

**APPENDIX A – CONTRACT BETWEEN IDAHO SUPREME COURT AND _____
FOR SERVICES AWARDED UNDER RFP 2023-02 NETWORK ARCHITECTURE DESIGN, IMPLEMENTATION,
AND MANAGED SERVICES**

RFP 2023-02 Network Architecture Design, Implementation, and Managed Services

**This Agreement is made and entered by and between the Idaho Supreme Court (“ISC”) and
_____ (“Contractor”).**

I. Background

1. On _____, 2023, the ISC published RFP 2023-02 Network Architecture Design, Implementation, and Managed Services (“RFP”), seeking proposals from qualified vendors to provide: (a) design and implementation of a wide area network (WAN) and local area network (LAN) at state courts locations throughout Idaho; and (b) managed maintenance and support services for the WAN and LAN they design and implement.
2. On _____, 2023, Contractor submitted its Proposal in response to the RFP, representing that it has the expertise, personnel, and resources necessary to provide the ISC with Services in compliance with the requirements and specifications of the RFP.
3. The RFP gave ISC the discretion to award the Contract either for: (a) only the design and implementation of the WAN and LAN, as described in Sections 9.2–9.3 of the RFP; or (b) for the design, implementation, and managed maintenance and support of the WAN and LAN, as described in Sections 9.2–9.4 of the RFP.
4. On _____, 2023, in reliance on Contractor’s Proposal, and the representations submitted therein, the ISC awarded Contractor the Contract for [only the design and implementation of the WAN and LAN, as described in Sections 9.2–9.3 of the RFP] OR [for the design, implementation, and managed maintenance and support of the WAN and LAN, as described in Sections 9.2–9.4 of the RFP].¹ These are referred to herein as “Services.”
5. As a result of ISC awarding Contractor the Contract, the parties now enter this Contract wherein Contractor agrees to provide ISC the Services requested in the RFP and as represented in its Proposal.

II. Terms and Conditions

6. **DEFINITIONS.** Unless the context clearly requires otherwise, the definitions set forth in the RFP shall apply to terms used in this Contract.

¹ ISC will fill in the applicable language at time of Contract award, depending on whether in its discretion it awards only the design and implementation of the WAN and LAN, or it awards the design, implementation, and managed maintenance and support of the WAN and LAN.

7. ARPA COMPLIANCE. The ISC is paying for the Services set forth in this Contract using funds awarded to the State of Idaho from the State and Local Fiscal Recovery Fund (“SLFRF funds”) under the American Rescue Plan Act. The use of SLFRF funds must comply with U.S. Department of the Treasury Coronavirus State Fiscal Recovery Fund Award Terms and Conditions, signed by the State of Idaho on May 10, 2021; specified provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200; and other requirements as specified by the U.S. Department of the Treasury. To help ensure ARPA compliance, ARPA required contract terms and conditions are included as Exhibit C to this Contract.

8. SERVICES. Contractor shall provide Services that conform in all respects with the requirements of: (1) the RFP (attached as Exhibit A); (2) Contractor’s Proposal (attached as Exhibit B); and (3) ARPA Compliance Provisions (attached as Exhibit C). In the event of non-conformity, and without limitation upon any other remedy, ISC shall have no financial obligation in regard to the non-conforming Services.

9. COMPENSATION. Contractor’s sole compensation for providing the Services described in Section 8 shall be as set forth in “Attachment 5 – Cost Proposal” of Contractor’s Proposal (attached as Exhibit B), unless otherwise agreed to by the parties in a mutually executed written agreement. All costs and fees not expressly made the responsibility of the ISC in “Attachment 5 – Cost Proposal” of Contractor’s Proposal (attached as Exhibit B) shall be the sole responsibility of Contractor.

10. TERM. The Initial Term of this Contract is one (1) year from its Effective Date. The Effective Date of this Contract is the day on which it has been signed by both parties. This Contract automatically renews for an additional one (1) year term unless either party gives the other written (including email) notice of non-renewal at least 60 days prior to the expiration of the then current term. This Contract may be renewed in this manner for up to four (4) annual renewals. This Contract may thereafter be extended or renewed only upon mutual written agreement executed by both parties.

11. REMEDIES. If at any time Contractor is in breach of this Contract and/or the Services fail to meet contractual standards, ISC may, in its sole discretion, require any of the following remedial actions, considering the nature of the breach or deficiency:
 - a. Require Contractor to develop a corrective action plan and take correction action to bring the Services into compliance with contractual standards, subject to ISC approval and oversight.
 - b. Accelerate monitoring of Contractor performance by ISC or its designees.
 - c. Require additional or ad hoc reporting by Contractor, at no cost to ISC.
 - d. Withhold payment to Contractor, in whole or in part, to the extent Contractor fails to perform its obligations set forth in the Contract.
 - e. Terminate the Contract for cause and without penalty to ISC, pursuant to Section 12.

12. TERMINATION FOR CAUSE. ISC may terminate the Contract without penalty when the Contractor has been provided written notice of default or non-compliance and has failed to cure the default or non-compliance within a reasonable time, not to exceed thirty (30) calendar days. If the Contract is terminated for default or non-compliance, the Contractor will be responsible for any costs resulting from ISC's award of a new contract and any damages incurred by ISC. ISC, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due. If ISC terminates the Contract for default or non-compliance and such termination is subsequently determined by a court of competent jurisdiction to have been without cause, the termination shall be deemed a termination under Section 13, below.
13. TERMINATION FOR CONVENIENCE. Upon thirty (30) day written notice to Contractor, ISC may terminate the Contract for convenience in whole or in part, if ISC determines it is in its best interest. Such termination shall not be deemed a breach of the Contract.
14. EFFECT OF NOTICE OF TERMINATION. After Contractor receives notice of termination from ISC either for cause under Section 12 or for convenience under Section 13, upon the receipt of such notice, Contractor will immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under the Contract:
 - a. Cease providing Services on the date specified in the notice of termination.
 - b. Place no further subcontracts for materials or services needed in providing Services to ISC, except as necessary to complete any continuing portion of the Contract.
 - c. Terminate all subcontracts to the extent they relate to the work terminated.
 - d. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts.
 - e. Within thirty (30) days of the effective date of termination, ISC will pay all unpaid fees to Contractor provided the Contractor has provided ISC a final detailed invoice for Services rendered, and those unpaid fees are in accordance with the Services rendered.
15. RENEWAL OPTIONS. Notwithstanding any other provision in the Contract limiting or providing for renewal of the Contract, upon mutual, written agreement by the parties, the Contract may be extended under the same terms and conditions for the time interval equal to the original contract period, or for such shorter period of time as agreed to by the parties.
16. CHANGES/MODIFICATIONS. Changes of specifications or modification of the Contract in any particular manner can be affected only upon written consent of all parties. If a typographical or other ministerial or clerical error is discovered, ISC may correct such error after providing notice to the Contractor of its intent to make the clerical correction. A copy of the corrected Contract (or that portion of the Contract which contains correction(s)) will be provided electronically to the Contractor immediately after the correction(s) are made. ISC may issue unilateral amendments to the Contract to make administrative changes when necessary.

17. OFFICIAL, AGENT AND EMPLOYEES OF ISC NOT PERSONALLY LIABLE. In no event shall any official, officer, employee or agent of ISC be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with the Contract.
18. CONTRACT RELATIONSHIP: It is distinctly and particularly understood and agreed between the parties to the Contract that ISC is in no way associated or otherwise connected with the performance of any service under the Contract on the part of the Contractor or with the employment of labor or the incurring of expenses by the Contractor. The Contractor is an independent contractor in the performance of each and every part of the Contract, and solely and personally liable for all health insurance, unemployment insurance, worker's compensation, social security contributions, employment-related taxes, other employee benefits, required bonding, expenses, salary, service fees, or other compensation allegedly earned in connection with or due to providing services to ISC, except as specifically stated herein, and for any and all damages in connection with the operation of the Contract, whether it may be for personal or damages of any other kind. The Contractor shall indemnify, defend, and hold harmless ISC, its officials, officers, employees, and agents, against any and all actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney's fees and costs), arising out of, relating to, or alleging: (i) rights of Contractor's employees, putative employees, agents, or subcontractors to health insurance, unemployment insurance, worker's compensation, social security contributions, employment-related taxes, other employee benefits, required bonding, expenses, salary, service fees, or other compensation allegedly earned in connection with or due to providing services to ISC, or (ii) violations of duties or laws arising out of, relating to, or alleging an employment or contractual relationship between Contractor and its employees, putative employees, agents, or subcontractors.
19. ANTI-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY CLAUSE. The Contractor is bound to the terms and conditions of Section 601, Title VI, Civil Rights Act of 1964, in that "No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." In addition, "No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (Section 504 of the Rehabilitation Act of 1973). Furthermore, for Contracts involving federal funds, the applicable provisions and requirements of Executive Order 11246 as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 701 of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), 29 USC Sections 621, et seq., the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, U.S. Department of Interior regulations at 43 CFR Part 17, and the Americans with Disabilities Act of 1990, are also incorporated into the Contract. The Contractor shall comply with pertinent amendments to such laws made during the term of the Contract and with all federal and state rules and regulations implementing such laws. The Contractor must include this provision in every subcontract relating to the Contract.

20. TAXES. ISC is generally exempt from payment of state sales and use taxes and from personal property tax for property purchased for its use. If the Contractor is required to pay any taxes incurred as a result of doing business with ISC, the Contractor shall be solely responsible for the payment of those taxes. In no event shall ISC be responsible for personal property taxes affecting items subject to the Contract at the time it becomes effective.
21. INDEMNIFICATION.
- A. Contractor shall defend, indemnify and hold harmless ISC, its officials, officers, employees, and agents, against any and all actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney fees and costs), arising out of, relating to, or alleging an injury or loss caused by the act or omission of the Contractor, its employees, agents, or subcontractors. Contractor shall have no indemnification liability for actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney fees and costs) arising solely out of the negligence or misconduct of ISC.
- B. This Subsection 21(B) shall apply to all of Contractor's defense, indemnity, and hold harmless obligations set forth in this Contract (including but not limited to 18, 21(A), 32, and 38(B)) or otherwise provided by law. Contractor will pay all damages, costs, and expenses (including reasonable attorney fees and costs) finally awarded or agreed upon settlement. Contractor's defense and payments are conditioned on the following: (i) that Contractor shall be notified promptly in writing by ISC of any notice of such claim; (ii) that Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, except ISC has the right, not to be exercised unreasonably, to reject any settlement or compromise that requires that it, its officials, officers, employees or agents admit wrongdoing or liability or subject themselves to any ongoing affirmative obligation; and (iii) that ISC shall cooperate with Contractor in a reasonable way to facilitate settlement or defense of any claim or suit. Any legal defense provided by Contractor to ISC must be free of any conflicts of interest, even if retention of separate legal counsel for ISC is necessary.
22. CONTRACTOR RESPONSIBILITY. The Contractor is responsible for furnishing and delivery of all property and equipment necessary to provide the Services, whether or not the Contractor is the manufacturer or producer of such property or equipment. Further, the Contractor will be the sole point of contact on contractual matters, including all warranty issues and payment of charges resulting from the use or purchase of property and equipment.
23. SUBCONTRACTING. Unless otherwise allowed by ISC in the Contract, the Contractor shall not, without written approval from ISC, enter into any subcontract relating to the performance of the Contract or any part thereof. Approval by ISC of Contractor's request to subcontract or acceptance of or payment for subcontracted work by ISC shall not in any way relieve the Contractor of any responsibility under the Contract. The Contractor shall be and remain liable for all damages to ISC caused by negligent performance or non-performance of work under the Contract by Contractor's subcontractor. Subcontractor(s) must maintain the same types and levels of insurance as that required of the Contractor under the Contract; unless the Contractor

provides proof to ISC's satisfaction that the subcontractor(s) are fully covered under the Contractor's insurance, or, except as otherwise authorized by ISC.

24. HARDWARE STATUS. All hardware provided by Offeror, which may include routers, switches, vertical cabling, and other equipment, will be purchased by ISC from the Offeror and owned by ISC. Offeror will need to provide to ISC a detailed list of all hardware purchased. It is understood and agreed that any hardware offered or shipped shall be new and in first class condition and that all containers shall be new and suitable for storage or shipment, unless otherwise indicated by ISC in the RFP. Demonstrators, previously rented, refurbished, or reconditioned items are not considered "new" except as specifically provided in this section. "New" means hardware that has not been used previously and that are being actively marketed by the manufacturer or Contractor. The hardware may contain minimal amounts of recycled or recovered parts that have been reprocessed to meet the manufacturer's new product standards. The hardware must have ISC as their first user and the hardware must not have been previously sold, installed, demonstrated, or used in any manner (such as rentals, demonstrators, trial units, etc.). The new hardware offered must be provided with a full, unadulterated, and undiminished new hardware warranty against defects in workmanship and materials. The warranty is to include replacement, repair, and any labor for the duration of the Contract. If new hardware initially installed breaks or otherwise becomes inoperable, replacement hardware must be of the same quality, provide the same functionality, and be fully supported by Contractor. Contractor has all the same obligations to cover all costs, including labor, for replacement or repair of replacement property or equipment that it has for the new hardware initially installed.
25. SHIPPING AND DELIVERY. Unless otherwise required in the Contract, Contractor shall be entirely responsible for all deliveries of all hardware, which may include routers, switches, vertical cabling, and other equipment, necessary for Contractor to provide ISC with Services that meets the requirements of this RFP. Contractor shall either: (a) personally deliver all hardware; or (b) be on location to receive delivered hardware. If Contractor is unable to do so, Contractor may request ISC or the location owner(s) to receive delivery. ISC or the location owner(s) may refuse to do so in their sole discretion. All hardware shipped directly to location will be shipped on an F.O.B. Destination freight prepaid and allowed basis with all transportation, unloading, uncrating, drayage, or other associated delivery and handling charges paid by the Contractor. The Contractor shall deliver all Orders and complete installation, if required, within the time specified in the Contract. Time for delivery commences at the time the Order is received by the Contractor.
26. ACCEPTANCE.
- a. Design. ISC will have thirty (30) calendar days from Contractor's delivery of final design to ISC to accept or reject the design in writing. If ISC rejects the design, ISC will explain in writing why the design does not meet the requirements of the Contract, and Contractor will revise the design so that it meets the requirements of the Contract and resubmit the design to ISC for acceptance within fifteen (15) calendar days. Such resubmission shall restart the design acceptance process under this Section. If ISC does not expressly

accept or reject the design within thirty (30) calendar days of design delivery, ISC will be deemed to have accepted the design. If the design is accepted, Contractor will invoice ISC for any remaining payment for the design as described in Section 27.

- b. Implementation. ISC will test the implementation at a location within thirty (30) calendar days of completion of implementation at that location. If ISC rejects the implementation, ISC will explain in writing why the implementation does not meet the requirements of the Contract, and Contractor will bring the implementation into compliance with the requirements of the Contract within ten (10) calendar days. Such recompletion of implementation shall restart the implementation acceptance process under this Section. If ISC does not expressly accept or reject the implementation within thirty (30) calendar days of completion, ISC will be deemed to have accepted the implementation. If implementation is accepted, Contractor will invoice ISC for payment of implementation costs identified by location as described in Section 27. Contractor will provide ISC with a detailed listing by location of all hardware and related costs within thirty (30) calendar days after acceptance.

27. INVOICES.

Unless otherwise directed by ISC, Contractor will submit invoices to FinanceOffice@idcourts.net. A single monthly invoice providing detail of the fees charged by location will be provided for payment. The Court will endeavor to pay all undisputed amounts within forty-five (45) days after receipt of the invoice.

If Contractor fails to invoice ISC within thirty (30) calendar days of being permitted to do so under the terms of the Contract, ISC shall not be required to pay Contractor for the Services covered by the invoice even if those Services have already been provided.

28. BILLING DISPUTE RESOLUTION.

ISC may withhold payment of invoiced charges, without penalty, that it disputes and will notify Contractor of the withheld payment. Within thirty (30) calendar days of notification, the Contractor must provide written confirmation that ISC's dispute is valid or a written explanation describing why Contractor believes the disputed charges are legitimate. Where Contractor agrees to the legitimacy of ISC's dispute, Contractor must credit ISC within thirty (30) days. Contractor must not disrupt Services for non-payment of any outstanding disputed charges.

29. ASSIGNMENTS. Contractor shall not assign this Contract, or its rights, obligations, or any other interest arising from the Contract, or delegate any of its performance obligations, without the express written consent of ISC. Transfer without such approval shall cause the annulment of the Contract, at the option of ISC. All rights of action, however, for any breach of the Contract are reserved to ISC. Notwithstanding the foregoing, and to the extent required by applicable law (including Idaho Code Section 28-9-406), Contractor may assign its right to payment on an account provided that ISC shall have no obligation to make payment to an assignee until thirty days after Contractor (not the assignee) has provided ISC's Director of Finance & Operations

with (a) proof of the assignment, (b) the identity of the specific contract to which the assignment applies, and (c) the name of the assignee and the exact address to which assigned payments should be made. ISC may treat violation of this provision as an event of default.

30. COMPLIANCE WITH LAW, LICENSING AND CERTIFICATIONS. Contractor shall comply with ALL requirements of federal, state and local laws and regulations applicable to Contractor or to the Services provided by Contractor pursuant to the Contract. For the duration of the Contract, the Contractor shall maintain in effect and have in its possession all licenses and certifications required by federal, state and local laws and rules.
31. PATENTS AND COPYRIGHT INDEMNITY.
- A. Contractor shall indemnify, defend, and hold harmless ISC, its officials, officers, employees and agents, against any and all actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney's fees and costs), arising out of arising out of, relating to, or alleging infringement or misappropriation of a third party's patent, copyright, trade secret, trademark, or other intellectual property right as a result of ISC's access to or use of property, equipment, or Services provided under the Contract.
- B. Contractor shall have no liability to ISC, its officials, officers, employees and agents under any provision of this clause with respect to any claim of infringement that is based upon: (i) the combination or utilization of the property, equipment, or Services provided by Contractor with machines or devices not provided by the Contractor other than in accordance with Contractor's previously established specifications unless such combination or utilization was disclosed in the specifications; (ii) the modification of the property, equipment, or Services unless such modification was disclosed in the specifications; or (iii) the use of the property, equipment, or Services not in accordance with Contractor's previously established specifications unless such use was disclosed in the specifications.
- C. Should the property, equipment, or Services become, or in Contractor's opinion be likely to become, the subject of a claim of infringement of a United States' patent, the Contractor shall, at its option and expense, either: (i) procure for ISC the right to continue using the property, equipment, or Services; (ii) replace or modify the property, equipment, or Services so that it becomes non-infringing, provided such replacement or modification is functionally equivalent. In lieu of Subsections 31(C)(i)–(ii), ISC may, in its sole discretion, terminate this Contract without penalty, in which case the Contractor shall grant ISC a full refund for the purchase price (if any) of the property, equipment, or Services and accept its return.
- D. ISC has no obligations to indemnify, defend, or hold harmless Contractor against any claim, suit, or proceeding which arises out of compliance with specifications furnished by ISC.
32. CONFIDENTIAL INFORMATION. While performing under this Contract, Contractor is to consider all information it receives from Client or transports via the network it designs and implements as confidential. Contractor is not to unencrypt, disclose, share, sell, rent, view, or otherwise access or use the information that will be transported via the network it designs and implements, except as otherwise expressly permitted by an authorized representative of ISC. Contractor

agrees to take all reasonable and appropriate action to prevent its employees or agents from doing the same. Notwithstanding the foregoing, Contractor may disclose such information to the extent required by law or court order. Contractor shall give ISC prompt notice of any such demand for disclosure and reasonably cooperate with ISC in any effort to seek a protective order or otherwise to contest, limit, or protect such required disclosure, at ISC's expense.

33. USE OF THE NAMES IDAHO JUDICIAL BRANCH, IDAHO SUPREME COURT, OR ADMINISTRATIVE OFFICE OF THE COURTS. Contractor shall not, prior to, in the course of, or after performance under the Contract, use the names of the Idaho Judicial Branch, Idaho Supreme Court, or Administrative Office of the Courts in any advertising or promotional media, including press releases, as a customer or client of Contractor without the prior written consent of ISC.
34. TERMINATION FOR FISCAL NECESSITY. ISC is a government entity and it is understood and agreed that some of ISC's payments under the Contract may be paid from Idaho State Legislative appropriations, funds granted by the federal government, or both. The Legislature is under no legal obligation to make appropriations to fulfill the Contract. Additionally, the federal government is not legally obligated to provide funds to fulfill the Contract. The Contract shall in no way or manner be construed so as to bind or obligate ISC beyond the term of any particular appropriation of funds by the Idaho State Legislature, or beyond any federal funds granted to ISC, as may exist from time to time. ISC reserves the right to terminate the Contract in whole or in part (or any order placed under it) if, in its sole judgment, the Legislature of the state of Idaho fails, neglects, or refuses to appropriate sufficient funds as may be required for ISC to continue such payments, or requires any return or "give-back" of funds required for ISC to continue payments, or if the state of Idaho mandates any cuts or holdbacks in spending, or if funds are not budgeted or otherwise available (e.g. through repeal of enabling legislation), or if the state of Idaho or ISC discontinues or makes a material alteration of the program under which funds were provided, or if federal grant funds are discontinued. ISC shall not be required to transfer funds between accounts in the event that funds are reduced or unavailable. All affected future rights and liabilities of the parties shall thereupon cease within ten (10) calendar days after notice to the Contractor. Further, in the event that funds are no longer available to support the Contract, as described herein, ISC shall not be liable for any penalty, expense, or liability, or for general, special, incidental, consequential or other damages resulting therefrom.
35. NO PUBLIC FUNDS FOR ABORTION ACT. Contractor hereby certifies pursuant to Title 18, Chapter 87, Idaho Code (the "Act"), that neither the Contractor nor any of its subsidiaries is an "abortion provider" or "affiliate" of an abortion provider, as defined and set forth in the Act. ISC shall have the right to terminate this Contract without penalty and to seek legal relief if the Contractor fails to identify itself as, or subsequently becomes, an abortion provider or affiliate thereof.
36. CERTIFICATE OF COMPLIANCE WITH "ANTI-BOYCOTT OF ISRAEL ACT. Pursuant to Idaho Code section 67-2346, if this Contract has at least a total potential value of one hundred thousand dollars (\$100,000) and Contractor has ten (10) or more employees, Contractor certifies that it is

not currently engaged in, and will not for the duration of the Contract engage in, a boycott of goods or services from Israel or territories under its control. The terms in this section defined in Idaho Code section 67-2346 shall have the meaning defined therein." If Contractor engages in a boycott of goods or services from Israel or territories under its control, ISC shall have the right, in accordance with its obligations under Idaho law, to immediately terminate the Contract without penalty to ISC and seek legal relief.

37. PUBLIC RECORDS.

- A. Pursuant to Idaho Court Administrative Rule 32 ("ICAR 32"), information or documents received by ISC may be open to public inspection and copying unless the material is exempt from disclosure under the rule or applicable law. The person or entity submitting the material must clearly designate specific information within the document as "exempt," if claiming an exemption, and indicate the basis for such exemption. ISC will not accept the marking of an entire document as exempt; or a legend or statement on one page that all, or substantially all, of the document is exempt from disclosure. Please note that there is no general exemption for trade secrets under ICAR 32. Trade secrets are exempt only to the extent they fall under one of the exemptions expressly listed under ICAR 32.
- B. Contractor shall indemnify, defend, and hold harmless ISC, its officials, officers, employees, and agents, against any and all actions, claims, suits, proceedings, losses, liability, damages, costs, and expenses (including reasonable attorney fees and costs), arising out of or relating to ISC honoring such a designation or for the Contractor's failure to designate individual documents or portion of a document as exempt. The Contractor's failure to designate as exempt any document or portion of a document that is released by ISC shall constitute a complete waiver of any and all claims for damages caused by any such release. If ISC receives a request for materials claimed exempt by the Contractor, the Contractor shall provide the legal defense for such claim.

38. NOTICES. Any notice which may be or is required to be given pursuant to the provisions of the Contract shall be in writing and shall be hand delivered, sent by email, prepaid overnight courier or United States' mail as follows:

- A. For notice to ISC, the address and phone number are: Administrative Director of the Courts, Idaho Supreme Court, 451 W. State Street, Boise, ID 83720-0101, (208) 334-2246. Additionally, for notice to ISC, the email address to use is FinanceOffice@idcourts.net.
- B. For notice to the Contractor, the address or email address shall be that contained on the Contractor's Proposal.

Notice shall be deemed delivered immediately upon personal service, email (with printout confirming sent), the day after deposit for overnight courier, or forty-eight (48) hours after deposit in the United States' mail. Either party may change its address or email address by giving written notice of the change to the other party.

39. NON-WAIVER. The failure of any party, at any time, to enforce a provision of the Contract shall in no way constitute a waiver of that provision, nor in any way affect the validity of the Contract, any part hereof, or the right of such party thereafter to enforce each and every provision hereof.
40. ATTORNEY FEES. In the event suit is brought or an attorney is retained by any party to the Contract to enforce the terms of the Contract or to collect any moneys due hereunder, if ISC is the prevailing party, ISC shall be entitled to recover reimbursement for reasonable attorney fees, court costs, costs of investigation and other related expenses incurred in connection therewith in addition to any other available remedies.
41. RESTRICTIONS AND WARRANTIES ON ILLEGAL ALIENS. Contractor warrants that it does not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; it takes steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and shall be cause for the imposition of monetary penalties up to five percent (5%) of the contract price, per violation, and/or termination of this Contract without penalty to the ISC.
42. FORCE MAJEURE. Neither party shall be liable or deemed to be in default for any Force Majeure delay in shipment or performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of either party, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, or unusually severe weather, provided that in all cases the Contractor shall notify ISC promptly in writing of any cause for delay and ISC concurs that the delay was beyond the control and without the fault or negligence of the Contractor. The period for the performance shall be extended for a period equivalent to the period of the Force Majeure delay.
43. PRIORITY OF DOCUMENTS. The Contract consists of, and precedence is established by the order of the following documents: 1. this Contract; 2. ARPA Compliance Provisions (attached as Exhibit C); 3. the RFP (attached as Exhibit A); 4. Contractor's Proposal as accepted by ISC (attached as Exhibit B); and any other document accepted by ISC attached as an exhibit hereto. Each of these documents is incorporated into the Contract by this reference. The parties intend to include all items necessary for the proper completion of the Contract's requirements. The documents set forth above are complementary and what is required by one shall be binding as if required by all. However, in the case of any conflict or inconsistency arising under the documents, a lower numbered document shall supersede a higher numbered document to the extent necessary to resolve any such conflict or inconsistency. Provided, however, that in the event an issue is addressed in one of the above-mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur. Where terms and conditions specified in the Contractor's Proposal differ from the terms in the RFP, the terms and conditions in the RFP shall apply. Where terms and conditions specified in the Contractor's Proposal supplement the terms and conditions in the RFP, the supplemental terms and conditions shall apply only if specifically accepted by ISC in writing.

44. ENTIRE AGREEMENT. The Contract is the entire agreement between the parties with respect to the subject matter hereof.
45. GOVERNING LAW AND SEVERABILITY. The Contract shall be construed in accordance with and governed by the laws of the state of Idaho. Any action to enforce the provisions of the Contract shall be brought in state district court in Ada County, Boise, Idaho. In the event any term of the Contract is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining terms of the Contract will remain in force.
46. INSURANCE. Contractor shall obtain and maintain, and ensure that each subcontractor obtains and maintains, insurance as specified herein at all times during the term of this Contract.
- A. Insurers must be licensed and admitted in the State of Idaho and have an AM Best rating of A-VIII or better.
- B. Workers' Compensation insurance as required by state statute, and Employer's Liability Insurance covering all of Contractor's employees acting within the course and scope of their employment.
- C. Commercial General Liability Insurance written on an ISO occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:
- i. \$1,000,000 each occurrence;
 - ii. \$1,000,000 general aggregate;
 - iii. \$1,000,000 products and completed operations aggregate; and
 - iv. \$50,000 any one fire.
- If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to ISC a certificate or other document satisfactory to ISC showing compliance with this provision.
- D. Automobile Liability Insurance covering any auto used in performance of this Contract (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit each accident for bodily injury and property damage.
- E. Professional Liability Insurance with an aggregate limit of at least \$2,000,000. For policies written on a claims-made basis, the policy shall include an endorsement, certificate or other evidence that coverage extends two years beyond the performance period of the Contract.
- F. Cyber/Network Security/Privacy Liability Insurance of at least \$2,000,000 per occurrence and \$2,000,000 aggregate. Such insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risk (such as data breaches, unauthorized access or use, identity theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs.

This shall also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.

- G. Excess/Umbrella Liability of at least \$5,000,000.
- H. ISC must be an additional insured on the Commercial General Liability, Automobile Liability, Excess/Umbrella Liability, and Cyber/Network Security/Privacy Liability policies.
- I. All policies shall include provisions preventing material changes to the policies, or suspension, cancellation, expiration, or non-renewal of the policies, without at least 30 days prior notice to Contractor. If Contractor receives such notice Contractor will notify ISC regarding receipt of such notice within two (2) business days of receipt.
- J. All policies must include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against ISC, State of Idaho, and Idaho's agencies, institutions, organizations, officers, agents, employees and volunteers.
- K. Coverage required by this Contract shall be primary over any insurance, self-insurance, or risk management program carried by the State of Idaho.
- L. ISC does not represent that coverage and limits will necessarily be adequate to protect Contractor or its subcontractors, and such coverage limits shall not be deemed as a limitation on liability. ISC in no way warrants that the above-required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.
- M. The policies must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract is a material breach of the Contract.
- N. Certificates for each policy must be received by ISC before work commences. Failure of ISC to demand a certificate or identify a deficiency on a certificate shall not be construed as a waiver of Contractor's obligation to maintain the required insurance.
- O. ISC reserves the right to require, at any time throughout the life of this Contract, proof from Contractor that its subcontractors have the required coverage.
- P. Proof of all insurance shall be submitted to FinanceOffice@idcourts.net.
- 47. **SURVIVAL**. The following provisions survive termination of this Agreement: Section 18 ("Contract Relationship"); Section 21 ("Indemnification"), Section 31 ("Patents & Copyright Indemnity"); Section 32 ("Confidential Information"); Section 46 ("Insurance"); and any other provision or exhibit of this Contract that must survive to fulfill its essential purpose.

48. SIGNATURE AUTHORITY. By signing this Contract, the person(s) signing on behalf of the Contractor certifies that they are authorized to do so and acknowledge that the ISC is relying on said certification.

[CONTRACTOR NAME]

Dated: _____, 2023

By: _____
[Insert name and title]

IDAHO SUPREME COURT

Dated: _____, 2023

By: _____
Sara Omundson, Administrative Director



EXHIBIT A

RFP 2023-02 Network Architecture Design and Implementation Services



EXHIBIT B

Contractor's Proposal

EXHIBIT C

ARPA Compliance Provisions

The ISC is paying for the goods or services set forth in this Contract using funds awarded to the State of Idaho from the State and Local Fiscal Recovery Fund (“SLFRF funds”) under the American Rescue Plan Act. The use of SLFRF funds must comply with U.S. Department of the Treasury Coronavirus State Fiscal Recovery Fund Award Terms and Conditions, signed by the State of Idaho on May 10, 2021; specified provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200; and other requirements as specified by the U.S. Department of the Treasury.

Based on the foregoing, ISC and Contractor agree as follows:

1. Contractor agrees to ensure compliance of any subcontractors engaged in the work with the ARPA Compliance provisions applicable to this Contract, including setting forth the required provisions in any such subcontracts as applicable.
2. Contractor agrees to comply with all applicable local, state, and federal laws, rules, regulations, as well as all applicable federal executive orders.
3. Contractor shall ensure its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
4. Contractor acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Contractor understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Contractor shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Contractor’s programs, services, and activities.
5. Contractor agrees to consider the need for language services for LEP persons when Contractor develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information

on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

6. Contractor acknowledges and agrees that compliance with these assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Contractor and Contractor's successors, transferees, and assignees for the period in which such assistance is provided.
7. To the extent this Contract is subject to Title VI of the Civil Rights Act of 1964, the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 USC 2000d *et seq.*), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Contract. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 USC 2000d *et seq.*, as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Contract.
8. If this Contract meets the definition of a "federally assisted construction contract" under 41 CFR 60-1.3, during the performance of this Contract, the Contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - c. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the

compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- d. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- 9. If this Contract is in excess of \$150,000, Contractor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the

Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Contractor agrees to report any violations to ISC and the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

10. This Contract is a covered transaction for purposes of 2 CFR Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)) and 31 CFR Part 19. As such, a contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (“SAM”), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractor must comply with 2 CFR Part 180, Subpart C, and 31 CFR Part 19, Subpart C, and include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part 180 and 31 CFR Part 19.

11. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) — Contractors that apply or bid for an award exceeding \$100,000 must file the required certification (see “Certification Regarding Lobbying” at the end of this Exhibit). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

12. As appropriate and to the extent consistent with law, and to the greatest extent practicable under a Federal award, ISC expresses a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. (See 2 CFR 200.322).
For purposes of this section:
 - (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

 - (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

13. Funds expended under this Contract may not be used to procure, obtain, extend or renew a contract to procure or obtain, or enter a contract (or extend or renew a contract) to procure or obtain:
 - a. Equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - b. Video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - c. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - d. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. (*See* 2 CFR 200.216).
14. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, if this Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Where applicable, under 40 U.S.C. 3702 of the Act, Contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
15. Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms (*see* 2 CFR 200.321). Contractor agrees to take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:
 - a. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;

- b. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
 - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises; and
 - e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
16. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
17. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and establish workplace safety policies to decrease accidents caused by distracted drivers.

– Form is Required Only for Purchases Exceeding \$100,000 –

31 CFR Part 21, Appendix A to Part 21—Certification Regarding Lobbying

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Contractor understands and agrees that the provisions of 31 U.S.C. Ch. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Contractor Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____