



1. **Definitions.** For the purposes of this Order, the following terms shall have the following meanings:

1.1. “Voting Equipment” shall mean the following electronic voting equipment Fulton County leased from Dominion Voting Systems, Inc. (“Dominion”)<sup>2</sup>:

<b>DESCRIPTION</b>	<b>Quantity</b>
<b>Central Scanning Solution: Absentee / Central Count</b>	
<u>ImageCast Central Kit: Canon G1130</u> : Includes Canon Model DR-G1130, Computer with 23” Monitor, Keyboard & Mouse, One 8GB USB Flash Drive & One I-Button, patch cable	2
<b>In-Person Voting Solution: Polling Location Hardware</b>	
<u>ImageCast X BMD (21 inch) Kit</u> : Includes ICX Firmware, Tablet, 5 voter activation cards, printer, cables, power cord	15
Audio Tactile Interface (ATI) Accessible Unit	15
ICX Prime BMD Bag Kit	15
<b>Election Management Hardware</b>	
Democracy Suite EMS Express Server Configuration Kit	1
EMS Client Workstation Configuration Kit	1

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<sup>2</sup> As used in this Final Appointment Order, the term “Voting Equipment” does not include the “ImageCast X Voting Booths” or “University Power Supply (UPS) for ICX BMD” units that Dominion provided to Fulton County under the Voting System and Managed Services Agreement between Dominion and the County; and Pro V&V need not take possession of those items.

Adjudication Workstation Kit	1
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The term “Voting Equipment” shall include any USB thumb drives or other removable media provided to Fulton County by Dominion, as well as any software, firmware, and/or data residing on any component of hardware constituting Voting Equipment.

1.2. “Parties” shall refer collectively to all of the Petitioners/Appellees in the above- captioned lawsuit (collectively, “Petitioners”), the Secretary of the Commonwealth (“Secretary”), and Dominion (each a “Party”).

1.3. “Escrow Services” shall mean the acquisition, inventorying, transportation, and secure storage of the Voting Equipment by Pro V&V pursuant to this Order.

**2. Escrow Services.**

2.1. **Transfer of Possession.** Pro V&V shall take possession of the Voting Equipment from its present location in Fulton County at a date and time to be arranged between Pro V&V and the Parties (“Transfer Date”). The Transfer Date shall occur within 14 days after the Installation Date, as defined in Paragraph 2.3.1 below. Beginning upon entry of this Order and continuing until the Installation Date, Pro V&V shall reasonably inform

the Parties of the likely Installation Date, and shall immediately inform the Parties when the Installation Date in fact occurs. Pro V&V, the Parties, and Fulton County personnel shall cooperate in good faith to choose a Transfer Date in accordance with this Order. Once a Transfer Date is determined, the Secretary shall file, no less than 2 days prior to the Transfer Date, a status report indicating the Transfer Date. After taking possession of the Voting Equipment on the Transfer Date, Pro V&V shall directly and continuously transport the Voting Equipment to Pro V&V's facility at 6705 Odyssey Drive NW, Huntsville, AL, 35806 (the "Escrow Facility"), making stops only for purposes of obtaining fuel, food, and brief comfort breaks. In the course of the transportation, at least one Pro V&V employee shall remain with the truck transporting the Voting Equipment at all times.

2.1.1. The parties' counsel, experts, and Fulton County personnel are permitted to be present, observe, and document (including through photographic and videographic means) the pickup of the Voting Equipment in Fulton County by Pro V&V on the Transfer Date, provided that such personnel do not impede Pro V&V's activities pursuant to this Order. Petitioners shall fully cooperate with Pro V&V's

efforts to take possession of the Voting Equipment, including, without limitation, by maintaining adequate security for Pro V&V's personnel, ensuring that Pro V&V enjoys unencumbered, unobstructed, and unimpaired access to the Voting Equipment, and ensuring that no third parties disrupt the transfer of possession of the Voting Equipment in any manner, including by harassing or otherwise engaging with Pro V&V personnel.

2.1.2 During the time period before possession of the Voting Equipment is transferred from Fulton County to Pro V&V, Petitioners shall not allow any person or entity to access the Voting Equipment and shall securely store the Voting Equipment in the Voting Equipment's current location in Fulton County.

2.2. **Inventorying Process.** Upon being granted access to the Voting Equipment, Pro V&V shall inventory each of the items of Voting Equipment made available by Petitioners—including by noting and taking photographs of the serial number of each piece of equipment (“Serial Number Documentation”)—and determine whether there are any Voting Equipment components identified in Paragraph 1.1 of this Order that have not been made available (“Missing Equipment”). Pro V&V shall then

determine whether seals have been applied to all areas of the Voting Equipment designed to be sealed and whether any such seals are properly applied and intact. To the extent needed, Pro V&V shall apply or re-apply seals so that all locations designed to be sealed are properly sealed before the Voting Equipment is transported to Pro V&V's facility, and shall document the location and seal number of each seal ("Seal Information").

**2.2.1 Initial Inventory.** Pro V&V shall create a hard-copy and/or digital inventory of the Voting Equipment of which it has taken possession (the "Initial Inventory"), to include: (a) the Serial Number Documentation; (b) the Seal Information; and (c) identification of any Missing Equipment. Pro V&V shall provide a copy of the Initial Inventory to the parties and the Court (via email to [CCFCEscrow@pacourts.us](mailto:CCFCEscrow@pacourts.us) copying all counsel of record) before leaving Fulton County.

**2.2.2. Secondary Inventory.** When the Voting Equipment arrives at the Escrow Facility, Pro V&V shall again inspect the serial numbers and the seals on the Voting Equipment and record the Serial Number Documentation and Seal Information in a second hard-copy and/or digital inventory (the "Secondary Inventory"). To the extent any seals have broken during transportation, Pro V&V shall note this fact in the

Secondary Inventory, shall apply new seals to replace any broken ones, and shall note the new seal numbers in the Secondary Inventory. Pro V&V shall provide copies of the Secondary Inventory to the parties and the Court (via email to CCFCEscrow@pacourts.us copying all counsel of record) within one day of the Voting Equipment's arrival at the Escrow Facility.

**2.2.3. Accounting for Missing Equipment.** For any Missing Equipment identified in the Initial Inventory, Petitioners shall, within three (3) days of receipt of the Initial Inventory, provide the Parties and the Court (via email to CCFCEscrow@pacourts.us copying all counsel of record) a sworn affidavit from a Fulton County Commissioner or Fulton County's Director of Elections detailing all efforts made to locate such Missing Equipment; explaining, to the best of Fulton County's knowledge, information, and belief, when and how each component of Missing Equipment was destroyed, lost, or otherwise rendered inaccessible; and providing any available documentation regarding the destruction, loss, or inaccessibility of said component.

**2.3. The Escrow Room.** Before taking possession of the Voting Equipment, Pro V&V shall designate a laboratory at its facility in which the Voting

Equipment shall be stored (“Escrow Room”). The Escrow Room shall be temperature- and humidity-controlled, shall be dedicated during the period of the Escrow Services exclusively to storage of the Voting Equipment, and shall maintain conditions appropriate to preserving the integrity of the Voting Equipment and any data stored thereon.

2.3.1. **Monitoring.** Before taking possession of the Voting Equipment, Pro V&V shall install a surveillance or security camera in the Escrow Room (“Camera”). Once the Voting Equipment is moved to the Escrow Room, Pro V&V shall maintain the Camera in a functional state, including provision of the Remote Monitoring Services as defined below, and trained on the Voting Equipment and its immediate surroundings until otherwise ordered by the Court. As soon as practicable following entry of this Order, Pro V&V shall arrange for the video from the surveillance or security camera in the Escrow Room that is to be trained on the Voting Equipment and its immediate surroundings to be continuously transmitted to a remotely-viewable feed available to the parties and the Court; recorded and retained for the duration of the escrow arrangement; and associated with motion-detection technology that will send an automated notice to the parties and Court upon any access to the Escrow



Room (the “Remote Monitoring Services”). The date on which Pro V&V or its contractor shall have finally installed all equipment needed to provide the Remote Monitoring Services shall be the “Installation Date.”<sup>3</sup>

**2.3.2. Access Limitations.** Upon taking possession of the Voting Equipment, Pro V&V shall not permit **any access** to the Escrow Room except as follows:

**2.3.2.1. Singular Personnel Access.** Pro V&V shall restrict access to the Escrow Room to only Michael Walker and Wendy Owens, who shall retain sole possession of the key or other means of access to the Escrow Room. Mr. Walker and Mrs. Owens may securely exchange possession of the key or other means of access to the Escrow Room as their schedules and availability dictate, provided that only one of them will have possession of the key or other means of access to the Escrow Room at any given time, and provided that Pro V&V records, as part of the chain-of-custody record required in Paragraph 2.3.3 or otherwise, which person possesses the key or other means of access

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<sup>3</sup> As explained in the September 29, 2023 Affidavit of Michael Walker, Pro V&V estimates that the Installation Date could occur approximately three to five weeks from the entry of this Order.

at any particular time. In the event that Mr. Walker and Mrs. Owens both become unavailable or are anticipated to be unavailable during the same period of time, Pro V&V may file a motion with the Court proposing to substitute another Pro V&V employee to temporarily retain sole access, including the dates of the proposed substituted access, to the Escrow Room.

**2.3.2.2. Acts of God; Facilities Emergency.** Mr. Walker or Mrs.

Owens, or another Pro V&V employee designated pursuant to Paragraph 2.3.2.1 above, may enter the Escrow Room to respond to acts of God, leaks, fires, or other emergency conditions that require immediate access in order to preserve the Voting Equipment.

**2.3.2.3. Election Assistance Commission Site Visits.** Pro V&V may

continue to allow EAC personnel to enter its facility as required for accreditation or audit purposes, but Pro V&V shall not permit EAC personnel to enter the Escrow Room without prior order of Court.

**2.3.2.4. Emergency Notification to Court.** If access to the Escrow

Room must be granted pursuant to Paragraphs 2.3.2.2 or 2.3.2.3 of this Order, or in a manner not contemplated in this Order, Pro V&V shall immediately notify the Court of such access or impending

access via email to CCFCEscrow@pacourts.us copying all counsel of record in this matter, and shall then promptly file a formal motion with the Court explaining the same.

2.3.3. **Chain of Custody.** At all times after Pro V&V takes possession of the Voting Equipment, and continuing until Pro V&V finally relinquishes possession of the Voting Equipment pursuant to order of Court, Pro V&V shall maintain records regarding the Voting Equipment sufficient to reliably document the chain of custody of the Voting Equipment, including, without limitation, the documentation addressed in Paragraphs 2.2–2.2.2 above.

3. **Payment for Escrow Services.** Petitioners shall be jointly and severally responsible for all costs of the Escrow Services, including as specified in the following fee schedule:

<b><u>Description of Services</u></b>	<b><u>Price</u></b>
Collection of Voting Equipment, including travel and time spent in Fulton County to perform inventory upon taking possession of the Voting Equipment	\$6,640
Storage of Voting Equipment	\$850 per month

Remote Monitoring Services, as defined in Paragraph 2.3.1 of this Order	\$2,211.92 plus \$22.11 per month
If applicable, return delivery of Voting Equipment to Fulton County, including travel and hours spent onsite to release possession of the equipment	\$6,640
Packaging Voting Equipment for transportation	\$250

3.1. By no later than 5:00 p.m. on the day prior to the date on which possession of the Voting Equipment is to be transferred to Pro V&V as specified in Paragraph 2.1 of this Order (the “Start Date”), Petitioners shall pay Pro V&V \$6,890 for collection of the Voting Equipment from Fulton County and packaging expenses, as well as \$2,211.92 for set up of the Remote Monitoring Services.

3.2. On the first day of the month immediately following the month in which the Start Date occurs, Petitioners shall make a payment to Pro V&V equal to a proportion of \$850 for storage of the Voting Equipment. That proportion shall be the ratio of the number of days in the month containing the Start Date that Escrow Services are provided (beginning with and including the Start Date itself) to the total number of days in the month

containing the Start Date. On the first day of each successive month until the Escrow Services are terminated by order of Court, Petitioners shall pay \$850 to Pro V&V for storage of the Voting Equipment provided during the preceding month. In addition, on the first day of each successive month following the month in which the Remote Monitoring Services begin until the Escrow Services are terminated by order of Court, Petitioners shall make a payment to Pro V&V of \$22.11 for the Remote Monitoring Services. If the Escrow Services are terminated before the last day of a given month, Petitioners shall, no later than five days after the Escrow Services are terminated, make a payment to Pro V&V of \$22.11 for the Remote Monitoring Services for that month, as well as a payment for storage of the Voting Equipment during that month equal to a proportion of \$850. That proportion shall be the ratio of the number of days in that month during which Pro V&V provided Escrow Services (up to and including the day that the Escrow Services were terminated) to the total number of days in that month.

- 3.3. In the event Pro V&V is required to provide further testimony in this matter or to perform any services regarding the Voting Equipment in addition to those contemplated in the fee schedule in Paragraph 3 above—

including but not limited to transportation of the Voting Equipment for off-site examination or testing, provision of additional personnel to supervise on-site examination or testing of the Voting Equipment at the Escrow Facility, or disposal of the Voting Equipment at the conclusion of the Escrow Services—Pro V&V shall receive reasonable compensation from Petitioners for all such services, including reimbursement of its attorneys’ fees, travel time and expenses, and shall be reimbursed by Petitioners for all other associated costs incurred by Pro V&V. Testimony or deposition time, including any preparation time, shall be paid by Petitioners at the hourly rate of \$145. Pro V&V may submit its invoices for such costs directly to Petitioners, and Petitioners shall pay Pro V&V within 30 days.

3.4. In the event Petitioners fail to make timely any payment owed under this Order, Petitioners shall pay Pro V&V a late charge of \$100 for each day after the due date that the payment, or any part of it, remains outstanding.

3.5. All payments that Petitioners are required to make to Pro V&V under this Order shall be made by electronic funds transfer from an account owned by Fulton County. Pro V&V shall provide Petitioners with the necessary details regarding the account to which payment should be made.

**4. Entry of Appearance.**

- 4.1. Within 30 days after entry of this Order, counsel for Pro V&V shall enter an appearance in the Pennsylvania Commonwealth Court in the above-captioned matter, so that the Court may appropriately communicate with counsel for Pro V&V directly.
- 4.2 Petitioners shall pay the legal expenses (including attorneys' fees) that may be incurred by Pro V&V in connection this matter. As for the legal fees incurred in connection with preparation of the Proposed Final Appointment Order and the entry of appearance required in Paragraph 4.1 above, Pro V&V's counsel shall provide Petitioners' counsel with documentation of these expenses by no later than November 10, 2023. Petitioners shall pay the full amount of expenses claimed by Pro V&V by no later than November 30, 2023, unless, by that date, Petitioners file an application with the Special Master disputing the reasonableness of the amount claimed. In the event the application is denied, the Special Master will require Petitioners to pay the legal expenses (including attorneys' fees) incurred by Pro V&V in litigating the application, in addition to the legal expenses (including attorneys' fees) Pro V&V incurred in connection with preparation of the Proposed Final Appointment Order and the entry of appearance required in Paragraph 4.1.

## **5. Forum; Governing Law; Cooperation and Enforcement.**

- 5.1. All Applications for relief pursuant to this Order, and all applications to enforce this Order or to modify or terminate the Escrow Services, shall be filed in the Commonwealth Court of Pennsylvania.<sup>4</sup> Any such applications shall be filed in case number 277 M.D. 2021. All disputes or applications regarding this Order or the Escrow Services shall be governed by the substantive and procedural law of the Commonwealth of Pennsylvania.
- 5.2. In the event any Party is found to have violated any provision of this Order, that Party may be found in contempt of court and/or sanctions may be awarded against that Party, including but not limited to requiring that Party to pay the reasonable costs and expenses (including attorney's fees) incurred by Pro V&V and/or any Party in seeking to enforce this Order.
- 5.3. In the event Pro V&V files a successful application for an order requiring Petitioners to make any payments owed under Paragraphs 3 or 4 of this Order, or successfully defends against any application by Petitioners disputing their obligation to make such payments (in whole or in part),

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<sup>4</sup> See *Fulton I*, 292 A.3d at 1020 (Pa. 2023) (“Any effort to seek access to, or release of, the voting equipment must be directed to the Commonwealth Court, specifically whoever is then presiding over [Fulton] County’s underlying Petition for Review against the Secretary.”)



Petitioners shall be required to pay the reasonable costs and expenses (including attorney's fees) incurred by Pro V&V in connection with litigating the application.



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**RENÉE COHN JUBELIRER**, President Judge of the Commonwealth Court of Pennsylvania Appointed as Special Master