

AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of August, 2018, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and the Superior Court of California, County of Fresno, an entity of the California Judicial Branch organized under Article VI of the California Constitution, hereinafter referred to as "COURT".

WITNESSETH:

WHEREAS, the COURT provides various COUNTY departments, as provided in Exhibit 2, attached and incorporated by this reference, Odyssey system access, door access, WiFi usage, and Badges; and

WHEREAS, the COURT currently allows COUNTY departments access to their Odyssey system for logons, door access, WiFi usage, and badges and the Court has absorbed these access costs until now; and

WHEREAS, the COURT's Odyssey system is a case management system that COUNTY departments utilize to access various case types such as criminal, civil, probate, family, and juvenile cases; and

WHEREAS, the COUNTY will pay the COURT for its usage of the Odyssey system, door access, WiFi usage, and badges as applicable to each department, as provided in Exhibit 1, which is attached and incorporated by this reference.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

1. OBLIGATIONS OF THE COURT

- A. Provide log-on access to the COURT's Odyssey system;
- B. Provide door access;
- C. Provide WiFi usage; and
- D. Provide COURT issued badges as needed.

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1 2. OBLIGATIONS OF THE COUNTY

2 A. The COUNTY will pay COURT invoices promptly, within forty-five (45)
3 days of receipt.

4 B. The COUNTY must notify COURT of any requests to deactivate a badge
5 or Odyssey ID/login within ten (10) business days of the change. The COUNTY is obligated to
6 continue to pay until notice is received from the Court that the badge or Odyssey ID/login has
7 been deactivated.

8 C. COUNTY will only access Odyssey for County work-related purposes.

9 3. TERM

10 The term of this Agreement shall be for a period of three (3) years, commencing on August
11 1, 2018 through and including July 31, 2021. The Agreement may be extended for two (2)
12 additional consecutive twelve (12) month periods upon mutual written approval of both parties no
13 later than thirty (30) days prior to the first day of the next twelve (12) month extension period. The
14 County Administrative Officer or his designee is authorized to execute such written approval on
15 behalf of the COUNTY.

16 4. TERMINATION

17 A. Non-Allocation of Funds - The terms of this Agreement, and the
18 services to be provided hereunder, are contingent on the approval of funds by the
19 appropriating government agency. Should sufficient funds not be allocated, the services
20 provided may be modified, or this Agreement terminated, at any time by giving the COURT
21 thirty (30) days advance written notice.

22 B. Breach of Contract –

23 1) COUNTY may immediately suspend or terminate this Agreement in
24 whole or in part, if COURT unreasonably denies access to services or if
25 services provided are ineffective for County's use.

26 2) The COURT may immediately suspend or terminate this Agreement in
27 whole or in part, if COUNTY fails to pay or is in arrears more than ten (10)
28 days or if the COUNTY utilizes Odyssey for non-work related purposes.

1 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any
2 breach of this Agreement or any default which may then exist on the part of the COURT. Neither
3 shall such payment impair or prejudice any remedy available to the COUNTY with respect to the
4 breach or default.

5 C. Without Cause - Under circumstances other than those set forth above, this
6 Agreement may be terminated by either the COUNTY or COURT upon giving ninety (90) days
7 advance written notice of an intention to terminate.

8 5. COMPENSATION/INVOICING: COUNTY agrees to pay COURT and COURT agrees
9 to receive compensation for actual services as provided in Schedule of Court Charges for Services
10 – Exhibit 1 to the agreement. The COUNTY understands annual updates to Exhibit 1 may
11 provide revisions of this Exhibit. COURT shall submit monthly invoices for services to the
12 COUNTY departments listed in Exhibit 2.

13 In no event shall compensation payable for services performed under this Agreement
14 exceed one hundred twenty thousand dollars (\$120,000) per year. The total compensation
15 payable for the potential five-year term of this Agreement shall not exceed six hundred thousand
16 dollars (\$600,000).

17 6. MODIFICATION:

18 A. Any matters of this Agreement may be modified from time to time by the
19 written consent of all the parties without, in any way, affecting the remainder.

20 B. Notwithstanding the above, upon written agreement of the Department
21 Heads of the County Departments listed in Exhibit 2 and the COURT, badge or Odyssey ID/login
22 user access changes may be made or changed based on operational need, and in compliance
23 with Sections 2(B) and 5 which state the agreement maximum. If the changes referenced in this
24 Section will cause the compensation to exceed the total not to exceed amounts specified in Section
25 5 above, then the Agreement must be amended. COURT further understands that this Agreement
26 is subject to any restrictions, limitations or enactments of all legislative bodies which affect the
27 provisions, term, or funding of this Agreement in any manner.

1 7. NON-ASSIGNMENT: Neither party shall assign, transfer or sub-contract this
2 Agreement nor their rights or duties under this Agreement without the prior written consent of the
3 other party.

4 8. HOLD HARMLESS: COURT agrees to indemnify, save, hold harmless, and at
5 COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all
6 costs and expenses (including attorney's fees and costs), damages, liabilities, claims, and losses
7 occurring or resulting to COUNTY in connection with the performance, or failure to perform, by
8 COURT, its officers, agents, or employees under this Agreement, and from any and all costs and
9 expenses (including attorney's fees and costs), damages, liabilities, claims, and losses occurring or
10 resulting to any person, firm, or corporation who may be injured or damaged by the
11 performance, or failure to perform, of COURT, its officers, agents, or employees under this
12 Agreement.

13 COUNTY agrees to indemnify, save, hold harmless, and at COURT'S request, defend the
14 COURT, its officers, agents, and employees from any and all costs and expenses (including
15 attorney's fees and costs), damages, liabilities, claims, and losses occurring or resulting to COURT
16 in connection with the performance, or failure to perform, by COUNTY, its officers, agents, or
17 employees under this Agreement, and from any and all costs and expenses (including attorney's
18 fees and costs), damages, liabilities, claims, and losses occurring or resulting to any person, firm,
19 or corporation who may be injured or damaged by the performance, or failure to perform, of
20 COUNTY, its officers, agents, or employees under this Agreement.

21 9. INSURANCE

22 Without limiting the COUNTY's and/or COURT's indemnification of each other, it is
23 understood and agreed that the COUNTY and COURT shall each maintain, at their sole expense,
24 insurance policies or self-insurance programs including, but not limited to, an insurance pooling
25 arrangement and/or Joint Powers Agreement to fund their respective liability throughout the term of
26 this agreement. Coverage shall be provided for comprehensive general liability, automobile
27 liability, professional liability, and worker's compensation exposure. Evidence of insurance,
28 certificates of insurance, or other similar documentation shall not be required of the COUNTY or

COURT under this Agreement.

A. Cyber Liability

Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by COURT in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

10. AUDITS AND INSPECTIONS: The COURT shall at any time during business hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination all of its records and data with respect to the matters covered by this Agreement. The COURT shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data necessary to ensure COURT'S compliance with the terms of this Agreement.

If this Agreement exceeds ten thousand dollars (\$10,000.00), COURT shall be subject to the examination and audit of the California State Auditor for a period of three (3) years after final payment under contract (Government Code Section 8546.7).

11. NOTICES: The persons and their addresses having authority to give and receive notices under this Agreement include the following:

COUNTY OF FRESNO

COURT

County Administrative Officer
2281 Tulare Street, Room 301
Fresno, CA 93721

Court Executive Officer
1100 Van Ness
Fresno, CA 93724-0002

All notices between the COUNTY and COURT provided for or permitted under this Agreement must be in writing and delivered either by personal service, by first-class United States mail, by an overnight commercial courier service, or by telephonic facsimile transmission. A notice delivered by personal service is effective upon service to the recipient. A notice delivered by first-

class United States mail is effective three COUNTY business days after deposit in the United States mail, postage prepaid, addressed to the recipient. A notice delivered by an overnight commercial courier service is effective one COUNTY business day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the recipient. A notice delivered by telephonic facsimile is effective when transmission to the recipient is completed (but, if such transmission is completed outside of COUNTY business hours, then such delivery shall be deemed to be effective at the next beginning of a COUNTY business day), provided that the sender maintains a machine record of the completed transmission. For all claims arising out of or related to this Agreement, nothing in this section establishes, waives, or modifies any claims presentation requirements or procedures provided by law, including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

12. GOVERNING LAW: Venue for any action arising out of or related to this Agreement shall only be in Fresno County, California.

The rights and obligations of the parties and all interpretation and performance of this Agreement shall be governed in all respects by the laws of the State of California.

13. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the COURT and COUNTY with respect to the subject matter hereof and supersedes all previous Agreement negotiations, proposals, commitments, writings, advertisements, publications, and understanding of any nature whatsoever unless expressly included in this Agreement.

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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day
2 and year first hereinabove written.

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4 **SUPERIOR COURT OF**
5 **CALIFORNIA COUNTY OF**
6 **FRESNO**

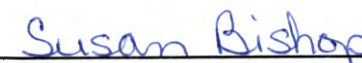
COUNTY OF FRESNO

7 
8 Sherah L. Morton
9 Court Executive Officer
10 1100 Van Ness Avenue
11 Fresno, CA 93724-0002

7 
8 Sal Quintero, Chairperson of the Board of
9 Supervisors of the County of Fresno

11 **ATTEST:**

12 Bernice E. Seidel
13 Clerk of the Board of Supervisors
14 County of Fresno, State of California

15 By: 
16 Deputy

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21 **FOR ACCOUNTING USE ONLY:**

22 As provided on Exhibit 2

23 **ORG No.:**
24 **Account No.:**
25 **Requisition No.:**
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FY 2018-19 Court Charges for Services

Approved by Executive Committee 3/12/18

Description	Monthly Rate
Odyssey system logon (per user charge)	\$ 5.37
Door access one way (per door)	\$ 6.28
WiFi Usage (estimated per user unit)	\$ 1.63
Badges (per badge)	\$ 15.86

County Department Odyssey User List

Billing Org and Account

County Department	Org	Account
Fresno County Auditor-Controller/Treasurer-Tax Collector	01401100	7295
Fresno County Counsel's Office	0710	7295
Fresno County Department of Behavioral Health-Public Guardian	56302005	7295
Fresno County Department of Child Support Services	5110	7295
Fresno County Department of Social Services	56107001	7295
Fresno County District Attorney-Public Administrator	2860	7295
Fresno County Probation	34309999	7295
Fresno County Public Defender	28809999	7295