

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL  
CONSTRUCTION SERVICES CONTRACT**

THIS CONSTRUCTION SERVICES CONTRACT (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (“Effective Date”) by and between the Superior Court of California, County of Imperial (“Court” or “JBE”) and \_\_\_\_\_ (“Contractor”) (each individually a “Party” and collectively the “Parties”).

WITNESSETH: The parties do hereby agree and contract as follows:

1. Contractor shall furnish to JBE the following work: **Restroom Doors, Hardware & Partition Project** as further indicated in the Scope of Work attached hereto and incorporated herein as **Exhibit A** (“Project” or “Work”).

The Work will be performed at 939 W. Main Street, El Centro, CA 92243 (“Site”) during the hours of [identify any limitations on work hours or state regular business hours].

2. Contractor shall perform the Work for a total price not to exceed \$[amount] as further described in the Payment Provisions attached hereto and incorporated herein as **Exhibit B** (“Contract Price”).

If the Contract Price is subject to payment by the JBE’s disbursement of Progress Payments pursuant to the Terms and Conditions, five percent (5%) of each Progress Payment will be withheld by the JBE as Retention. Retention will be disbursed by the JBE as part of the Final Payment.

3. Work shall be completed by \_\_\_\_\_, 20\_\_\_\_ [identify completion date]. [OR] Work shall be completed within [identify days to complete] consecutive calendar days from the date specified in the District’s Notice to Proceed (“Completion Date”). The JBE will provide a written notice to proceed (“Notice to Proceed”) to Contractor with respect to the authorized Project at which time Contractor will proceed with the Project. Liquidated damages for the Contractor’s failure to complete the Contract by the Completion Date are established in the amount of [identify amount] per calendar day and as further set forth in the Terms and Conditions attached hereto.

4. The term of this Contract shall be from [identify effective date] to the date one (1) year after the date of actual completion of the work (regardless of whether such date is before or after the Completion Date), unless mutually extended or earlier terminated as provided herein.

5. Contractor shall direct all questions regarding this Contract and the Work through Sergio Valadez, Director of Facilities by [identify preferred method of contact]. Contractor must notify JBE at least [identify notification requirement timing] in advance of starting the work and when inspections are required.

6. Contractor hereby acknowledges that it currently holds valid and active Type Class B or C15 Contractor’s license(s) issued by the State of California, Contractor’s State Licensing Board.

7. Contractor agrees to comply with the Terms and Conditions attached hereto and incorporated herein as **Exhibit C** (“Terms and Conditions”).

8. Contractor shall have and maintain in force during the term of this Contract, with the minimum indicated limits, the following insurance:

- Workers' Compensation Insurance 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.
- Comprehensive Commercial General Liability Insurance with limits not less than \$1,000,000 per occurrence.
- Comprehensive Automobile Liability Insurance with limits not less than \$1,000,000 per occurrence for all owned, non-owned and hired vehicles.

Umbrella Policies. Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella insurance.

Contractor shall provide the JBE with certificates of insurance and comply with the Insurance Requirements of the Terms and Conditions.

9. Any notice required by the Contract shall be in writing, identify the Contract, dated, and signed by the Party giving notice or by a duly authorized representative of that Party. Any Notice required by or with regarding to this Contract shall be delivered as follows:

<b>CONTRACTOR</b>	<b>JBE</b>
<b>Name</b>	Maria Rhinehart, CEO
<b>Address</b>	Imperial Superior Court 939 W. Main St., El Centro, CA 92243
<b>With a copy to: email address</b>	With a copy to: <a href="mailto:erdgz@imperial.courts.ca.gov">erdgz@imperial.courts.ca.gov</a>

10. The complete Contract consists of all Contract Documents as listed here. All obligations of the JBE and Contractor are fully set forth and described in the Contract Documents. The Contract Documents are intended to operate mutually so that Work called for in one and not mentioned in the other or vice versa is to be performed the same as if mentioned in all Contract Documents.

This Cover Sheet & Its Master Contract for Construction Services

Exhibit A: Scope of Work

Exhibit B: Payment Provisions

Exhibit C: Terms and Conditions

Exhibit D: Tool Policy

Exhibit E: Background Check Policy

Exhibit F: Workers' Compensation Certification

Exhibit G: Prevailing Wage and Related Labor Requirements Certification

Exhibit H: California Air Resources Board Certification

Disabled Veteran's Business Enterprise Participation Certification, if applicable

Payment Bond  
Performance Bond  
Contractor's Insurance Documents

11. The individuals executing this Contract on behalf of each respective Party, certify that they have proper authorization to do so and to bind their respective Party.
12. Alteration or variation of the terms of this Contract shall not be valid unless made in writing and signed by the Parties, and an oral understanding or Contract that is not incorporated shall not be binding on any of the Parties.
13. If any term, covenant, condition, or provision of the Contract Documents is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions in the Contract Documents shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.
14. IN WITNESS WHEREOF, the parties hereunto have subscribed to this Contract, including all Contract documents incorporated by reference herein, as indicated below:

<b>CONTRACTOR:</b>  By: _____ Name: _____ Title: _____ Address: _____ _____ Phone: _____ License No.: _____ DIR Registration No.: _____	<b>Superior Court of California, County of Imperial:</b>  By: _____ Name: <u>Maria Rhinehart</u> Title: <u>Court Executive Officer</u>
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**Exhibit A**  
**SCOPE OF WORK**

(This space reserved for the Scope of Work)

**Exhibit B**  
**PAYMENT PROVISIONS**

(This space reserved for the Payment Provisions)

## EXHIBIT C

### GENERAL TERMS AND CONDITIONS

1. **PROPOSAL ACCEPTANCE.** Proposals are subject to acceptance by the signing of a contract and issuance of a Notice to Proceed unless otherwise stipulated. JBE reserves the right to accept or reject any and all proposals and to waive any informality or irregularity in any proposal.
2. **SITE EXAMINATION.** By accepting this Contract, Contractor warrants that it is familiar with the Work Site, is satisfied as to the condition of the Site, its accessibility for materials, workers, and utilities, and Contractor's ability to protect existing surface and subsurface improvements. No claim for time or money will be allowed as to such matters.
3. **EQUIPMENT AND LABOR.** Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the service herein described. The service shall be performed at such times and places as directed by and subject to the approval of the authorized JBE representative identified in the Contract.
  - 3.1. **Purchase and Storage of Materials.** At no additional cost to or advance payment from JBE, Contractor is required to order and obtain all necessary materials and equipment sufficiently in advance of Contractor's performance of the Work requiring said materials and equipment to ensure the Project's timely completion without delay.
  - 3.2. **On-Site Storage.** Contractor may store materials or equipment on-Site provided that the materials or equipment shall not interfere with the transaction of Court business including, but not limited to, the public's access to and use of the Project Site. It shall be Contractor's sole responsibility to protect and secure any materials or equipment stored on-Site.
4. **SCHEDULE OF VALUES.** If required, Contractor shall submit to the JBE a schedule of values allocated to portions of the Work ("Schedule of Values"), the accuracy of which shall be substantiated to the reasonable satisfaction of the JBE. The Schedule of Values shall be subject to the review, modification (as deemed necessary by the JBE), approval, and written acceptance of JBE. The Schedule of Values shall be used as a basis for progress payments to be made to the Contractor. The JBE shall not make payments to Contractor in advance and the Schedule of Values shall accordingly be based exclusively on payments in arrears. Contractor shall submit in writing a request to utilize contingency funding, if applicable, which is subject to the JBE's approval. The total of all payments in the Schedule of Values must at all times be equal to the Contract Price.
5. **SUBCONTRACTORS.** Although the JBE is not bound by the Public Contract Code for trial court construction, the parties acknowledge and agree that the provisions of the Subletting and Subcontracting Fair Practices Act, Public Contract Code section 4100 et seq. ("Subcontractor Listing Law") are hereby incorporated into this Contract. The JBE will fully enforce the provisions of the Subcontractor Listing Law with respect to all subcontractors on each Project. Contractor shall adhere to the rules governing subcontracting and subcontractor substitutions in accordance with provisions of the Subcontractor Listing Law. Violations of the Subcontractor Listing Law by Contractor may subject the Contractor to penalties and disciplinary action as provided for in the Subcontractor Listing Law. Subcontractors, if any, engaged by the Contractor for the service shall be subject to the approval of the JBE. Contractor shall be held responsible for all operations of subcontractors and shall require them to maintain adequate Workers' Compensation, general, and automobile insurance and be in compliance with all applicable laws.

## 6. DIR REGISTRATION.

6.1. Strict compliance with DIR Registration requirements pursuant to Labor Code § 1725.5 is a material obligation of the Contractor under the Contract. The foregoing includes without limitation, compliance with DIR Registration requirements at all times during performance of the Work by the Contractor and all subcontractors of any tier. The failure of the Contractor and all subcontractors of every tier to be DIR Registered at all times during performance of the Work is the Contractor's default of a material obligation of the Contractor under the Contract. In accordance with Labor Code § 1771.1(j)(1), where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of § 1725.5, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. Failure of a Contractor or subcontractor, owner, director, officer, or managing agent of the Contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding \$10,000, or both. No time extensions or adjustments in Contract price will be made as a result of delays caused by a Stop Order issued in accordance with this section.

6.2. "Small Projects" (Contract Price of \$25,000 or less), are exempt from DIR Registration and submission of electronic Certified Payroll Records directly to the DIR. Contractor or subcontractor is not required to furnish the CPR records specified in Labor Code § 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three (3) years after completion of the work.

7. **DAILY REPORTS.** If the Contract Work expressly requires daily reports, Contractor shall prepare a daily construction report recording a description of the work completed for each day, summary of all other pertinent events and/or occurrences for each day, weather conditions, list of all subcontractor(s) working each day, all labor – include employee(s) name, classification, and hours worked, equipment – include equipment description, make and model, and work completed, materials, supplies, and equipment delivered each day, and inspections and tests performed each day. If no Work is performed on a particular Day, the Contractor shall instead provide to the JBE a certification to that effect within seven (7) days of request indicating on which days no Work was performed. All Daily Reports must be included with Invoice(s) when submitted for payment.

7.1. Preservation of Records. JBE shall have the right to examine and audit all Daily Job Reports and other Project records of Contractor's project manager(s), project superintendent(s), and/or project foreperson(s); all Certified Payroll Records and/or related documents including, without limitation, payroll, payment, timekeeping and tracking documents; all books, estimates, records, contracts, documents, bid/proposal documents, bid/proposal cost data, subcontract job cost reports, and other data of the Contractor, any subcontractor, and/or supplier, including computations and projections related to bidding/proposing, negotiating, pricing, or performing the Work, in order to evaluate the accuracy, completeness, and currency of the cost, manpower, coordination, supervision, or pricing data at no additional cost to the JBE. These documents may be duplicative and/or be in addition to any bid/proposal documents held in escrow by the JBE. Contractor shall make available at its office at all reasonable times the materials described in this paragraph for the examination, audit, or reproduction until no less than three (3) years following the expiration or earlier termination of this Contract or as may otherwise be required by the JBE or Applicable Law, whichever is later. Notwithstanding the provisions above, Contractor shall provide any records requested by any governmental agency, if available, after the time set forth above.

## 8. HOURS OF WORK.

- 8.1. Notwithstanding the timing and duration of the Work under any Contract, which is subject to court activities and other coordination required for occupied facilities, as provided in Labor Code section 1810 et seq., 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 (1) week, except as hereinafter provided. Notwithstanding the foregoing provisions, Work performed by employees of Contractor in excess of eight (8) hours per day and forty (40) hours during any one (1) 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 (1.5) times the basic rate of pay.
- 8.2. 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 the JBE and to the Division of Labor Standards Enforcement of DIR.
- 8.3. Pursuant to Labor Code section 1813, Contractor shall as a penalty to the JBE, forfeit the statutory amount 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 Labor Code section 1810 et seq. or other Applicable Law.
- 8.4. Any Work necessary to be performed after regular working hours, or on Sundays or other holidays, shall be performed without additional expense to the JBE.
- 8.5. Work will typically take place in an occupied court facility; therefore, work hours may be restricted depending upon the nature of the Project. If the Contract does not include a restriction on hours of work, then the work must take place during business hours.
9. **OWNERSHIP.** Any interest of Contractor or any of its subcontractors in any Data, Materials, and/or Deliverables in any form, or other documents and/or recordings, prepared by Contractor or its subcontractors in its performance of Work under this Contract shall become and be the property of the JBE. Upon the JBE's written request, or hereby effective automatically upon the expiration or earlier termination of this Contract, Contractor shall assign and/or shall act to ensure that its subcontractors assign any such interest to the JBE and provide the JBE with copies of all such Data, Materials, and/or Deliverables within thirty (30) Days.
  - 9.1. Contractor agrees and shall ensure that its subcontractors agree not to assert any rights at common law or in equity or establish any claim to statutory copyright in any Data, Materials, and/or Deliverables prepared by Contractor or its subcontractors in its performance of Work under this Contract. Contractor shall not publish or reproduce, and shall ensure that its subcontractors shall not publish or reproduce, such Data, Materials, and/or Deliverables, in whole or part, in any manner or form, or authorize others to do so, without the express written consent of the JBE, in the JBE's sole discretion.
10. **CONTRACTOR SUPERVISION.** Contractor shall provide competent supervision of personnel employed on the job, use of equipment, and quality of workmanship.
11. **WORKERS.** Contractor shall at all times enforce strict discipline and good order among its workers and shall not employ on the work any unfit or unskilled person. Proper attire, including shirts and safety clothing, is required at all



times. Any worker whom the JBE may deem incompetent or unfit shall be dismissed from the work and shall not again be employed on the Project without the JBE's written consent.

12. **SUBSTITUTIONS.** No substitutions of materials specified shall be made without the prior approval of the JBE.
13. **SAFETY AND SECURITY.** Contractor is solely responsible for knowing and following federal, state, local, and JBE rules and regulations pertaining to safety, security, and driving on the property. Contractor is responsible for securing the Site and its materials, for the protection of its workers and the public, and for posting signs warning against hazards created by the work. In an emergency affecting life and safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from JBE, is hereby permitted to act at its discretion to prevent such threatened loss or injury.
14. **NOISE/DUST.** This is a facility used by the JBE, and if excess noise, dust, or any other disruption of court facilities occurs, Contractor may be required to reschedule the work. No radios or amplified music are allowed at any time.
15. **CLEAN UP.** Contractor shall keep the Site free of debris at all times when work is not actually being performed, remove it from the premises, and properly dispose of it. At completion, the Site shall be left in broom clean condition. Use of JBE trash bins is strictly prohibited.
16. **ASBESTOS HAZARD EMERGENCY RESPONSE ACT (AHERA); PROHIBITED HAZARDOUS SUBSTANCE OR MATERIALS.** All Contract work must meet all regulations set forth in the AHERA rule, which requires JBE approval of any work that could disturb the integrity of any Asbestos Containing Building Material (A.C.B.M.). Contractor must notify JBE representative of any sawing, grinding, cutting, or drilling of any A.C.B.M. in occupied areas of JBE buildings.
- 16.1. Contractor is prohibited from, and will prohibit its subcontractors of every tier from, bringing onto the Project Site or using in the performance of the Work any toxic material including, but not limited to, asbestos, asbestos containing material or product, polychlorinated bi-phenyls (PCB), lead contaminated material, or any substances that are regulated by any governmental entity ("Hazardous Materials").
- 16.2. Should the Contractor be required to utilize Hazardous Materials in the performance of the Work, Contractor shall notify the JBE of its need to do so, and the Contractor shall comply with all applicable laws and lawful orders of public authorities regarding the storage and/or use of explosives or other Hazardous Materials necessary for execution of Work.
- 16.3. If the Contractor encounters what would reasonably be believed to be Hazardous Materials, Contractor will immediately inform the JBE and will stop performance of any Work in the affected area and follow all protocols required by the JBE until the possible Hazardous Materials have been properly identified and, if required, removed or rendered harmless.
17. **TRENCH SHORING AND UTILITIES.**
- 17.1. If the Work is in excess of \$25,000 and includes the excavation of any trench deeper than five (5) feet, pursuant to Labor Code section 6705, Contractor must submit and obtain JBE acceptance, in advance of excavation, of a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If the plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer.

17.2. The JBE assumes the responsibility for removal, relocation, or protection of existing main or trunk-line utility facilities located on the Project Site at the time of commencement of the Work with respect to any such utility facilities that are not identified in the Project's plans and specifications. Contractor shall not be assessed for liquidated damages for delay in completion of the Work caused by failure of the JBE or the owner of a utility to provide for the removal or relocation of such utility facilities.

17.3. Locations of existing utilities provided by the JBE shall not be considered exact, but approximate within reasonable margin, and shall not relieve Contractor of responsibilities to exercise reasonable care or of costs of repair due to Contractor's failure to do so. The JBE shall compensate Contractor in accordance herewith for the costs of locating, repairing damage not due to the failure of Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Work's plans and specifications with reasonable accuracy, and for equipment necessarily idle during such work.

17.4. No provision in this section shall be construed to preclude assessment against Contractor for any other delays in completion of the Work. Nothing herein shall be deemed to require the JBE to indicate the presence of existing service laterals, appurtenances, or other utility lines, with the exception of main or trunk utility lines, whenever the presence of these utilities on the Project Site can be inferred from the presence of other visible facilities, such as buildings, meter junction boxes, on or adjacent to the Project Site.

17.5. If Contractor, while performing the Work, discovers utility facilities not identified by the JBE in the Project's plans and specifications, Contractor shall immediately, but in no case longer than two (2) business days, notify the JBE and the utility in writing. The cost of repair for damage to above-mentioned visible facilities without prior written notification to the JBE shall be borne by the Contractor.

18. **CORRECTION OF ERRORS.** Contractor shall perform, at its own cost and expense and without reimbursement from the JBE, all Work necessary to correct errors or omissions that result from, or relate to, Contractor's negligence, misconduct, mistakes, non-conformance with requirements, or failure to comply with the standard of care required for the Work for the Project.

19. **CONTRACT CHANGES.** No changes or alterations to this Contract shall be made without specific prior written approval by the JBE ("Change Order").

19.1. Change Orders.

19.1.1. Any change in the scope of a Project's Work, method of performance, type of materials, or any other matter materially affecting the performance or nature of the Project shall not be paid for or accepted unless such change, addition, or deletion to the Contract is approved in advance and in writing by a valid Change Order executed by the JBE.

19.1.2. Contractor specifically understands, acknowledges, and agrees that the JBE shall have the right to request any alterations, deviations, reductions, or additions to an authorized Contract the JBE deems appropriate, and the cost thereof shall be added to or deducted from the amount of the Project Price by fair and reasonable valuations via a Change Order. Contractor shall provide the JBE with all information requested to substantiate any cost of the Change Order and to inform the JBE whether the Work will be done by the Contractor or a subcontractor.

19.1.3. In addition to any other information required or requested, prior to approval of the Change Order, Contractor shall submit any request, if at all, for an extension to the Project Time because of the Change Order as well as all information necessary to substantiate Contractor's belief that the Change Order will delay the completion of the Project. If Contractor fails to timely and properly submit a request for a time extension along with all necessary supporting information therefor, Contractor shall be deemed to have waived its right to request or receive any such extension to the Project Time due to the Change Order.

19.2. Allowable Costs for Change Orders. All proposed cost requests by Contractor for a Change Order shall include a complete itemized breakdown with the following detail, which are the only costs that will be allowed for these items.

19.2.1. Direct Labor Costs. Compensation for Contractor's and/or subcontractors' labor shall include only the necessary payroll cost for labor, including first level supervision, directly engaged in the performance of the Work of the Change Order ("Direct Labor Costs").

19.2.1.1. Direct Labor Costs shall not exceed the current prevailing wages in the locality for performance of the Work required by the changes; and the labor burden or labor charges, which shall only include documented FICA, Medicare, unemployment, and Workers' Compensation charges and no other charges.

19.2.1.2. Use of a classification which would increase labor costs will not be permitted. Exceptions will be permitted only when the Contractor establishes, to the satisfaction of the JBE, the necessity for payment at higher rates or classifications.

19.2.1.3. Direct Materials Costs. Compensation for materials and equipment shall include only the costs necessary for materials and equipment directly required for performance of the Work required by the changes ("Direct Materials Costs").

19.2.1.4. Direct Equipment Costs. Compensation for construction equipment shall include only the costs necessary for use of construction equipment directly required for performance of the Work required by the changes ("Direct Equipment Costs"; collectively with Direct Materials Costs, "Direct Materials & Equipment Costs").

19.2.1.5. Contractor Mark-Up for Contractor-Performed Work. Mark-up for all Contractor-performed Work required by the changes, which shall include all overhead and profit, shall not exceed ten percent (10%) of Contractor's Direct Labor Costs and Direct Materials & Equipment Costs.

19.2.1.6. Contractor Mark-Up for subcontractor-Performed Work. Mark-up for all subcontractor-performed Work required by the changes, which shall include all overhead and profit, shall not exceed ten percent (10%) of the subcontractor's Direct Labor Costs and the subcontractor's Direct Materials & Equipment Costs.

19.2.1.7. Limitation on subcontractors Mark-Up: The aggregate mark-ups of all tiers of subcontractors for the Work required by the changes shall not exceed fifteen (15%) of the total of all subcontractors' Direct Labor Costs and all subcontractors' Direct Materials & Equipment Costs.

19.2.1.8. Deleted Work. When the JBE is entitled to a credit for Work that is deleted from or not performed on the Project, the credit shall include all amounts related to the Direct Labor Costs, subcontractor

insurance and bond costs (or Contractor-provided default insurance protection costs if provided in lieu of subcontractor bonds), Direct Materials & Equipment Costs, and supervision plus the Contractor and subcontractor's overhead for the Work that is deleted from or not performed on the Project. Credit owed to the JBE from deleted Work for Contractor fees shall be computed as five percent (5%) of the sum for amounts related to the Direct Labor Costs, Direct Materials & Equipment Costs, and supervision for the deleted Work.

## 20. TERMINATION.

20.1. JBE's Right to Terminate for Cause. The JBE, in its sole discretion, may terminate the Contract upon any of the following, without limitation:

- 20.1.1. Contractor refuses or fails to execute the Work or any separable part thereof with sufficient diligence as will ensure its completion within the time specified or any extension thereof.
- 20.1.2. Contractor fails to complete a Project within the time specified or any extension thereof.
- 20.1.3. Contractor fails or refuses to perform Work, or provide material of sufficient quality, in accordance with the Contract Documents.
- 20.1.4. Contractor files a petition for relief as a debtor, or a petition for relief as a debtor is filed against the Contractor without its consent, and said petition is not dismissed within sixty (60) Days.
- 20.1.5. Contractor makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of its insolvency.
- 20.1.6. Contractor refuses or fails, except in cases for which extension of time is provided, to supply properly skilled workers or proper materials to sufficiently complete the Work in the time specified and in accordance with the Contract Documents.
- 20.1.7. Contractor fails to make timely payment to subcontractors, for material, or for labor.
- 20.1.8. Contractor disregards or fails to fully comply with any applicable law or instructions of the JBE.
- 20.1.9. Contractor fails to supply labor, including that of subcontractors, that can work in harmony with all other employees of Contractor, JBE, or any other labor employed or to be employed on the Work or at the Project Site.
- 20.1.10. Contractor or its subcontractors of any tier are otherwise in breach, default, or in substantial violation of any provision of this Contract.

20.2. Notice of Termination. JBE may terminate this Contract upon ten (10) days' notice without cause, and Contractor shall only be entitled to compensation based on satisfactorily performed work that is actually accepted by JBE. JBE may also terminate Contractor immediately upon a default of this Contract and may withhold from payments due on this Contract the amount necessary to complete the work as scheduled, including but not limited to, the costs of a replacement contractor.

20.3. Conversion to Termination for Convenience. In the event the Contract is terminated for cause in accordance herewith and it is finally determined by an arbitrator, court, jury, or other tribunal having jurisdiction, for any reason, that the Contractor was not in default under the provisions hereof or that the JBE's exercise of its rights under this section was defective, deficient, ineffective, invalid, or improper for any reason, or the parties otherwise mutually agree in writing, then the original termination for cause shall be deemed a termination for convenience by the JBE pursuant to this Contract, upon which the rights and obligations of the JBE and the Contractor shall be determined as if the original termination for cause was a termination for convenience.

#### 20.4. Effect of Termination.

20.4.1. Upon termination, Contractor shall, only if ordered to do so by the JBE, immediately remove from the Project Site all materials and personal property belonging to Contractor that have not been incorporated in the construction of the Work, or which are not in place in the Work. JBE retains the right, but not the obligation, to keep and use any Materials and personal property belonging to Contractor that have not been incorporated in the construction of the Work, or which are not in place in the Work. Contractor and its Surety shall be liable upon the performance bond for all damages and costs incurred by the JBE by reason of the Contractor's failure to complete the Contract.

20.4.2. In the event that the JBE shall perform any portion of the Work, the JBE shall not be liable nor account to the Contractor in any way for the time within which, or the manner in which, said Work is performed by the JBE or for any changes the JBE may make in its performance of the Work or for the money expended by the JBE in satisfying claims and/or suits and/or other obligations in connection with the Work.

20.4.3. In the event that the Contract is terminated for any reason, no allowances or compensation will be granted for the loss of any anticipated profit by the Contractor or any impact or impairment of Contractor's bonding capacity.

20.4.4. If the expense to the JBE required to finish any Work exceeds the unpaid Project Price, Contractor and its Surety shall pay the difference to the JBE within twenty-one (21) Days of demand for payment.

20.5. Termination of Contractor for Convenience. Notwithstanding any other provision, JBE in its sole discretion may terminate the Contract, any Project, or any portion thereof upon three (3) Days written notice to the Contractor. Under a termination for convenience, the JBE retains the right to all the options available to the JBE if there is a termination for cause. In case of a termination for convenience, Contractor shall have no claims against the JBE except for:

20.5.1. The actual cost for labor, materials, and services performed that is unpaid and can be satisfactorily documented through timesheets, invoices, receipts, or otherwise; and

20.5.2. Five percent (5%) of the total cost of Work performed as of the date of termination, or five percent (5%) of the value of the Work yet to be performed, whichever is less. This five percent (5%) amount shall be full compensation for all Contractor's and its subcontractors' mobilization and/or demobilization costs and any anticipated lost profits resulting from a termination of Contractor for convenience for the Work.

#### 20.6. Suspension of Work.

20.6.1. JBE may, without cause and in its discretion, order Contractor in writing to suspend, delay, or interrupt

the Project in whole or in part for such period of time as JBE may determine. When the JBE resumes the Project, the parties will meet and confer in good faith to attempt to negotiate an adjustment in the Project Price for increases or decreases in the cost of performance of the Project caused by any such suspension, delay, or interruption. If the parties cannot agree on an adjusted Project Price, the JBE may terminate the Contract as permitted herein.

20.6.2. In the event the JBE orders a suspension, delay, or interruption of the Work, an adjustment shall be made to the Project Price for increases in the direct cost of performance of the Work under the Contract Documents actually caused by said suspension, delay, or interruption ordered by the JBE; provided, however, that no adjustment of the Project Price shall be made to the extent that: (i) performance is, was, or would have been so suspended, delayed, or interrupted by another cause for which the Contractor is responsible under the Contract Documents; or (ii) an equitable adjustment is made or denied under another provision of the Contract Documents. The foregoing notwithstanding, any adjustment of the Project Price shall not include any adjustment to increase the Contractor's overhead, general administrative costs, or profit, all of which shall remain as reflected in the applicable Work and any Schedule of Values submitted by the Contractor for the Project. In the event of the JBE's suspension, delay, or interruption of the Work, the Project Time shall be equitably adjusted.

20.7. Scope Reduction. In cases of suspension, partial or complete termination, or at the discretion of the JBE, the JBE reserves the right to unilaterally approve a deductive Change Order to reduce the scope of any portions of the Work or to perform such Work with other or its own forces.

21. **INSPECTION.** At all times, JBE shall have access to the work areas, whether in preparation or in progress, and Contractor shall provide safe and proper facilities for same.
22. **STANDARD OF CARE.** Contractor's services under this Contract shall be performed consistent with that level of care and skill ordinarily exercised by reputable members of the same profession currently practicing in the same locality under similar conditions. If any of its completed products, installations, or services fail to conform to this professional standard, or if property damage occurs (including damage to subsurface utilities or irrigation systems) as a direct result of Contractor's operations, Contractor will, at its own expense, perform all necessary services to correct such defects or arrange for the necessary repairs or restoration.
23. **GUARANTEE.** Contractor shall guarantee the workmanship or service performed against defects or failures of materials for a minimum of one (1) year from delivery of the goods or the final completion date for the work; except that for any and all furniture installation contracts, Contractor shall guarantee the workmanship or service performed against defects or failures of materials for a time period equal to the manufacturer warranty/guarantee period for the specific furniture item(s). All workmanship and materials for all projects must be warranted to be in compliance with applicable California energy, conservation, and environmental standards. In the event that Contractor must perform work to fulfill this guarantee, the terms and conditions of this Contract will apply to such work.
24. **NO LIENS.** Contractor agrees that Contractor, and any person, firm, or corporation furnishing any materials or labor for any Work covered by the Contract, has no rights to lien any portion of any Project Site or any improvement or appurtenance thereon. Contractor specifically acknowledges, in accordance with Civil Code section 8160, that all Projects and Project Sites are not subject to mechanics liens. In the event that any liens are recorded by Contractor or any person, firm, or corporation furnishing any materials or labor for any Work covered by the Contract, Contractor agrees to immediately take whatever action is necessary to remove the lien against the Project and the Project Site. Any costs or expenses incurred by the JBE with respect to any such liens shall be the responsibility of Contractor.

25. **FORCE MAJEURE.** Each party shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining, delivering, or performing by act of God, fire, strike, pandemic, epidemic, quarantine, loss, or shortage of transportation facilities, lock-out, commandeering of materials, products, plants or facilities by the government, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the non-performing party or its agents.

26. **DOCUMENT CONFLICT; SEVERABILITY.** In case of conflict between specifications and drawings and/or actual Site conditions, work shall immediately cease until the conflict is resolved by a JBE representative, and JBE shall not be responsible for any costs/expenses incurred by Contractor due to any delays. Should any contract provision be held invalid, the remainder of this Contract shall remain in full force and effect.

27. **PERMITS/LICENSES.** Contractor and all its employees or agents shall secure and maintain such licenses and permits as are required by law in connection with the furnishing of materials, supplies, or services listed herein.

**28. CALIFORNIA AIR RESOURCES BOARD.**

28.1. Contractor agrees and acknowledges that the California Air Resources Board (“CARB”) In-Use Off-Road Diesel-Fueled Fleets regulations (Title 13 CCR sections 2449, 2449.1 and 2449.2) apply to this Agreement. Contractor shall comply and shall require subcontractors to comply with the CARB In-Use Off-Road Diesel-Fueled Fleets regulations.

28.2. Contractor shall ensure that Contractor and all subcontractors execute the CARB In-Use Off-Road Diesel-Fueled Fleets Certification attached to the Contract Documents and incorporated herein.

28.3. As applicable, Contractor and subcontractors must provide a current Certificate of Reported Compliance for fleets subject to the CARB In-Use Off-Road Diesel-Fueled Fleets regulations.

29. **CONTRACTOR STATUS.** Contractor is an independent contractor, and not an officer, employee, or agent of the JBE, in the performance of this Contract.

**30. ACCEPTANCE AND COMPLETION OF PROJECT.**

30.1. Final Inspection. When Contractor considers the Work complete, Contractor shall make a written request for a final inspection by the JBE. The JBE will promptly conduct a final inspection following receipt of Contractor’s written request. If, after the inspection, the JBE determines that the Work is complete, the JBE will recommend that the Work be accepted.

30.2. Punch List. If the JBE determines that the Work is not accepted, Contractor will be notified in writing of deficiencies or any incomplete work, and a punch list of such items shall be prepared (“Punch List”). After completing all possible Punch List items, Contractor shall again initiate the procedures for final inspection as set forth above for any completed Punch List items and the Work shall be considered complete when the Punch List items have been completed to the satisfaction of the JBE.

30.3. Acceptance of the Work. If the JBE determines that the Work is accepted, the JBE will notify Contractor, who may then submit final invoice for payment as provided in section this Contract.

#### 30.4. Completion.

30.4.1. The JBE may execute and authorize the recording of a Notice of Completion in the County in which the Project is constructed.

30.4.2. Determination by the JBE that the Work is completed or accepted will not bar any Claim against the Contractor or any other remedy available to the JBE as permitted herein and by law.

31. **LIQUIDATED DAMAGES.** The parties understand and agree that the goodwill, court process, and other business of the JBE will be damaged if the project is not completed and the improvements cannot be occupied by the Completion Date. The parties have further agreed that the exact amount of damages for failure to complete the work within the time specified is, in some cases, extremely difficult, impractical, or impossible to determine. As to those damages that are difficult, impractical, or impossible to determine, should the Contractor fail to achieve completion of this Contract by the Completion Date, together with extensions granted by the JBE for unavoidable delays and/or approved change orders, Contractor shall become liable to the JBE in the amount specified in the Contract per calendar day for each day the Contract remains incomplete beyond the Completion Date, as liquidated damages and not as a penalty. Contractor shall not be charged with liquidated damages when the delay in completion of the work is due to acts of the JBE. These liquidated damages will compensate the JBE for its loss of use and the inability to occupy or otherwise utilize the improvements. The JBE may, without waiving any of its rights, assess liquidated damages after completion of the project. Any money due or to become due to the Contractor may be retained to cover liquidated and other delay damages. Should such money not be sufficient to cover those damages, the JBE shall have the right to recover the balance from the Contractor or Contractor's sureties, as applicable. Should the JBE authorize suspension of the work for any cause, the time work is suspended will be added to the time for completion. Suspension of the work by the JBE shall not be a waiver of the right to claim liquidated or other delay damages as set forth in this section.

32. **OCCUPANCY.** JBE reserves the right to occupy the building at any time before contract completion, and such occupancy shall not constitute final acceptance of any part of the work covered by this Contract, nor shall it extend the date specified for completion of the work.

33. **PAYMENT.** Unless the Contract provides otherwise, Contractor shall submit invoices once monthly for services and materials provided. Invoices for time & materials contracts must be accompanied by itemized receipts. The invoices shall clearly specify the following: (i) Contract number; (ii) Date of submission; (iii) Unique Invoice number; (iv) Contractor's name and address; (v) Contractor's taxpayer identification number (FEIN); (vi) Description of the Work being invoiced as specified in the Construction Services Contract; (vii) Itemized and total price breakdowns; (viii) Amount of DVBE dollars expended if and as applicable; and (ix) Preferred remittance address if different from the mailing address. JBE shall make payment for satisfactorily performed work within 45 days after acceptance thereof by the authorized JBE representative. No progress payments shall be made unless specifically called for in the Contract.

33.1. **Progress Payment.** Contractor shall make applications for payment in arrears via monthly Invoices based upon the actual value for Materials delivered and Work performed under the Contract, subject to any applicable Schedule of Values or other specific requirements for the Project, up to the last Day of the previous month. The JBE will review and approve the Invoice if satisfactory; if the JBE determines corrections or further detail are needed, Contractor shall resubmit a revised Invoice as requested and in compliance herewith.

33.2. The JBE shall withhold payment of an amount equal to five percent (5%) from all payments made for Invoices ("Retention"). Upon the Project's successful completion of all Work and successful provision of applicable deliverables under the Contract, Contractor shall submit an Invoice to the JBE for the total of all amounts of



Retention withheld on the Project.

33.3. The JBE may deduct and withhold from any payment under the Contract all amounts necessary to protect the JBE from, without limitation, all losses because of, arising from, or related to any of the following:

33.3.1. Performance of any of Contractor's obligations under the Contract;

33.3.2. Any Work that Contractor has failed to perform or has performed inadequately;

33.3.3. Defective Work not satisfactorily remedied;

33.3.4. Stop payment notices as required by California law (i.e., Civil Code section 9350 et. seq.);

33.3.5. Reasonable doubt that the Project can be completed for the unpaid balance of the Project Price or within the Project Time;

33.3.6. Unsatisfactory prosecution of the Work for the Project;

33.3.7. Unauthorized deviations from the Contract;

33.3.8. Failure of the Contractor to maintain or submit on a timely basis proper and sufficient documentation as required by the Contract or by JBE during the prosecution of the Work for the Project;

33.3.9. Erroneous or false estimates by the Contractor of the value of the Work performed;

33.3.10. Any sums representing expenses, losses, or damages incurred by the JBE, in its determination, for which Contractor is or may be liable under the Contract;

33.3.11. Damage by Contractor or its subcontractors to the JBE, Court(s), or to any third parties; and

33.3.12. Any other sums which the JBE is entitled to recover from Contractor under the terms of the Contract or pursuant to Applicable Law including section 1727 of the California Labor Code.

33.4. Final Invoice. The following conditions must be fulfilled prior to the JBE issuing the final payment for a Project or under this Contract to the Contractor:

33.4.1. The JBE must have accepted the Project and all Work as complete in accordance with the Contract Documents;

33.4.2. Contractor must have provided a duly completed and executed waiver and release upon final payment from each subcontractor and supplier compliant with Civil Code section 8138;

33.4.3. Contractor must have delivered to the JBE all applicable written guarantees and warranties, including those of its applicable subcontractors;

33.4.4. The Contractor must have delivered to the JBE all applicable manuals and Data; and

33.4.5. The Contractor must have satisfactorily completed Contractor's final clean-up of the Project Site.

33.5. Final Payment. Thirty-five (35) Days following the later of the JBE's filing of a Notice of Completion for the Project, if any to be filed, or the JBE's determination of all other items having been properly fulfilled as required herein, the JBE will commence processing the final payment for the Project to Contractor and will provide said final payment to Contractor as expeditiously as possible. Contractor's Invoice for the final payment for the Project shall include all amounts of Retention withheld, and shall be less the following: (i) any amounts reasonably disputed by the JBE; (ii) one hundred fifty percent (150%) of the JBE's estimate of any amounts necessary to complete any pending or incomplete Punch List Items; (iii) any amounts attributable to stop notices which the JBE is required to withhold pursuant to Civil Code section 9350 et. seq. or other Applicable Law.

33.6. Taxes. The JBE is exempt from federal excise taxes and no payment will be made for any taxes levied on Contractor's or any subcontractor's employees' wages. The JBE will pay for any applicable State or local sales or use taxes on the Deliverables provided or Work rendered pursuant to this Contract.

33.7. Disallowance. If the Contractor claims or receives payment from the JBE that is later disallowed by the JBE, the Contractor shall promptly refund the disallowed amount to the JBE upon the JBE's request. At its option, the JBE may offset the amount disallowed from any payment due or that may become due to the Contractor under this Contract or any other contract.

33.8. Payment Does Not Imply Acceptance of Work. The granting of any payment by the JBE, or the receipt thereof by the Contractor, shall in no way lessen the liability of the Contractor to correct unsatisfactory Work in connection with this Contract.

33.9. Release of Claims. The acceptance by the Contractor of its final payment due under this Contract shall be and shall operate as a release to the State and the JBE of all claims and all liability to the Contractor for everything done or furnished in connection with this Contract (including every act and neglect of the JBE), with the exception of any claims that are expressly identified by the Contractor as outstanding as of the date of Contractor's submission of Contractor's final application for payment. Contractor's failure to identify any such claims shall operate as a release of all claims.

34. **LABOR CODE AND PREVAILING WAGE.** Contractor shall comply with the applicable provisions of the Labor Code § 1771, Division 2, Part 7, Ch. 1, including the payment of general prevailing wages, a copy of which is on file in the JBE's Facilities Services Office. Contractor shall maintain, for audit by the JBE, certified payroll records applicable to this Contract, stating wage rates, trades, payments made, and employee signatures. Copies of these records shall be furnished to the JBE upon request.

35. **CERTIFIED PAYROLL RECORDS.** A material obligation of the Contractor under the Contract documents is: (i) the Contractor's strict compliance with the requirements pursuant to Labor Code §§ 1771.4 and 1776 for preparation and submittal of Certified Payroll Records ("CPR"); and (ii) the Contractor's enforcement of CPR preparation and submittal for all subcontractors of every tier. Contractor is required to submit CPRs directly to the Labor Commissioner. Pursuant to Labor Code §1771.4(a)(5), the Department of Industrial Relations shall monitor and enforce the obligation of the Contractor and subcontractors of every tier to pay laborers performing any portion of the work the Prevailing Wage Rate established for the classification of work/labor. This Section shall not apply to projects falling within the Small Project Exemption described herein.

36. **APPRENTICES.**

- 36.1. 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 section and with Labor Code section 1777.5 for all apprenticeable occupations.
- 36.2. 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.
- 36.3. 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.
- 36.4. Only apprentices, as defined in Labor Code section 3077, 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 the apprentice is training.
- 36.5. 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.
- 36.6. 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.
- 36.7. 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:
- 36.7.1. Be denied the right to bid or propose on any subsequent project for one (1) year from the date of such determination; and
  - 36.7.2. Forfeit as a penalty to the JBE 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.
- 36.8. Contractor and all subcontractors shall comply with Labor Code section 1777.6, which section forbids certain discriminatory practices in the employment of apprentices.
- 36.9. 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 California Code of Regulations, title 8, section 200 et seq. Questions may be directed to the State Division of Apprenticeship Standards, 455 Golden Gate Avenue, San Francisco, California 94102.
- 36.10. Contractor shall ensure compliance with all certification requirements for all workers on a Project including, without limitation, the requirements for electrician certification in Labor Code section 108 et seq.

37. **BONDS.** Contractor is required to provide Performance and Payment Bonds in an amount equal to 100 percent of the Contract Amount before commencement of the Work. Bonds must be submitted by a California admitted surety insurer. Contractor shall comply with all applicable bonding requirements set forth in applicable law.

38. **INSURANCE.** Contractor shall not commence work under this Contract until it has obtained the insurance required by the Contract and has submitted proof of such coverage to the JBE. Contractor shall not allow any subcontractor, agent, or employee to commence Work without proof of same. Coverage must be secured prior to commencement of Work and shall be maintained for the active length of the Project.

38.1. The insurance certificates must list the JBE as additional insured, as follows: the State, the Judicial Council of California, the Court, and their respective elected and appointed officials, judicial officers, officers, agents, representatives, employees, and volunteers are added as additional insureds. The certificate must include a copy of the additional insured endorsement that amends the insurance policy. The insurance certificate should have the Project name listed in the description area.

38.2. The insurance coverage required hereunder must be maintained by Contractor for the entire term of this Contract. Notification of cancellation of any coverage is required under this agreement and shall not be canceled or non-renewed without 10 days prior written notice to the JBE.

39. **NO COMMENCEMENT WITHOUT INSURANCE AND BONDS.** The Contractor shall not commence Work on any Project prior to (i) providing to the JBE evidence of the required insurance and bonds, or (ii) the effective date of the required insurance and bonds. The date of commencement of the Work shall not be changed by the effective date of such insurance. If Contractor commences Work without the required insurance and bonds, it shall be considered a material breach of this Contract; and all Work performed by Contractor without the required insurance and bonds will be at Contractor's peril and shall not be compensable until and unless the JBE is satisfied that Contractor has secured the bonds and insurance pursuant to the terms of the Contract Documents.

40. **WAIVER OF CLAIMS.** The State, the Judicial Council of California, the State's Courts, justices, judges, subordinate judicial officers, court executive officers, court administrators, and any and all of their officers, agents, contractors, representatives, employees, and volunteers ("State Indemnitees") shall not be liable for any injury, loss, or damage to Contractor, subcontractors of any tier, or their officers, employees, or agents, including, without limitation, damage to the property of Contractor, subcontractors or their officers, employees, and agents, in or about the Project Sites, by or from any cause whatsoever, except to the extent the injury, loss, or damage was caused from the gross negligence or intentional misconduct of the State Indemnitees. Contractor and subcontractors of any tier hereby waive all claims and their respective insurers waive all rights of subrogation against the State Indemnitees for any injury, loss, or damage to Contractor, subcontractors, or their officers, employees, or agents, including, without limitation, damage to the property of Contractor, subcontractors or their officers, employees, and agents, in or about the Project Sites, by or from any cause whatsoever, except to the extent the injury, loss, or damage was caused from the gross negligence or intentional misconduct of the State Indemnitees. State Indemnitees shall not be liable for any loss or damage that may happen to the Work, or any part thereof; nor to any of the Materials or other items used or employed in performing the Work.

41. **JBE'S OBLIGATIONS SUBJECT TO AVAILABILITY OF FUNDS.**

41.1. The JBE's obligations under this are subject to the availability of authorized funds, and no payment to Contractor may exceed the amount authorized for this Contract. The JBE may terminate the Contract or any part of the Work, without prejudice to any right or remedy of the JBE, for lack of appropriation of funds. If expected or actual

funding is withdrawn, reduced, or limited in any way prior to this Contract's then-current Expiration Date, the JBE may terminate this Contract in whole or in part, upon written notice to Contractor, which right shall be in addition to any other right of the JBE to terminate this Contract or any Work for convenience or cause as set forth herein.

41.2. If the Contract is terminated for non-appropriation of funds:

41.2.1. The JBE will be liable only for payment in accordance with the terms of this Contract for Work provided prior to the effective date of the termination; and

41.2.2. Contractor shall be released from any obligation to further provide any Work pursuant to the Contract subject to or affected by said termination.

41.3. Funding for this Contract beyond the current appropriation year is conditional upon appropriation by the State of sufficient funds to support the activities described in this Contract. Should such funds not be appropriated, the JBE may give written notice to Contractor of this Contract's termination as of the close of the then-current appropriation year. The appropriation year ends on June 30 of each year.

42. **FAILURE TO ADOPT STATE BUDGET.** An event of default shall not occur if the JBE is unable to make any payment due hereunder because of the State's failure to timely approve and adopt a State budget appropriating funds for said payment. If the JBE fails to make any payment as a result of the State's failure to timely approve and adopt a State budget appropriating funds for said payment, the JBE shall promptly pay any previously due and unpaid amounts owed upon approval and adoption of said State budget.

43. **INDEMNIFICATION.** Contractor agrees, to the fullest extent permitted by law, to indemnify, defend (with counsel satisfactory to the State Indemnitees), and hold harmless (collectively, "Indemnify") the State, the Judicial Council, the State's Courts, justices, judges, subordinate judicial officers, court executive officers, court administrators, and any and all of their officers, agents, contractors, representatives, volunteers, and employees, in both individual and official capacities ("State Indemnitees"), against all suits, claims, damages, losses, and expenses, including but not limited to attorneys' fees, caused by, arising out of, resulting from, or incidental to, the performance of the Work by Contractor, its subcontractors, vendors, suppliers, or any of their officers, agents, contractors, representatives, volunteers, and employees including, but not limited to, any such suit, claim, damage, loss, or expense attributable to, without limitation, bodily injury, sickness, disease, death, alleged patent violation or copyright infringement, or to injury to or destruction of tangible property (including damage to the Work itself) including the loss of use resulting therefrom, except to the extent caused by the sole negligence, active negligence, or willful misconduct of the State Indemnitees, and/or to any extent that would render these provisions void or unenforceable. This Contract and obligation of Contractor shall not be construed to negate, abridge, or otherwise reduce any right or obligation of indemnity that would otherwise exist as to any party or person described herein. This indemnification, defense, and hold harmless obligation includes any failure or alleged failure by Contractor to comply with any provision of law, any failure or alleged failure to timely and properly fulfill all of its obligations under the Contract Documents in strict accordance with their terms and, without limitation, any stop payment notice actions or liens, including assessments by the California Department of Labor Standards Enforcement.

43.1. Contractor shall give prompt written notice to the JBE in the event of any injury (including death), loss, or damage included herein.

43.2. Without in any way limiting the provisions herein, if Contractor's agreement to Indemnify the State Indemnitees against liability for damage arising out of bodily injury to persons or damage to property caused by or resulting

from the negligence of any of the State Indemnitees to any extent be or be determined to be void or unenforceable, it is the intention of the Parties that these circumstances shall not otherwise affect the validity or enforceability of Contractor's agreement to Indemnify the rest of the State Indemnitees, as provided herein. In the case of any such suits, claims, damages, losses, or expenses caused in part by the default, negligence, or act or omission of Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, and in part by any of the State Indemnitees, Contractor shall be and remain fully liable on its agreements and obligations herein to the full extent permitted by law.

43.3. In any and all claims against any of the State Indemnitees by any employee of Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, Contractor's indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

43.4. Contractor's obligation to Indemnify the State Indemnitees hereunder shall survive the completion of the Work and Project, including the Guarantee Period, and/or the termination of the Contract.

#### **44. DISPUTES AND CLAIMS.**

44.1. Performance during Dispute and Claim Resolution Process. Unless otherwise directed in writing by the JBE, Contractor shall and must diligently proceed with performance of the Work while any Dispute or Claim is addressed as set forth herein. It is the intent of JBE to resolve Disputes with Contractor as close as possible to the events giving rise to the Disputes, and to avoid stale or late Claims and the late documenting of Claims. Contractor's failure to diligently proceed with the Work or in accordance with the JBE's directions will be considered a material breach of this Contract.

44.2. Waiver of Recourse. Unless Contractor and JBE mutually agree in writing to other time limits, if Contractor fails to timely submit any written notices or take any actions required by the provisions in this Disputes and Claims section, Contractor hereby waives and releases its rights regarding further review of or recourse for the Dispute or Claim, as applicable.

44.3. Exclusive Remedy. Compliance with the notice and claim submission procedures described in this Disputes and Claims section is an express condition precedent to the right to commence litigation, file a claim under the California Government Code, or commence any other legal action. Contractor cannot bring or assert any Claim in a Government Claims Act claim or subsequent legal action until that Claim has gone through the process set forth in this Contract. The parties stipulate that said process is the exclusive remedy for resolving Claims and Disputes under this Contract.

44.4. Other Specific Provisions. If portions of the Contract, other than this Disputes and Claims section, establish a specific process regarding a specific subject, then that specific process shall govern and control the resolutions of any disagreements. Otherwise, the provisions of this Disputes and Claims section shall control the resolution of all Disputes and Claims.

44.5. Subcontractors. Contractor is responsible for providing this Disputes and Claims section to its subcontractors and for ensuring that all subcontractors or others who may assert Claims by and through subcontractors and/or the Contractor are informed of the process required for resolving Disputes and Claims. No Claim submitted by any party that fails to follow the provisions of this Disputes and Claims section will be considered. Contractor shall

Indemnify the JBE and its consultants against all suits, claims, damages, losses, and expenses, including but not limited to attorney's fees, caused by, arising out of, resulting from, or incidental to, the failure to provide this Disputes and Claims section to its subcontractors or others who may assert Claims by and through subcontractors and/or Contractor.

44.6. Non-Applicability of Dispute and Claim Resolution Process. The procedures and provisions in this Disputes and Claims section shall not apply to:

44.6.1. JBE's determination of what Work is or will be constructed, or whether the Work complies with the Contract Documents for purposes of accepting the Work;

44.6.2. JBE's rights and obligations, such as, but without limitation, the revocation of pre-qualified or qualified status, barring a contractor from JBE contracts, the imposition of penalties or forfeitures prescribed by statute or regulation;

44.6.3. Personal injury, wrongful death, or property damage claims;

44.6.4. Latent defect or breach of warranty or guarantee to repair;

44.6.5. Stop payment notices; and

44.6.6. Any other JBE rights as set forth herein.

44.7. Disputes and Claims Process.

44.7.1. A "Dispute" is a request, demand, or assertion by Contractor during performance of the Work regarding money and/or time adjustments with which the JBE does not agree. A Dispute is not a Claim. Individual unresolved Disputes may be aggregated into one or more Claims.

44.7.2. A "Claim" is a Dispute that remains unresolved after conclusion of the Dispute and Claims Process set forth herein.

44.7.3. Notwithstanding any provision herein, the JBE is not granting to any subcontractor of any tier any contractual, equitable, or other right that does not otherwise exist.

44.7.4. Informal Dispute Negotiations. The JBE and Contractor's project manager shall meet and confer to make a good faith attempt to promptly resolve any Dispute by informal negotiations.

44.7.5. Dispute Demand. If the Dispute is not settled in a timely manner pursuant to informal negotiations between the JBE and Contractor's project manager, either Party may issue a written statement making a demand regarding the Dispute ("Demand"). Contractor's Demand shall state the Dispute with specificity in writing, be signed under penalty of perjury by Contractor, and be presented to the JBE within thirty (30) Days of the incidents giving rise to the Dispute. Information which is not known or available to Contractor within the said time period shall be provided to the JBE within a reasonable time of Contractor receiving or becoming aware of the information. Contractor's Demand shall:

44.7.5.1. Identify all of the issues, events, conditions, circumstances and/or causes giving rise to the Dispute;

44.7.5.2. Identify all pertinent dates and/or durations and all actual and/or anticipated effects on the Project Cost, milestones, and/or Project Time adjustments;

44.7.5.3. State the specific Contract provisions on which the Demand is based;

44.7.5.4. State the exact amount of any Project Price and/or Project Time adjustment(s) sought;

44.7.5.5. Be accompanied by all pertinent supporting records;

44.7.5.6. Include a written statement signed by an authorized representative of Contractor indicating that the Demand is made in good faith, that the supporting information and documents are accurate and complete, and provide reasoning to support their contention that the requested adjustments, if any, are equitable.

44.7.6. Response to Demand. The JBE shall, within ten (10) Days, provide a final written response to the Demand (“Final Response”) or request additional information deemed necessary to prepare the Final Response. The Final Response shall state whether the JBE accepts or rejects the Demand. If the JBE reasonably requires additional information to prepare the Final Response, Contractor shall promptly comply with the JBE’s request for such information and the ten (10) Day period by which the JBE must provide a Final Response shall commence upon the JBE’s receipt of said additional information; provided, however, that, unless otherwise agreed to by the parties in writing, if Contractor fails to properly provide said additional information required by the JBE to provide a Final Response within sixty (60) Days of the request Contractor will be deemed to have waived and abandoned the Dispute and any recourse therefor. Regardless of any request(s) for additional information, the JBE’s failure to provide a Final Response within the required timeframe shall be deemed a rejection of the Demand.

44.7.7. Senior Level Negotiations. If the Demand is rejected and Contractor provides written notice within ten (10) Days thereof that it will continue to pursue the Demand, or if no Final Response is timely issued and Contractor provides written notice within ten (10) Days of the expiration of the time period allowed for a Final Response to the Demand that it will continue to pursue the Demand, the parties shall attempt to resolve the Demand by negotiations between assigned senior representatives of the parties. The representatives shall meet as often as they deem reasonably necessary to resolve the Demand. The senior representatives of the parties shall make a good faith effort to resolve the Demand within thirty (30) Days (or such longer period as they may agree to in writing) following the date on which Contractor provides written notice that it will continue to pursue the Demand.

44.7.8. Mediation. If the Demand is not resolved by negotiations of the Party’s assigned representatives, the parties shall submit the Claim to mediation prior to either party initiating an action in court. Notwithstanding the foregoing, Contractor’s failure to so schedule and proceed to mediation in good faith following forty-five (45) Days’ written notice from the JBE to do so will be deemed a waiver by Contractor of this requirement to submit the Claim to mediation and the JBE may proceed to act in its discretion including initiating litigation or exercising any other right and remedy available at law.

44.7.9. Litigation. If the parties have not resolved the Claim after a good-faith mediation, either Party may initiate an action in a court of competent jurisdiction.

44.8. Confidentiality. All discussions and negotiations conducted pursuant to this section prior to litigation are



confidential and shall be treated as compromise and settlement negotiations to which California Evidence Code section 1152 applies. Mediation shall be confidential and shall be subject to the provisions of California Evidence Code sections 703.5 and 1115 through 1128.

44.9. False Claims Act. The JBE shall be entitled to remedy any false claims, as defined in California Government Code section 12650 et seq., (“False Claims Act”) made to the JBE by Contractor or any subcontractor pursuant to the standards set forth in the False Claims Act. Any Contractor or subcontractor who submits a false claim shall be liable to the JBE for (i) three times the amount of damages that the JBE sustains because of the false claim, or any amount otherwise permitted by Applicable Law, whichever is greater; (ii) the costs, including attorneys’ fees, of a civil action brought to recover any of those penalties or damages; and (iii) a civil penalty of up to \$10,000 for each false claim.

45. **NO INTERFERENCE WITH COURT OPERATIONS.** Contractor acknowledges that the Project is located in a court facility which may include an operating courthouse that is open to the public. Access to the Project Site including, without limitation, any of the facility’s mechanical, electrical, or other rooms must be coordinated in advance with the Court through the JBE prior to accessing the Project Site. Interruption and/or periods of shutdown of public access, electrical service, water service, lighting, or other utilities shall be only as arranged in advance with the JBE and shall be minimized to the greatest degree possible. Contractor shall provide temporary services to all facilities interrupted by Contractor’s Work. Contractor and its subcontractors shall not interfere with the transaction of Court business including, but not limited to, the public’s access to and use of the Project Site. In the event that Contractor or any subcontractor interferes with the Court’s operations in violation of this provision, the JBE, in its sole discretion, may direct Contractor to stop Work effective immediately at Contractor’s own expense. Contractor shall be liable to the Court for any damages resulting from Contractor or any subcontractor interfering with the Court’s operations in violation of this provision.

46. **BACKGROUND CHECKS.**

46.1. Background Checks Requirement. If the Contractor assigns any persons (including, but not limited to, employees, independent contractors, subcontractors, and agents) to perform Work under this Contract that requires that the person have access to the systems (whether on-Site or by remote access) or premises of the Court, the JBE shall have the right, but not the obligation, to conduct a background check or to require the Contractor to conduct a background check, as permitted by law, on all such persons before the Court will grant to such persons access to the Court’s premises or systems. The Contractor will cooperate in the performance of such background checks. Contractor will promptly notify the JBE of any person refusing to undergo any required background check and will not permit any such person to perform Work without having properly complied with any required background check. The Contractor shall obtain all releases, waivers, or permissions required for the release of such information to the Court. Costs incident to background checks are the sole responsibility of the Contractor.

46.2. Screening and Approval Process. The Court shall conduct the screening and approval of employees of Contractor and subcontractors that may have access to the Restricted Areas pursuant to the JBE’s then-current background check policies and procedures (“Background Check Policy”). The version of the Background Check Policy in effect as of the Effective Date is attached to the Contract as Exhibit B. The JBE may update and/or revise the Background Check Policy at any time, without notice to the Contractor. Contractor agrees to cooperate with the JBE with respect to the screening of said persons. Contractor acknowledges that the definition of Restricted Areas in this Contract may be differ from or include more areas than the definition of Restricted Areas in the Background Check Policy and agrees that the broader definition or description that includes the most areas will control and govern the terms of this Contract. Contractor must comply with both the provisions of this Contract for background

checks and with the Background Check Policy.

- 46.3. Approved Person. Approved Person means any employee of Contractor or any subcontractor who (i) has been screened and approved by the JBE pursuant to the Contract's requirements for background checks.
- 46.4. Restricted Area. Restricted Area means (i) all areas within the Project Site that are not generally accessible to the public, including, without limitation, judges' chambers, non-public restrooms, elevators, breakrooms, and corridors, and other non-public spaces that are dedicated for use only by judges or Court staff and employees; (ii) public areas of a Project Site during non-business hours that are subject to security screening during normal business hours; and (iii) any areas defined as Restricted Areas in the Background Check Policy.
- 46.5. Access to Project Sites; Escorts. Only Approved Persons may have unescorted access to (i) the Restricted Areas of a Project Site or (ii) any area of the Project Site during non-business hours when there is no security screening available. Contractor and subcontractor employees who are not Approved Persons may access Restricted Areas only if they are escorted by an Approved Person at all times that they are in the Restricted Areas. Contractor may not rely upon an employee of the Court to escort or monitor non-Approved Persons. Contractor must take all reasonable steps to ensure that its operations in any Restricted Areas are at all times consistent with this section.
- 46.6. Notification. Contractor must notify all subcontractors that (i) the JBE requires a background check for personnel working in Restricted Areas without an escort pursuant to this Background Checks provision; (ii) the Court may have supplemental screening procedures, criteria, and requirements to be complied with; and (iii) subcontractor employees must comply with both the JBE's and the Courts' background check screening and approval procedures.
- 46.7. Badges. The JBE will issue an identification badge to each Approved Person, bearing that person's name and picture. The badge will indicate that the Approved Person is permitted to access the Restricted Areas. For Approved Persons, the JBE will either (i) notify Contractor if an employee is approved, whereupon the JBE will issue an identification badge for that person; or (ii) provide an identification badge for the person to the Contractor, and Contractor will be responsible for issuing the identification badge to that person. All such persons must wear their identification badges in a readily visible manner whenever they are in any Restricted Areas. The Contractor will have a procedure in place to ensure that all badges are returned to the JBE upon termination of an employee and the expiration or earlier termination of this Contract.
- 46.8. Court Discretion and Requirements. Even if a Contractor or subcontractor employee has a JBE-issued badge, the Court has the ultimate discretion as to whether a specific Contractor or subcontractor employee may have unescorted access to the Project Site. The Court shall have the right at any time to refuse Project Site access to any Contractor or subcontractor employee (even if that employee has a JBE-issued badge) if the Court determines, in its sole discretion, that such person poses a risk to the Court or any person, system, or asset associated with the Court. The Court may elect to perform supplemental screening on Contractor or subcontractor employees who perform Work in the Restricted Areas. Contractor agrees to cooperate with the Court with respect to the screening of those employees and shall obtain at no additional cost to the Court all related releases, waivers, and permissions the Court requires. The Court may issue its own identification badge or other credential to persons who have passed the applicable Court-required screening procedure.
- 46.9. DOJ and DMV Requirements. Notwithstanding anything in this Contract to the contrary, Contractor must comply with background check and clearance requirements of the DOJ and the DMV relating to any employee of either Contractor or subcontractor who has physical access to any area which is either connected to, or contains records from the following databases: the DOJ criminal computer database, including the California Law Enforcement

Telecommunications System (CLETS) and the Criminal Offender Record Information (CORI), and the DMV computer database. If requested by either the Court or the JBE, Contractor must provide suitable documentation evidencing Contractor's compliance with the policies, practices, and procedures of the DOJ and the DMV regarding background check and clearance requirements relating to access to these databases.

46.10. Costs. All costs associated with escorting an unscreened employee (i.e., any employee who is not an Approved Person) shall be included in the Project Price. Contractor will not receive additional compensation or reimbursement from the JBE for any costs related to escorting. The JBE will pay for the cost of the background check (e.g., LiveScan); however, the Contractor will be responsible for employee time, fingerprinting fees, local administrative or processing fees, and other costs.

**47. DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM.**

47.1. This section is applicable only if Contractor received a Disabled Veteran Business Enterprise ("DVBE") incentive in connection with this Contract.

47.2. Contractor's failure to meet the DVBE commitment set forth in its proposal constitutes a breach of the Contract.

47.3. If Contractor used DVBE subcontractors in connection with this Contract:

47.3.1. Contractor must use the DVBE subcontractors identified in its Contractor Proposals, unless the JBE approves in writing replacement in accordance with the terms of this Contract; and

47.3.2. Within sixty (60) Days of receiving final payment for each applicable Project, Contractor must certify in a report to the JBE, in substantially the form of Exhibit E to this Contract or otherwise satisfactory to the JBE, the following:

47.3.2.1. The total amount of money Contractor received for the Project;

47.3.2.2. The name and address of each DVBE subcontractor to which Contractor subcontracted Work in connection with the Project;

47.3.2.3. The amount each DVBE subcontractor received from Contractor in connection with the Project; and

47.3.2.4. That Contractor has made all payments to the applicable DVBE subcontractors.

47.4. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

48. **ACCOUNTING SYSTEM REQUIREMENT.** Contractor shall maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles (GAAP).

49. **RETENTION OF RECORDS.** Contractor shall maintain all financial data, supporting documents, and all other records relating to performance and billing under this Contract for a period of no less than three (3) years following the expiration or earlier termination of this Contract or as may otherwise be required by the JBE (e.g., a longer period to satisfy bond-indebtedness requirements) or Applicable Law, whichever is later. Contractor is also obligated to protect all such records adequately against fire and other damage.

50. **LIMITATION OF PUBLICATION.** Contractor shall not, and shall ensure that its subcontractors shall not, publish or submit for publication any article, press release, or other writing relating to Contractor's Work for the JBE or obligations under this Contract without the JBE's prior review and express, written permission. This provision shall apply to print, electronic writings, and all other types of media and publications in any form, including social media.
51. **CONFLICT OF INTEREST.** Neither Contractor's nor its subcontractors' officers or employees shall participate in proceedings that will result in decision making regarding the use of State funds encumbered or that may be encumbered under this Contract if the person's partner, family, or organization has a financial interest in the outcome of the proceedings. Contractor and its officers and employees and those of its subcontractors shall avoid actions resulting in or creating the appearance of (i) an official position with the government being used for private gain; (ii) preferential treatment being accorded to any particular person associated with this Contract or the Work of this Contract; (iii) the independence or impartiality of the JBE or Courts being compromised; (iv) decisions being made outside official channels; or (v) adverse effects on the confidence of the public in the integrity of the JBE, Courts, or this Contract. Contractor agrees that it shall bind its subcontractors to conflict of interest provisions no less strict than those provided here.
52. **DRUG-FREE WORKPLACE.** By signing the Contract, Contractor certifies, under penalty of perjury under the laws of the State, that the Contractor will comply with all applicable requirements of the Drug-Free Workplace Act of 1990 (Government Code section 8350 et seq.) and will provide a drug-free workplace.
53. **ANTI-DISCRIMINATION.** It is JBE policy that all contractors agree to comply with applicable federal and state laws regarding non-discrimination. Contractor also agrees to require like compliance by all subcontractors employed on the work.
54. **AMERICANS WITH DISABILITIES ACT.** By signing this Contract, Contractor assures the JBE that it complies with applicable provisions of the Americans with Disabilities Act ("ADA") of 1990 (42 U.S.C. Sections 12101 et seq.) and all amendments and updates thereto, which prohibit discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.
55. **NATIONAL LABOR RELATIONS BOARD.** By executing this Contract, Contractor certifies under penalty of perjury under the laws of the State that no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two (2) year period because of Contractor's failure to comply with an order of the National Labor Relations Board.
56. **COVENANT AGAINST GRATUITIES.** Contractor warrants by signing this Contract that no gratuities (in the form of entertainment, gifts, or otherwise) were offered by Contractor or any agent, director, subcontractor, or representative of Contractor to any officer, official, agent, or employee of the JBE with a view toward securing this Contract or securing favorable treatment with respect to any determinations concerning the performance of this Contract. For breach or violation of this warranty, the JBE will have the right to terminate this Contract, either in whole or in part, and any loss or damage sustained by the JBE in procuring any Work which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of the JBE provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by Applicable Law or under this Contract.
57. **CONFIDENTIALITY.**
- 57.1. Both the JBE and Contractor acknowledge and agree that, in the course of performing the Work under this Contract, the JBE may disclose Confidential Information to Contractor and/or its subcontractors.

- 57.2. Contractor agrees not to disclose the Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that Contractor may disclose the JBE's Confidential Information on a need-to-know basis to Contractor's employees and subcontractors and, as directed by the JBE, representatives of the JBE that are performing Work authorized under this Contract. All such employees and subcontractors shall have executed a confidentiality Contract with Contractor requiring a promise of confidentiality concerning Contractor's clients and business.
- 57.3. Contractor shall acquire no right or title to the Confidential Information. Contractor agrees not to use the Confidential Information for any purpose except as contemplated pursuant to this Contract. Notwithstanding the foregoing, Contractor may disclose the Confidential Information (i) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it; (ii) as appropriate to respond to any summons or subpoena applicable to it; or (iii) to the extent necessary to enforce its rights under this Contract.
- 57.4. The JBE reserves the right to disclose all Data provided under this Contract to any Third Party for the purpose of validation of the Data, and all documents that may be or are required to be disclosed pursuant to the California Rules of Court.
- 57.5. Contractor shall bind its subcontractors to provisions of confidentiality with regard to the Confidential Information disclosed that are not less strict than those assumed by Contractor hereunder.
- 57.6. The Contractor's duty to hold Confidential Information in confidence and this Confidentiality provision shall survive the expiration or earlier termination of this Contract.
- 57.7. A violation by the Contractor of these Confidentiality provisions could cause irreparable injury to the JBE and, as there is no adequate remedy at law for such violation, the JBE may, in addition to any other remedies available to it at law or in equity, enjoin the Contractor in a court of equity for violating or threatening to violate this Confidentiality provision. In the event the JBE is required to enforce this Confidentiality provision through legal or other action, the JBE will be entitled to recover from the Contractor all costs incurred thereby including, without limitation, reasonable attorney's fees.
58. **NOTICES.** Either party may change its address for Notices by giving the other party Notice of the new address in accordance with the Contract. Notices will be considered to have been given at the time of actual delivery in person, three (3) days after deposit in the mail to the address set forth above, or one (1) day after delivery to an overnight air courier service.
59. **ASSIGNMENT.** Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations without the prior written consent of the JBE. In submitting a quote on this public works project, Contractor and/or any subcontractor agreeing to supply goods, services, or materials and entering a contract pursuant thereto, do offer and agree to assign to the JBE all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 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, services, or materials pursuant to the public works contract and/or subcontract. This assignment shall be made and becomes effective when the JBE tenders final payment to the Contractor without further acknowledgement by the parties.
60. **COMPLIANCE WITH LAWS.** Contractor shall give all notices and comply with all federal, state, and local laws, ordinances and regulations, including but not limited to National Electrical Safety Code; U.S. Department of

Commerce; National Board of Fire Underwriters' Regulations; Uniform Building Code (latest addition) and California Building Code (California Code of Regulations, Title 24); Industrial Accident Commission's Safety Orders, State of California; Regulations of the State Fire Marshal (California Code of Regulations, Title 19) and Pertinent Local Fire Safety Codes; Americans with Disabilities Act; and JBE policies and procedures related to COVID-19 or any other similar pandemic or epidemic, bearing on conduct or work as indicated or specified. If Contractor observes that any of the work is at variance with any such laws, ordinances or regulations, Contractor shall notify JBE in writing. At JBE's sole option, any necessary changes to the scope of work shall be made and this Contract shall be amended or terminated effective upon Contractor's receipt of JBE's written notice. If Contractor performs any work knowing it to be in violation of such laws, ordinances or regulations and without first notifying the JBE, Contractor shall bear all costs arising there from.

61. **PUBLIC CONTRACT CODE.** Public Contract Code references may create duties of Contractor under this Agreement; however, the references do not imply that the JBE is subject to the Public Contract Code.
62. **GOVERNING LAW.** The Contract and any exhibits or changes thereto represent the entire Contract and shall be governed by and construed in accordance with the laws of the State of California. This provision applies to all claims and causes of action that Contractor has or may acquire against the JBE, whether based on contract, tort, statute, or anything else. Contractor agrees that any claims that it has or may acquire against the JBE shall be commenced in and decided exclusively by a court of competent jurisdiction located in the state of California. Contractor agrees to submit to the personal and exclusive jurisdiction of the Superior Courts of California. Contractor waives all defenses and arguments that the courts located in the state of California constitute an inconvenient forum based upon the residence or domicile of Contractor, the location of the Project that is subject to the litigation, the locations of witnesses, the location of documents, or anything else.
63. **ENTIRE AGREEMENT; CONSTRUCTION.** This Contract constitutes the entire agreement between the parties and supersedes any prior or contemporaneous written or oral understanding or agreement and any contrary provisions on packing slips, invoices, or other documents submitted by the Contractor. No oral agreement or conversation with any officer, agent, or employee of JBE, either before or after execution of Contract, shall affect or modify any of the terms or obligations contained in the Contract Documents. Any conflict or inconsistency among the components of this Contract shall be resolved by giving precedence in the following order: (1) these Contract Terms and Conditions; (2) all other exhibits incorporated into the Contract by reference; and (3) Contractor's offer made in response to the JBE's solicitation to perform work for the JBE. For clarity and the avoidance of doubt, if there are other terms and conditions included in an attachment/exhibit to this Contract (such as in a California Multiple Award Schedule Contract or piggybackable contract on which the Contractor's proposal was based) and such other terms and conditions conflict with the terms and conditions here, the conflict shall be resolved by giving precedence to these terms and conditions.
64. **PROVISIONS REQUIRED BY LAW.** Every provision of law and clause required to be inserted into this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included herein.
65. **TIME.** Time is of the essence in the performance of this Contract.
66. **SURVIVAL.** The expiration or earlier termination of either this Contract shall not relieve either Party of any obligation or liability accrued thereunder prior or subsequent to such termination or expiration, nor affect or impair the rights of either Party arising under the Contract prior or subsequent to such termination or expiration, except as expressly provided for herein.
67. **COUNTERPARTS AND ELECTRONIC EXECUTION.** This Contract may be executed in counterparts (including

PDF copies), each of which shall be deemed an original as against the Party signing such counterpart and which together shall constitute one and the same instrument. The Parties agree that the signature pages of this Contract may be executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Construction Services Contract, with such scanned and electronic signatures having the same legal effect as original signatures.

**Exhibit D**  
**TOOL CONTROL POLICY**

(This space reserved for the Court's Tool Control Policy)



**Exhibit E**  
**BACKGROUND CHECK POLICY**

(This space reserved for the Court's Background Check Policy)

**Exhibit F**  
**WORKERS' COMPENSATION CERTIFICATION**

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:

- (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.
  
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, 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 his or her 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 this Agreement.

**CONTRACTOR:** \_\_\_\_\_

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

By: \_\_\_\_\_  
Authorized Signature

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 JBE prior to performing any work under this Agreement.)

**Exhibit G**

**PREVAILING WAGE AND RELATED LABOR REQUIREMENTS CERTIFICATION**

Contractor's and all subcontractors' Prevailing Wage and Related Labor Requirements Certifications required in accordance with the Contract, including without limitation, Attachment 3-E to the RFP, are hereby deemed incorporated into this **Exhibit G** by this reference.

**Exhibit H**  
**California Air Resources Board In-Use Off-Road Vehicles Certifications**

Contractor's and all subcontractors' CARB In-Use Off-Road Vehicles Certifications required in accordance with the Contract, including without limitation, Attachment 3-F to the RFP, are hereby deemed incorporated into this **Exhibit H** by this reference.