SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BENITO

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| **STANDARD AGREEMENT** rev 11-10-20  |
|  |  | AGREEMENT NUMBER |
|  |  | **TC2021** |

1. In this agreement (“Agreement”), the term “Contractor” refers to **[Contractor name]**, and the term “Court” refers to the **Superior Court of California, County of San Benito**.

2. This Agreement is effective as of **[Date]** (“Effective Date”) and expires when all work has been completed and accepted by the Court.

3. The maximum amount the Court may pay Contractor under this Agreement is **[Dollar amount]** (the “Contract Amount”).

4. The purpose or title of this Agreement is: **Terrazzo Cleaning Services**.

 *The purpose or title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.*

5. The parties agree that this Agreement, made up of this coversheet, the appendixes listed below, and any document incorporated by reference, contains the parties’ entire understanding related to the subject matter of this Agreement, and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties.

 Appendix A – Statement of Work

 Appendix B – Payment Provisions

 Appendix C – General Provisions

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| **COURT’S SIGNATURE** | **CONTRACTOR’S SIGNATURE** |
|  |  |
|  **Superior Court of California,** **County of San Benito** | **[Contractor name], a [state] [entity type]**  |
|  |  |
|  BY *(Authorized Signature)*✍ |  BY *(Authorized Signature)*✍ |
|  |  |
|  PRINTED NAME AND TITLE OF PERSON SIGNING Gil Solorio, Court Executive Officer |  PRINTED NAME AND TITLE OF PERSON SIGNING**[Name and title]**   |
|  DATE EXECUTED**[Date]** |  DATE EXECUTED**[Date]** |
|  |  |
|  ADDRESS450 Fourth StreetHollister, CA 95023 |  ADDRESS**[Address]** |

APPENDIX A

Statement of Work

**1. Services.** Contractor must perform the following tasks (the “Services”):

A. Strip, refinish, polish, and seal all terrazzo floors in the courthouse located at 450 Fourth Street in Hollister, California (“Courthouse”), in accordance with ALL standards specified in Section 2.

B. Performing all incidental tasks normally included in floor cleaning services.

**2. Standards.** When the Services have been performed, the floors (including all corners and edges) must (i) be clean, (ii) be free of stains, spots, deposits, smudges, or streaks, (iii) have a uniform extremely shiny appearance, and (iv) have a high traction surface. All baseboards and the bottoms of walls and doors adjacent to terrazzo floors must be left clean and unblemished, with no watermarks, streaks, stains, or deposits. All surfaces must be left free from damage from the cleaning process.

**3. Completion.** Contractor will completely perform the Services by **May 21, 2021**.

**4. Scheduling.** The Services will be performed as requested by the Court. Contractor must coordinate the work dates with the Court’s project manager. The Services must be performed on Saturdays or Sundays, as directed by the Court. If agreed by the Court, the Services may be provided over the course of consecutive weekends.

**5. Requirements.**

A. Contractor must (i) use splashguards on its equipment, and (ii) cover baseboards and the bottoms of walls and doors adjacent to terrazzo floors. Baseboards, walls, stair risers, furniture and equipment must not be splashed, disfigured or damaged during floor care operations.

B Contractor must provide all transportation, labor, equipment, tools, materials, chemicals, and supplies to perform the Services.

C. There are no storages areas at the Courthouse for the Contractor’s use. Contractor must remove all materials and tools from the work site at the end of each shift.

D. Contractor must inspect, photo document, and immediately report to the Court any damaged floor or adjacent surfaces found prior to cleaning or caused by Contractor employees or independent contractors (“Contractor Personnel).

E. Contractor must use appropriate cleaning materials for the type and condition of surfaces being cleaned. Contractor must not use methods or products that may cause damage to building surfaces or systems, or harm to the surrounding environment.

F. Contractor must comply with any directions provided by the Court during the performance of Services.

G. All Services shall be performed by Contractor Personnel directly supervised by Contractor. Contractor must ensure that any personnel performing Services are trained and competent to safely perform their duties, wear appropriate personal protective equipment, and follow all procedures to safely operate equipment and apply products.

H. Contractor must leave the work site clean. All waste materials must be removed and properly disposed off-site.

I. Contractor must ensure that its personnel (i) do not lean any tools or equipment against any surface (e.g. walls, doors, windows, or furniture), and (ii) do not allow any person to enter the Courthouse, except for Contractor Personnel performing Services.

J. Contractor must move any furniture placed on a terrazzo floor before cleaning the floor, provided however that any furniture bolted to the floor does not need to be moved.

6. Inspection by Contractor. Before leaving the work site, Contractor’s project manager will perform an inspection to confirm that all work has been performed in accordance with this Agreement. If Contractor’s project manager discovers any work not performed in accordance with the requirements of this Agreement (“Defective Service”), he or she will direct Contractor Personnel to re-perform the Defective Service.

7. Inspection by Court. After Contractor has completed the inspection in section 6 above, the Contractor’s project manager shall accompany Court’s project manager on an inspection. Contractor shall correct all deficiencies found within 48 hours at Contractor’s own cost. If Contractor fails to correct any deficiency, the Court may either (i) withhold all amounts payable to Contractor pursuant to Appendix B, section 1 (“General”) until Contractor successfully corrects all deficiencies to the Court’s satisfaction, or (ii) hire a third party to correct any deficiency and deduct the amount paid to the third party from any amount payable to Contractor.

APPENDIX B

Payment Provisions

**1. General.** Subject to the terms of this Agreement, Contractor shall invoice the Court, and the Court shall compensate Contractor, as set forth in this Appendix B. The amounts specified in this appendix shall be the total and complete compensation to be paid to Contractor for its performance under this Agreement. Contractor shall bear, and the Court shall have no obligation to pay or reimburse Contractor for, any and all other fees, costs, profits, taxes, or expenses of any nature which Contractor incurs.

**2. Compensation for Services.** Contractor will invoice the Court **$[Dollar amount]** in arrears for the completed performance of Services. The Court will not make advance payment for Services.

**3. Expenses.** The Court will not reimburse any Contractor expenses.

**4. Taxes.** Unless otherwise required by law, the Court is exempt from federal excise taxes and no payment will be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages.

**5. Payment.** The Court will pay each correct, itemized invoice received from Contractor subject to any withholding or deduction allowed in this Agreement. Notwithstanding any provision in this Agreement to the contrary, payments to Contractor are contingent upon the timely and satisfactory performance of Contractor’s obligations under this Agreement. Payment does not imply acceptance of Contractor’s invoice or the Services. Contractor shall immediately refund any payment made in error. The Court shall have the right at any time to set off any amount owing from Contractor to the Court against any amount payable by the Court to Contractor under this Agreement.

APPENDIX C

General Provisions

**1. Contractor Certification Clauses.** Contractor certifies that the following representations and warranties are true. Contractor shall cause its representations and warranties to remain true during the term of this Agreement (“Term”). Contractor shall promptly notify the Court if any representation and warranty becomes untrue. Contractor represents and warrants as follows:

**1.1 Compliance with Laws Generally.** Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor’s business and services. Neither Contractor nor any of Contractor’s subcontractors is on the California Department of General Services’ list of firms and persons that have been suspended or debarred from contracting with the state because of a violation of PCC 10115.10, regarding disabled veteran business enterprises.

**1.2 No Harassment.** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring.

**2. Damage**

**2.1** If Contractor or any Contractor Personnel causes damage to the Courthouse, the Court may either (i) direct Contractor to repair the damage within a period of time specified by the Court, or (ii) hire a third party to repair the damage. If, after the Court directed Contractor to repair the damage, Contractor fails to repair the damage to the Court’s satisfaction, the Court may hire a third party to repair the damage.

**2.2** If Contractor or any Contractor Personnel causes damage to any personal property or fixtures, the Court may (i) direct Contractor to replace or repair the property or fixtures within a period of time specified by the Court, (ii) hire a third party to repair the damage, or (iii) purchase replacement property or fixtures. If, after the Court directed Contractor to replace or repair the property or fixtures, Contractor fails to replace or repair the damage to the Court’s satisfaction, the Court may hire a third party to repair the damage or purchase replacement property or fixtures.

**2.3** The Court may deduct from any amount payable to Contractor (i) any amount paid to a third party to repair damage, or (ii) any amount paid to purchase replacement property or fixtures.

**3. Protection of Persons and Property.** Contractor shall take all reasonable precautions to ensure the safety and protection of, and to prevent damage, injury or loss to, Court property, Court employees, Contractor Personnel, and other persons. Contractor shall comply with all applicable local, state, and federal laws and regulations pertaining to the safety and protection of Contractor Personnel and other persons. Contractor shall ensure its equipment is in good working order and is safe for use.

**4. Project Managers.** The parties’ project managers are as follows:

 Court’s project manager: Nancy Iler

 Court Manager

 (831) 636-4057, ext. 230

 Nancy.Iler@sanbenito.courts.ca.gov

 Contractor’s project manager: [**name**]

 [**title**]

 [**telephone number**]

 [**email address**]

 If the Court’s project manager is out of the office or otherwise unavailable, the Court Executive Officer or his or her designee may act as the Court’s project manager. The Court may change its project manager at any time upon notice to Contractor without need for an amendment to this Agreement. Subject to written approval by the Court, Contractor may change its project manager without need for an amendment to this Agreement.

**5. Service Warranties.** Contractor warrants that it will perform the Services with promptness, diligence, and in a workmanlike manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services. All Services provided by the Contractor shall be performed in such a way that the finished result is equal to or exceeds the high standards required to reflect the Court’s position as a public forum within the community.

**6. Insurance**

**6.1 Insurance Requirements:** From the beginning of the performance of the Services, the Contractor shall maintain, at a minimum and in full force and effect, the following insurance:

**A. Commercial General Liability:** Commercial General Liability insurance (and if required Excess/Umbrella Liability insurance) for all of its operations written on an occurrence form with limits of not less than $1 million per occurrence and a $1 million annual aggregate limit of liability. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured contract. The policy shall not include exclusion for loss resulting from explosion, collapse, or underground perils. This insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought subject to the insurance policy limit of liability.

**B. Commercial Automobile Liability:** If one or more automobiles is used in the performance of the Services, Commercial Automobile Liability insurance covering liability arising out of the operation, use, loading, or unloading of a motor vehicle, including owned, hired, and non-owned motor vehicles, assigned to or used in connection with the Services, with limits of not less than $1 million combined single limit per accident.

**C. Workers’ Compensation and Employers Liability:** Statutory Workers’ Compensation insurance for all of the employees who are engaged in the Services, including special coverage extensions where applicable and Employers Liability insurance with limits not less than $500,000 for each accident, $500,000 as the aggregate disease policy limit, and $500,000 as the disease limit for each employee.

**6.2 General Requirements.** General requirements for Contractor’s insurance that is required during the Term:

**A.** Contractor, prior to commencement of the Services, shall provide the Court with certificates of insurance and signed insurance policy endorsements, on forms acceptable to the Court, as evidence that the required insurance is in effect. The certificates of insurance shall be sent to Gil Solorio at the address specified in Section 10 (“Notices”).

**B.** All insurance policies required under Section 6 (“Insurance”) shall be in force until the completion of the Services.

**C.** In the event the Contractor fails to keep in effect the specified insurance coverage, the Court may, in addition to any other remedies it may have, terminate this Agreement, subject to the provisions of this Agreement.

**D.** Contractor, and any insurer (by policy endorsement) providing insurance required under the terms of Section 6 (“Insurance”), waives any right of recovery or subrogation it may have against (i) the State of California, (ii) the Judicial Council of California, (iii) the Superior Court of California, County of San Benito, and (iv) their respective elected and appointed officials, judges, officers, and employees for direct physical loss or damage to the work, or for any liability arising out of the Services performed by Contractor under this Agreement.

**E.** Contractor shall be responsible for and may not recover from (i) the State of California, (ii) the Judicial Council of California, (iii) the Superior Court of California, County of San Benito or (iv) their respective elected and appointed officials, judges, officers, and employees, any deductible or self-insured retention that is connected to the insurance required under Section 6 (“Insurance”).

**F.** The cost of all insurance required by Section 6 (“Insurance”) is the sole responsibility of the Contractor, and is a component part of the Contractor’s agreed compensation

**7. Indemnity.** Contractor will defend (with counsel satisfactory to the Court or its designee), indemnify and hold harmless the Judicial Branch Entities and the Judicial Branch Personnel against all claims, losses, and expenses, including attorneys’ fees and costs, that arise out of or in connection with (i) an act or omission of Contractor, its agents, employees, independent contractors, or subcontractors in the performance of this Agreement, (ii) accidents involving Contractor equipment or materials, and (iii) Contractor’s (or its employee’s, contractor’s, or subcontractor’s) breach of a representation, warranty, or other provision of this Agreement. This indemnity applies regardless of the theory of liability on which a claim is made or a loss occurs. This indemnity will survive the expiration or termination of this Agreement, and acceptance of any Services. Contractor shall not make any admission of liability or other statement on behalf of an indemnified party or enter into any settlement or other agreement which would bind an indemnified party, without the Court’s prior written consent, which consent shall not be unreasonably withheld; and the Court shall have the right, at its option and expense, to participate in the defense and/or settlement of a claim through counsel of its own choosing. Contractor’s duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party. “Judicial Branch Personnel” means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity. “Judicial Branch Entity” means the Court or any other California superior or appellate court, the Judicial Council of California, or the Habeas Corpus Resource Center.

**8. Termination**

**8.1 Termination for Convenience.** The Court may terminate, in whole or in part, this Agreement for convenience upon thirty (30) days prior notice. After receipt of such notice, and except as otherwise directed by the Court, Contractor shall immediately stop Services as specified in the notice.

**8.2 Termination for Cause.** The Court may terminate this Agreement, in whole or in part, immediately “for cause” if (i) Contractor fails or is unable to meet or perform any of its duties under this Agreement, and this failure is not cured within ten (10) days following notice of default (or in the opinion of the Court, is not capable of being cured within this cure period); (ii) Contractor or Contractor’s creditors file a petition as to Contractor’s bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business; (iii) Contractor makes or has made under this Agreement any representation, warranty, or certification that is or was incorrect, inaccurate, or misleading; or (iv) the Court discovers that Contractor submitted false or misleading information in the quote that Contractor submitted in response to the Request for Quote issued by the Court that resulted in this Agreement (“Quote”), or altered the text of any form submitted as part of its Quote.

**8.3 Rights and Remedies of the Court.**

**A. Nonexclusive Remedies.**All remedies provided in this Agreement may be exercised individually or in combination with any other available remedy. Contractor shall notify the Court immediately if Contractor is in default, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement. If Contractor is in default, the Court may do any of the following: (i) withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement; (ii) require Contractor to enter into non-binding mediation; (iii) exercise, following notice, the Court’s right of early termination of this Agreement as provided herein; and (iv) seek any other remedy available at law or in equity.

**B. Replacement.** If the Court terminates this Agreement in whole or in part for cause, the Court may acquire from third parties, under the terms and in the manner the Court considers appropriate, services equivalent to those terminated, and Contractor shall be liable to the Court for any excess costs for those services. Notwithstanding any other provision of this Agreement, in no event shall the excess cost to the Court for such services be excluded under this Agreement as indirect, incidental, special, exemplary, punitive or consequential damages of the Court. Contractor shall continue any Services not terminated hereunder.

**C. Effect.**In the event of any termination of this Agreement, the Court shall not be liable to Contractor for compensation or damages incurred as a result of such termination; provided that if the Court’s termination is not for cause, the Court shall pay any fees due under this Agreement for Services performed completed and accepted as of the date of the Court’s termination notice.

**8.4 Survival.** Termination or expiration of this Agreement shall not affect the rights and obligations of the parties which arose prior to any such termination or expiration (unless otherwise provided herein) and such rights and obligations shall survive any such termination or expiration. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement, including any section of this Agreement that states it shall survive such termination or expiration.

**9. Assignment and Subcontracting.** Contractor may not assign or subcontract its rights or duties under this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the Court. Consent may be withheld for any reason or no reason. Any assignment or subcontract made in contravention of the foregoing shall be void and of no effect. Subject to the foregoing, this Agreement will be binding on the parties and their permitted successors and assigns.

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

|  |  |
| --- | --- |
| **If to Contractor:** | **If to the Court:** |
| **[name]****[address]** | Gil Solorio, Court Executive OfficerSuperior Court of California, San Benito County450 Fourth StreetHollister, CA 95023 |

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

11. Compliance. This Agreement incorporates the terms and conditions set forth in the appendix entitled “JBCL Appendix,” posted at http://www2.courtinfo.ca.gov/termsandconditions6.pdf. If there is any conflict between a provision in the appendix and any other provision of this Agreement, the provision contained in the appendix prevails.

**12. Licenses and Permits.** Contractor shall obtain and keep current all necessary licenses, approvals, permits and authorizations required by applicable law for the performance of the Services. Contractor will be responsible for all fees and taxes associated with obtaining such licenses, approvals, permits and authorizations, and for any fines and penalties arising from its noncompliance with any applicable law.

**13. Commencement of Performance.** This Agreement is of no force and effect until signed by the Court. Any commencement of performance prior to the Court’s signature shall be at Contractor's own risk.

**14. Miscellaneous Provisions.** Contractor is an independent contractor to the Court. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the Court. Contractor has no authority to bind or incur any obligation on behalf of the Court. Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the Court Executive Officer. California law, without regard to its choice-of-law provisions, governs this Agreement. The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. Jurisdiction for any legal action arising from this Agreement shall exclusively reside in state or federal courts located in California, and the parties hereby consent to the jurisdiction of such courts. This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code section 1654. Except as otherwise specified in this Agreement, no amendment or change to this Agreement will be effective unless expressly agreed in writing by a duly authorized officer of the Court. A waiver of enforcement of any of this Agreement’s terms or conditions by the Court is effective only if expressly agreed in writing by a duly authorized officer of the Court. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. If any part of this Agreement is held unenforceable, all other parts remain enforceable. All headings are for reference purposes only and do not affect the interpretation of this Agreement. The word “including” means “including, without limitation.” Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days. Time is of the essence in Contractor’s performance under this Agreement. This Agreement may be executed in counterparts, each of which is considered an original.