

RESOLUTION

No. 2021-484

By Commissioner Daub

RESOLVED, by the Wayne County Commission this 22nd day of July, 2021 that approval be, and is hereby, granted authorizing Amendment No. 1 to a three-year professional services agreement with one, two-year option to renew or two, one-year options to renew between the Charter County of Wayne and US Imaging, Inc. (of Saginaw) not to exceed \$229,060.76, exercising the two-year option to renew, to convert digital images from the land records database to microfilm and store the images along with those currently being stored, as recommended by the Register of Deeds; and be it further

RESOLVED, that Amendment No. 1 increases the total agreement not-to-exceed amount from \$247,682.32 to \$476,743.08; the term of Amendment No. 1 is from November 1, 2021 through October 31, 2023 and the cost of Amendment No. 1 will be charged to Account No. 101 23600 817000 (Register of Deeds); and be it further

RESOLVED, that the Chief Executive Officer be, and is hereby, duly authorized to execute the aforementioned amendment on behalf of the Charter County of Wayne.

[Amendment No. 1 on File]

(2018-78-019M1)

FIRST AMENDMENT TO STORAGE, AND CONVERSION OF RECORDS CONTRACT
Between
THE CHARTER COUNTY OF WAYNE COUNTY
And
US IMAGING, INC.
RFP 37-18-063 A TCM 2018-78-019

This is the First Amendment (Amendment) to the Contract between the Charter County of Wayne (County), and US Imaging, Inc, a Michigan corporation (Contractor or US Imaging).

RECITALS

- A. The County issued a Request for Proposals (RFP) 37-18-063 A to obtain a vendor who would convert the Register of Deeds digital records to microfilm and store the County's microfilm records in a secure environment. The Contractor was the successful proponent and entered into a contract (Contract) with the County which is set to expire October 31, 2021.
- B. The County and the Contractor have agreed to exercise the County's option to amend the contract to allow the County to continue to extend the date in which the County can store its records, finish the conversion of documents from digital to microfiche and to obtain other document enhancement services when retrieving the documents.

TERMS AND CONDITIONS

1. Pursuant to Section 4.02, the Parties have agreed to execute this First Amendment and to extend the terms of the Contract for an additional two years. Therefore, allowing the contract to expire on October 31, 2023.
2. Pursuant to Article 8 of the Contract, the Parties agree and acknowledge that the total cost of the storage for the additional two years, along with the new services will cost an additional \$229,060.76. Therefore, the total contract amount will not exceed \$476,743.08.
3. The Parties agree and acknowledge that the Contract refers to the RFP and the Contractor's Response to the RFP as Appendix A, which is incorporated as part of the Contract. The Parties further acknowledge that the RFP when issued required that the Contractor create an Appendix A, to the RFP which was referred to as "Pricing Sheet". This Pricing Sheet is also part of the Contract. The Pricing Sheet is hereby amended to be referred to as Appendix A-1. In furtherance of clarity this First Amendment Section 8.01 titled Compensation is hereby amended as follows:

- 8.01** The County agrees to pay the Contractor at the rates and the costs in **Appendix A-1 Pricing Sheet**, attached. The compensation includes all remuneration to which the Contractor may be entitled. The County will not pay the Contractor for overtime, holiday or other premium charges or other benefits. The Contractor has agreed to the unit prices and rates that were identified in Appendix A-1 of this Agreement. Maximum compensation for the services during the Contract Term that ends on

October 31, 2023 shall not exceed Four Hundred and Seventy-Six Thousand Seven Hundred and Forty-Three Dollars and Eight Cents (\$476,743.08).

5. All other terms and conditions of the Contract shall remain in full force and effect. This Amendment shall become part of the original Contract between the County and the Contractor and shall become effective upon approval by the Wayne County Commission and the execution by the Wayne County Executive.
6. NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the County and the Contractor, by their authorized officers and representatives have executed this Contract.

CHARTER COUNTY OF WAYNE

US IMAGING INC

DocuSigned by:
By: Brian Manning for
1E49F8E5D1A8408...

By: Alicia Floyd
Alicia Floyd

Its: County Executive

Its: National Contract Specialist

Date: 7/28/2021 | 11:16:40 AM EDT

Date: June 14, 2021

APPENDIX A-1
FIRST AMENDED PRICING SHEET

APPENDIX A-1 PRICE SHEET (Page 1)

May 1, 2021 through October 31, 2021 CONVERSIONS*

A. Conversion of Digital Records to Microfilm

1. Cost per image (page) to convert one digital image to microfilm format.

Months 1 through 30

86,350 Images x 30 months = 3,108,600 Images

3,108,600 Images @ \$0.02 per image to archive 16mm x 215' rollfilm = \$62,172.00

Months 31 through 36 (May 1, 2021 through October 31, 2021)

127,968 Images x six months = 767,808 images

767,808 images @ \$0.02 per image to archive 16 mm x 215' rollfilm = \$15,356.16

Total = \$77,528.16

The term of the original contract is November 1, 2018 through October 31, 2021. We anticipated that 86,350 images would be converted during that time at a cost of \$62,172.00. We arrived just shy of that when we paid for the April 2021 conversion. This appendix shows we need to add \$15,528.16 to convert images through October 31, 2021.

APPENDIX A-1 PRICE SHEET (Page 2)**Storage Boxes and Storing Boxes*****1. Price for storage boxes****Years 1, 2 and 3**

86,350 images @ 6,000 images per roll (24x reduction ratio) = 15 rolls per month

15 rolls @ 36 months (original contract term) = 540 rolls

540 rolls @ 90 rolls box = 6 boxes

6 boxes @ \$2.75 per storage box = \$16.50

3 boxes @ \$2.75 per box for mail and delivery, year 3 = \$8.25

Total for storage boxes for Years 1, 2 and 3 = \$24.75**2. Price for storing the boxes****Years 1, 2 and 3**

455 boxes @ \$134.93 per box, annual storage – year 1 = \$61,393.15

458 boxes @ \$134.93 per box, annual storage – year 2 = \$61,797.94

461 boxes @ \$134.93 per box, annual storage – year 3 = \$62,202.73

Total Annual Storage Years per contract = \$185,391.07

Amount short = \$404.79

Total for Storing Boxes Years 1, 2 and 3 = \$185,798.61**➤ Total for Boxes and Storing Boxes Years 1, 2 and 3 = \$185,823.36**

Mail and Delivery microfilm rolls have not been converted and stored with US Imaging. That project is being done this fiscal year. Three additional boxes for the project are added here. Also, storage costs for Years 1, 2 and 3 are \$404.79 more than estimated.

APPENDIX A-1 PRICE SHEET (Page 3)**November 1, 2021 through October 31, 2023****A. Conversion of Digital Records to Microfilm**

Cost per image (page) to convert one digital image to microfilm format:

Months 1 through 30 (Years 1, 2 and 3)

86,350 images x 30 months = 3,108,600 images

3,108,600 images @ \$0.02 per image to archive 16mm x 215' roll film = \$62,172.00

Total for Conversion Years 1, 2 and 3 per contract = \$62,172.00**Months 31 through 36 (Year 3) plus Years 4 and 5**

127,968 images x Months 31 through 36 of Year 3 = 767,808 images

767,808 images @ \$0.02 per image to archive 16 mm x 215' roll film = \$15,356.16

127,968 Images x 24 months = 3,071,232 images

3,071,232 images @ \$0.02 per image to archive 16 mm x 215' roll film = \$61,424.64

Total for Conversion Year 3 mo. 31-36 plus Years 4 and 5 = \$76,780.80**➤ Total for Conversion Years 1 through 5:****\$62,172.00 + \$76,780.80 = \$138,952.80****B. Transport of Microfilm Records from Current Location to Contractor's Facility:**

Years 1, 2 and 3 = \$0

Years 4 and 5 = \$0

N/A US Imaging is the current storage vendor.

C. Inventory of Boxes That Will be Transported to Contractor's Facility:

Years 1, 2 and 3 = \$0

Years 4 and 5 = \$0

N/A US Imaging is the current storage vendor.

D. Storage of Microfilm Records**1. Price for storage boxes that will be used during term of contract:****Years 1, 2 and 3**

86,350 images @ 6,000 images per roll (24x reduction ratio)	= 15 rolls per month
15 rolls @ 36 months (original contract term)	= 540 rolls
540 rolls @ 90 rolls box	= 6 boxes
6 boxes @ \$2.75 per storage box	= \$16.50

Years 4 and 5 plus additional boxes for Year 3 per Amendment

127,968 images @ 6,000 images per roll (24x reduction ratio)	= 22 rolls per month
22 rolls @ 24 months	= 528 rolls
528 rolls @ 90 rolls box	= 6 boxes
Boxes for Mail and Delivery rolls	= 3 boxes
9 boxes @ \$2.75 per storage box	= \$24.75

Total for Storage Boxes Years 1 through 5:

\$16.50 + \$24.75	= <u>\$41.25</u>
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2. Price for storing the boxes:**Years 1, 2 and 3**

455 boxes @ \$134.93 per box, annual storage – year 1	= \$61,393.15
458 boxes @ \$134.93 per box, annual storage – year 2	= \$61,797.94
461 boxes @ \$134.93 per box, annual storage – year 3	= <u>\$62,202.73</u>
Total for Storing Boxes Years 1, 2 and 3	= \$185,393.82

Years 4 and 5

471 boxes @ \$134.93 per box, annual storage – year 4	= \$63,552.03
473 boxes @ \$134.93 per box, annual storage – year 5	= \$63,821.89
Amount short for Year 3	= <u>\$404.79</u>
Total for Storing Boxes Years 4 and 5 and shortage	= \$127,778.71

Total for Storing Boxes Years 1 through 5:

\$185,393.82 + \$127,778.71	= <u>\$313,172.53</u>
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➤ Total for Storage Boxes and for Storing Boxes Years 1 through 5:

\$41.25 for boxes + \$313,172.53 for storage	= <u>\$313,213.78</u>
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E. Retrieval of Microform Records (from Storage for duplication or use and return to storage):**1. Retrieval of Microform Records without Enhancement:****Years 1, 2, and 3**

50 records @ \$2.00	= \$100.00
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Total for Retrieval of Microform Records without Enhancement

Years 1, 2, and 3	= \$100.00
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Years 4 and 5

250 records @ \$2.00 = \$500.00

Total for Retrieval of Microform Records without Enhancement**Years 4 and 5****= \$500.00****Total for Retrieval of Microform Records without Enhancement Years 1 through 5:****\$100.00 + \$500.00****= \$600.00****2. Retrieval of Microform Records with Enhancement:****Years 4 and 5**

250 records @ \$5.00 = \$1,250.00

Total for Retrieval of Microform Records with Enhancement**Years 4 and 5****= \$1,250.00****3. Retrieval via ImageXpress** No charge = \$0.00**4. Retrieval via ImageXpress with Enhancement** No charge = \$0.00**➤ Total for Microform retrievals Years 1 through 5:****\$600.00 + \$1,250.00****= \$1,850.00****F. Scan and Convert Mail and Delivery Microfilm Rolls****1. The price to scan and convert the Mail and Delivery microfilm:**

111 Rolls	@	\$6.50 Per Roll to Inspect, Clean & Prep	=	\$721.50
144,000 Images	@	\$0.035 Per Image to Scan 300dpi Grayscale JPEG	=	\$5,040.00
144,000 Images	@	\$0.01 Per Image to Convert JPEG to B&W TIFF	=	\$1,440.00
144,000 Images	@	\$0.00 Per Image to Retrieve via <i>ImageXpress</i>	=	\$0.00
2 Drives	@	\$250.00 Per USB Hard Drive, Copying & Backup	=	\$500.00
1 Shipment	@	\$25.00 Per USB Hard Drive Shipment	=	\$25.00

*Microfilm will be added to long term storage post scan.

➤ Total for Scanning and Converting the Mail and Deliver Microfilm = **\$7,726.50****G. Additional Professional Services if needed** = **\$16,000.00**

Total Costs Covered by the Amendment

A.	Conversion of Digital Images to Microfilm	= \$76,780.80
D1.	Storage Boxes	= \$24.75
D2.	Storage	= \$127,778.71
E1.	Retrieval of Microform Records without Enhancement	= \$500.00
E2.	Retrieval of Microform Records with Enhancement	= \$1,250.00
F1.	Scan and Convert Mail and Delivery Rolls	= \$7,726.50
G.	Additional professional services, if needed	= <u>\$15,000</u>
Total		= <u>\$229,060.76</u>

Total Contract Price (Years 1 through 5)

A.	Conversion of Digital Images to Microfilm	= \$138,952.80
B.	Transport of Microform Records	= \$0
C.	Inventory of Microform Records	= \$0
D.	Boxes and Storage	= \$313,213.78
E.	Retrieval of Microform Records	= \$1,850.00
F.	Scan and conversion of Mail and Delivery rolls	= \$7,726.50
G.	Additional professional services, if needed	= <u>\$15,000.00</u>
Total		= <u>\$476,743.08</u>

Original contract amount	= \$247,682.32
Amendment amount	= \$229,060.76

Total	= <u>\$476,743.08</u>

WAS
6/07/2024

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CHARTER COUNTY OF WAYNE
AND
US IMAGING INC**

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THIS PROFESSIONAL SERVICES AND STORAGE CONTRACT is between the County of Wayne, Michigan, a body corporate and Charter county, acting through the Office of the Wayne County Register of Deeds (the "County") and US Imaging, Inc, a Michigan Corporation (the "Contractor").

1. **PURPOSE**

1.01 The County intends to obtain for Office of Wayne County Register of Deeds, a contractor to convert digital land records to microfilm, store the records the contractor converts, and store microfilm records that are currently stored at a facility. The work will be performed in accord with the scope of services indicated in **Appendix A**, which is identified as "**Contractor's Response to Proposal and Answers to Questions from Wayne County's RFP Control Number 37-18-063A**".

1.02 The Contractor is experienced and able to perform technical and professional services. The Contractor desires to provide these services for the County.

2. **ENGAGEMENT OF CONTRACTOR**

2.01 The County engages the Contractor and the Contractor agrees to faithfully and diligently perform the services according to the terms and conditions contained in this Contract and consistent with the standard of practice in the community.

3. **SCOPE OF SERVICE**

3.01 The Contractor must perform the services described in **Appendix A** in a satisfactory manner, as determined within the discretion of the County. The Contractor warrants that the Contractor is authorized to do business under the laws of the State of Michigan and is qualified to perform the Services in this Contract.

3.02 If there is any dispute between the parties regarding the extent and character of the services to be performed, the interpretation and determination of the County governs.

3.03 The services include all conferences and consultation deemed necessary by the County to properly and fully perform the services.

3.04 All services are subject to review and approval of the County for completeness and fulfillment of the requirements of this Contract. Neither the County's review, approval, or payment for any of the services shall be construed to operate as a waiver of any rights under the Contract, and the Contractor shall be and remain liable in accordance with the applicable law for all damages to the County caused by the Contractor's negligent performance or nonperformance of any of the Services furnished under this Contract.

4. **TERM OF CONTRACT**

4.01 This Contract shall be for a term of three years. It shall begin on November 1, 2018 and shall end on October 31, 2021. As indicated in Section 3 of this Agreement, in Appendix A and in Section 8.01 of this Agreement the conversion of digital records and payment for those services is authorized to commence on January 1, 2019. The Contractor must expediently perform the services to achieve the objectives of this Contract.

4.02 The County shall have the ability to extend the term of this Agreement for one two year period or two one year period. To extend the Term for an additional period, the County must deliver to the Contractor a written notice of the County's intention to exercise the option to extend the Term at least one hundred and eighty (180) days prior to the expiration of the Contract. Unless modified in a subsequent amendment to extend this Contract, the Contractor and the County agree that the terms and pricing listed in **Appendix A** shall remain the same during the extension of the Contract.

5. **DATA TO BE FURNISHED CONTRACTOR**

5.01 Upon the request of the Contractor, without charge, the County must furnish copies of all information, data, reports, records, etc., that the County thinks is necessary to do the services. The Contractor is entitled to visit County offices and key facilities as approved by the County, during regular business hours to obtain the necessary data. The Contractor will schedule conferences at convenient times with key administrative personnel of the County to gather the information.

6. **PERSONNEL**

6.01 To induce the County to enter into the Contract, the Contractor represents and warrants that the Contractor is authorized to do business under the laws of the State of Michigan and is duly qualified to perform the services as set forth in the Contract. The execution of this Contract is within the Contractor's authorized powers, and is not in contravention of federal, state, or local law.

6.02 The Contractor warrants that all employees of the Contractor assigned to the performance of the services are qualified and authorized to perform the services under the state and local laws and governing

professional association rules where the employee is employed.

6.03 Each employee must devote the time and professional ability as is necessary to most effectively and efficiently perform the services according to professional standards.

6.04 Whenever an employee assigned to this Contract must be replaced for any reason, the Contractor must supply an acceptable replacement as soon as possible and agrees not to substitute a lower classified employee to perform the services without obtaining prior County approval in writing.

6.05 Employees' daily working hours may be determined by the Contractor. When the employees are working in or about a County facility, Contractor agrees to adjust its employees' daily working hours to be the same as those worked by County employees working at the facility.

7. ADMINISTRATION

7.01 The Contractor must inform the County as soon as the following types of conditions become known:

- A. Probable delays or adverse conditions which do or may materially prevent the meeting of the objectives of the Contract. The Contractor must accompany this disclosure with a statement of any remedial action taken or contemplated by it; and
- B. Favorable developments or events which enable meeting time schedules or goals sooner than anticipated.

7.02 The Contractor must regularly inform the County of its activities in connection with its duties and must keep the County informed of the status of any program. The Contractor is not required to perform in a manner materially in conflict with requirements imposed by any applicable law including any statute, county charter, ordinance, resolution or executive order.

7.03 The Contractor shall have no authority in the name of the County to borrow money, commence or defend litigation, spend money, or enter into contracts except as otherwise provided in this Contract.

8. COMPENSATION

8.01 The County agrees to pay the Contractor at the rates in **Appendix A**, attached. The compensation includes all remuneration to which the Contractor may be entitled. The County will not pay the Contractor for overtime, holiday or other premium charges or other benefits. The Contractor has agreed to the unit prices and rates that were identified in Appendix A of this Agreement. The Contractor shall charge no more than Sixty Two Thousand One Hundred and Seventy Two Dollars (\$62,172.00) to convert digital records to microfilm commencing on January 1, 2019. The Contractor will charge no more than One Hundred and Eighty Five Thousand Four Hundred and Ten Dollars and Thirty-Two Cents (\$185,410.32) to store the identified records as identified in D1 and D2 of the Pricing Sheet, and One Hundred Dollars (\$100) for the retrieval of records retroactive to November 1, 2018. Maximum compensation for these services shall not exceed Two Hundred Forty Seven Thousand Six Hundred Eighty Two Dollars and Thirty-Two Cents (\$247,682.32) DOLLARS.

8.02 The Contractor must, upon reasonable notice, be available to participate in any proceeding, whether legal, administrative or otherwise, or in any internal County preparatory meetings for the proceeding, in order to assist the County in any matter relating to the purpose or outcome of this Contract. The County will compensate the Contractor under a separately negotiated agreement for any services rendered pursuant to this section.

9. METHOD OF PAYMENT

9.01 The County will pay for the proper performance of the services, commensurate with the progress of the work as evidenced by the timely performance of the services, and after it receives an invoice for payment. The invoice must certify the total cost of the services rendered to the project to date and the cost of all services for that billing period; and must describe the services rendered. If the invoice also requests reimbursement or payment for reimbursable expenses, the appropriate receipts must be attached. The Contractor must sign the invoice and send it to the County for each calendar month. This section is limited by the provisions of Article 8 with regard to the amounts payable for performance.

9.02 The Contractor must direct invoices to the attention of the individual specified in the Notice provisions, Article 19.

9.03 The Contractor must submit as part of the invoices, monthly progress reports indicating the Contractor's activities during the month and being signed by an authorized officer of the Contractor.

10. RECORDS - ACCESS

10.01 The Contractor must maintain complete books, ledgers, journals, accounts, or records in which it keeps all entries reflecting its operation pursuant to this Contract. The Contractor must keep the records according to generally accepted accounting practices and for a minimum of seven years after the Contract's termination and completion. The Contractor must also maintain copies of all records, correspondence and documents, including electronically stored information, prepared in anticipation of this Contract, and for this Contract, for a period of seven years after the Contract's termination and completion.

10.02 The County and the Legislative Auditor General have the right to examine and audit all books, records, documents and other supporting data as they deem necessary of the Contractor, or any subcontractors, or agents rendering services under this Contract, whether direct or indirect, which will permit adequate evaluation of the services or the cost or pricing data submitted by the Contractor. The Contractor must include a similar covenant allowing for audit by the County and the Legislative Auditor General in any contract it has with a consultant or agent whose services will be charged directly or indirectly to the County. The County may delay payment to the Contractor pending the results of any such audit without penalty or interest.

10.03 The Contractor agrees that representatives of the County are entitled to make periodic inspections to ascertain that the Contractor is properly performing the services. The inspections may be made at any time during normal business hours of the Contractor. If, in the course of the inspections, the representatives of the County should note any deficiencies in the performance of the services of the Contractor, or any other mutually agreed upon performance deficiencies, the alleged deficiencies must be reported promptly to the Contractor, in writing. The Contractor agrees to promptly remedy and correct any reported deficiencies within 10 days of notification by the County.

10.04 If, as a result of any audit conducted by or for a County, State of Michigan or Federal, agency relating to the Contractor's performance under this Contract, a discrepancy should arise as to the amount of compensation due the Contractor, the County may retain the amount of compensation in question from any funds allocated to the Contractor but not yet disbursed under the Contract. Should a deficiency still exist, the County may offset such a deficiency against the compensation to be paid the Contractor in any successive or future Contracts between the parties.

11. RELATIONSHIP OF PARTIES

11.01 The relationship of the Contractor to the County is and will continue to be that of an independent contractor. No liability or benefits, such as workers' compensation, pension rights, or insurance rights, arising out of, or related to a contract for hire or employer/employee relationship, accrues to either party or either party's agent, subcontractor or employee as a result of this Contract. No relationship, other than that of independent contractor will be implied between the parties, or either party's agent, employee, or subcontractor. The Contractor agrees to hold the County harmless from any claims, and any related costs or expenses.

11.02 For all purposes, County employees will remain employees of the County and the Contractor's employees will remain employees of the Contractor. The Contractor is being retained by the County as an independent contractor to provide services to the County, and is not being retained in any capacity as a joint enterprise or venture with the County. The Contractor also covenants that none of its employees are or will be, during the period of this Contract, employees of the County.

12. INSURANCE

12.01 Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

12.02 Coverage shall be at least as broad as:

A. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$3,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

B. Umbrella or Excess Liability Policy in an amount not less than \$5,000,000. Umbrella or Excess policy working shall be at least as broad as the primary or underlying policy(ies) and shall apply both to the Contractor's general liability and to his automobile liability insurance and shall be written on an occurrence basis. The County of Wayne, officials, employees and others as may be specified in any "Special Conditions" shall be named as an additional insured under this policy.

C. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

D. Workers' Compensation insurance as required by the State of Michigan, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

E. Professional Liability (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limit no less than \$5,000,000 per occurrence or claim, \$5,000,000 aggregate.

F. Property insurance against all risks of loss including Data Processing coverage for the full replacement cost to repair, replace or restore such media to the condition that existed immediately prior to such loss or damage, including the cost of reproducing any data. The County must be named as a loss payee on this policy.

If the Contractor maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

12.03 The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

A. The Entity, its officers, officials, employees, volunteers, and others as may be specified in any "Special Conditions" are to be covered as additional insured's on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

B. Primary Coverage For any claims related to this contract, the Contractor's insurance coverage shall be **primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

12.04 Notice of Cancellation. Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity.**

12.05 Waiver of Subrogation. Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

12.06 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

12.07 Acceptability of Insurers Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

12.08 Claims Made Policies If any of the required policies provide coverage on a claims-made basis:

- A. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- B. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
- C. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

12.09 Verification of Coverage Contractor shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

12.10 Subcontractors Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Entity is an additional insured on insurance required from subcontractors.

12.11 Special Risks or Circumstances Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

13. INDEMNIFICATION

13.01 Except for claims arising from the County's gross negligence, the Contractor agrees to indemnify, defend and save harmless the County against, and from any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by or asserted against the County because of any of the following occurring during the term of this Contract:

- A. Any negligent or tortious act, error, or omission held in a court of competent jurisdiction to be attributable, in whole or in part to the Contractor, or any of its personnel, employees, consultants, agents, or any entities associated, affiliated, (directly or indirectly) or subsidiary to the Contractor now existing, or to be created, their agents and employees for whose acts any of them might be liable.
- B. Any failure by the Contractor, or any of its employees to perform its obligations either implied or expressed under this Contract.

13.02 The Contractor agrees that it is its responsibility and not the responsibility of the County to safeguard the property and materials that the employees of the Contractor use in performing this Contract. The Contractor must hold the County harmless for costs and expenses resulting from any loss of the property and materials used by its employees pursuant to the performance of the Contractor under this Contract.

13.03 Nothing in this article shall be deemed to relieve the Contractor of its duty to defend the County, as specified, pending a determination of the respective liabilities of the Contractor and the County, by legal proceeding or agreement. The County shall cooperate with the Contractor in the defense against the suit. In no event shall the Contractor make any admission of guilt or liability on behalf of the County without the County's prior, written consent.

13.04 For purposes of these provisions, the term "County" includes the County of Wayne and all other associated, affiliated, or subsidiary departments or divisions now existing or to be created, their agents and employees.

13.05 This indemnity applies without regards to whether the claim, damage, liability or expense is based on breach of contract, breach of warranty, negligence, strict liability, or other tort. This indemnity survives delivery and acceptance of services.

13.06 This indemnity must not be construed as a waiver of any governmental immunity the County, its agencies, or employees, has as provided by statute or modified by court decisions.

14. BANKRUPTCY OR INSOLVENCY

14.01 If the Contractor is adjudicated bankrupt or insolvent, or if a trustee is appointed over the

Contractor or any of its property, whether it is a third party or Contractor as debtor-in-possession (referred to as "Contractor" in this Article unless the context clearly requires otherwise) the following rights, obligations and limitations control:

- A. Contractor or any trustee must not assign any or all of its rights, title or interest, in or to this Contract, as this Contract is for the delivery of professional services and related services, as to which the County is entitled to insist upon performance solely by the Contractor.
- B. Contractor or any trustee may only assume this Contract if it provides adequate assurance of future performance. Adequate assurance of future performance means proof reasonably satisfactory to the County of:
 - (i) adequate financial capacity to employ or contract with sufficient personnel to perform the services assigned to the Contractor as provided in this Contract, and to pay for all services contracted for by the Contractor;
 - (ii) adequate financial capacity to own, operate, lease or obtain sufficient facilities and supplies to perform the services assigned to the Contractor as provided for in this Contract; and
 - (iii) adequate financial and professional capacity to maintain the professional standard provided in this Contract. The reasonable determination of the County as to the adequate professional capacity of the Contractor is determinative.
- C. Because of the unique nature of the services this Contract requires the, the Contractor agrees that any requests by the County that the trustee or it as debtor-in-possession assume or reject this Contract in a shorter time than provided for in 11 U.S.C. §365 is reasonable so long as the trustee or Contractor receives no less than 5 business days' notice.
- D. If this Contract is terminated during bankruptcy proceedings or if the trustee or debtor-in-possession successfully and properly obtains a court order rejecting this Contract, the Contractor as debtor-in-possession or its trustee must cooperate with the County in arranging for the orderly transfer of responsibilities to persons or entities as the County may designate. The rejection is not effective until the orderly transfer of responsibilities, consistent with sound professional practice, has been completed.

14.02 Although neither party has the right to terminate the Contract merely because the other is adjudicated bankrupt or insolvent or a trustee or a debtor-in-possession is appointed over any parties' property, each party retains all of the other termination rights set forth elsewhere in this Contract during the period of any proceedings under the Bankruptcy Code.

15. NOTICE OF MATERIAL CHANGES

15.01 The Contractor must immediately inform the County of material changes in its operation, ownership or financial condition. Material changes include, but are not limited to:

- A. Reduction or change in staffing assigned to the Contract.
- B. Decrease in, or cancellation of, insurance coverage.
- C. Delinquent payment, or nonpayment, of tax obligations.
- D. Delinquent payment, or nonpayment, of payroll obligations.
- E. Delinquent funding, or nonfunding, of pension or profit sharing plans.
- F. Delinquent payment, or nonpayment, of subcontractors.
- G. Termination of, or changes in, subcontracts.
- H. Transfer, sell, assignment or delegation to an entity other than the Contractor, of ownership or administrative services.

16. TERMINATION

16.01 The County may terminate this Contract without cause at any time, without incurring any further liability, other than as stated in this Article by giving written notice to the Contractor of the termination. The notice must specify the effective date, at least 30 days prior to the effective date of the termination, and this Contract will terminate as if the date were the date originally given for the expiration of this Contract. If the

Contract is terminated, the County will pay the Contractor for the services rendered prior to termination, as soon as can be authorized. The County will compute the amount of the payment on the basis of the services rendered, and other means which, in the judgment of the County represents a fair value of the services provided, less the amount of any previous payments made. The final payment constitutes full payment. If the Contractor accepts the payment, the Contract is satisfied. The parties agree that no payments under this section will exceed the amount payable under Article 8.

16.02 The County may terminate this Contract if the Contractor is in default of any of its obligations under the Contract, or has failed to comply with any of the material terms and conditions of this Contract, by giving written notice to the Contractor. Before the County exercises its right to declare the Contractor in default, the County must give the Contractor Notice of its default status and the reasons for such status. If the Contractor does not cure the default within 5 working days, the Contract is deemed terminated 25 days after the date of the Notice. If after Notice, the County determines that the Contractor was not in default, the rights and obligations of the parties are the same as if the Notice had not been issued. Upon terminating the Contract, County shall not incur any further liability to Contractor, except as provided in this Article, which sets forth Contractor's exclusive remedies. The County may procure, upon such terms and in such manner as the County may deem appropriate, Services similar to those terminated, and the Contractor shall be liable to the County for any costs to obtain and transition similar services, provided the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this Article. In addition to any legal remedies otherwise available to the County by law or equity, the Contractor shall be responsible for all additional costs, charges, and damages incurred by the County in connection with the completion of the Contract. Such expenses shall be deducted from any monies due or which may become due the Contractor under the Contract. If such expense exceeds the sum which would have been payable under the Contract, then the Contractor shall pay, on demand, such excess amount to the County. Should a deficiency exist, the County may offset such a deficiency against the compensation to be paid the Contractor in any concurrent, successive or future contracts between the parties. All excess reprocurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise. The rights and remedies of the County are not exclusive and are in addition to any other rights and remedies provided by law, including the collection of liquidated damages. The Contractor shall be liable to the County for any damages the County sustains by virtue of the Contractor's breach or any reasonable costs the County might incur in enforcing or attempting to enforce this Contract. Such costs shall include costs to secure the deliverables from another contractor, reasonable fees and expenses for attorneys, expert witnesses and other consultants.

16.03 After receipt of a Notice of Termination and except as otherwise directed by the County, the Contractor must:

- A. Stop work under the Contract on the date and to the extent specified in the Notice of Termination.
- B. Obligate no additional contract funds for payroll costs and other costs beyond the date as the County specifies.
- C. As of the date the termination is effective, present all Contract records and submit to the County the records, data, notes, reports, discs, and documents ("Records") as the County specifies, all pertinent keys to files, and carry out such directives as the County may issue concerning the safeguarding or disposition of files and property.
- D. Submit within 30 days a final report of receipts and expenditures of funds relating to this Contract.
- E. Place no further orders on subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Contract as is not terminated;
- F. Terminate all orders and subcontracts to the extent that they relate to the portion of work so terminated;
- G. Submit within 30 days a listing of all creditors, subcontractors, lessors, and other parties with which the Contractor has incurred financial obligations pursuant to the Contract.

16.04 Upon termination of this Contract, all Records prepared by the Contractor under this Contract

or in anticipation of this Contract must, at the option of the County, become its exclusive property, whether or not in the possession of the Contractor. The Records are free from any claim or retention of rights on the part of the Contractor except as specifically provided. The County must return all the properties of the Contractor to it. Upon termination, the Contractor agrees and understands that the Contractor shall have the responsibility to assist the County in transitioning the County's records and inventory to the new contractor or vendor. Such responsibilities shall include, but are not limited to assistance in creating an inventory of records and removal and transportation of such inventory and documents to the new contractor or vendor.

16.05 Any intentional failure or delay by the Contractor to deliver the Records to the County will cause irreparable injury to the County not adequately compensable in damages and for which the County has no adequate remedy at law. The Contractor will pay the County \$500.00 per day as damages, and not as a penalty, until it delivers the Records to the County. The County may seek and obtain injunctive relief in a court of competent jurisdiction and compel delivery of the Records which the Contractor consents to as well as all applicable damages and costs. The County has unrestricted use of the Records for the purpose of completing the services.

16.06 Access to the records prior to delivery must be restricted to authorized representatives of the County and the Contractor. The Contractor has no right to disclose or use any information gathered in the course of its work without obtaining the written concurrence of the County. All the information must be confidential and handled in such a manner at all times as to preserve confidentiality. The Records as well as any related products and materials are proprietary to the County, having been developed for the County for its own and sole use.

16.07 In addition, each party will assist the other party in the orderly termination of this Contract and the transfer of all aspects, tangible or intangible, as may be necessary for the orderly, non-disrupted business continuance of each party.

17. ETHICS IN CONTRACTING

17.01 The Contractor must comply with Article 12 of Chapter 120 of the Wayne County Code governing "Ethics in Public Contracting."

17.02 Contractor's material misrepresentation or delinquency in the disclosures required by section 120-225 of the Wayne County Code constitutes a material breach of this Contract, sufficient to warrant immediate termination and the imposition of liquidated damages (not a penalty) of fifteen percent (15%) of the consideration made or due under the Contract as of the date of termination.

17.03 If the County determines that the Contractor has made a material misrepresentation or is willfully delinquent or knowingly evasive in the disclosures required by section 120-225, the Contractor and any other business which has substantially the same principal beneficiaries (as defined in section 120-238 of the Wayne County Code), may be debarred by the Purchasing Director, pursuant to Article 6 of Chapter 120 of the Wayne County Code, from competing for any further County contracts for up to three (3) years.

17.04 If the contract price is in excess of \$20,000, or the terms thereof require the approval of the Wayne County Commission, and the Contractor knowingly collaborate in or induces a violation of any of the ethical standards that are set forth in sections 120-225, 120-228, 120-229, 120-230 or 120-233 of the Wayne County Code, the County has the right to impose any one or more of the following sanctions:

- A. Immediately terminate the Contract and require the Contractor to pay the County liquidated damages, and not a penalty of 15% of the total Contract compensation;
- B. Debar or suspend the Contractor from consideration from competing for further County contracts; or
- C. Recover the value transferred or received in breach of the ethical standards by a County employee or other person.

18. NON-DISCRIMINATION PRACTICES

18.01 The Contractor must comply with:

- A. Titles VI and VII of the Civil Rights Act (42 U.S.C. §2000d et. seq.) and the United States Department of Justice Regulations (28 C.F.R. Part 42) issued pursuant to those Titles.
- B. The Age Discrimination Act of 1985 (42 U.S.C. §6101-07).
- C. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794).

- D. The Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et. seq.) and its associated regulations.
- E. The Michigan Civil Rights Act (P.A. 1976 No. 453) and the Persons With Disabilities Civil Rights Act (P.A. 1976 No. 220).
- F. Article XI of Chapter 120 of the Wayne County Code governing Equal Contracting Opportunity.
- G. Any other appropriate affirmative action provisions as may be required from time to time by the Director of Human Relations of the County. Contractor shall promptly give notice of any such provisions to County during the term of the Contract.

18.02 The Contractor must not:

- A. Refuse to recruit, hire, employ, promote or to bar or discharge from employment an individual, or discriminate against an individual in compensation, terms, conditions or privileges of employment because of race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight.
- B. Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive any individual of employment opportunities or otherwise adversely affects the employment status of an employee because of race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight.
- C. Print or publish or cause to be printed or published a notice, application, or advertisement relating to employment by the Contractor indicating a preference, limitation, specification, or discrimination based upon race, color, creed, national origin, age, marital status, handicap, religion, familial status, height or weight.
- D. Except as permitted by rules and regulations promulgated pursuant to section 120-191 of the Wayne County Code, or applicable state or federal law, make or use a written or oral inquiry or form of application that elicits or attempts to solicit information concerning the race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight, of prospective employees. Contractor also shall not make or keep a record of that information or disclose such information.
- E. Make or use a written or oral inquiry or form of application that expresses a preference, limitation or specification based on religion, race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight.

18.03 The Contractor must notify any subcontractor of the obligations relative to non-discrimination under this Contract when soliciting the subcontractor. The Contractor will include the provisions of this Article in any subcontract, as well as provide the County with a copy of any subcontract agreement.

18.04 The Contractor and its subcontractors must not discriminate against any employee or applicant for employment, training, education, or apprenticeship connected directly or indirectly with the performance of this Contract, with respect to hire, promotion, job assignment, tenure, terms, conditions or privileges of employment because of religion, race, color, national origin, age, sex, height, weight, familial status, marital status, creed, or handicap. This Section does not apply if it is determined by the Division of Human Relations that the requirements are bona fide occupational qualifications reasonably necessary to perform the duties required for employment. The burden of proof that the occupational qualifications are bona fide is upon the Contractor.

18.05 Breach of any of the covenants in this Article may be regarded as a material breach of this Contract.

18.06 Contractor acknowledges the right of the Director of Human Relations to sue to enforce the provisions in this Article of the Contract.

18.07 If the Contractor does not comply with the non-discrimination and affirmative action provisions of this Contract, the County may impose sanctions, as it determines to be appropriate, including but not limited to:

- A. the withholding of payments to the Contractor under this Contract until the Contractor attains compliance;

- B. cancellation, termination or suspension of this Contract, in whole or in part; and/or
- C. disqualification from bidding on future contracts for a period of no more than 3 years;
- D. because of the impracticable ability and extreme difficulty of fixing and ascertaining the actual damages which the County would sustain in the event of breach of this Article, liquidated damages of \$500.00 per day as damages, and not as a penalty for each day that the Contractor shall fail to comply.

18.08 If the Contract is funded, in whole or in part, by federal funds and if the County has been authorized by the funding source to require an affirmative action commitment from contractors who are to be paid from those funds, Contractor must establish and implement a good faith plan and goal to eliminate the continuing effects of past discrimination, which is determined by the Division of Human Relations to be appropriate for that purpose.

18.09 In the event that this Contract is or becomes subject to federal or state law which conflicts with the requirements of section Article XI of the Wayne County Code, the provisions of the federal or state law shall apply and the Contract shall be interpreted and enforced accordingly.

19. NOTICES

19.01 All notices, consents, approvals, requests and other communications ("Notices") required or permitted under this Contract must be given in writing and mailed by first-class mail and addressed as follows:

If to the Contractor:

Alicia Floyd, Project Manager
400 S. Franklin St
Saginaw, Michigan 48607
(989) 753-7933
afloyd@us-imaging.com

If to the County:

Barbara J. Johnson, Chief Deputy Register of Deeds
Wayne County Register of Deeds Office
400 Monroe St., 7th Floor
Detroit, MI 48226
Phone: 313-224-5149
E-mail: bjohnson3@waynecounty.com

19.02 All notices are deemed given on the day of mailing. Either party to this Contract may change its address for the receipt of notices at any time by giving notice to the other as provided. Any notice given by a party must be signed by an authorized representative of such party.

19.03 Termination notices, change of address notices, and other notices of a legal nature, are an exception and must be sent by registered or certified mail, postage prepaid, return receipt requested.

20. JURISDICTION AND LAW

20.01 This Contract, and all actions arising from it, must be governed by, subject to, and construed according to the law of the State of Michigan. The Contractor consents to the personal jurisdiction of any competent court in Wayne County, Michigan, for any action arising out of this Contract. Service of process at the address and in the manner specified in this Contract will be sufficient to put the Contractor on notice. The Contractor will not commence any action against the County because of any matter arising out of or relating to the validity, construction, interpretation and enforcement of this Contract, in any courts other than those in the County of Wayne, State of Michigan unless original jurisdiction is in the United States District Court for the Eastern District of Michigan, Southern Division, the Michigan Supreme Court or the Michigan Court of Appeals.

21. CONFIDENTIAL INFORMATION

21.01 If the County discloses confidential information to the Contractor's employees pertaining to the

County's past, present and future activities, the Contractor must instruct its employees to regard all information gained by each person as a result of the services to be performed as information which is confidential and not to be disclosed to any organization or individual without the prior written consent of the County.

21.02 The Contractor agrees to take appropriate action with respect to its employees to insure that the obligations of nonuse and non-disclosure of confidential information concerning this Contract can be fully satisfied.

22. COMPLIANCE WITH LAWS

22.01 The Contractor must comply with and must require its employees to comply with all applicable laws and regulations.

22.02 The Contractor must hold the County harmless with respect to any damages arising from any violations of this Article by it or its employees.

23. CHANGES IN SCOPE/SERVICE

23.01 County may request changes to the scope of Services to be furnished or performed by the Contractor under the Contract, as well as changes in the time of performance of the Contract. All such changes shall be authorized by either Change Order or Contract Modification.

23.02 If any such change request increases or decreases the Contractor's cost of, or the time required for, performance of any part of the Services under this Contract, an adjustment may be made and the Contract modified in writing accordingly.

23.03 Contractor shall provide County with a written proposal to County's change request within five (5) business days of receipt of any such request. Contractor's proposal shall describe in reasonable detail the basis for any proposed price or time adjustment. All cost estimates shall include all completed Services, and cover all costs, expenses, overhead and profit of subcontractors, if any.

23.04 Contractor acknowledges that any change in the Contract price represents full compensation for all costs associated with the change request, including delay costs, impacts, acceleration, disruption, consequential damages and any other cost of any nature.

23.05 If the County does not accept the Contractor's proposal, the County may:

- A. withdraw its change request;
- B. modify its change request, in which case the procedures set forth above will apply to the modified change request; or
- C. issue a Change Order.

23.06 Any adjustment in the Contract price shall be computed in the manner as the parties may agree. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the Contract as changed, provided the County promptly and duly makes provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the required Services under protest, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of the time for completion.

23.07 No action, conduct, omission, prior failure or course of dealing by the County shall act to waive, modify, change or alter the requirement that Contract Modifications must be in writing and signed by the County and the Contractor. Contractor further acknowledges that Change Orders and Contract Modifications are the exclusive method for effecting any change to the Contract.

23.08 No change to this Contract is effective unless it is in writing and references this Contract. If the change is a Contract Modification, it must be signed and acknowledged by duly authorized representatives of both parties. If the change is a Change Order, it must be signed by an authorized representative of the County.

24. DEBARMENT AND SUSPENSION

24.01 The Contractor certifies to the best of its knowledge and belief, that:

- A. The Contractor and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal agency;
- B. The Contractor and its principals have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connections with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract

- under public transaction; violation of Federal or State antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. The Contractor and its principals are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in 24.01 b above; and;
 - D. The Contractor and its principals have not, within a three-year period preceding this contract, had one or more public transactions (Federal, State or local) terminated for cause or default.

24.02 The certification in this clause is a material representation of fact upon which reliance was placed. When the County determines that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the County, the County may terminate this Contract for cause or default.

24.03 The Contractor shall provide immediate written notice to the County if, at any time, Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

24.04 The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "Grantee", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meaning set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76.

24.05 The Contractor agrees that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the County.

24.06 The Contractor further agrees that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction", provided by the County, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

24.07 A Contractor may rely upon a certification of a participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Contractor may decide the method and frequency by which it determines the eligibility of its principals. Each Contractor may, but is not required to, check the Non-procurement List (of excluded parties).

24.08 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

24.09 If a Contractor is in a covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the County, the County may terminate this transaction for cause or default.

25. PROMPT PAYMENT

25.01 If the Contractor should subcontract a part of the obligations under this Contract to a business which has been certified by the County's Division of Human Relations as a small or disadvantaged business enterprise, the Contractor shall make prompt payments to each such subcontractor as the subcontract is performed which are at least equal to the prompt payments which are due to the Contractor under the provisions of this Contract. Unless alternate terms which have a similar purpose and effect are otherwise agreed upon in writing, the Contractor shall make payment within 45 days after delivery or satisfaction of the subcontract or receipt of a complete invoice therefore, whichever is later. If an invoice is filled out incorrectly or contains a defect or impropriety, the Contractor shall notify the subcontractor of that fact within 10 days after receipt of the invoice. The 45 day period shall be extended by each day over 5 days which the subcontractor takes to make a correction. If a payment is past due, the Contractor shall pay to the subcontractor an additional amount to be calculated on a daily basis which is equal to an annual rate of interest of 9% (amount overdue X number of days overdue X .000246575). Interest shall not be due if payment is delayed because of a good faith disagreement between the Contractor and the subcontractor regarding contract performance and

the dispute is resolved in favor of the Contractor. This provision is expressly intended to create a third-party right which is legally enforceable by a subcontractor. This provision does not, however, create a duty on the part of the County to seek enforcement of a default of this provision or to make payment to the subcontractor on behalf of the Contractor.

26. MISCELLANEOUS

26.01 The Contractor covenants that it is not, and will not become, in arrears to the County upon any contract, debt, or any other obligation to the County, including real property and personal property taxes.

26.02 Articles 12, 13, 19, and 21 survive termination of the Contract.

26.03 All the provisions of this Contract are "covenants" and "conditions" as though the words specifically expressing or imparting covenants and conditions are used in each provision.

26.04 If any Affiliate of the Contractor takes any action which, if done by the Contractor, would constitute a breach of this Contract, the action is deemed a breach by the Contractor. "Affiliate" is a "parent", subsidiary or other company controlling, controlled by or in common control with the Contractor.

26.05 Neither party is responsible for force majeure events. If there is a dispute between the parties with regard to what constitutes a force majeure event, the County's reasonable determination is controlling.

26.06 Unless the context otherwise requires, the words, "herein", "hereof" and "hereunder", and other words of similar import, refer to this Contract as a whole and not to any particular article, section, or other subdivision.

26.07 The headings of the articles in this Contract are for convenience only and must not be used to construe or interpret the scope or intent of this Contract or in any way affect the Contract.

26.08 As used, the singular includes the plural, the plural includes the singular, and the use of any gender is applicable to all genders.

26.09 The Contractor warrants that any products sold or processes used in the performance of this Contract do not infringe upon or violate any patent, copyright, trademark, trade secret or any other proprietary rights of any third party. If a third party makes a claim against the County, the County must promptly notify the Contractor. The Contractor must defend the claim in the name of the County, at the Contractor's expense. The Contractor must indemnify the County against any loss, cost, expense or liability arising out of the claim, whether or not the claim is successful.

26.10 No failure by a party to insist upon the strict performance of any term of this Contract or to exercise any term after a breach constitutes a waiver of any breach of term. No waiver of any breach affects or alters this Contract, but every term of this Contract remains effective with respect to any other then existing or subsequent breach.

26.11 The Contractor shall secure all permits necessary to perform the services and shall comply with all statutes, ordinance, and laws.

26.12 If any provision of this Contract or the application to any person or circumstance is, to any extent, judicially determined to be invalid or unenforceable, the remainder of the Contract, or the application of the provision to persons or circumstances other than those as to which it is invalid or unenforceable, is not affected and is enforceable.

26.13 This document, including the Appendices, contains the entire agreement between the parties and all prior negotiations and agreements are merged in this document. Neither party has made any representations except those expressly set forth. No rights or remedies are, or will be acquired by either party by implication or otherwise unless set forth.

26.14 The Contractor may subcontract with the companies. The Contractor has represented within Appendix A, that no subcontractors shall be used on this contract.

26.15 The County or the Contractor may contract with other firms providing the same or similar services so long as the Contractor's obligations to the County contained in this Contract will not be affected in any manner.

26.16 If the division of Human Relations determines that the Contractor has not made a full disclosure in its affidavit regarding its investments in, support or profit in some manner from the institution of slavery, that failure shall constitute a substantial breach of this Contract, sufficient to warrant rescission of the Contract, the institution of liquidated damages, and debarment from any further business with the County.

27. AUTHORIZATION AND CAPABILITY

27.01 The Contractor warrants to the County that it has taken all corporate actions necessary for the

authorization, execution, delivery and performance of this Contract. It is ready to perform its obligations. The Contractor further warrants that the person signing this Contract is authorized to do so on behalf of the Contractor and is empowered to bind the Contractor to this Contract.

27.02 This Contract is effective only upon review and approval by the Wayne County Commission and full execution of the Contract by both the County and the Contractor's authorized officers and representatives.

28. SIGNATURE

28.01 The County and the Contractor, by their authorized officers and representatives have executed this Contract.

CONTRACTOR

COUNTY OF WAYNE

By: _____

By: _____

Its: _____

WARREN C. EVANS
Its: COUNTY EXECUTIVE

Date _____

Date _____

authorization, execution, delivery and performance of this Contract. It is ready to perform its obligations. The Contractor further warrants that the person signing this Contract is authorized to do so on behalf of the Contractor and is empowered to bind the Contractor to this Contract.

27.02 This Contract is effective only upon review and approval by the Wayne County Commission and full execution of the Contract by both the County and the Contractor's authorized officers and representatives.

28. SIGNATURE

28.01 The County and the Contractor, by their authorized officers and representatives have executed this Contract.

CONTRACTOR

By: A-R
Its: Scott Robinson
President & CEO
Date: 11/29/18

COUNTY OF WAYNE

By: WCE
Its: WARREN C. EVANS
COUNTY EXECUTIVE
Date: 1/3/19

RESOLUTION

No. 2018-903

By Commissioner Varga

RESOLVED, by the Wayne County Commission this 20th day of December, 2018 that approval be, and is hereby, granted authorizing a retroactive three-year contract with one, two-year option to renew or two, one-year options to renew between the Charter County of Wayne and US Imaging, Inc. (of Saginaw) in the amount of \$247,682.32 to convert digital images from the land records database to microfilm and store the images along with the ones that are currently being stored for the Register of Deeds Office, as recommended by the Chief Executive Officer; and be it further

RESOLVED, that the term of the contract is from November 1, 2018 through October 31, 2021; and the cost of the contract will be charged to Account No. 101 23600 817000 (Register of Deeds); and be it further

RESOLVED, that performance on this contract was performed prior to Commission approval in violation of Section 120-50 of the Wayne County Procurement Ordinance (Ordinance No. 2006-1101, as amended) and Section 5.143 of the Home Rule Charter for the County of Wayne; and be it further

RESOLVED, that the Wayne County Commission calls for the County Executive to determine if the County incurred damages as a result of premature performance in violation of the Procurement Ordinance and if damages were incurred to institute a civil action pursuant to the Procurement Ordinance; and be it further

RESOLVED, that the County Executive, in conjunction with the Department of Corporation Counsel, shall report to the Commission on this matter within 90 days; and be it further

RESOLVED, that the Chief Executive Officer be, and is hereby, duly authorized to execute the aforementioned agreement on behalf of the Charter County of Wayne.

[Agreement on File]

(2018-78-019)