. Turnover. Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to perform Services.
   3. Background Checks. Contractor shall cooperate with the Council if the Council wishes to perform any background checks on Contractor’s personnel by obtaining, at no additional cost, all releases, waivers, and permissions the Council may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Council of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Council and performed by Contractor. Contractor shall ensure that the following persons are not assigned to perform services for the Council: (a) any person refusing to undergo such background checks, and (b) any person whose background check results are unacceptable to Contractor or that, after disclosure to the Council, the Council advises are unacceptable to the Council.
2. Contractor Certification Clauses. Contractor certifies that the following representations and warranties are true. Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly notify the Council if any representation and warranty becomes untrue. Contractor represents and warrants as follows:
   1. Authority. Contractor has authority to enter into and perform its obligations under this Agreement, and Contractor’s signatory has authority to bind Contractor to this Agreement.
   2. Not an Expatriate Corporation. Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC 10286.1, and is eligible to contract with the Council.
   3. No Gratuities. Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement.
   4. No Conflict of Interest. Contractor has no interest that would constitute a conflict of interest under PCC 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.
   5. No Interference with Other Contracts. To the best of Contractor’s knowledge, this Agreement does not create a material conflict of interest or default under any of Contractor’s other contracts.
   6. No Litigation. No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened that may adversely affect Contractor’s ability to perform the Services.
   7. Compliance with Laws Generally. Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor’s business and services.
   8. Drug Free Workplace. Contractor provides a drug free workplace as required by California Government Code sections 8355 through 8357.
   9. No Harassment. Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring.
   10. Noninfringement. The Goods, Services, Deliverables, and Contractor’s performance under this Agreement do not infringe, or constitute an infringement, misappropriation or violation of, any third party’s intellectual property right.
   11. Nondiscrimination. Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California’s Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor will notify in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor’s obligations of nondiscrimination.
   12. National Labor Relations Board Orders. No more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.
3. Insurance
   1. Basic Coverage. Contractor shall provide and maintain at the Council’s discretion and Contractor’s expense the following insurance during the Term:
      1. *Commercial General Liability*. The policy must be at least as broad as the Insurance Services Office (ISO) Commercial General Liability “occurrence” form, with coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. The policy must provide limits of at least $1,000,000 per occurrence and a $2,000,000 annual aggregate.
      2. *Workers Compensation and Employer’s Liability*. The policy is required only if Contractor has employees. The policy must include workers’ compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer’s liability bodily injury at minimum limits of $1,000,000 per accident or disease.
      3. *Automobile Liability*. This policy is required only if Contractor uses an automobile or other vehicle in the performance of this Agreement. The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in Contractor’s performance of this Agreement whether owned, non-owned, leased, or hired. The policy must provide combined single limits of at least $1,000,000 per occurrence.
      4. *Professional Liability*. This policy is required only if Contractor performs professional services under this Agreement. The policy must cover liability resulting from any act, error, or omission committed in Contractor’s performance of Services under this Agreement, at minimum limits of $1,000,000 per occurrence and annual aggregate. If the policy is written on a “claims made” form, Contractor shall maintain such coverage continuously throughout the Term and, without lapse, for a period of three (3) years beyond the termination and acceptance of all Services provided under this Agreement. The retroactive date or “prior acts inclusion date” of any such “claims made” policy must be no later than the date that activities commence pursuant to this Agreement.
   2. Umbrella Policies. Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.
   3. Aggregate Limits of Liability. The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case the annual aggregate limits of liability must be at least two (2) times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.
   4. Deductibles and Self-Insured Retentions. Contractor shall declare to the Council all deductibles and self-insured retentions that exceed $100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed $100,000 per occurrence are subject to the Council’s approval. Deductibles and self-insured retentions do not limit Contractor’s liability.
   5. Additional Insured Endorsements. Contractor’s commercial general liability policy, automobile liability policy, and, if applicable, umbrella policy must be endorsed to name the following as additional insureds with respect to liabilities arising out of the performance of this Agreement: the Council, the State of California, the Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees.
   6. Certificates of Insurance. Before Contractor begins performing Services, Contractor shall give the Council certificates of insurance attesting to the existence of coverage.
      1. All Certificates of Insurance required under this section shall reference the contract by number and contract date and project name on the face of the certificate.
      2. The Certificates of Insurance must be addressed as follows:

Risk Management

Judicial Council of California

455 Golden Gate Avenue

San Francisco, CA 94012**-**3688

* + 1. Contractor shall provide prompt written notice to the Council in the event that insurance coverage is cancelled or materially changed from the coverage set forth in the current certificate of insurance provided to the Council.
  1. Qualifying Insurers. For insurance to satisfy the requirements of this section, all required insurance must be issued by an insurer with an A.M. Best rating of A - or better that is approved to do business in the State of California.
  2. Required Policy Provisions. Each policy must provide, as follows: (i) the policy is primary and noncontributory with any insurance or self-insurance maintained by Judicial Branch Entities and Judicial Branch Personnel, and the basic coverage insurer waives any and all rights of subrogation against Judicial Branch Entities and Judicial Branch Personnel; (ii) the insurance applies separately to each insured against whom a claim is made or a lawsuit is brought, to the limits of the insurer’s liability; and (iii) each insurer waives any right of recovery or subrogation it may have against the Council, the State of California, the Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees for loss or damage.
  3. Partnerships. If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either (i) separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or (ii) joint insurance program with the association, partnership, or other joint business venture included as a named insured.
  4. Consequence of Lapse. If required insurance lapses during the Term, the Council is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

1. Indemnity. Contractor will defend (with counsel satisfactory to the Council or its designee), indemnify and hold harmless the Judicial Branch Entities and the Judicial Branch Personnel against all claims, losses, and expenses, including attorneys’ fees and costs, that arise out of or in connection with (i) a latent or patent defect in any Goods, (ii) an act or omission of Contractor, its agents, employees, independent contractors, or subcontractors in the performance of this Agreement, (iii) a breach of a representation, warranty, or other provision of this Agreement, and (iv) infringement of any trade secret, patent, copyright or other third party intellectual property. This indemnity applies regardless of the theory of liability on which a claim is made or a loss occurs. This indemnity will survive the expiration or termination of this Agreement, and acceptance of any Goods, Services, or Deliverables. Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the Council’s prior written consent, which consent shall not be unreasonably withheld; and the Council shall have the right, at its option and expense, to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor’s duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.
2. Option Term. Unless Section 2 of the Coversheet indicates that an Option Term is not applicable, the Council may, at its sole option, extend this Agreement for a single one-year term, at the end of which Option Term this Agreement shall expire. In order to exercise this Option Term, the Council must send Notice to Contractor at least thirty (30) days prior to the end of the Initial Term. The exercise of an Option Term will be effective without Contractor’s signature.
3. Tax Delinquency. Contractor must provide notice to the Council immediately if Contractor has reason to believe it may be placed on either (i) the California Franchise Tax Board’s list of 500 largest state income tax delinquencies, or (ii) the California Board of Equalization’s list of 500 largest delinquent sales and use tax accounts. The Council may terminate this Agreement immediately “for cause” pursuant to Section 7.2 below if (i) Contractor fails to provide the notice required above, or (ii) Contractor is included on either list mentioned above.
4. Termination
   1. Termination for Convenience. The Council may terminate, in whole or in part, this Agreement for convenience upon thirty (30) days prior Notice. After receipt of such Notice, and except as otherwise directed by the Council, Contractor shall immediately: (a) stop Services as specified in the Notice; and (b) stop the delivery or manufacture of Goods as specified in the Notice.
   2. Termination for Cause. The Council may terminate this Agreement, in whole or in part, immediately “for cause” if (i) Contractor fails or is unable to meet or perform any of its duties under this Agreement, and this failure is not cured within ten (10) days following Notice of default (or in the opinion of the Council, is not capable of being cured within this cure period); (ii) Contractor or Contractor’s creditors file a petition as to Contractor’s bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business; or (iii) Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading.
   3. Termination upon Death. This entire Agreement will terminate immediately without further action of the parties upon the death of a natural person who is a party to this Agreement, or a general partner of a partnership that is a party to this Agreement.
   4. Termination for Changes in Budget or Law. The Council’s payment obligations under this Agreement are subject to annual appropriation and the availability of funds. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the current appropriation year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement. The Council may terminate this Agreement or limit Contractor’s Services (and reduce proportionately Contractor’s fees) upon Notice to Contractor without prejudice to any right or remedy of the Council if: (i) expected or actual funding to compensate Contractor is withdrawn, reduced or limited; or (ii) the Council determines that Contractor’s performance under this Agreement has become infeasible due to changes in applicable laws.
   5. Rights and Remedies of the Council
      1. *Nonexclusive Remedies*. All remedies provided in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Council immediately if Contractor is in default, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement. If Contractor is in default, the Council may do any of the following: (i) withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor; (ii) require Contractor to enter into nonbinding mediation; (iii) exercise, following Notice, the Council’s right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.
      2. *Replacement*. If the Council terminates this Agreement in whole or in part for cause, the Council may acquire from third parties, under the terms and in the manner the Council considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the Council for any excess costs for those goods or services. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Council for such goods and services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Council. Contractor shall continue any Services not terminated hereunder.
      3. *Delivery of Materials*. In the event of any expiration or termination of this Agreement, Contractor shall promptly provide the Council with all originals and copies of the Deliverables, including any partially-completed Deliverables-related work product or materials, and any Council-provided materials in its possession, custody, or control. In the event of any termination of this Agreement, the Council shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the Council’s termination is not for cause, the Council shall pay any fees due under this Agreement for Services performed or Deliverables completed and accepted as of the date of the Council’s termination Notice.
   6. Survival. Termination or expiration of this Agreement shall not affect the rights and obligations of the parties which arose prior to any such termination or expiration (unless otherwise provided herein) and such rights and obligations shall survive any such termination or expiration. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including any section of this Agreement that states it shall survive such termination or expiration.
5. Assignment and Subcontracting. Contractor may not assign or subcontract its rights or duties under this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the Council. Consent may be withheld for any reason or no reason. Any assignment or subcontract made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the parties and their permitted successors and assigns.
6. Notices. Notices must be sent to the following address and recipient:

| **If to Contractor:** | **If to the Council:** |
| --- | --- |
| [@Name, Title, Address] | Judicial Council of California  Branch Accounting and Procurement Contracts Manager  455 Golden Gate Avenue, 6th Floor  San Francisco, CA 94102 |
| With a copy to: | With a copy to: |
| [@Name, Title, Address] | [@Name, Title, Address] |

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

1. Provisions Applicable to Certain Agreements. The provisions in this section are applicable only to the types of orders specified in the first sentence of each subsection. If this Agreement is not of the type described in the first sentence of a subsection, then that subsection does not apply to the Agreement.
   1. Union Activities Restrictions. *If the Contract Amount is over $50,000, this section is applicable*. Contractor agrees that no Council funds received under this Agreement will be used to assist, promote or deter union organizing during the Term. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no Council funds were used for those expenditures. Contractor will provide those records to the Attorney General upon request.
   2. Domestic Partners, Spouses, Gender, and Gender Identity Discrimination. *If the Contract Amount is $100,000 or more, this section is applicable*. Contractor is in compliance with, and throughout the Term will remain in compliance with: (i) PCC 10295.3 which places limitations on contracts with contractors who discriminate in the provision of benefits on the basis of marital or domestic partner status; and (ii) PCC 10295.35, which places limitations on contracts with contractors that discriminate in the provision of benefits on the basis of an employee’s or dependent’s actual or perceived gender identity.
   3. Child Support Compliance Act. *If the Contract Amount is $100,000 or more, this section is applicable*. Contractor recognizes the importance of child and family support obligations and fully complies with (and will continue to comply with during the Term) all applicable state and federal laws relating to child and family support enforcement, including disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq. Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
   4. Priority Hiring. *If the Contract Amount is over $200,000 and this Agreement is for services (other than Consulting Services), this section is applicable*. 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.
   5. Iran Contracting Act. *If the Contract Amount is $1,000,000 or more and Contractor did not provide to the Council an Iran Contracting Act certification as part of the solicitation process, this section is applicable*. Contractor certifies either (i) it is not on the current list of persons engaged in investment activities in Iran (“Iran List”) created by the California Department of General Services pursuant to PCC 2203(b), and is not a financial institution extending $20,000,000 or more in credit to another person, for forty-five (45) days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the Iran List, or (ii) it has received written permission from the Council to enter into this Agreement pursuant to PCC 2203(c).
   6. DVBE Commitment. *This section is applicable if Contractor received a disabled veteran business enterprise (“DVBE”) incentive in connection with this Agreement*. Contractor’s failure to meet the DVBE commitment set forth in its bid or proposal constitutes a breach of the Agreement. If Contractor used DVBE subcontractor(s) in connection with this Agreement: (i) Contractor must use the DVBE subcontractors identified in its bid or proposal, unless the Council approves in writing replacement by another DVBE subcontractor in accordance with the terms of this Agreement; and (ii) Contractor must within sixty (60) days of receiving final payment under this Agreement certify in a report to the Council: (1) the total amount of money and percentage of work that Contractor committed to provide to each DVBE subcontractor and the amount each DVBE subcontractor received under the Agreement; (2) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Agreement; (3) the amount each DVBE subcontractor received from Contractor in connection with the Agreement; and (4) that all payments under the Agreement have been made to the applicable DVBE subcontractors. Upon request by the Council, Contractor shall provide proof of payment for the work. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. Contractor will comply with all rules, regulations, ordinances and statutes that govern the DVBE program, including, without limitation, Military and Veterans Code section 999.5.
   7. Antitrust Claims. *If this Agreement resulted from a competitive solicitation, this section is applicable*. Contractor shall assign to the Council all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the Council. Such assignment shall be made and become effective at the time the Council tenders final payment to Contractor. If the Council receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Council any portion of the recovery, including treble damages, attributable to overcharges that were paid by Contractor but were not paid by the Council as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by Contractor, the Council shall, within one (1) year from such demand, reassign the cause of action assigned under this part if Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the Council has not been injured thereby, or (b) the Council declines to file a court action for the cause of action.
   8. Good Standing. *If Contractor is a corporation, limited liability company, or limited partnership, and this Agreement is performed in whole or in part in California, this section is applicable*. Contractor is, and will remain for the Term, qualified to do business and in good standing in California.
   9. Equipment Purchases. *If this Agreement includes the purchase of equipment, this section is applicable*. The Council may, at its option, repair any damaged or replace any lost or stolen items and deduct the cost thereof from Contractor’s invoice to the Council, or require Contractor to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the Council at no expense to the Council. If a theft occurs, Contractor must file a police report immediately.
2. Miscellaneous Provisions
   1. Independent Contractor. Contractor is an independent contractor to the Council. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the Council. Contractor has no authority to bind or incur any obligation on behalf of the Council. If any governmental entity concludes that Contractor is not an independent contractor, the Council may terminate this Agreement immediately upon Notice.
   2. GAAP Compliance. Contractor maintains an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles.
   3. Audit. Contractor must allow the Council or its designees to review and audit Contractor’s (and any subcontractors’) documents and records relating to this Agreement, and Contractor (and its subcontractors) shall retain such documents and records for a period of four (4) years following final payment under this Agreement. If an audit determines that Contractor (or any subcontractor) is not in compliance with this Agreement, Contractor shall correct errors and deficiencies by the twentieth (20th) day of the month following the review or audit. If an audit determines that Contractor has overcharged the Council five percent (5%) or more during the time period subject to audit, Contractor must reimburse the Council in an amount equal to the cost of such audit. This Agreement is subject to examinations and audit by the State Auditor for a period three (3) years after final payment.
   4. Licenses and Permits. Contractor shall obtain and keep current all necessary licenses, certifications, registrations, approvals, permits and authorizations required by applicable law for the performance of the Services or the delivery of the Goods. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any applicable law.
   5. Confidential Information. During the Term and at all times thereafter, Contractor will: (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using or permitting others to use Confidential Information in any manner or for any purpose not expressly permitted by this Agreement, and (c) refrain from disclosing or permitting others to disclose any Confidential Information to any third party without obtaining the Council’s express prior written consent on a case-by-case basis. Contractor will disclose Confidential Information only to its employees or contractors who need to know that information in order to perform Services hereunder and who have executed a confidentiality agreement with Contractor at least as protective as the provisions of this section. The provisions of this section shall survive the expiration or termination of this Agreement. Contractor will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects its own confidential or proprietary information of a similar nature, and with no less than the greater of reasonable care and industry-standard care. The Council owns all right, title and interest in the Confidential Information. Contractor will notify the Council promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the Council to protect such Confidential Information. Upon the Council’s request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the Council or, if so directed by the Council, destroy all Confidential Information (in every form and medium), and (b) certify to the Council in writing that Contractor has fully complied with the foregoing obligations. Contractor acknowledges that there can be no adequate remedy at law for any breach of Contractor’s obligations under this section, that any such breach will likely result in irreparable harm, and that upon any breach or threatened breach of the confidentiality obligations, the Council shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.
   6. Ownership of Deliverables. Unless otherwise agreed in this Agreement, Contractor hereby assigns to the Council ownership of all Deliverables, any partially-completed Deliverables, and related work product or materials. Contractor agrees not to assert any rights at common law, or in equity, or establish a copyright claim in any of these materials. Contractor shall not publish or reproduce any Deliverable in whole or part, in any manner or form, or authorize others to do so, without the written consent of the Council.
   7. Publicity. Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the Council.
   8. Choice of Law and Jurisdiction. California law, without regard to its choice-of-law provisions, governs this Agreement. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. Jurisdiction for any legal action arising from this Agreement shall exclusively reside in state or federal courts located in California, and the parties hereby consent to the jurisdiction of such courts.
   9. Negotiated Agreement. This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654.
   10. Amendment and Waiver. Except as otherwise specified in this Agreement, no amendment or change to this Agreement will be effective unless expressly agreed in writing by a duly authorized officer of the Council. A waiver of enforcement of any of this Agreement’s terms or conditions by the Council is effective only if expressly agreed in writing by a duly authorized officer of the Council. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
   11. Force Majeure. Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by a force majeure. Force majeure, for purposes of this paragraph, is defined as follows: acts of war and acts of god, such as earthquakes, floods, and other natural disasters, such that performance is impossible.
   12. Follow-On Contracting. No person, firm, or subsidiary who has been awarded a Consulting Services agreement may submit a bid for, nor be awarded an agreement for, the providing of services, procuring goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of this Agreement.
   13. Severability. If any part of this Agreement is held unenforceable, all other parts remain enforceable.
   14. Headings; Interpretation. All headings are for reference purposes only and do not affect the interpretation of this Agreement. The word “including” means “including, without limitation.” Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days.
   15. Time of the Essence. Time is of the essence in Contractor’s performance under this Agreement.
   16. Counterparts. This Agreement may be executed in counterparts, each of which is considered an original.

END OF APPENDIX

**APPENDIX D**

**DEFINED TERMS**

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

**“Agreement”** is defined on the Coversheet.

**“Contractor”** is defined on the Coversheet.

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

**“Consulting Services”** refers to the services performed under “Consulting Services Agreements,” which are defined in Public Contract Code section 10335.5, substantially, as contracts that: (i) are of an advisory nature; (ii) provide a recommended course of action or personal expertise; (iii) have an end product that is basically a transmittal of information, either written or oral, that is related to the governmental functions of state agency administration and management and program management or innovation; and (iv) are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type. The end product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

**“Contract Amount”** is defined on the Coversheet.

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

**“Deliverables”** is defined in Appendix A.

**“Effective Date”** is defined on the Coversheet.

**“Expiration Date”** is defined on the Coversheet.

**“Goods”** is defined in Appendix A.

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

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

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

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

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

**“PCC”** refers to the California Public Contract Code.

**“Services”** is defined in Appendix A.

**“Stop Work Order”** is defined in Appendix B.

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

END OF APPENDIX

**APPENDIX E**

**JUDICIAL COUNCIL TOOL POLICY**

(This space reserved for the Judicial Council’s Tool Policy)

**APPENDIX F**

**JUDICIAL COUNCIL BACKGROUND CHECK POLICY**

(This space reserved for the Judicial Council’s Background Check Policy)

**APPENDIX G**

**PUBLIC WORKS CONTRACTS AND PREVAILING WAGE LAWS**

1. **Labor Code Provisions**
   1. **Prevailing Wage:**
      1. The Contractor and all Subcontractors under the Contractor shall pay all workers on Work performed pursuant to this Contract not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed, pursuant to sections 1770 et seq. of the California Labor Code. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at the Court’s principal office. Prevailing wage rates are also available from the Court or on the internet at (http://www. dir.ca.gov).
      2. Contractor shall ensure that Contractor and all of Contractor’s Subcontractors execute the Prevailing Wage and Related Labor Requirements Certification attached to the Contract and incorporated herein.
      3. The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall post job site notices, as prescribed by regulation. Contractor shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempted by the Labor Commissioner for the Project.
   2. **Registration:**
      1. Contractor shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its certified payroll records (**“CPR(s)”)** to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations (**“DIR”**). Labor Code section 1771.1(a) states the following:

“A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.”

* + 1. Contractor shall, and shall ensure that all “subcontractors” (as defined by Labor Code section 1722.1), comply with Labor Code section 1725.5, including without limitation the registration requirements with the Department of Industrial Relations that are set forth in Labor Code section 1725.5. Contractor represents to the Court that all “subcontractors” (as defined by Labor Code section 1722.1) are registered pursuant to Labor Code section 1725.5. Contractor shall not permit any Subcontractor to perform Work on the Project, without first verifying the Subcontractor is properly registered with the DIR as required by law, and providing this information in writing to the Court. Contractor acknowledges that, for purposes of Labor Code section 1725.5, this Work is public work to which Labor Code section 1771 applies.
  1. **Hours of Work:** 
     1. Notwithstanding the timing and duration of the Work under the Contract which is subject to court activities and other coordination required for occupied facilities, as provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code, eight (8) hours of labor shall constitute a legal day’s work. The time of service of any worker employed at any time by Contractor or by any Subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract shall be limited and restricted by Contractor to eight (8) hours per day, and forty (40) hours during any one week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, Work performed by employees of Contractor in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.
     2. Contractor shall keep and shall cause each Subcontractor to keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by Contractor in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of Judicial Council and to the Division of Labor Standards Enforcement of the DIR.
     3. Pursuant to Labor Code section 1813, Contractor shall as a penalty to the Court forfeit the statutory amount (believed by the Court to be currently twenty five dollars ($25)) for each worker employed in the execution of this Contract by Contractor or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code.
     4. Any Work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to the Court.
     5. Project Work will typically take place in an occupied court facility; therefore, work hours may be restricted depending upon the Project. The individual Service Work Order will include any restrictions on hours of work. If the Service Work Order does not include a restriction on hours of work, then the work must take place during business hours.
  2. **Payroll Records:**
     1. In addition to submitting CPR(s) to the Labor Commissioner of California pursuant to Labor Code section 1771.4 or any other applicable law, if requested by the Court, Contractor shall provide to the Court and shall cause each Subcontractor performing any portion of the Work to provide the Court CPR(s), showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor and/or each Subcontractor in connection with the Work.
     2. All CPRs shall be available for inspection at all reasonable hours at the principal office of Contractor on the following basis:
        1. A certified copy of an employee’s CPR shall be made available for inspection or furnished to the employee or his/her authorized representative on request.
        2. CPRs shall be made available for inspection or furnished upon request to a representative of the Court, Division of Labor Standards Enforcement, Division of Apprenticeship Standards, and/or the Department of Industrial Relations.
        3. CPRs shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the Court, Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested CPRs have not been provided pursuant to the provisions herein, the requesting party shall, prior to being provided the records, reimburse the costs of preparation by Contractor, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of Contractor.
     3. The form of certification for the CPRs shall be as follows:

*I, (Name-Print), the undersigned, am the (Position in business) with the authority to act for and on behalf of (Name of business and/or Contractor), certify under penalty of perjury that the records or copies thereof submitted and consisting of (Description, number of pages) are the originals or true, full, and correct copies of the originals which depict the payroll record(s) of actual disbursements by way of cash, check, or whatever form to the individual or individual named, and (b) we have complied with the requirements of sections 1771, 1811, and 1815 of the Labor Code for any work performed by our employees on the Project.*

*Date: Signature:*

(Section 16401 of Title 8 of the California Code of Regulations)

* + 1. Each Contractor shall file a certified copy of the CPRs with the entity that requested the records within ten (10) days after receipt of a written request.
    2. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the Court, Division of Apprenticeship Standards, or Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual’s name, address, and social security number. The name and address of Contractor awarded Contract or performing Contract shall not be marked or obliterated.
    3. Contractor shall inform the Court of the location of the records enumerated hereunder, including the street address, city, and county, and shall, within five (5) Business Days, provide a notice of change of location and address.
    4. In the event of noncompliance with the requirements of this section, Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Contractor must comply with this section. Should noncompliance still be evident after the ten (10) day period, Contractor shall, as a penalty to the Court, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of Division of Apprenticeship Standards or Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.
    5. It shall be the responsibility of Contractor to ensure compliance with the provisions of Labor Code section 1776.
  1. **Apprentices:**
     1. Contractor acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code section 1777.5, then this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of Contractor to ensure compliance with this Article and with Labor Code section 1777.5 for all apprenticeship occupations.
     2. Apprentices of any crafts or trades may be employed and, when required by Labor Code section 1777.5, shall be employed provided they are properly registered in full compliance with the provisions of the Labor Code.
     3. Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he/she is employed, and shall be employed only at the work of the craft or trade to which she/he is registered.
     4. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards and written apprentice agreements under chapter 4 (commencing at section 3070), division 3, of the Labor Code, are eligible to be employed. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he/she is training.
     5. Pursuant to Labor Code section 1777.5, if that section applies to this Contract as indicated above, Contractor and any Subcontractors employing workers in any apprenticeable craft or trade in performing any Work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the Contractor or Subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the Work.
     6. Pursuant to Labor Code section 1777.5, if that section applies to this Contract as indicated above, Contractor and any Subcontractor may be required to make contributions to the apprenticeship program.
     7. If Contractor or Subcontractor willfully fails to comply with Labor Code section 1777.5, then, upon a determination of noncompliance by the Administrator of Apprenticeship, it shall:
        1. Be denied the right to bid or propose on any subsequent project for one (1) year from the date of such determination; and
        2. Forfeit as a penalty to the Court the full amount as stated in Labor Code section 1777.7. Interpretation and enforcement of these provisions shall be in accordance with the rules and procedures of the California Apprenticeship Council and under the authority of the Chief of the Division of Apprenticeship Standards.
     8. Contractor and all Subcontractors shall comply with Labor Code section 1777.6, which section forbids certain discriminatory practices in the employment of apprentices.
     9. Contractor shall become fully acquainted with the law regarding apprentices prior to commencement of the Work. Special attention is directed to sections 1777.5, 1777.6, and 1777.7 of the Labor Code, and title 8, California Code of Regulations, section 200 et seq. Questions may be directed to the State Division of Apprenticeship Standards, 455 Golden Gate Avenue, San Francisco, California 94102.

1.5.10 Contractor shall ensure compliance with all certification requirements for all workers on the Project including, without limitation, the requirements for electrician certification in Labor Code sections 108 et seq.

**APPENDIX H**

**PREVAILING WAGE AND RELATED LABOR REQUIREMENTS CERTIFICATION**

PROJECT/CONTRACT NO.: **[@AGMT#]** (the “Contract” or the “Project”) between the Judicial Council of California (the “Council”) and **[@CONTRACTOR]** (the “Contractor”). Labor Code section 3700 in relevant part provides:

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours’ notice, payroll records, and apprentice and trainee employment requirements, for all Work on the Project including, without limitation, the requirement that Contractor and all of its Subcontractors are registered pursuant to Labor Code section 1771, et seq.

|  |  |
| --- | --- |
| ***Date:*** |  |
| ***Proper Name of Contractor / Subcontractor:*** |  |
| ***Signature:*** |  |
| ***Print Name:*** |  |
| ***Title:*** |  |

THIS FORM MUST BE COMPLETED BY THE CONTRACTOR AND ALL SUBCONTRACTORS.

END OF DOCUMENT

**ATTACHMENT I**

**WORKERS' COMPENSATION CERTIFICATION**

PROJECT/CONTRACT NO.: **[@AGMT#]** (the “Contract” or the “Project”) between the Judicial Council of California (the “Council”) and **[@CONTRACTOR]** (the “Contractor”). Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

1. By being insured against liability to pay compensation by one or more insurers duly authorized to write workers’ compensation insurance in this state.
2. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of the Contract.

|  |  |
| --- | --- |
| ***Date:*** |  |
| ***Proper Name of Contractor / Subcontractor:*** |  |
| ***Signature:*** |  |
| ***Print Name:*** |  |
| ***Title:*** |  |

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under the Contract.)

END OF DOCUMENT

**APPENDIX J**

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

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

**CERTIFICATIONS:**

1. Contractor is in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code);

2. Contractor is in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of the Title 2 of the Government Code);

3. Contractor does not have any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, that is used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code); **and**

4. Any policy adopted by a person or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

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

|  |  |  |
| --- | --- | --- |
| *Contractor Name (Printed)* | | *Federal ID Number* |
| *By (Authorized Signature)* | | |
| *Printed Name and Title of Person Signing* | | |
| *Date Executed* | *Executed in the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the State of \_\_\_\_\_\_\_\_\_\_\_\_* | |

END OF APPENDIX

**APPENDIX K**

**DISABLED VETERAN’S BUSINESS ENTERPRISE PARTICIPATION CERTIFICATION**

Firm Name:

RFP Project Title:

RFP Number:

The Judicial Council has an annual Disabled Veterans Business Enterprise (DVBE) participation goal of not less than three percent (3%), however, each specific project may have a DVBE participation goal of less than or greater than 3%, or no DVBE participation goal at all. This Project has a DVBE participation goal of 3% (“DVBE Project Goal”). The Contractor must document its DVBE compliance with the DVBE Project Goal by completing this DVBE Participation Form when requested by the Judicial Council.

The DVBE Project Goal and the Judicial Council’s compliance requirements are subject to revision when the California Department of General Services adopts and implements new regulations regarding DVBEs.

***Complete Parts A & B***

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

0 = Prime or Joint Contractor;

1 = Prime subcontractor/supplier;

2 = Subcontractor/supplier of level 1 subcontractor/supplier

## PART A – COMPLIANCE WITH DVBE GOALS

### FIRM

Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Nature of Work: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Tier: \_\_\_\_\_\_\_

Claimed Value: DVBE $ \_\_\_\_\_\_\_\_\_\_\_

Percentage of Total Project Price: DVBE \_\_\_\_\_\_%

## SUBCONTRACTORS/SUB-SUBCONTRACTORS/PROPOSERS/SUPPLIERS

1. Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Nature of Work: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Tier: \_\_\_\_\_\_\_

Claimed Value: DVBE $ \_\_\_\_\_\_\_\_\_\_\_

Percentage of Total Project Price: DVBE \_\_\_\_\_\_\_\_\_\_%

2. Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Nature of Work \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Tier: \_\_\_\_\_\_\_

Claimed Value: DVBE $ \_\_\_\_\_\_\_\_\_\_\_

Percentage of Total Project Price: DVBE\_\_\_\_\_\_%

3. Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Nature of Work \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Tier: \_\_\_\_\_\_\_

Claimed Value: DVBE $ \_\_\_\_\_\_\_\_\_\_\_

Percentage of Total Project Price: DVBE\_\_\_\_\_\_%

GRAND TOTAL: DVBE\_\_\_\_\_\_\_\_\_\_\_\_%

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

|  |  |
| --- | --- |
| *Firm Name of Proposer* |  |
| *Signature of Person Signing for Proposer* |  |
| *Name (printed) of Person Signing for Proposer* |  |
| *Title of Above-Named Person* |  |
| *Date* |  |

**PART B – CERTIFICATION**

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

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

|  |  |
| --- | --- |
| *Firm Name of Proposer* |  |
| *Signature of Person Signing for Proposer* |  |
| *Name (printed) of Person Signing for Proposer* |  |
| *Title of Above-Named Person* |  |
| *Date* |  |

END OF DVBE PARTICIPATION FORM

END OF APPENDIX

**END OF AGREEMENT**