

ATTACHMENT 3

SUPPLEMENTAL TERMS AND CONDITIONS

1. Contractor Status

A. Independent Contractor

A.1 Contractor, Subcontractors, and their officers, agents, employees and all others acting on behalf of Contractor for this Work, act as independent Contractors and not as Court agents, officers or employees. Contractor has no authority to bind or incur any obligation on behalf of the Court. Except as expressly provided in Attachment 9 Statement of Work, Contractor has no authority or responsibility to exercise any rights or power vested in the Court.

A.2 This Agreement will not be considered under any circumstances to create a joint-venture relationship.

A.3 If any government entity concludes that Contractor is not an independent Contractor, Court may terminate this Agreement immediately upon Notice. Alternatively, Contractor may agree to a reduction in Court's financial liability, so that Court's total costs under this agreement do not exceed the originally contemplated amount.

B. Contractor's Employees

B.1 Contractor's employees will be entirely under the direction supervision, and control of the Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring, and termination, or any other employment issues or requirements of law will be determined by Contractor.

B.2 On site employees must not have a criminal history and/or currently be on probation or parole. (Reference not in violation of Labor Code 432.7)

B.3 Contractor will issue W-2 forms or other forms as required by law for income and employment purposes for all of Contractor's employees, consultants, and independent Contractors.

B.4 If the Internal Revenue Service or any other federal or state governmental entity should investigate or challenge Contractor's independent status with respect to the Court, the parties agree that (i) each will inform the other party of such investigation or challenge; and (ii) Court will have the right, but not the obligation, to participate in any discussion or negotiation occurring with federal or state entity, regardless who initiates such discussion or negotiations.

B.5 Contractor will indemnify and hold Court harmless from all claims, costs, and liabilities resulting from third-party actions alleging an employment relationship between Court and any Contractor or Subcontractor personnel.

C. Exclusive Control of Means and Method of Performance. Contractor will determine the method, details and means of performing or supplying the Work under this Agreement. Contractor will be responsible to Court only for the requirements and results specified in this Agreement and more particularly as set forth in Attachment 9 – Statement of Work, and will not be subjected to Court’s control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor will have the “right to control” and bear the sole responsibility for the job site conditions and safety.

D. Permits, Laws and Regulations.

D.1 Contractor must observe and comply with all applicable laws, rules and regulations affecting the Work. During the term of this Agreement, Contractor will obtain and keep in full force and effect, all permits and licenses necessary to accomplish the Work. Such permits and licenses will be made available to Court, upon request.

D.2 Contractor will promptly provide Notice to Court of any conflict discovered between this Agreement and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict. If Contractor proceeds with the Work in question without resolution of the conflict, Contractor will be solely liable for any costs, fines, penalties, or damages that accrue, including costs for remedial work required to comply with such requirements.

D.3 Contractor shall plan and conduct the Work to comply with local, state and federal government agencies’ applicable laws, rules, regulations, codes and/or ordinances to adequately safeguard persons and property from injury. Contractor shall direct the performance of the Work in compliance with reasonable safety regulations and work practices and with applicable federal, state and local laws, rules and regulations, including but not limited to, “Occupational Safety and Health Standards” promulgated by the U.S. Secretary of Labor and Safety Orders of the California State Division of Occupational Safety and Health (Cal-OSHA). Court may require Contractor’s employees to wear approved “hard hats” and also to observe reasonable safety precautions in addition to those in use or proposed by Contractor. Neither the giving of such special instructions by Court nor the adherence thereto by Contractor shall relieve Contractor of the sole responsibility to maintain safe and efficient working conditions.

D.4 In compliance with California Public Utilities Code, Section 465, Contractor agrees to pay its employees prevailing wage. For purposes of this paragraph, “prevailing wages” shall be deemed to include employer payments, if applicable, for health and welfare, pension, holidays, sick leave, vacation, apprenticeship, or other training programs when required. Public Utilities Code, Section 465(d), provides that the Director of the Department of Industrial Relations shall determine the prevailing wage for custodial or janitorial employees in accordance with the standards set forth in Section 1773 of the Labor Code. Failure to pay the prevailing wage, as determined by the Director of the Department of Industrial Relations shall be cause for termination of the Agreement.

D.5 Contractor shall comply with all applicable state laws, rules and regulations, including, but not limited to, Public Utilities Code 465 and 466 for the performance of the Work to be performed under this Agreement.

2. Confidential Information

A. Requirements of Strict Confidence. While performing Work under this Agreement, Contractor and Subcontractors may gain access to Confidential Information that, if disclosed to Third Parties, may be damaging to Court, its personnel, court users, or other government entity. Neither Contractor nor its Subcontractors acquires any right or titled to the Confidential Information, and Contractor and its Subcontractors agree not to disclose any Confidential Information to any Third Party, All Confidential Information disclosed to Contractor or it Subcontractor will be held in strict confidence and used only in performance of Work under this Agreement. In the event of any unauthorized disclosure or loss of Confidential Information, Contractor will immediately provide Notice to Court, with pertinent details of the unauthorized disclosure or loss and any remedial measures taken.

B. Permissible Disclosures. Contractor may disclose Court's Confidential Information on a "need to know" basis to Contractor's employees and Subcontractors and any representatives of Court that are working on the project. Additionally, Contractor may disclose the Confidential Information, to the extent necessary to (i) comply with any applicable law, rule, regulation, or ruling; (ii) respond to any enforceable summons or subpoena; or (iii) enforce its rights under this Agreement.

C. Personnel Requirements.

C.1 Contractor will use adequate numbers of qualified individuals with suitable training, education, experience, and skill to perform work. For continuity, Contractor will endeavor to retain the same individuals during their performance of the Work.

C.2 Court reserves the right to disapprove Contractor's personnel, if dissatisfied with their performance. Upon receipt of such Notice, Contractor will immediately assign replacement personnel, with equivalent or greater experience and skills, who are acceptable to the Project Manager.

C.3 Contractor will be responsible for all costs associated with replacing personnel, including additional costs to familiarize replacement personnel with the Work. If Contractor does not promptly furnish replacement personnel acceptable to the Project Manager, Court may terminate this Agreement for Cause.

C.4 No minor under 18 years of age shall work in any Court facility without the express written approval of the Court Executive Officer.

C.5 Contractor shall have all employees working in the Facilities fingerprinted by the Stanislaus County Sheriff's Department within five (5) days from the start of the Agreement. Each employee will also have a background check by the Court. Verification of clearance for any employee with access and entry into the Facilities must be received by the Court PRIOR to the start of work.

C.6 Notwithstanding the foregoing, Court shall have the right at any time to refuse access to the Court's premises or systems to any employee, subcontractor or agent of Contractor where the Court determines, in its sole discretion that such person or entity poses a risk to the Court, or any person, system, or asset associated with the Court.

C.7 All employees shall be identified while on the premises by picture identification card furnished at Contractor's expense and by a shirt, blouse or smock indicating the company name or logo in print large enough to be easily read.

C.8 Contractor shall be responsible for all costs of fingerprinting, identification badges, background checks and uniforms related to performing the Work.

C.9 Court shall furnish Contractor all necessary keys for each location where Work will be performed. Contractor shall maintain a file of key assignment cards for each employee, subject to inspection by Court. Keys shall be numbered and assigned by number. During working hours, keys shall be in the possession of an employee of Contractor and shall not be left in a door or left out in plain sight. Keys shall not be duplicated without prior written consent of the Court. Contractor shall pay all costs incurred by Court due to the negligent handling of keys by Contractor's employees.

C.10 Under no circumstances shall Contractor's employees admit anyone to areas controlled by a key in their possession. All doors and windows shall be closed and locked upon completion of cleaning operations in the area. All areas shall be double-checked at the end of each shift to verify the areas are secured.