

**COOPERATIVE ENDEAVOR AGREEMENT
BETWEEN
THE CITY OF NEW ORLEANS
AND
CRIMINAL DISTRICT COURT
PRETRIAL SERVICES**

THIS COOPERATIVE ENDEAVOR AGREEMENT (the “**Agreement**”) is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), the Orleans Parish Criminal District Court Criminal District Court, represented by Karen Herman, Chief Judge (the “**Criminal Court**” or the “**Department**”). The City and the Contractors may sometimes be collectively referred to as the “**Parties.**” The Agreement is effective as of January 1, 2022 (the “**Effective Date**”).

RECITALS

WHEREAS, the City is a political subdivision of the State of Louisiana;

WHEREAS, the Criminal District Court’s principal address is located at 2700 Tulane Ave, New Orleans, LA 70119.

WHEREAS, pretrial service agencies and programs across the country exist to help courts make constitutionally sound release decisions with the least restrictive conditions while protecting victims, witnesses and the community from threat, danger or interference;

WHEREAS, an evidence-based pretrial risk assessment seeks to accurately sort defendants into categories showing their likelihood of having a successful pretrial release, which includes making all of their scheduled court appearances and not being arrested on a new charge;

WHEREAS, the results of the risk assessment are an important tool that judges and commissioners should consider when making two key decisions: (1) the decision to release or detain pretrial; and (2) if released, the assignment of appropriate release conditions, including the least restrictive conditions of release without negatively impacting public safety.

WHEREAS, pursuant to Article 7, Section 14(C) of the Louisiana Constitution of 1974, and related statutes, and Section 9-314 of the Home Rule Charter of the City of New Orleans, the City may enter into cooperative endeavors with the State of Louisiana, its political subdivisions and corporations, the United States and its agencies, and any public or private corporation, association, or individual with regard to cooperative financing and other economic development activities, the procurement and development of immovable property, joint planning and implementation of public works, the joint use of facilities, joint research and program implementation activities, joint funding initiatives, and other similar activities in support of public education, community development, housing rehabilitation, economic growth, and other public purposes;

WHEREAS, the Parties recognize the need to provide comprehensive administrative and support services to criminal justice agencies and defendants with the goal of enabling the criminal justice system to operate with greater efficiency and fairness, and further recognize that the establishment of a pretrial services program is critical to this goal;

WHEREAS, the Parties desire to accomplish a valuable public purpose of operating a pretrial services program by providing a pretrial risk assessment and report summarizing criminal convictions and pending matters in each case to courts, prosecutors, and defense attorneys;

WHEREAS, the City desires the Orleans Parish Criminal District Court to administer and operate the Pretrial Services program.

NOW THEREFORE, the Parties, each having the authority to do so, agree as follows:

ARTICLE I - THE CRIMINAL DISTRICT COURT'S OBLIGATIONS

A. Services. The Criminal District Court agrees to:

1. Ensure program standards that are consistent with those established by the American Bar Association (ABA) and National Association of Pretrial Services Agencies (NAPSA); and

2. Administer a pretrial services program in all sections of Criminal District Court, consistent with ABA and NAPSA standards, but also subject to standards and procedures administered and approved by the Criminal District Court *en banc*, including but not limited to the following:

a. **Case Management System.** The Criminal District Court will provide case management through a case management system, maintaining an accurate record of defendants' activity while in the program.

b. **Risk assessment.** The Criminal District Court will ensure that:

- i. CDC Pretrial Services (PTS) Staff complete risk assessments for felony defendants using the Arnold Foundation's Public Safety Assessment ("pretrial risk assessment") prior to first appearance;
- ii. CDC PTS Staff report its assessment to the court, the prosecutor, and the defense attorney, including the pretrial risk assessment and report summarizing criminal convictions and pending matters in each case.
- iii. Pretrial risk assessments are considered when determining release decisions in all sections of Criminal District Court, including Magistrate Court, for the morning, evening and night sessions;
- iv. Pretrial risk assessments are presented to the presiding judge and/or magistrate commissioner in open court, along with a recommendation regarding pretrial release conditions; and
- v. The assessments and recommendations are filed in each defendant's court record.

3. Report, each month, on the following data points:

- a. Risk Assessments administered each month;
- b. First Appearance Decisions, including bond decisions made at First Appearance (ROR, PSBU, and financial bond) broken down by risk category;

c. Releases:

- i.** The percent of assessed defendants who are released during the reporting period, broken down by risk category;
- ii.** The percent of assessed defendants released within 3 days and within 7 days, broken down by risk category;
- iii.** The percent of assessed defendants who are released during the reporting period and ordered to supervision, broken down by risk category;
- iv.** The percent of assessed defendants who are able to secure release, broken down by Release on Recognizance (ROR), Personal Surety Bond Undertaking (PSBU), and financial bond;
- v.** The percentage of judicial decisions that are consistent with the recommendation provided by the pretrial services program; and
- vi.** The percentage of released defendants that fail to appear or are re-arrested (“the safety rate”).

d. Supervision:

- i.** The number of people under supervision at the end of the reporting period;
- ii.** The number of people under supervision that were sanctioned by the court for failing to comply with the terms of release during the reporting period; and
- iii.** The average time spent under supervision;

e. Outcomes:

- i.** The rate of appearance for individuals released pretrial, broken down by risk category and separated by non-financial and financial release;
- ii.** The rate of re-arrest for individuals released pretrial, broken down by risk category and separated by non-financial and financial release;
- iii.** The percentage of persons assessed who are released by non-financial means (ROR) or PBSU as well as financial bonds; The rate of appearance for individuals under supervision, broken down by pretrial risk category; and
- iv.** The rate of re-arrest for individuals under supervision, broken down by pretrial risk category.

4. In addition to the aforementioned services, the Criminal District Court will also partner with the City to complete the following items:

a. Identify problems and possible solutions;

- b. Retain network support/license purchasing/cloud storage;
- c. Perform hire setup in Microsoft case management system;
- d. Respond to public records requests;
- e. Respond to data requests; and
- f. Review annual Pretrial Services Audit;

5. Provide full access to the City of all data related to the pretrial services program, including data from the court case management system and pretrial services case management system.

B. Supervision. Contingent upon assignment by the Judge or Commissioner of individuals who meet program eligibility requirements as defined in Exhibit A, the Pretrial Services Director will ensure that the Staff:

- i. Maintain appropriate policies and procedures to enable the effective supervision of defendants who are released prior to trial under conditions set by the court;
- ii. Administer an evidence-based pretrial needs assessment subsequent to a defendant being assigned to pretrial supervision;
- iii. Monitor the compliance or noncompliance that may warrant modification of release conditions and/or arrest of a person released pending trial;
- iv. Recommend modifications of release conditions, consistent with court policy, when appropriate;
- v. Maintain a record of the defendant's compliance or noncompliance with conditions of release;
- vi. Assist defendants released prior to trial who are screened to be in need of services in seeking employment and in obtaining any necessary medical services, drug or mental health treatment, legal services, or other social services that would increase the chances of successful compliance with conditions of pretrial release, depending upon the availability of services; and
- vii. Notify released defendants of their court dates, and when necessary assist them in attending court.

C. Pretrial Services Policy Implementation. The Criminal District Court agrees to:

Fully comply with all rules set forth by Criminal District Court the Criminal District Court's Pretrial Policy and Procedure Manual (Exhibit A).

- 5. **Additional Services.** The CDC PTS Staff also ensures that the pretrial assessment process may also include, as resources permit and as appropriate for the individual, initial screening for specialty courts and/or assessment and referral to treatment or other services.
- 6. **Notification Services.** As its resources permit, the CDC PTS Staff will provide notification of the arraignment date by telephone to those assessed defendants released on

their own recognizance (ROR), on a personal surety bond (PSBU), or bonds at or under Two Thousand Five Hundred and 00/100 Dollars (\$2,500).

7. **Program Reports to the City.** Contingent on the receipt of the necessary agency data, the Criminal District Court will compile and provide to the City statistics on pretrial services operations and aggregate outcome measures. The CDC PTS Staff will also produce upon request a 'snapshot' report listing those pretrial inmates assessed by the CDC PTS Staff. This report will include a chart with each defendant's name, age, date of entry and, if applicable, release, length of stay, bond amount, risk assessment score, charge, and whether the individual has a probation violation(s). The CDC PTS Staff will provide snapshot reports to the City.
8. **Compliance with laws.** The Criminal District Court agrees to conform to applicable statutes, regulations, and standards regarding the security, confidentiality, and accuracy of its records.
9. **Fiscal reports.** The Criminal District Court will provide all required fiscal reports, requests for reimbursement, invoices, and supporting financial documentation as requested by the City.

ARTICLE II - THE CITY'S OBLIGATIONS

A. Administration. The City will:

1. Administer this Agreement through the Office of Criminal Justice Coordination (OCJC);
2. Provide funding to Criminal District Court for the operation of a pretrial services program subject to, and contingent upon, the allocation of funds by the New Orleans City Council;
3. Participate in establishing pretrial services program standards consistent with the American Bar Association and National Association of Pretrial Services Agency standards.
4. Assist the Criminal District Court in ensuring that sufficient and appropriate space and support is provided.
5. Provide and will assist the Criminal District Court in obtaining, as appropriate, access to Agency Data for outcome, performance, and other related potential research activities;
6. Provide the Criminal District Court with documents deemed necessary for the Criminal District Court's performance of any work required under this Agreement;
7. Provide access to Department personnel to discuss the required services during normal working hours, as requested by the Criminal District Court; and
8. Work with the Criminal District Court and other relevant stakeholders to promote adherence to national best practices for the operation of pretrial services.

ARTICLE III – FUNDING

A. Maximum Amount. The maximum amount payable by the City under this Agreement is \$825,893.

B. Grant funding. Grant funds totaling \$15,893 of the maximum funding amount will be invoiced according to Article III. D. of this agreement.

C. The City will pay the Criminal District Court through reimbursement for services based on the submission of invoices with supporting documentation within 14 days, not including weekends and holidays, of each of the following six months of 2022: February, April, June, August, October, and December. Payment of approved invoices shall be made within 14 days, not including weekends and holidays of receipt.

D. Invoices.

1. The Criminal District Court will submit monthly invoices for work performed under this agreement no later than 14 calendar days following the end of the period covered by the invoice. Untimely invoices may result in delayed payment for which the City is not liable. At a minimum, each invoice must include a detailed statement for the reporting period, including
 - i. The number of hours each relevant staff member worked;
 - ii. An itemized report indicating the number of hours and the rate of compensation for all personnel listed on invoices;
 - iii. Job descriptions and duties for personnel listed for compensation on invoices;
 - iv. Supporting documentation for all non-personnel expenses; and
 - v. Under the invoice category "Other than Personnel Costs," identification of any consultancy services being billed, the consultant's duties, and the compensatory rate.
2. All invoices must be signed by an authorized representative of the Criminal District Court under penalty of perjury attesting to the validity and accuracy of the invoice.
3. The City may require changes to the form of the invoice and may require additional supporting documentation to the submitted with invoices.
4. If there is a discrepancy with any listed itemizations on any invoices submitted by the Criminal District Court to the City, the City shall note the discrepancy to the Criminal District Court within 5 business days.

E. If sufficient City funds are not made available for New Orleans Pretrial Services' Operations through the end of 2022, the Criminal District Court's obligations, under this agreement will terminate when City funds are exhausted.

ARTICLE IV - DURATION AND TERMINATION

A. **Term.** The term of this agreement shall be for 1 year from the Effective Date through December 31, 2022.

B. **Termination for Convenience.** The City, or Criminal District Court, may terminate this Agreement at any time during the term of the Agreement by giving the Criminal District Court written notice of the termination at least 30 calendar days before the intended date of termination.

C. **Termination for Cause.** The City, or Criminal District Court, may terminate this Agreement immediately for cause by sending written notice to the Contractor. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this

Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with the requirements of the City's Disadvantaged Business Enterprise program and any failure to comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective 30 days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

D. Termination for Non-Appropriation. This Agreement will terminate immediately in the event of non-appropriation of funds sufficient to maintain this Agreement without the requirement of notice and the City will not be liable for any amounts beyond the funds appropriated and encumbered for this Agreement.

ARTICLE V - INDEMNITY

A. In General. To the fullest extent permitted by law, each party, including the City and the Criminal District Court, will indemnify, defend, and hold harmless the other party, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "**Indemnified Parties**") from and against any and all claims, demands, suits, and judgments of sums of money accruing against the Indemnified Parties: for loss of life or injury or damage to persons or property arising from or relating to any act or omission or the operation of each party, its agents or employees while engaged in or in connection with the discharge or performance of any Services under this Agreement; and for any and all claims and/or liens for labor, services, or materials furnished to each party in connection with the performance of work under this Agreement.

B. Limitation. The City's nor the Criminal District Court's indemnity, does not extend to any loss arising from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that neither party nor any of its agents or employees contributed to such gross negligence or willful misconduct.

C. Independent Duty. Each party has an immediate and independent obligation to: (a) defend each party from or (b) reimburse each party for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (1) the allegations are or may be groundless, false, or fraudulent; or (2) each party is ultimately absolved from liability.

D. Expenses. Notwithstanding any provision to the contrary, the Contractor shall bear the expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred by the City in enforcing this indemnity.

ARTICLE VI – INSURANCE

E. Independent Duty. The Contractor has an immediate and independent obligation to, at the City's option: (a) defend the City from or (b) reimburse the City for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (1) the allegations are or may be groundless, false, or fraudulent; or (2) the Contractor is ultimately absolved from liability.

F. Expenses. Notwithstanding any provision to the contrary, the Contractor shall bear the expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred by the City in enforcing this indemnity.

G. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor will maintain the following insurance in full force and effect for the duration of the work under this Agreement. Evidence of coverage shall be provided prior to the start of any activities/work, in conjunction with the Contractor's scope of work under the Agreement.

H. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City:

I. Minimum Requirements:

1. Workers' Compensation & Employers Liability Insurance in compliance with the applicable Workers' Compensation Act(s). Statutory and Employers Liability Insurance with limits of not less than \$1,000,000.
2. Commercial General Liability Insurance including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, abuse and molestation and any other type of liability for which this Agreement applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate.
3. Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.
4. Cyber Liability Insurance to the Contractors profession, with limits of liability of not less than \$1,000,000 per occurrence or claim / \$2,000,000 policy aggregate. Policy shall be sufficiently broad to include but not limited to coverage for losses arising from the breach of information security or cyber liability including Errors & Omission, Security and Privacy Liability, Media Liability, involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security.
5. Professional (Errors & Omission) Liability Insurance appropriate to the Contractors profession with limits of liability of not less than \$1,000,000 per occurrence or claim / \$2,000,000 policy aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement.

J. The policy shall be amended to include independent contractors and volunteers providing professional services on behalf of or at the direction of the Contractor. Policy shall be kept in force and uninterrupted for a period of three (3) years beyond policy expiration. If coverage is discontinued for any reason during this three (3) year term, Contractor must procure and evidence full extended reporting period (ERP) coverage.

- K. Important:** The obligations for the Contractor to procure and maintain insurance shall not be constructed to waive or restrict other obligations. It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve the Contractor from any liability incurred as a result of their activities/operations in conjunction with the Contractor's obligations and/or Scope of Work.
- L. Additional Insured Status:** The Contractor and all Subcontractors (where applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers as to be covered as "Additional Insureds" on the CGL policy with respect to liability arising out of the performance of this agreement. General liability insurance coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).
- M.** Contractor shall require and verify that all Subcontractors maintain insurance and coverage limits meeting all the requirements stated herein. The Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans as Certificate Holder and be delivered via U.S. Mail to 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.
- N.** The Additional Insured box shall be marked "Y" or Commercial General Liability coverage. The Subrogation Waiver Box must be marked "Y" for Workers Compensation/Employers Liability and Property.
- O. Primary Coverage:** For any claims related to this agreement, the Contractor's insurance coverage shall be primary insurance as respects the City, its departments, political subdivisions, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributing to the Contractor's coverage.
- P. Claims Made Policies:** If applicable, the retroactive date must be shown and must be before the date of the agreement or the beginning of work. If the coverage is canceled or non-renewed, and not replaced with another claims-made policy, Contractor must purchase "extended reporting" coverage for minimum of 3 years after the termination of this agreement.
- Q. Waiver of Subrogation:** The Contractor and its insurers agree to waive any right of subrogation which any insurer may acquire against the City by virtue of the payment of any loss under insurance required by this agreement.
- R. Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, expire or altered except without prior notice to the City of no less than 30 days.
- S. Acceptability of Insurers:** Insurance is to be placed with insurers licensed and authorized to do business in the State of Louisiana with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.
- T. Notice:** The Contractor will provide The City of New Orleans (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.: CEA) the following documents, within 10 calendar days of the City's request:

- U. Copies of all policies of insurance, including all policies, forms, and endorsements:
- V. Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement.
- W. Special Risks or Circumstances: The City of New Orleans shall reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer coverage, or other circumstances.

ARTICLE VII - PERFORMANCE MEASURES

A. Factors. The City will measure the performance of the Criminal District Court PTS Staff according to the following non-exhaustive factors: work performed in compliance with the terms of the Agreement; staff availability; staff training; staff professionalism; staff experience; customer service; communication and accessibility; prompt and effective correction of situations and conditions; timeliness and completeness of submission of requested documentation (such as records, receipts, invoices, insurance certificates, and computer-generated reports).

B. Failure to Perform. If the Criminal District Court fails to perform according to the Agreement, the City will notify the Criminal District Court. If there is a continued lack of performance after notification, the City may declare the Criminal District Court in default and may pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the City will invoice the defaulting contractor for any increase in costs and other damages sustained by the City. Further, the City will seek full recovery from the defaulting contractor.

ARTICLE VIII NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Agreement, the Criminal District Court (1) will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.

B. Non-Discrimination. In the performance of this Agreement, the Criminal District Court will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the Criminal District Court in any of Criminal District Court's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other

establishments or organizations operated by the Contractor. The Criminal District Court agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

C. Incorporation into Subcontracts. The Criminal District Court will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

D. Termination for Breach. The City, or Criminal District Court, may terminate this Agreement for cause if the either party fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

ARTICLE IX- NOTICE

A. In General. Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:

1. To the City:

Commissioner of the Office of Criminal Justice Coordination
City of New Orleans
1300 Perdido Street, Suite 8W03
New Orleans, LA 70112

&

City Attorney
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

2. To the Contractor:

Robert Kazik
Judicial Administrator
Criminal District Court
2700 Tulane Avenue, Suite 200
New Orleans, LA 70119

B. Effectiveness. Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery.

C. Notification of Change. Each party is responsible for notifying the other in writing that references this Agreement of any changes in its address(es) set forth above.

ARTICLE XII - INDEPENDENT CONTRACTOR

A. Independent Contractor Status. The Criminal District Court is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of its employees, subcontractors or agents to be an employee, partner, or agent of the City.

B. Exclusion of Worker's Compensation Coverage. The City will not be liable to the Criminal District Court, as an independent contractor as defined in La. R.S. 23:1021(6), for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana. Under the provisions of La. R.S. 23:1034, any person employed by the Criminal District Court will not be considered an employee of the City for the purpose of Worker's Compensation coverage.

C. Exclusion of Unemployment Compensation Coverage. The Criminal District Court, as an independent contractor, is being hired by the City under this Agreement for hire and defined in La. R.S. 23:1472(12)(E) and neither the Criminal District Court nor anyone employed by it will be considered an employee of the City for the purpose of unemployment compensation coverage, which coverage same being hereby expressly waived and excluded by the parties, because: (a) the Criminal District Court has been and will be free from any control or direction by the City over the performance of the services covered by this contract; (b) the services to be performed by the Criminal District Court are outside the normal course and scope of the City's usual business; and (c) the Criminal District Court has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

D. Waiver of Benefits. The Criminal District Court, as an independent contractor, will not receive from the City any sick and annual leave benefits, medical insurance, life insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any services rendered to the City under this Agreement.

ARTICLE X- FORCE MAJEURE

A. Event. An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by City); riots; terrorism; acts of public enemy; war; sabotage; cyber-attacks, threats, or incidents; epidemics or pandemics; court or governmental order; or any other cause whatsoever beyond the reasonable control of City, provided such event was not caused by the negligence or misconduct of City, by the failure of City to comply with applicable laws, or by the breach of this Agreement.

B. Notice. To seek the benefit of this Article, the City must provide notice in writing to the Contractor stating: (1) an event triggering this Article has occurred; (2) the anticipated effect of the Force Majeure event on performance; and (3) the expected duration of the delay, if the Agreement is being suspended

C. Effect.

1. Upon the occurrence of a Force Majeure event, for which the City has provided required notice, the City may, at its sole discretion:
 - a. Suspend this Agreement for a duration to be set by the City, not to exceed 90 days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Contractor must take all commercially reasonable actions to mitigate

against the effects of the Force Majeure event and to ensure the prompt resumption of performance as soon as circumstances allow.

- b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to Contractor and without any further compensation due.
2. Notwithstanding Section C(1) above, the obligations relating to making payments when due (for services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

ARTICLE XI- ADDITIONAL PROVISIONS

A. Amendment. No amendment of or modification to this Agreement shall be valid unless and until executed in writing by the duly authorized representatives of both parties to this Agreement.

B. Assignment. This Agreement and any part of the Criminal District Court's interest in it are not assignable or transferable without the City's prior written consent.

C. Choice of Law. This Agreement will be construed and enforced in accordance with the laws of the State of Louisiana without regard to its conflict of laws provisions.

D. Construction of Agreement. Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by the Parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the Parties. No term of this Agreement shall be construed or resolved in favor of or against the Parties on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.

E. Entire Agreement. This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

F. Cost Recovery. In accordance with Section 2-8.1 of the Municipal Code entitled "Cost recovery in contracts, cooperative endeavor agreements, and grants," to the maximum extent permitted by law, the Contractor shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Contractor fails to meet its contractual obligations.

G. Limitations of the City's Obligations. The City, nor Criminal District Court, has no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.

H. No Third Party Beneficiaries. This Agreement is entered into for the exclusive benefit of the parties and the parties expressly disclaim any intent to benefit anyone not a party to this Agreement.

I. Non-Waiver. The failure of either party to insist upon strict compliance with any provision of this Agreement, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such

noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

J. Ownership of Records. The parties agree that any rights related to the work performed by the Criminal District Court in connection with the Agreement, including all data collected, notes, tables, graphs, reports, documents, materials and content that the Criminal District Court has produced and uses and distributes (collectively, "Work product"), and all computer systems created, configured or used to produce the Work product shall be the sole and exclusive property of the Criminal District Court. The Criminal District Court agrees to give the City the right to use information provided to it under this Agreement for any purpose the City deems appropriate, at no additional cost to the Criminal District Court. The City may retain all Work Product it has received under this Agreement beyond the term of the Agreement.

K. Prohibition of Financial Interest in Agreement. No elected official or employee of the City shall have a financial interest, direct or indirect, in this Agreement. For purposes of this provision, a financial interest held by the spouse, child, or parent of any elected official or employee of the City shall be deemed to be a financial interest of such elected official or employee of the City. Any willful violation of this provision, with the expressed or implied knowledge of the Criminal District Court, shall render this Agreement voidable by the City and shall entitle the City to recover, in addition to any other rights and remedies available to the City, all monies paid by the City to the Criminal District Court pursuant to this Agreement without regard to the Criminal District Court's otherwise satisfactory performance of the Agreement.

L. Prohibition on Political Activity. None of the funds, materials, property, or services provided directly or indirectly under the terms of this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

M. Remedies Cumulative. No remedy set forth in the Agreement or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.

N. Severability. Should a court of competent jurisdiction find any provision of this Agreement to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Agreement remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part of the Agreement.

O. Survival of Certain Provisions. All representations and warranties and all responsibilities regarding record retention, access and ownership, cooperation with any Office of the Inspector General investigations, and payment for services rendered shall survive termination of this Agreement and continue in full force and effect.

ARTICLE XII- ELECTRONIC SIGNATURE AND DELIVERY

The Parties agree that a manually signed copy of this Agreement and any other document(s)

attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Agreement.

[The remainder of this page is intentionally left blank]

[SIGNATURES CONTAINED ON NEXT PAGE]

IN WITNESS WHEREOF, the City and the Criminal District Court, through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

BY: 

LATOYA CANTRELL, MAYOR

Executed on this 14 of March, 2022

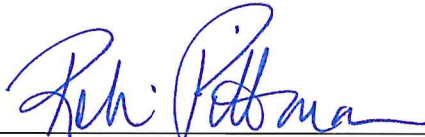
FORM AND LEGALITY APPROVED:

Law Department

BY: 

Printed Name: Tracy Tyle

THE ORLEANS PARISH CRIMINAL DISTRICT COURT

BY: 

ROBIN PITTMAN, CHIEF JUDGE

[EXHIBITS A, B, ATTACHED SEPARATELY]

Exhibit A: Criminal District Court Policies and Procedures

Exhibit B: Budget and Allowable Expenses