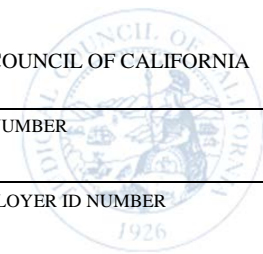


STANDARD AGREEMENT – Revision 1



AGREEMENT NUMBER [#]
FEDERAL EMPLOYER ID NUMBER [#]

- In this agreement (“Agreement”), the term “Contractor” refers to [Contractor’s name], and the term “Judicial Council” refers to the Judicial Council of California.
- This Agreement is effective as of [Date] (“Effective Date”) and expires on [Date] (“Expiration Date”). This Agreement includes three options to extend through [Date or “N/A”].
- The purpose or title of this Agreement is to:

Award a Master Agreement for industrial health and environmental hygiene consultation services for oversight of the Judicial Council’s Asbestos Permit and Management Process and to provide consultative support, review and recommendation on hazardous materials and environmental issues that may arise in Judicial Council owned and or managed buildings. Work Orders **and/or Service Work Orders** will be issued for specified services.

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.

- 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 – Services | Attachment 1 – Acceptance and Signoff Form |
| Appendix B – Payment Provisions | Attachment 2– Asbestos Work Permit & Management Process |
| Appendix C – General Provisions | Attachment 3 - Risk Management Activity Request Form |
| Appendix D – Defined Terms | |
| Appendix E – Work Authorization Form | |
| Appendix F – Work Order / SWO Coversheet Form | |
| Appendix G – Contractor’s Key Personnel | |
| Appendix H – Unruh Civil Rights Act & FEHA Certification | |

JUDICIAL COUNCIL’S SIGNATURE	CONTRACTOR’S SIGNATURE
Judicial Council of California	CONTRACTOR’S NAME <i>(if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc., and the state or territory where Contractor is organized)</i> [Contractor’s name]
BY <i>(Authorized Signature)</i> 	BY <i>(Authorized Signature)</i>
PRINTED NAME AND TITLE OF PERSON SIGNING	PRINTED NAME AND TITLE OF PERSON SIGNING
DATE EXECUTED [DATE]	DATE EXECUTED [DATE]
ADDRESS 455 Golden Gate Avenue San Francisco, CA 94102	ADDRESS [Contractor’s Address]

APPENDIX A

Services

1. Background and Purpose.

- 1.1 The intent of this Agreement is for the Contractor to deliver industrial health and environmental hygiene consultation services and oversight for the Judicial Council's Asbestos Permit and Management Process (Attachment 2) and to provide consultative support, review and recommendations on hazardous materials and environmental issues that may arise in Judicial Council owned and/or managed buildings.
- 1.2 The purpose of the Asbestos Work Permit and Management Process ("Process") is to provide specific guidelines to the Judicial Council, its service providers and their subcontractors, construction contractors and the courts of the requirement to obtain an Asbestos Management Work Permit ("Permit") (Attachment 2) prior to initiating any scheduled/planned or unscheduled/emergency work at the court facilities that may impact Asbestos Containing Materials ("ACM") or Assumed Asbestos Containing Materials ("AACM") in any Judicial Council owned or managed buildings.
- 1.3 This Contractor will also provide a dedicated individual who will serve as the Judicial Council's Competent Person ("Competent Person") for the purposes of asbestos and any hazardous material management in accordance with all federal and state regulatory, health and safety codes.
- 1.4 The Contractor's Senior Project Manager serving as the Judicial Council's Competent Person will respond to two (2) types of events at locations throughout the state: unplanned/emergency events (Priority 1 ("P1")) or planned/scheduled work events (Priority 2 ("P2")). P1s can occur at any point in time, on a 24/7 basis; examples of such events are: water intrusion, black water contamination, earthquake damage etc. See Appendix A, Section 2.4 (E) regarding the process for monitoring incoming notification emails. The competent person must be available to review/recommend clean-up activities once the emergency P1 event has been abated. P1 will be routed through Facilities Services; P2 events will be addressed through the Judicial Council Work Order ("Work Order") and/or Service Work Order ("Service Work Order" or "SWO") process (see Appendix B, section 3.0) through Branch Accounting and Procurement.
- 1.5 Both P1 and P2 activities will be subject their respective Work Orders and/or Service Work Orders. For additional information on payment for Work Orders and/or Service Work Orders see Appendix B, sections 2.0 and 3.0.

2. Services.

- 2.1 **Description of Services.** Contractor shall perform the Services or Work specified, as set forth in this Appendix A, and as further clarified in authorized Work Orders and/or Service Work Orders under this Agreement. The dates of performance and schedule of Services or Work will be issued on a Work Order by Work Order basis. Contractor agrees to provide or perform the Services or Work set forth in this Agreement, as well as any other Services that are necessary, normal, customary, or incidental to the performance of Contractor's responsibilities. The Work Order and/or Service Work Order may contain additional terms and conditions regarding the Services or Work that are applicable to the authorized Work Order and/or Service Work Order. However, no provision of any authorized Work Order and/or Service Work Order may act to modify or shall conflict with the terms and conditions of this Agreement.
- 2.2 Contractor shall provide specific industrial health and environmental hygiene services performed by a dedicated Competent Person/Senior Program Manager who will have the appropriate regulatory certifications and licenses to:
 - A. Act as the Judicial Council's asbestos Competent Person as outlined in our Process;
 - B. Develop a protocol to address incoming P1 events that can occur on a 24/7 basis;
 - C. Track all activity and collect all documentation related to ACM/AACM related facilities maintenance, facilities renovation, and/or demolition work through the Programs Asbestos Management Permit document (Attachment 2). This will include both P1 and P2 work;

- D. Provide all relevant documentation, surveys, clearance and regulatory notification information as an attachment to the completed Permit at the time of invoicing;
 - E. Ensure that the Judicial Council's facilities maintenance service providers and their subcontractors perform work related to hazardous materials in accordance with state and federal regulations;
 - F. Review survey and clearance reports of the service providers and their subcontractors and issue an "all clear" that the work areas can be released for re-occupancy by court personnel, the public and other court users;
 - G. Provide administrative oversight of the service providers and their subcontractors work through the Permit, and track their work to the conclusion of any hazardous material disposal per regulatory requirements;
 - H. Provide onsite oversight of the service providers and their subcontractors work, if deemed appropriate due to the nature and extent of the work being performed;
- 2.3 Possess the regulatory certifications and licenses to provide the following services:**
- A. Conduct samplings, investigations analyses, assessments and remediation recommendations;
 - B. Commercial Mold investigation;
 - C. Air and Noise monitoring/metering;
 - D. Lead, Asbestos, Particulate, PCBs and Mold Surveys through accredited laboratories;
 - E. Ionizing and non-ionizing radiation.
- 2.4 Description of Deliverables.** Contractor shall deliver to the Judicial Council the following work products ("Deliverables"). The Contractor shall designate an individual to serve as the Senior Project Manager ("Senior Project Manager") and point of contact for this contract. The Senior Project Manager will;
- A. Possess the necessary qualifications, certifications and licenses to serve as the Competent Person for the Judicial Council Asbestos Work Permit and Management Process;
 - B. Perform administrative oversight and onsite oversight, if deemed appropriate due to the nature and extent of the work to be performed, of the service providers and subcontractors;
 - C. Track ACM/AACM related work, and any other work related to hazardous materials, of the services providers and subcontractors to the conclusion of the facilities maintenance, remediation, demolition or renovation of the Court Facilities, through the work and disposal process per regulatory requirements utilizing the Permit (Attachment 2);
 - D. At time of invoice, deliver all documentation related to the remediation, demolition and renovations of court facilities to include, but not limited to the following:
 - i. Surveys,
 - ii. Clearance reports,
 - iii. Regulatory notifications,
 - iv. Regulatory disposal documents,
 - v. Reports,
 - vi. Communications between the contractor, service providers, subcontractors and Facilities Services.
 - vii. Results of testing, survey and remediation recommendations related to indoor environmental quality matters, such as but not limited to:
 - Mold,
 - Bacteria,
 - Air/noise monitoring,
 - Unknown particulates.

- E. Create a dedicated email address to receive incoming:
 - i. P1 notifications that will be monitored on a 24/7 basis by the Competent Person;
 - ii. P2 requests;
 - iii. Requests for Permits from the service providers and their subcontractors;
 - iv. Provide a rough order of magnitude for each P1, through the Risk Management Activity Request Form (“RMAR”) form (Attachment 3), and for each P2 through the RMAR and Facilities Services Work Order / **SWO Coversheet** form (Appendix F) on a firm fixed-not to exceed basis.
 - F. Assist with the annual review of the Asbestos Work Permit and Management Process for regulatory compliance and provide recommendations on the appropriate updates.
- 2.5 Acceptance Criteria.** The Services and Deliverables must meet the following acceptance criteria or the Judicial Council may reject the applicable Services or Deliverables. The Judicial Council may use the attached Acceptance and Signoff Form to notify Contractor of the acceptance or rejection of the Services and Deliverables. Contractor will not be paid for any rejected Services or Deliverables.
- A. Timeliness: The Services were completed and the Deliverables were delivered on time.
 - B. Completeness: The Services and Deliverables contained the materials and features required in the Agreement.
 - C. 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) and regulatory standards.
- 2.6 Project Managers.** The Judicial Council’s Project Manager is **the individual designated by the Judicial Council and named as Project Manager on an authorized Work Order or Service Work Order**. The Judicial Council may change its Project Manager at any time upon notice to Contractor without need for an amendment to this Agreement. Contractor’s **Senior Project Manager (“Competent Person”)** is: **[Insert name]**. Subject to written approval by the Judicial Council, Contractor may change its **Senior Project Manager** without need for an amendment to this Agreement.
- 2.7 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.
- 2.8 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.
- 2.9 Commencement of Performance.** This Agreement is of no force and effect until signed by both parties and all Judicial Council-required approvals are secured. Any commencement of performance prior to Agreement approval shall be at Contractor’s own risk.
- 2.10 Stop Work Orders.**
- A. The Judicial 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 Judicial 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.

- B.** If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume the performance of Services. The Judicial 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:
 - i. 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
 - ii. Contractor requests an equitable adjustment within thirty (30) days after the end of the period of stoppage; however, if the Judicial Council decides the facts justify the action, the Judicial Council may receive and act upon a proposal submitted at any time before final payment under this Agreement.
 - C.** The Judicial 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 Judicial Council. The Judicial 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 Judicial Council). If the Judicial 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 Judicial Council to correct the relevant deficiencies and shall redeliver such Good, Service, or Deliverable to the Judicial Council within ten (10) business days after the Judicial Council's rejection, unless otherwise agreed in writing by the Judicial Council. Thereafter, the parties shall repeat the process set forth in this section until the Judicial Council accepts such corrected Good, Service, or Deliverable. The Judicial Council may terminate that portion of this Agreement which relates to a rejected Good, Service, or Deliverable at no expense to the Judicial Council if the Judicial 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 A

**ATTACHMENT 1
ACCEPTANCE AND SIGNOFF FORM**

Description of Services or Deliverables provided by Contractor: _____

Date submitted to the Judicial Council: _____

The Services or Deliverables are:

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

2) Complete: yes no. If no, please identify incomplete aspects of the Services or Deliverables.

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

Please note level of satisfaction:

Poor Fair Good Very Good Excellent

Comments, if any:

The Services or Deliverables listed above are accepted.

The Services or Deliverables listed above are rejected.

Name: _____

Title: _____

Date: _____

END OF ATTACHMENT 1

APPENDIX B
Payment Provisions

- 1. General.** Subject to the terms of this Agreement, Contractor shall invoice the Judicial Council, and the Judicial Council shall compensate the Contractor, as set forth in this Appendix B, and after acceptance of the applicable Services or Work in accordance with the terms and conditions in this Agreement and pursuant to an authorized Work Order **and/or Service Work Order**. Contractor shall bear, and the Judicial 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. Notwithstanding any provision in this Agreement to the contrary, payments to the Contractor are contingent upon the timely and satisfactory performance of Contractor's obligations under this Agreement.
- 2. Work Order and Contract Amount.**
 - 2.1** The total amount the Judicial Council may pay to Contractor under this Agreement ("Contract Amount") shall not in any event exceed all Total Amounts Encumbered to Date on all Work Orders **and/or Service Work Orders** authorized under this Agreement.
 - 2.2** Contractor shall not invoice the Judicial Council, and the Judicial Council has no obligation to reimburse Contractor for expenses of any type that exceed the aggregate amount for Services or Work contracted under this Agreement.
- 3. Work Order Authorization Process.**
 - 3.1** For unplanned/emergency events or (Priority 1 ("P1")), the Contractor will provide an estimate of the Time and Materials required to perform the services by completing the RMAR Form (Attachment 3). The RMAR Form is to be submitted to the Facilities Services/Project Manager. **P1 Work will be subject to the specific authorization and funding under the Work Order for P1 activities.**
 - 3.2** The Judicial Council will authorize the performance of Services and Work for all planned/scheduled work events or (Priority 2 ("P2")) through the Judicial Council Work Order process. Spending of funds under this Agreement for P2 events will be via written Work Orders **and/or Service Work Orders**.
 - 3.3** **Service Work Order(s) will be issued through the Judicial Council's Computer Aided Facility Management ("CAFM") system. Service Work Orders must be "accepted" by the Contractor within the CAFM system. This involves the Contractor logging into CAFM, opening the SWO, and clicking the "accept" button. Acceptance of a Service Work Order in CAFM authorizes the commencement of Services or Work. A written document will be provided by the Judicial Council via CAFM software system that summarized the Project details and references all other documents incorporated within the Project. CAFM or Computer Aided Facility Management – In the context of this Agreement and wherever used herein, the CAFM system is, and shall be construed to mean, the system currently used by the Judicial Council to issue Service Work Orders and track work progress, or any other such system subsequently implemented for those or similar purposes by the Judicial Council at the Judicial Council's sole discretion.**
 - 3.4** Work Order(s), substantially in the form as set forth in Exhibit F, will also be issued by the Judicial Council to authorize Services and Work and spending of funds under this Agreement. The Judicial Council will issue a Work Order/SWO Coversheet accompanied by the Work Authorization Form for both parties to execute. The Work Order/SWO Coversheet will specify the Time and Materials not to Exceed Fee that may be paid for the Services and Work provided in the Work Authorization Form. It will also contain language specifying the Services and Work authorized under this Agreement. Upon the receipt of a signed Work order, the Contractor is authorized to begin the Services and Work when and as specified in said Work Order. The RMAR Form (Attachment 3) shall be completed by Contractor and included with their submission of all Work Orders and Service Work Orders.

- 3.5** Work Authorization Form (Appendix E) will be issued for all planned/scheduled Priority 2 events. The Judicial Council's Project Manager will provide the Contractor with a Work Authorization Form with all requested services detailed in parts one (1) and two (2). The Contractor's proposal is submitted in part three (3) (in the format provided in Appendix E), describing the Services or Work to be performed. The Judicial Council will have completed parts one (1) and two (2) of the form as follows:
- A.** Describe in full the Services or Work requested, including the location(s) at which they will be performed.
 - B.** Requested beginning and end dates for the Services or Work.
 - C.** Services or Work requested for all P2 events shall be performed on Time and Materials not to Exceed basis.
- 3.6** Upon receipt, Contractor will, based upon the Services and Work requested by the Judicial Council will, complete Part three (3) of the form.
- A.** Assign and Provide Name and Address information of the Contractor's Project Manager who will be assigned to the Work Order **or Service Work Order**.
 - B.** Provide a statement of work and a narrative work plan specifying the responsibilities of the parties and the Key Personnel with regard to performance of the Services or Work, including any assumptions and/or conditions applicable to performance of the Service or Work.
 - C.** If agreed to, provide revised start and completion dates for the Work, or provide a detailed Project Schedule detailing the critical path responsibilities for the Project.
 - D.** Provide a list of Key Personnel who will be assigned to perform the Services or Work. Identify any subcontractor personnel as such.
 - E.** In the pricing section of the form, Services or Work will be performed on a Time and Materials not to Exceed basis, provide titles of personnel that will perform the Work, expected hours of Work, applicable Hourly Rate, total amount for each personnel.
 - F.** Upon completion, Contractor shall submit the signed Work Authorization Form to the Judicial Council's Project Manager via e-mail.
- 3.7** Judicial Council will review the proposal submitted by the approved Contractor and make a selection based on cost and scope of work proposed.
- 3.8** Submission of Work Authorization Form is available for acceptance and may not expire or be revoked for sixty (60) Business Days following the date submitted to Judicial Council's Project Manager.
- 3.9** If the Judicial Council accepts the Work Authorization Form, the Judicial Council will notify the Contractor and authorize the issuance of a Work Order **or Service Work Order**.
- 3.10** The execution of a Work Order **or Service Work Order** by the Judicial Council and the Contractor shall authorize the Services or Work as specified. Any commencement of Work or any expenditure made prior to Contractor's receipt of a signed Work Order, **or electronically approved Service Work Order issued through CAFM**, shall be made at Contractor's sole risk.
- 3.11** The Judicial Council's Project Manager named in the Work Order **and/or Service Work Order** shall monitor and evaluate Contractor's performance. All requests and communications between Judicial Council and the Contractor regarding the Services or Work must be made through the Judicial Council's Project Manager **designated in the given Work Order or Service Work Order**.

3.12 Compensation shall be on a Time and Materials not to Exceed basis for Services or Work at the billing rates, set forth in Table 1. Laboratory fees shall be in accordance with the billing rates set forth in Table 2. The Judicial Council will pay for laboratory service fees incurred by the Contractor, for services specified in Appendix A, section 2.3, per laboratory rates indicated in Table 2. If Contractor utilizes rental equipment, no markup shall be added to the price of the rental equipment. The Judicial Council will reimburse equipment rental expenses based on paid invoices provided that Contractor obtained the required approval from the Judicial Council’s Project Manager before the expenses were incurred. See Appendix B, section 4.3, reimbursement of non-travel expenses.

Table 1: Hourly Rate per Title or Job Classification

Title or Job Classification	Billing Rate Per Hour
Director / Principal	
Senior Project Manager (Competent Person)	
Project Manager	
Certified Industrial Hygienist	
Certified Asbestos Consultant	
Project Specialist	
Technician	

Table 2: Laboratory Fees. Fee breakdown for laboratory costs.

Task #	Description	Unit Cost Per Service
1		
2		
3		
4		
5		

- i. The hourly rates, time and materials not-to-exceed amounts prices set forth in Table 1 and Table 2 of this Exhibit shall be fully burdened and inclusive of all costs, benefits, expenses, travel-related costs, fees, overhead, and profits payable to the Contractor for services rendered to the Judicial Council.
- ii. The Contractor shall not charge nor shall the Judicial Council pay any overtime rate.
- iii. The Contractor shall not request nor shall the Judicial Council consider any reimbursement for non-production work including but not limited to time spent traveling to and from a job site or any living expenses.

4.0 Allowable Expenses/Payment for Services.

- 4.1** Appendix A, Services and Deliverables, gives a brief description of Services, Work, and Deliverables that Contractor agrees to provide. The Contractor shall furnish, without limitation, all necessary labor, material, hardware, software, tools, and Contractor’s in house equipment to complete the work as described in this document and future statements of work. The Contractor will use available codes, regulations, professional standards, accepted best practices, and other relevant knowledge to provide the Service to the standard level of professional service.
- 4.2** The Time and Materials not to Exceed included by Contractor in future proposals submitted via Appendix E, Work Authorization Form, shall be fully burdened and inclusive of all costs, labor,

Contractor's in house equipment, travel related costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for services rendered to the Judicial Council, including labor costs associated with overtime, weekend, and after hours work. Hourly Rates, and Laboratory Fees are included in Appendix B, above, as proposed by the Contractor.

- 4.3** The Judicial Council will reimburse non-travel expenses based on paid invoices provided that Contractor obtained the required approval from the Judicial Council's Project Manager before the expenses were incurred. Non-travel expenses include filing fees of regulatory agencies, equipment rentals, permit fees, and report recording fees.

5.0 Withholding. When making a payment tied to the acceptance of Deliverables, the Judicial Council shall have the right to withhold ten percent (10%) of each such payment until the Judicial Council accepts the final Deliverable.

6.0 No Advance Payment. The Judicial Council will not make any advance payment for Services or Work.

7.0 Expenses. Except as set forth in this section, no expenses relating to the Services, Work and Deliverables shall be reimbursed by the Judicial Council.

8.0 Required Certification. Contractor must include with any request for reimbursement from the Judicial 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 Judicial Council was sought for these costs, and Contractor will provide those records to the Attorney General upon request.

9.0 Invoicing.

9.1 Contractor shall submit invoices to the Judicial Council in arrears no more frequently than monthly. Contractor's invoices must include information and supporting documentation acceptable to the Judicial Council. Contractor shall adhere to reasonable billing guidelines issued by the Judicial Council from time to time. Invoices shall clearly indicate the following:

- A.** The Work Order number (if applicable), RMAR Form number, Service Work Order number and FM number on all invoices;
- B.** A unique invoice number;
- C.** The Contractor's name and address;
- D.** Taxpayer identification number (the Contractor's federal employer identification number);
- E.** Description of the completed Work, including services rendered, hours worked, Task(s) performed, and/or Deliverable(s) made, as appropriate;
- F. At time of invoice, deliver all** documentation related to the remediation, demolition and renovation of court facilities to include, but not limited to the following:
 - viii. Surveys,
 - ix. Clearance reports,
 - x. Regulatory notifications,
 - xi. Regulatory disposal documents,
 - xii. Reports,
 - xiii. Communications between the contractor, service providers, subcontractors and Facilities Services.
 - xiv. Results of testing, survey and remediation recommendations related to indoor environmental quality matters, such as but not limited to:
 - Mold,
 - Bacteria,

- Air/noise monitoring,
 - Unknown particulates.
- G.** The contractual charges, including the appropriate rate(s) allowable under this Agreement, any costs incurred by the Contractor for rental equipment (see section 3.12), and or laboratory fees per rates set by Contractor in section 3, table 2 above;
- H.** Preferred remittance address, if different from the mailing address.

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

Judicial Council of California
c/o Accounts Payable
455 Golden Gate Avenue
San Francisco, CA 94102-3688

With a cc to:

Judicial Council of California
c/o Risk Management Unit
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102-3688

9.3 Invoices or vouchers not on printed bill heads shall be signed by the Contractor or the person furnishing the supplies or services.

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

11.0 No Implied Acceptance. Payment does not imply acceptance of Contractor's invoice, Services, or Deliverables. Contractor shall immediately refund any payment made in error. The Judicial Council shall have the right at any time to set off any amount owing from Contractor to the Judicial Council against any amount payable by the Judicial Council to Contractor under this Agreement.

12.0 Taxes. Unless otherwise required by law, the Judicial 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 Judicial 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 Judicial Council pursuant to this Agreement.

END OF APPENDIX B

APPENDIX C General Provisions

1. Provisions Applicable to Services

- 1.1 Qualifications.** Contractor shall assign to this project only persons who have sufficient training, education, and experience to successfully perform Contractor's duties. If the Judicial Council is dissatisfied with any of Contractor's personnel, for any or no reason, Contractor shall replace them with qualified personnel.
- 1.2 Turnover.** Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to perform Services.
- 1.3 Background Checks.** Contractor shall cooperate with the Judicial Council and any courts, if the Judicial Council and courts wish to perform any background checks on Contractor's personnel by obtaining, at no additional cost, all releases, waivers, and permissions the Judicial Council and or courts may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the Judicial Council of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the Judicial Council or courts and performed by Contractor. Contractor shall ensure that the following persons are not assigned to perform services for the Judicial Council or the courts: (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 Judicial Council, the Judicial Council advises are unacceptable to the Judicial Council or the courts.

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 Judicial Council if any representation and warranty becomes untrue. Contractor represents and warrants as follows:

- 2.1 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.
- 2.2 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 Judicial Council.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 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.
- 2.7 Compliance with Laws Generally.** Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor's business and services.
- 2.8 Drug Free Workplace.** Contractor provides a drug free workplace as required by California Government Code sections 8355 through 8357.

- 2.9 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.
- 2.10 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.
- 2.11 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.
- 2.12 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

- 3.1 Basic Coverage.** Contractor shall provide and maintain at the Judicial Council's discretion and Contractor's expense the following insurance during the Term:
- A. Commercial General Liability.** Commercial General Liability insurance (and if required Excess/Umbrella Liability insurance) for all of its operations written on an occurrence form with limits of not less than \$1 million per occurrence and a \$1 million annual aggregate limit of liability. The policy shall include 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. This insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought subject to the insurance policy limit of liability.
 - B. Workers Compensation and Employer's Liability.** The policy is required only if Contractor has employees. Statutory Workers' Compensation insurance for all of the employees who are engaged in the Work, including special coverage extensions where applicable and Employers Liability insurance with limits not less than \$1 million for each accident, \$1 million disease policy limit, and \$1 million as the disease limit for each employee.
 - C. 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.
 - D. Professional Liability.** This policy is required only if Contractor performs professional services under this Agreement. The policy must cover liability resulting from any acts, errors, and omissions committed or alleged to have been committed, which arise out of rendering or failure to render the Services required under this Agreement. The policy shall provide limits of not less than \$1 million per claim or per occurrence and \$1 million annual aggregate. If the policy is written on a "claims made" form, the Contractor shall continue the coverage, either through policy renewals or the purchase of an extended discovery period, if such extended discovery period is available, for not less than one (3) year from the date of the completion of the Services. The retroactive date or "prior acts date" of any such "claims made" policy must be no later than the date that Services commence on the Project.

- 3.2 Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.
- 3.3 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.
- 3.4 Deductibles and Self-Insured Retentions.** Contractor shall declare to the Judicial 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 Judicial Council's approval. Deductibles and self-insured retentions do not limit Contractor's liability.
- 3.5 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 Judicial Council, the State of California, the Judicial Council of California, and their respective judges, subordinate judicial officers, executive officers, administrators, officers, officials, agents, representatives, contractors, volunteers or employees.
- 3.6 Certificates of Insurance.** Before Contractor begins performing Services, Contractor shall give the Judicial Council certificates of insurance attesting to the existence of coverage, and stating that the policies will not be canceled, terminated, or amended to reduce coverage without thirty (30) days' prior written notice to the Judicial Council.
- 3.7 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.
- 3.8 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 Judicial Council, the State of California, the Judicial 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.
- 3.9 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.
- 3.10 Consequence of Lapse.** If required insurance lapses during the Term, the Judicial Council is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.
- 4. Indemnity.** Contractor will defend (with counsel satisfactory to the Judicial 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 Judicial Council's prior written consent, which consent shall not be unreasonably withheld; and the Judicial 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.

5. **Option Terms.** The Judicial Council may, at its sole option, extend this Agreement for up to three (3) consecutive one-year terms, at the end of which Option Terms this Agreement shall expire. In order to exercise an Option Term, the Judicial Council must send Notice to Contractor at least thirty (30) days prior to the end of the Initial Term (or the then-current Option Term).
6. **Tax Delinquency.** Contractor must provide notice to the Judicial 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 Judicial 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.

7. Termination

- 7.1 **Termination for Convenience.** The Judicial 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 Judicial 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.
- 7.2 **Termination for Cause.** The Judicial 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 Judicial 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.
- 7.3 **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.
- 7.4 **Termination for Changes in Budget or Law.** The Judicial 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 Judicial 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 Judicial Council if: (i) expected or actual funding to compensate Contractor is withdrawn, reduced or limited; or (ii) the Judicial Council determines that Contractor's performance under this Agreement has become infeasible due to changes in applicable laws.
- 7.5 **Rights and Remedies of the Judicial Council.**
 - A. *Nonexclusive Remedies.* All remedies provided in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Judicial 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 Judicial 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 Judicial Council's right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.

- B. Replacement.** If the Judicial Council terminates this Agreement in whole or in part for cause, the Judicial Council may acquire from third parties, under the terms and in the manner the Judicial Council considers appropriate, goods or services equivalent to those terminated, and Contractor shall be liable to the Judicial 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 Judicial Council for such goods and services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Judicial Council. Contractor shall continue any Services not terminated hereunder.
- C. Delivery of Materials.** In the event of any expiration or termination of this Agreement, Contractor shall promptly provide the Judicial Council with all originals and copies of the Deliverables, including any partially-completed Deliverables-related work product or materials, and any Judicial Council-provided materials in its possession, custody, or control. In the event of any termination of this Agreement, the Judicial Council shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the Judicial Council’s termination is not for cause, the Judicial Council shall pay any fees due under this Agreement for Services performed or Deliverables completed and accepted as of the date of the Judicial Council’s termination Notice.

7.6 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.

8. 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 Judicial 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.

9. Notices. Notices must be sent to the following address and recipient:

If to Contractor:	If to the Judicial Council:
<u>[name, title, address]</u>	<u>[name, title, address]</u>
<u>With a copy to:</u>	<u>With a copy to:</u>

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.

10. 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.

10.1 Union Activities Restrictions. *If the Contract Amount is over \$50,000, this section is applicable.* Contractor agrees that no Judicial 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 Judicial Council funds were used for those expenditures. Contractor will provide those records to the Attorney General upon request.

10.2 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.

- 10.3 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.
- 10.4 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.
- 10.5 Iran Contracting Act.** *If the Contract Amount is \$1,000,000 or more and Contractor did not provide to Judicial 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 Judicial Council to enter into this Agreement pursuant to PCC 2203(c).
- 10.6 Loss Leader Prohibition.** *If this Agreement involves the purchase of goods, this section is applicable.* Contractor shall not sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code.
- 10.7 Recycling.** *If this Agreement provides for the purchase or use of goods specified in PCC 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), this section is applicable with respect to those goods. Without limiting the foregoing, if this Agreement includes (i) document printing, (ii) parts cleaning, or (iii) janitorial and building maintenance services, this section is applicable.* Contractor shall use recycled products in the performance of this Agreement to the maximum extent doing so is economically feasible. Upon request, Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the PCC 12200, in such goods regardless of whether the goods meet the requirements of PCC 12209. With respect to printer or duplication cartridges that comply with the requirements of PCC 12156(e), the certification required by this subdivision shall specify that the cartridges so comply.
- 10.8 Sweatshop Labor.** *If this Agreement provides for the laundering of apparel, garments or corresponding accessories, or for furnishing equipment, materials, or supplies other than for public works, this section is applicable.* Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the Judicial Council under this Agreement have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and PCC 6108. Contractor agrees to cooperate fully in providing reasonable access to Contractor's records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under this section and shall provide the same rights of access to the Judicial Council.
- 10.9 Federal Funding Requirements.** *If this Agreement is funded in whole or in part by the federal government, this section is applicable.* It is mutually understood between the parties that this Agreement

may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made. This Agreement is valid and enforceable only if sufficient funds are made available to the Judicial Council by the United State Government for the fiscal year in which they are due and consistent with any stated programmatic purpose, and this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner. The parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement is intended to be paid, this Agreement shall be deemed amended without any further action of the parties to reflect any reduction in funds. The Judicial Council may invalidate this Agreement under the termination for convenience or cancellation clause (providing for no more than thirty (30) days' Notice of termination or cancellation), or amend this Agreement to reflect any reduction in funds.

- 10.10 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 Judicial 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 Judicial Council: (1) the total amount of money Contractor received under the Agreement; (2) the name and address of each DVBE subcontractor to which Contractor subcontracted work in connection with the Agreement; (3) the amount each DVBE subcontractor received from Contractor in connection with the Agreement; and (4) that all payments under the Agreement have been made to the applicable DVBE subcontractors. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.
- 10.11 Antitrust Claims.** *If this Agreement resulted from a competitive solicitation, this section is applicable.* Contractor shall assign to the Judicial Council all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the Judicial Council. Such assignment shall be made and become effective at the time the Judicial Council tenders final payment to Contractor. If the Judicial 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 Judicial Council any portion of the recovery, including treble damages, attributable to overcharges that were paid by Contractor but were not paid by the Judicial 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 Judicial 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 Judicial Council has not been injured thereby, or (b) the Judicial Council declines to file a court action for the cause of action.
- 10.12 Legal Services.** *If this Agreement is for legal services, this section is applicable.* Contractor shall: (i) adhere to legal cost and billing guidelines designated by the Judicial Council; (ii) adhere to litigation plans designated by the Judicial Council, if applicable; (iii) adhere to case phasing of activities designated by the Judicial Council, if applicable; (iv) submit and adhere to legal budgets as designated by the Judicial Council; (v) maintain legal malpractice insurance in an amount not less than the amount designated by the Judicial Council; and (vi) submit to legal bill audits and law firm audits if so requested by the Judicial Council, whether conducted by employees or designees of the Judicial Council or by any legal cost-control provider retained by the Judicial Council for that purpose. Contractor may be required to submit to a legal cost and utilization review as determined by the Judicial Council. If (a) the Contract Amount is greater than \$50,000, (b) the legal services are not the legal representation of low- or middle-income persons, in either civil, criminal, or administrative matters, and (c) the legal services are to be performed within California, then Contractor agrees to make a good faith effort to provide a minimum

number of hours of pro bono legal services, or an equivalent amount of financial contributions to qualified legal services projects and support centers, as defined in section 6213 of the Business and Professions Code, during each year of the Agreement equal to the lesser of either (A) thirty (30) multiplied by the number of full time attorneys in the firm's offices in California, with the number of hours prorated on an actual day basis for any period of less than a full year or (B) the number of hours equal to ten percent (10%) of the Contract Amount divided by the average billing rate of the firm. Failure to make a good faith effort may be cause for nonrenewal of this Agreement or another judicial branch or other state contract for legal services, and may be taken into account when determining the award of future contracts with a Judicial Branch Entity for legal services.

- 10.13 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.
- 10.14 Equipment Purchases.** *If this Agreement includes the purchase of equipment, this section is applicable.* The Judicial 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 Judicial Council, or require Contractor to repair or replace any damaged, lost, or stolen equipment to the satisfaction of the Judicial Council at no expense to the Judicial Council. If a theft occurs, Contractor must file a police report immediately.
- 10.15 Four-Digit Date Compliance.** *If this Agreement includes the purchase of systems, software, or instrumentation with imbedded chips, this section is applicable.* Contractor represents and warrants that it will provide only Four-Digit Date Compliant deliverables and services to the Judicial Council. "Four-Digit Date Compliant" deliverables and services can accurately process, calculate, compare, and sequence date data, including date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Agreement and does not limit the generality of warranty obligations set forth elsewhere in this Agreement.
- 10.16 Janitorial Services or Building Maintenance Services.** *If this Agreement is for janitorial or building maintenance services, this section is applicable.* If this Agreement requires Contractor to perform Services at a new site, Contractor shall retain for sixty (60) days all employees currently employed at that site by any previous Contractor that performed the same services at the site. Contractor shall provide upon request information sufficient to identify employees providing janitorial or building maintenance services at each site and to make the necessary notifications required under Labor Code section 1060 et seq.
- 10.17 Small Business Preference Commitment.** *This section is applicable if Contractor received a small business preference in connection with this Agreement.* Contractor's failure to meet the small business commitment set forth in its bid or proposal constitutes a breach of this Agreement. Contractor must within sixty (60) days of receiving final payment under this Agreement report to the Judicial Council the actual percentage of small/micro business participation that was achieved. If Contractor is a nonprofit veteran service agency ("NVSA"), Contractor must employ veterans receiving services from the NVSA for not less than 75 percent of the person-hours of direct labor required for the production of goods and the provision of services performed pursuant to this Agreement.

11. Miscellaneous Provisions.

- 11.1 Independent Contractor.** Contractor is an independent Contractor to the Judicial Council. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the Judicial Council. Contractor has no authority to bind or incur any obligation on behalf of the Judicial Council. If any governmental entity concludes that Contractor is not an independent contractor, the Judicial Council may terminate this Agreement immediately upon Notice.
- 11.2 GAAP Compliance.** Contractor maintains an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles.
- 11.3 Audit.** Contractor must allow the Judicial 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 Judicial Council five percent (5%) or more during the time period subject to audit, Contractor must reimburse the Judicial 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.

- 11.4 Licenses and Permits.** Contractor shall obtain and keep current all necessary licenses, 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.
- 11.5 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 Judicial 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 Judicial Council owns all right, title and interest in the Confidential Information. Contractor will notify the Judicial Council promptly upon learning of any unauthorized disclosure or use of Confidential Information and will cooperate fully with the Judicial Council to protect such Confidential Information. Upon the Judicial Council's request and upon any termination or expiration of this Agreement, Contractor will promptly (a) return to the Judicial Council, if so directed by the Judicial Council, destroy all Confidential Information (in every form and medium), and (b) certify to the Judicial 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 Judicial Council shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to its other remedies at law.
- 11.6 Ownership of Deliverables.** Unless otherwise agreed in this Agreement, Contractor hereby assigns to the Judicial 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 Judicial Council.
- 11.7 Publicity.** Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the Judicial Council.
- 11.8 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.
- 11.9 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.
- 11.10 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 Judicial Council. A waiver of enforcement of any of this Agreement's terms or conditions by the

Judicial Council is effective only if expressly agreed in writing by a duly authorized officer of the Judicial 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.

- 11.11 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.
- 11.12 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.
- 11.13 Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.
- 11.14 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.
- 11.15 Time of the Essence.** Time is of the essence in Contractor’s performance under this Agreement.
- 11.16 Counterparts.** This Agreement may be executed in counterparts, each of which is considered an original.

END OF APPENDIX C

APPENDIX D
Defined Terms

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

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

“**Judicial Council Asbestos Work Permit and Management Process**” is defined in Attachment 2 as updated from time to time.

“**Asbestos Management Work Permit**” is defined in Attachment 2.

“**Asbestos Containing Materials**” is defined in Attachment 2.

“**Assumed Asbestos Containing Materials**” is defined in Attachment 2.

“**Computer Aided Facilities Management**” is defined in Appendix B, section 3.2.

“**Competent Person**” is defined in Appendix A, section 1.2.

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

“**Confidential Information**” means: (i) any information related to the business or operations of the Judicial Council, including information relating to the Judicial Council’s personnel and users; and (ii) all financial, statistical, personal, technical and other data and information of the Judicial 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 Judicial Council’s satisfaction that: (a) Contractor lawfully knew prior to the Judicial 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 PCC 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.

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

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

“**Deliverables**” is defined in Appendix A, section 2.4.

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

“**Expiration Date**” is the later of (i) the day so designated on the Coversheet, and (ii) the last day of any Option Term.

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

“**Judicial Branch Entity**” or “**Judicial Branch Entities**” means any California superior or appellate court, the Judicial 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 Judicial Council.

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

“**Project Manager**” is defined in Appendix A, section 2.6.

“**Priority 1**” is defined in Appendix A, section 1.4.

“**Priority 2**” is defined in Appendix A, section 1.4.

“**Services**” is defined in Appendix A, section 2.

“**Service Work Order**” or “**SWO**” refers to a unique entry within Owner’s CAFM system. Issuance of a SWO constitutes Work Authorization. The SWO references and incorporates other documents such as the Work Authorization Form (Appendix E) which includes the Consultant’s Proposal. See Appendix B, section 3.0, Work Order and Contract Amount.

“**Stop Work Order**” is defined in Appendix A, section 2.10.

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

“**Work Order**” refers to a document, substantially in the form as set forth in Exhibit F, that is used by the Judicial Council to authorize Work pursuant to this Agreement. The document will consist of a Work Order/SWO Coversheet Form accompanied by the Work Authorization Form. It will specify the maximum amount of money that may be paid for the Work provided in the Work Authorization Form, and will contain language specifying that the Work is authorized under this Agreement. A Work Order is only authorized when the Work Order Coversheet has been bilaterally executed. See Appendix B, section 3.0, Work Order and Contract Amount.

END OF APPENDIX D

APPENDIX E

WORK AUTHORIZATION FORM

Date:

The requested services are described in Parts 1 and 2 of this Work Authorization. Please complete and sign Part 3, providing **deliverable based, time and materials not to exceed cost**, to be invoiced per event in accordance with our Master Agreement. Please submit your proposal by email, no later than seven days from receipt of this Work Order and Work Authorization. Please address your response to:

TBD
Project Manager
email: tbd@jud.ca.gov
phone: **TBD**

Please refer to the Judicial Council of California (council) reference number ********* for all communications related to this Work Authorization. Your proposal will be reviewed on the cost and scope of the work proposed.

PART 1: GENERAL INFORMATION

Request for Safety and Health Services		
County/City:		
Project SWO: FM-		
Building ID No. (if applicable):		
Services Requested:		
Reason for Request:		
Site One:	<u>Address(es)</u>	<u>APN(s)</u>
Property Contact/Phone:		
Special Instructions:		

The point of contact at the council for further information is **TBD Project Manager**. Please copy: tbd@jud.ca.gov on all correspondence.

Consultant to provide actual work schedule to council, prior to starting the project.

PART 2: REQUESTED SERVICES

1. Industrial and Environmental Hygiene Services

Schedule of Charges by Master Agreement # ****

Indicate Contractor Employee or subcontractor	
Personnel	Rate per Hour
Director/Principal	
Senior Project Manager (Competent Person)	
Project Manager	
Certified Industrial Hygienist	
Certified Asbestos Contractor	
Project Specialist	
Technician	

REQUESTED BY:

TBD

Project Manager

Judicial Council of California
Facilities Services
Address: TBD

PART 3: CONSULTANT’S PROPOSAL

1.	Industrial & Environmental Hygiene Services	Amount
TOTAL		Amount
Time and Materials Not to Exceed Fee Total:		

Project to be billed on at Time and Materials Not to Exceed Cost Basis according to the personnel, and laboratory rates per hour listed in the tables one and two of in Master Agreement No. ##, Appendix B, and per Schedule of Charges located above in Part 2 of this Work Authorization Form.

Project schedule: Project initiated; site work schedule to be determined.

RFP Title: Industrial Health and Environmental Hygiene, Health and Safety Consultation Services
RFP Number: FS-2017-02-BD

Key Personnel List:

Consultant's Project Manager:

Other Key Personnel:

CONSULTANT:

BY:

PRINTED NAME:

TITLE:

DATE:

END OF APPENDIX E

**APPENDIX F
WORK ORDER / SWO COVERSHEET FORM**

JUDICIAL COUNCIL OF CALIFORNIA
STANDARD AGREEMENT COVERSHEET



WORK ORDER NUMBER [#]
FEDERAL EMPLOYER ID [#]

1. In this work order (“Work Order”), the term “Contractor” refers to [Contractor’s Name], and the term “Judicial Council” refers to the **Judicial Council of California**.

2. This Work Order becomes effective as of [DATE] (the “Effective Date”) and expires on [DATE].

3. The total amount payable to the Contractor by the Judicial Council under this Work Order is [\$0.00].

4. The purpose of this Work Order is:

[DESCRIPTION OF PURPOSE]

The Contractor is hereby authorized to, and shall provide the Work specified in the attached Contractor’s Proposal in accordance with the Agreement and this Work Order.

5. This Work Order is issued pursuant to Agreement No. [#] (“Agreement”) between the Judicial Council of California and the Contractor.

The parties acknowledge that this Work Order, consisting of this coversheet and the attached Contractor’s Proposal, contains the parties’ entire understanding related to the subject matter of this Work Order.

END OF APPENDIX F

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’s Name]
BY (Authorized Signature) ⊗	BY (Authorized Signature) ⊗
PRINTED NAME AND TITLE OF PERSON SIGNING	PRINTED NAME AND TITLE OF PERSON SIGNING
DATE EXECUTED [DATE]	DATE EXECUTED [DATE]
ADDRESS 455 Golden Gate Avenue San Francisco, CA 94102	ADDRESS [Contractor’s Address]

APPENDIX G

CONTRACTOR'S KEY PERSONNEL

The following individuals, or equivalent as approved pursuant to Appendix C, General Provisions, Section 1.1, Qualifications, shall be the Key Personnel designated to perform and function in a key capacity in managing the work of the Contract:

Name of Key Staff	Role

END OF APPENDIX G

APPENDIX H

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 Judicial Council for a solicitation of goods or services of \$100,000 or more, or (ii) entering into or renewing a contract with the Judicial 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); **and**
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).

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.

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

END OF APPENDIX H

ATTACHMENT 2

[Judicial Council Asbestos Work Permit and Management Process to be inserted here.]

END OF ATTACHMENT 2

ATTACHMENT 3

[Risk Management Activity Request Form to be inserted here]

END OF ATTACHMENT 3

END OF AGREEMENT