

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA AND  
THE COUNTY OF SANTA BARBARA REGARDING  
CLERK'S COUNTER SECURITY-UPGRADES PROJECT AT  
THE HISTORIC SANTA BARBARA COUNTY COURTHOUSE**

This MEMORANDUM OF UNDERSTANDING (“**MOU**”) is made and entered into as of \_\_\_\_\_, 2019 (“**Effective Date**”), by and between the Judicial Council of California (“**Judicial Council**”) and the County of Santa Barbara, a political subdivision of the State of California (“**County**”). In this MOU, the Judicial Council and County may be individually referred to as a “**Party**” and collectively referred to as the “**Parties.**”

**RECITALS TO AND PURPOSE OF MOU**

A. The County is record owner of that certain property, located at 1100 Anacapa Street, in the City of Santa Barbara, County of Santa Barbara, State of California, commonly known as the Historic Santa Barbara County Courthouse (“**Historic Courthouse**”).

B. The Historic Courthouse includes an approximately 64,704 exclusive use square foot court facility (“**Court Facility**”) used by the Superior Court of California, County of Santa Barbara (“**Court**”).

C. The Trial Court Facilities Act of 2002 (SB 1732) (Escutia), codified at Government Code section 70301 et seq., as may be hereafter amended (the “**Act**”), was adopted to provide for the transfer of responsibility for funding and operation of trial court facilities from the counties to the Judicial Council.

D. The Judicial Council, County, and Court entered into that certain Memorandum of Understanding for the Continued Use of the Historic Santa Barbara County Courthouse in Satisfaction of Government Code Section 70329, dated December 11, 2018 (“**Historic MOU**”), governing the Court’s use of the Court Facility in the Historic Courthouse. A copy of the Historic MOU is attached hereto as **Exhibit “A”** to this MOU and incorporated herein.

E. Pursuant to Government Code section 70329 (all further statutory references in this MOU are to the Government Code unless otherwise specified) and subsection d of section 3 of the Historic MOU, the Judicial Council may, following notice to and consultation with the County, make such alterations or improvements including, but not limited to, deferred maintenance to the Court Facility as they deem necessary and advisable for the conduct of Court operations at that location.

F. The Judicial Council, in consultation with the Court, now desires to make certain necessary and advisable improvements and alterations to the Court Facility consisting of, without limitation, security upgrades to the Civil Clerk's counter including, but not limited to, the installation of security glazing (the "**Security-Upgrades Project**").

G. The Judicial Council and County now desire to enter into this MOU to set forth the Parties' respective responsibilities in the performance and completion of the Security-Upgrades Project, and other commitments of the Parties associated therewith, as further set forth herein.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto mutually agree as follows:

### **AGREEMENT**

**1. Incorporation of Recitals.** The Parties agree the foregoing Recitals are true and correct, and are hereby incorporated into this MOU by this reference.

**2. Description of Work.** The Security-Upgrades Project shall consist of, without limitation: the removal and replacement of the Civil Clerk's public transaction counter in the Court Facility with a new secure public counter including, but not limited to, one station for ADA access; the installation of new cabinets with reused counter face material; the installation of anti-ballistic, level-II security glazing, framing, and components; and the installation of sound/speaker elements and wireless loop system for the hearing impaired, all as further set forth in **Exhibit "B"** attached hereto and incorporated herein.

**3. Performance of Work.**

3.1. The County, in cooperation and coordination with the Judicial Council and the Court, shall be responsible for the performance of the Security-Upgrades Project including, but not limited to, design, procurement, construction management, timing and scheduling of construction, and inspection.

3.2. The County shall cause the Security-Upgrades Project to be constructed in a good and workmanlike manner by qualified personnel or contractors, free from design, material, and workmanship defects in accordance with all applicable Federal, State, and local laws, regulations, ordinances, codes, and orders including, without limitation, the Americans with Disabilities Act, workers compensation insurance requirements, and applicable prevailing wage requirements set forth in Labor Code section 1720 et seq.

3.3. The County agrees to submit in advance its proposed schedule for completing the scope of work of the Security-Upgrades Project for review and approval by the Judicial Council and Court, which approval will not be unreasonably conditioned, delayed, or withheld so long as the work does not interfere with Court operations at the Court Facility, create an undue safety risk, or otherwise conflict with the terms and conditions of this MOU.

3.4. The Parties agree the performance of the Security-Upgrades Project shall comply with all Federal, State, and local laws, statutes, ordinances, rules or regulations, including the California Environmental Quality Act, which apply thereto.

**4. Payment of Costs; Court's Right to Continued Use of Court Facility.**

4.1. The Judicial Council hereby agrees to reimburse the County, within 60 days of receipt of an invoice with supporting documentation from the County, for all costs and expenses incurred including architectural and engineering design, demolition, remediation of any hazardous materials, construction, and construction management, in the performance of the Security-Upgrades Project. See Preliminary construction cost estimate and final estimate as part of **Exhibit "B,"** final schedule of values.

4.2. Pursuant to section 70329(b)(2) and the provisions of the Historic MOU, the Parties acknowledge and agree the County has the ability, with the consent of the Judicial Council, to provide the Judicial Council with alternative court facilities of at least comparable size, condition, and utility to that of the Court Facility for the Court's use. Notwithstanding the foregoing, in light of the benefits being conferred upon the Historic Courthouse by the Security-Upgrades Project, the County specifically acknowledges and agrees to provide the Court with continued use of the Court Facility in the Historic Courthouse for a minimum period equal to the duration of the useful life of the improvements of the Security-Upgrades Project. The useful life of the Security-Upgrades Project's improvements shall be determined in accordance with the Building Owners and Managers Association (BOMA) standards and shall be confirmed in writing by the Judicial Council and County.

4.3. In the event the County elects to provide the Judicial Council with alternative court facilities and ceases to provide the Court with continued use of the Court Facility in the Historic Courthouse as described in section 4.2 above, the County agrees to pay the Judicial Council an amount equal to the remaining unamortized cost (as determined by BOMA standards) of the improvements of the Security-Upgrades Project at the time the Court is no longer provided use of the Court Facility, if any, as reasonably determined by the Judicial Council. The County shall make such payment within sixty (60) days of receipt of an invoice from the Judicial Council therefor. County shall not be required to pay any remaining unamortized cost if the Judicial Council elects to vacate the Court Facility in accordance with Section 3(e) of the Historic MOU.

**5. Maintenance & Repairs.** The Parties hereby acknowledge and agree that, pursuant to the provisions of the Historic MOU and the Act, the County shall be responsible for the maintenance and repair of the Security-Upgrades Project including, but not limited to, the performance, cost, inspection, or upkeep of such maintenance and repairs as may be needed on a regular, on-going, or future basis.

**6. Mutual Indemnification.**

6.1. The Judicial Council agrees, to the fullest extent permitted by law, to indemnify, defend (with counsel satisfactory to the County), and hold harmless the County, and its respective officers, agents, contractors, representatives, volunteers, and employees, in both individual and official capacities (“**County Indemnitees**”), against all suits, claims, damages, losses, and expenses, including but not limited to attorneys’ fees, caused by, arising out of, resulting from, or incidental to the Security-Upgrades Project and the Judicial Council’s obligations under this MOU, except to the extent caused by the negligence or willful misconduct of the County Indemnitees.

6.2. The County agrees, to the fullest extent permitted by law, to indemnify, defend (with counsel satisfactory to the Judicial Council), and hold harmless the Judicial Council of California; the State of California; the Superior Court of California, County of Santa Barbara; and their respective officers, judicial officers, agents, contractors, representatives, volunteers, and employees, in both individual and official capacities (“**State Indemnitees**”), against all suits, claims, damages, losses, and expenses, including but not limited to attorneys’ fees, caused by, arising out of, resulting from, or incidental to the Security-Upgrades Project and the County’s obligations under this MOU, except to the extent caused by the negligence or willful misconduct of the State Indemnitees.

6.3. The Parties’ respective defense and indemnification obligations hereunder shall survive the expiration or any earlier termination of this MOU until all claims involving any of the indemnified matters against either the County Indemnitees or Judicial Council Indemnitees, respectively, are either concluded or fully, finally, and absolutely barred by the applicable statutes of limitations.

**7. Third-Party Contractor Insurance.** The County shall require any contractor engaged to work on the Security-Upgrades Project to: (i) obtain and maintain insurance of the type and with coverage amounts that are usual and customary to the type of business or exposures related to the work being performed; (ii) name all State Indemnitees as additional insureds by specific endorsement to their general liability policies; (iii) provide a waiver of subrogation in favor of all the Parties with respect to all property insurance policies; and (iv) provide to the Parties a 30-day notice of cancellation or material change in any insurance coverage required hereunder. Unless the Parties otherwise agree, all contractors engaged to work on the Security-Upgrades Project must indemnify, defend, and hold harmless State Indemnitees from and against all claims,

demands, liabilities, damages, attorneys' fees, costs, expenses, and losses arising from the performance by such contractors under their contracts, and neither of the Parties waive any right of recovery or subrogation against the other in respect of their contractual arrangements with the contractors.

**8. Term & Termination.** This MOU shall be effective as of the Effective Date. This MOU may only be terminated for cause upon a Party's default of the terms of this MOU. The Party alleging default shall timely inform the other Party of its alleged default, via written notice, and provide for thirty (30) days to cure or correct the default from receipt of said notice. If, following the thirty (30) days, the defaulting Party has not cured or corrected the default, or demonstrated reasonable progress towards the same, the Party alleging default may terminate this MOU. In the event of termination, all work on the Security-Upgrades Project shall cease.

**9. General Provisions.**

9.1. Entire MOU. This MOU contains the entire and complete agreement of the Parties with respect to the subject matter of this MOU, and supersedes any and all other previous or concurrent understandings, arrangements, or agreements, oral or written. No promises, representations, warranties, or inducements of any kind exist between any of the Parties to this MOU except as expressly set forth in this MOU.

9.2. Amendment. No addition to or modification of the terms of this MOU shall be valid unless made in a written amendment to this MOU, which is formally approved and signed by each of the Parties to this MOU.

9.3. Notice. Any notices required or permitted to be given under the terms of this MOU must be in writing and may be: (i) personally delivered; (ii) mailed by depositing such notice in the United States mail, first class postage prepaid; or (iii) sent by reputable overnight delivery service, addressed as follows or to such other place as each Party hereto may designate by subsequent written notice to the other Party:

If to the Judicial Council: Judicial Council of California  
Facilities Services  
Attention: Peggy Symons, Sr. Project Manager  
2860 Gateway Oaks Drive  
Sacramento, CA 95833  
Voice: 916-643-8009

In addition, all notices by the County relating to termination of this MOU or an alleged breach or default by the Judicial Council or Court of this MOU must also be sent to:

Judicial Council of California  
Branch Accounting & Procurement  
Attention: Manager, Contracts  
455 Golden Gate Avenue  
San Francisco, CA 94102  
Voice: 415-865-7989

If to the County: County of Santa Barbara  
Attention: Janette D. Pell  
105 E. Anapamu St., Room 108  
Santa Barbara, CA 93101  
Voice: 805-568-2625  
E-mail: [jpell@countyofsb.org](mailto:jpell@countyofsb.org)

9.4. Non-Assignability. Neither Party may assign this MOU to any third party without the prior, written consent of the other Parties.

9.5. Authority. The Judicial Council and County each certifies that it is duly authorized and empowered to execute, enter into, and perform its obligations set forth in this MOU, and each further certifies that the individual signing this MOU on its behalf has been duly authorized to execute this MOU on behalf of the Party and may legally bind the Party to the terms and conditions of this MOU.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, COUNTY and LESSEE have executed this Agreement to be effective on the date executed by COUNTY.

**JUDICIAL COUNCIL OF CALIFORNIA**

By: \_\_\_\_\_  
Name: Stephen Saddler  
Title: Manager, Contracts

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
Judicial Council of California,  
Legal Services

By: \_\_\_\_\_  
Name: Jeremy P. Ehrlich  
Title: Attorney

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
Michael C. Ghizzoni  
Santa Barbara County Counsel

By: \_\_\_\_\_  
Scott Greenwood, Deputy Counsel

Date: \_\_\_\_\_

**COUNTY OF SANTA BARBARA**

By: \_\_\_\_\_  
Name: Steve Lavagnino  
Title: Chair, Board of Supervisors

Date: \_\_\_\_\_

ATTEST:  
Mona Miyasato  
County Executive Office  
Clerk of the Board

By: \_\_\_\_\_  
Deputy Clerk

Date: \_\_\_\_\_

APPROVED AS TO ACCOUNTING FORM:  
Betsy Schaffer, CPA, CPFO  
Auditor-Controller

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

RECOMMENDED FOR APPROVAL  
Janette D. Pell  
Director of General Services

By: \_\_\_\_\_  
Department Head

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as of the date first above written.

**JUDICIAL COUNCIL OF CALIFORNIA**


**COUNTY OF SANTA BARBARA**

By:   
Name: Stephen Saddler  
Title: Manager, Contracts  
Date: 1/14/19

By: \_\_\_\_\_  
Name: Das Williams  
Title: Chair, Board of Supervisors  
Date: \_\_\_\_\_

APPROVED AS TO FORM:  
Judicial Council of California,  
Legal Services

ATTEST:  
Mona Miyasato  
County Executive Officer  
Clerk of the Board

By:   
Name: Jeremy P. Ehrlich  
Title: Attorney  
Date: Jan 14 2019

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:  
Michael C. Ghizzoni  
Santa Barbara County Counsel

By: \_\_\_\_\_  
Name: Scott Greenwood  
Title: Deputy County Counsel  
Date: \_\_\_\_\_

APPROVED AS TO ACCOUNTING  
FORM:  
Theodore A. Fallati, CPA  
Auditor-Controller

By: \_\_\_\_\_  
Deputy

RECOMMENDED FOR APPROVAL  
Janette D. Pell  
Director of General Services

By: \_\_\_\_\_  
Department Head