

# Southwest Regional Council of Carpenters

## Office of the Contract Administrator

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### **SOUTHWEST REGIONAL COUNCIL OF CARPENTERS CARPENTERS VACCINATED AGAINST COVID-19 PROGRAM AGREEMENT**

This Agreement is made between the undersigned ("Applicant Contractor") and the Southwest Regional Council of Carpenters ("SWRCC" and "Carpenters"), in consideration of monetary incentives to be provided by Carpenters on behalf of the Applicant Contractor.

**1.0 Program Overview and Description** – The SWRCC Carpenters Vaccinated Against COVID-19 Program ("CVAC") exists for the purpose of ensuring Contractors have the ability to grant time off to those members seeking vaccination ("Covered Employee"), while at the same time helping relieve a portion of signatory contractors' unanticipated payroll expenditures. Under this program, the SWRCC will provide direct payment to the Carpenters' Trust of an amount calculated based on the total contractor involvement in the program and the number of hours requested by a specific employer ("Commitment"). The current plan is to offer CVAC assistance for contributions incurred during the months of March and April 2021, but the SWRCC reserves the right to unilaterally cancel or extend the program.

- 1.1** The Applicant Contractor must apply for CVAC funds on a monthly basis for benefit incurred during the previous month ("Covered Month").
- 1.2** Upon receipt of the initial application the SWRCC will review and confirm that the application falls within the Program Guidelines (Section 2 below).
- 1.3** The SWRCC will issue a Commitment letter detailing the amount of benefit hours that the SWRCC will pay directly to the Trust on behalf of the Applicant Contractor, so long as the Applicant Contractor remains compliant with Sections 2 and 4 below.
- 1.4** The Applicant Contractor will only be required to pay benefits on the hours which are not subject to a Commitment by the SWRCC (e.g. if 4 hours of COVID-19 vaccination leave are reported on a Covered Employee and the SWRCC issues a Commitment for 2 hours of Pension benefits, the Applicant Contractor will be responsible for paying the remaining 2 hours of Pension benefits and all other non-Committed benefits).

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## **2.0 Program Guidelines**

**2.1** The SWRCC is offering CVAC assistance subject to the following overall program caps:

- \$500,000 of total assistance will be offered on all COVID-19 vaccination leave benefits incurred during the month of March by all signatory contractors.
- \$500,000 of total assistance will be offered on all COVID-19 vaccination leave benefits incurred during the month of April by all signatory contractors.
- Should demand for CVAC assistance exceed the total assistance cap during a month the Commitment provided to all contractors will be reduced, at the SWRCC's sole discretion, from the Goal Commitment Level (see Section 3 below) so that total Commitments fall below the cap.

**2.2** CVAC assistance is subject to the following requirements which apply to all Applicant Contractors:

- CVAC assistance will only be provided on behalf of Covered Employees that are in good standing with the Union. Applications for assistance on Covered Employees that are not in good standing will be denied.
- CVAC assistance will only be provided on up to 2 hours per appointment for a maximum of 4 hours assistance for each Covered Employee. Applications for assistance for Covered Employees that have already received 4 hours of vaccination leave may be considered fraudulent and, at the SWRCC's sole discretion, may result in the cancellation of all Commitments.
- Applications for hours that overlap with any other Contractor may be considered fraudulent and, at SWRCC's sole discretion, may result in the cancellation of all Commitments.

## **3.0 Commitments**

**3.1** The SWRCC's goal is to provide a Commitment covering all benefits, on vaccination leave hours, except for Health and Welfare ("Goal Commitment"). The Goal Commitment will be adjusted based on overall program caps and individual contractor caps in order to arrive at the final Commitment amount. The Commitment amount will be communicated in terms of benefit hours that will be paid by the SWRCC on behalf of the Applicant Contractor.

**3.2** The SWRCC will issue either a rejection letter or a Commitment letter, detailing the Commitment amount, prior to the deadline for payment of benefits to the Trust.

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**3.3** The Applicant Contractor will remain responsible for the payment of Wages, Health and Welfare benefits, and all uncommitted benefits during the Covered Employee's COVID-19 related vaccination leave.

**3.4** The SWRCC shall bear no liability for failure to issue, for any reason, a Commitment to the Applicant Contractor.

**3.5** The SWRCC may suspend, amend, terminate, or cancel a Commitment which has been issued to the Applicant Contractor at any time prior to the Applicant Contractor's final payment of benefits contributions for the Covered Month.

**4.0** **Contractor Obligations** – The Contractor agrees to abide by the following terms and conditions of the CVAC:

**4.1** The Applicant Contractor must be fully signatory to the SWRCC. There will be no assistance granted to Contractors that are signatory only to Single Project Agreements, Subscriber's Agreements, or any other short-term agreements.

**4.2** The Applicant Contractor must remain current with respect to benefit contributions for all employees on all projects subject to SWRCC jurisdiction, including but not limited to Covered Employees.

**4.3** The Applicant Contractor must seek reimbursement/coverage of the benefit payments upon which they are applying for CVAC Assistance through all other means prior to applying for CVAC Assistance. This shall include, but not be limited to, application and usage of funds through the Federal Paycheck Protection Program (PPP Loans), reimbursement through Families First Coronavirus Response Act (FFCRA) payroll tax credits, and any and all other government, private, or other means of covering such benefit payments.

**4.4** The Applicant Contractor agrees to submit their application for CVAC Assistance in a timely manner via the online application process no later than the 5th of the month following the month in which the benefit contributions were incurred (e.g. assistance with March benefit contributions should be applied for no later than April 5th). Should the 5th fall on a weekend or holiday, the Applicant Contractor agrees to submit the application no later than the last business day prior to the 5th.

**4.5** The Applicant Contractor must provide a scanned copy of each employee's vaccination card as part of their application for CVAC Assistance.

**4.6** The Applicant Contractor must include in their application an accurate accounting of the total numbers of hours of work performed by all Union represented employees employed by the Contractor during the Covered Month.

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- 4.7** The Applicant Contractor will be responsible for reporting **ALL** benefit hours to the Trust in accordance with Trust deadlines.
- 4.8** The Applicant Contractor must make payment of all benefits which are not subject to a Commitment prior to the Trust deadline for such payment.
- 4.9** The Applicant Contractor must, at all times, comply with the terms of the applicable Master Agreement on all projects subject to the SWRCC's jurisdiction.
- 4.10** The SWRCC reserves the right to withhold or suspend or rescind CVAC Commitments to the Applicant Contractor if the Contractor becomes involved in litigation, or lobbying efforts, adverse to the interests of the SWRCC or its affiliated local unions. The term "litigation" refers to proceedings in State or Federal Court, administrative proceedings before any local, state or federal agency, and/or trust delinquency actions. The SWRCC, in its sole discretion, will determine whether such litigation or lobbying efforts are adverse to its interests or the interests of its affiliated local unions.
- 5.0 Agreements Incorporated by Reference** – The Applicant Contractor agrees to comply with all the terms, including wages, hours, and working conditions and rules as set forth in the appropriate Master Agreement covering the jurisdiction in which work is to take place, within the jurisdiction of the SWRCC and its affiliated Local Unions (hereinafter collectively referred to as “Master Agreements”), along with the agreements establishing the Trusts into which employee benefits are paid (hereafter collectively referred to as the “Carpenters Trust Funds”) and any amendments, modifications, extensions and renewals of such Master Agreements and the Trust Agreements and any agreements establishing other benefits or plans negotiated by the Carpenters' Union and the Contractor Association signatory to such Master Agreements, during the term of the project covered by this CVAC Agreement.
- 6.0 Disbursements** – The SWRCC shall make any payments on Commitments directly to the Trust.
- 7.0 Authority to Audit** – The Union shall have authority to audit Contractor records to determine that the Applicant Contractor has complied with the terms of this Agreement and shall have specific authority to examine and copy the Contractors time cards, Federal W-2 Forms, 1099 and 1096 Forms, Quarterly State Tax Returns, PPP Loan Applications, and cash disbursement ledger or all canceled checks. In addition, the Union shall have authority to examine specific canceled checks and/or invoices in connection with individual items. If a Contractor refuses to furnish the foregoing the Union may take economic action.
- 8.0 Overpayment** – In the event that the SWRCC pays an amount in excess of the amount due based on hours reported, in excess of the overall CVAC Commitment, or in excess of the Applicant Contractor's CVAC assistance request, the SWRCC reserves the right to bill the

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contractor for the overpayment, or to deduct the overpayment from any future CVAC payments made on behalf of the Applicant Contractor.

**9.0 Termination** – The Applicant Contractor may terminate their application for CVAC assistance at any time.

**9.1** The SWRCC reserves the right to suspend, terminate, or cancel any this Agreement and any associated CVAC Commitments based on a failure by Contractor to conform to the terms of this agreement.

**9.2** Failure, by a Contractor, to comply with the terms of this agreement may also result in additional penalties to be issued by the SWRCC, in its sole discretion, including but not limited to: reduction, revocation, or suspension of any current CVAC assistance to the Applicant Contractor; and/or a temporary or permanent prohibition on future CVAC assistance to the Applicant Contractor.

**10.0 Fraud** – The Applicant Contractor, by signing this agreement, guarantees that there are, and will be, no incidences of fraud, error, omission, misrepresentation, negligence or similar occurrence with respect to their involvement in the CVAC.

**10.1** The following actions by a Contractor shall constitute a violation of this Section:

- Submission of incorrect information in the CVAC application
- Submission of incorrect hours to the Carpenters Trust on a Covered Month
- Submission of hours for CVAC assistance on individuals that were not actually employed by the Applicant Contractor, or whom the Applicant Contractor did not grant vaccination leave
- Recovery of funds, through any other source, on an amount covered under a CVAC Commitment (including, but not limited to, payments by owners/General Contractors, use of PPP Loan funds, and/or use of FFCRA payroll tax recovery)
- Failure to pay a Covered Employee's Wages during the vaccination leave

**10.2** The SWRCC reserves the right to bill the Contractor for all previous payments made as part of any, past or present, CVAC assistance in the case of any violation of this Section, and to pursue the payment of those amounts via the arbitration process established in Section 12, or through any other methods legally available.

**10.3** The SWRCC, in its sole discretion, may prohibit any Contractor in violation of this Article from receiving future CVAC assistance, or any other SWRCC-funded assistance.

**11.0 Labor Brokers / Cash Pay / Subcontracting** – The use of labor brokers, cash payments to employees in order to subvert Union rules, or subcontracting Covered Employee work to non-union entities will result in an immediate suspension of any CVAC assistance.

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**11.1** The Applicant Contractor shall have five (5) working days to respond to an allegation by the SWRCC of a violation of this section. Failure to respond shall result in the cancellation of the CVAC Assistance.

**11.2** The SWRCC, in its sole discretion, shall make the final determination as to whether this section has been violated.

**11.3** The SWRCC reserves the right to bill the Contractor for all previous payments made as part of any, past or present, CVAC assistance in the case of any violation of this Section, and to pursue the payment of those amounts via the arbitration process established in Section 12, or through any other methods legally available.

**11.4** The SWRCC, in its sole discretion, may prohibit any Contractor in violation of this Article from receiving future CVAC assistance, or any other SWRCC funded assistance.

**12.0 Severability** – It is not the intention of either party to violate any State or Federal law and all language used in this Agreement, where susceptible of more than one meaning, shall be interpreted in a manner consistent with the law. If any clause, sentence, or Article shall be interpreted, as being contrary to law, such clause, sentence or Article shall be automatically eliminated however, the remainder of the Agreement shall continue in full force and effect.

**13.0 Arbitration** – Any disputes which arise under this Agreement shall be processed in accordance with the procedures for the handling of grievances, and the final binding resolution of disputes, as provided for in the applicable Master Agreement covering work on the project.

**14.0 Amendment** – The SWRCC may unilaterally amend this Agreement, or any exhibit, schedule, or appendix of the Agreement, by giving ten (10) days' notice to the Applicant Contractor. Except as provided in subdivision 13.1, the amendment will take effect at the specified time after the effective date of the notice.

**14.1** If the Contractor is unwilling for the Agreement to continue as amended, it may terminate the Agreement by giving notice to the SWRCC no later than the effective date of the amendment.

**14.2** For the avoidance of doubt, no unilateral amendment will retroactively modify the binding dispute-resolution provisions of Section 12 of the Agreement for then-pending disputes unless the parties expressly agree otherwise.

**14.3** For the avoidance of doubt, without the Applicant Contractor's express written agreement, a unilateral amendment will not retroactively eliminate or modify any right already exercised by the Applicant Contractor, including for example, any right to assistance for hours already timely reported under the Agreement.

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**15.0 Term** – This Agreement shall remain in effect until the earlier of (a) the final payment by the SWRCC of assistance for benefit hours incurred in April 2021 or (b) the termination of the agreement, by either party, pursuant to Sections 9, 10 or 11. Notwithstanding the foregoing, the requirements of Section 13 shall survive the expiration of this Agreement and the SWRCC shall retain the authority to audit under Section 7, and preserve any rights for recovery due to erroneous applications, or under Section 10 and/or 11, on any Commitments paid under this Agreement for a period of five (5) years after the expiration of the Agreement.