

## A G R E E M E N T

**THIS AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **US IMAGING INC**, a Michigan corporation whose address is 400 South Franklin Street, Saginaw, Michigan 48607, (the “Consultant” or “Contractor”), jointly (“the Parties”).

The Parties agree as follows:

1. **COORDINATION AND LIAISON**: The Consultant shall fully coordinate all services under the Agreement with the Clerk and Recorder (the “Clerk”) or, the Clerk’s Designee.

2. **DEFINITIONS**

a. **“City Data”** means all information, data, and records, regardless of form, created by or in any way originating with the City and all information that is the output of any computer processing or other electronic manipulation including all records relating to the City’s use of the Work. City Data also includes Confidential Information and Protected Information, as defined in this Agreement.

b. **“D(d)ata”** means information, regardless of form, that can be read, transmitted, or processed.

c. **“Deliverable(s)”** means a tangible object, software-as-a service subscription, or on-premise software that is provided to the City by the Contractor under this Agreement.

d. **“Effective Date”** means the date on which this Agreement is fully approved and signed by the City as shown on the City’s signature page.

e. **“Exhibits”** means the exhibits and attachments included with this Agreement.

f. **“Service(s)”** means the services to be performed by the Contractor as set forth in this Agreement and shall include any services or support provided by the Contractor in connection with any goods or Deliverables under this Agreement.

g. **“Subcontractor”** means any third party engaged by the Contractor to aid in performance of the Work.

h. **“Work”** means the Deliverables provided and Services performed pursuant to this Agreement.

i. “**Work Product**” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Term that is used, without modification, in the performance of the Work.

**3. SERVICES TO BE PERFORMED:**

a. As the Clerk directs, the Consultant shall diligently undertake, perform, and complete all of the services, including the technology related work, and produce all the deliverables set forth on **Exhibit A, Scope of Work and Budget**, to the City’s satisfaction.

b. The Consultant is ready, willing, and able to provide the services required by this Agreement.

c. The Consultant shall faithfully perform the services and technology related work in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.

**4. TERM:** The Agreement will commence on **October 1, 2023, and will expire on October 31, 2025** (the “Term”). The term of this Agreement may be extended by the City under the same terms and conditions by a written amendment to this Agreement Subject to the Clerk’s prior written authorization, the Consultant shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Clerk.

**5. COMPENSATION AND PAYMENT:**

a. **Budget.** The City shall pay and the Consultant shall accept as the sole compensation for services rendered and costs incurred under the Agreement the line item amounts set forth in the budget contained in **Exhibit A**. Amounts billed may not exceed the budget set forth in **Exhibit A**.

b. **Reimbursable Expenses:** There are no reimbursable expenses allowed under the Agreement. All of the Consultant’s expenses are contained in the budget in **Exhibit A**.

c. **Invoicing:** Consultant shall provide the City with a monthly invoice in a format and with a level of detail acceptable to the City including all supporting documentation required by the City. The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement.

d. **Maximum Contract Amount:**

(1) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **ONE MILLION NINETY ONE THOUSAND EIGHT HUNDRED AND FIVE DOLLARS AND NO CENTS (\$1,091,805.00)** (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Consultant beyond that specifically described in **Exhibit A**. Any services performed beyond those in **Exhibit A** are performed at Consultant's risk and without authorization under the Agreement.

(2) The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

6. **STATUS OF CONSULTANT:** The Consultant is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Consultant nor any of its employees are employees or Directors of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

7. **TERMINATION:**

a. The City has the right to terminate the Agreement with cause upon written notice effective immediately, and without cause upon thirty (30) days prior written notice to the Consultant. However, nothing gives the Consultant the right to perform services under the Agreement beyond the time when its services become unsatisfactory to the Clerk.

b. Notwithstanding the preceding paragraph, the City may terminate the Agreement if the Consultant or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kick backs, collusive bidding, bid-

rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Consultant's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

c. Upon termination of the Agreement, with or without cause, the Consultant shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in the Agreement.

d. If the Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in the Consultant's possession, custody, or control by whatever method the City deems expedient. The Consultant shall deliver all documents in any form that were prepared under the Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. The Consultant shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE".

**8. EXAMINATION OF RECORDS AND AUDITS:** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Consultant's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Consultant shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Consultant to make disclosures in violation of state or federal privacy laws. Consultant shall at all times comply with D.R.M.C. 20-276.

**9. WHEN RIGHTS AND REMEDIES NOT WAIVED:** In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Consultant. No payment, other

action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

**10. INSURANCE:**

**a. General Conditions:** Consultant agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Consultant shall keep the required insurance coverage in force at all times during the term of the Agreement, including any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-VIII” or better. Each policy shall require notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Consultant shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City’s contract number. Consultant shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Consultant. The Consultant shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

**b. Proof of Insurance:** Consultant may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. Consultant certifies that the certificate of insurance attached as **Exhibit B**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City’s contract number be referenced on the certificate of insurance. The City’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Consultant’s breach of this

Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

c. **Additional Insureds**: For Commercial General Liability, Business Auto Liability and Excess Liability/Umbrella (if required), Consultant and subconsultant's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

d. **Waiver of Subrogation**: For all coverages required under this Agreement, Consultant's insurer shall waive subrogation rights against the City.

e. **Subcontractors and Subconsultants**: Consultant shall confirm and document that all subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by the Consultant and appropriate to their respective primary business risks considering the nature and scope of services provided.

f. **Workers' Compensation and Employer's Liability Insurance**: Consultant shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

g. **Commercial General Liability**: Consultant shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate.

h. **Business Automobile Liability**: Consultant shall maintain Automobile Liability with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

i. **Technology Errors & Omissions including Cyber Liability**: Contractor shall maintain Technology Errors and Omissions insurance including cyber liability, network security, privacy liability and product failure coverage with minimum limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate. The policy shall be kept in force, or a Tail policy placed, for three (3) years.

**11. DEFENSE AND INDEMNIFICATION:**

**a.** The Contractor hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of the Contractor or its Subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

**b.** The Contractor’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. the Contractor’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

**c.** The Contractor will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

**d.** Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

**e.** The Contractor shall indemnify, save, and hold harmless the indemnified parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the indemnified parties in relation to any claim that any Deliverable or Service, software, or Work Product provided by the Contractor under this Agreement (collectively, “IP Deliverables”), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. The Contractor’s obligations

hereunder shall not extend to the combination of any IP Deliverables provided by the Contractor with any other product, system, or method, unless the other product, system, or method is (i) provided by the Contractor or the Contractor's subsidiaries or affiliates; (ii) specified by the Contractor to work with the IP Deliverables; (iii) reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or (iv) is reasonably expected to be used in combination with the IP Deliverables.

f. The Contractor shall indemnify, save, and hold harmless the indemnified parties against all costs, expenses, claims, damages, liabilities, court awards and other amounts, including attorneys' fees and related costs, incurred by the indemnified parties in relation to the Contractor's failure to comply with §§ 24-85-101, et seq., C.R.S., or the Accessibility Standards for Individuals with a Disability as established pursuant to § 24-85-103 (2.5), C.R.S. This indemnification obligation does not extend to the City's generated content using the Contractor's software, including any configuration or customization of the Contractor's software by the City.

g. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

**12. COLORADO GOVERNMENTAL IMMUNITY ACT:** The Parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, et seq., C.R.S. (2003).

**13. TAXES, CHARGES AND PENALTIES:** The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, et seq. The Consultant shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under the Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

**14. ASSIGNMENT; SUBCONTRACTING:** The Consultant shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Clerk's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void, and will be cause for termination of this Agreement by the City. The Clerk has sole and absolute discretion whether to consent to



any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Consultant shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any sub-consultant, subcontractor or assign.

**15. INUREMENT:** The rights and obligations of the Parties to the Agreement inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

**16. NO THIRD PARTY BENEFICIARY:** Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Consultant receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

**17. NO AUTHORITY TO BIND CITY TO CONTRACTS:** The Consultant lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

**18. SEVERABILITY:** Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

**19. CONFLICT OF INTEREST:**

**a.** No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Consultant shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

**b.** The Consultant shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Consultant represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Consultant by placing the Consultant's own interests, or the interests of any party with whom the Consultant

has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement if it determines a conflict exists, after it has given the Consultant written notice describing the conflict.

**20. NOTICES:** All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Consultant at the address first above written, and if to the City at:

Denver Clerk and Recorder  
201 West Colfax Avenue, Dept. 101  
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office  
1437 Bannock St., Room 353  
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

**21. DISPUTES:** All disputes between the City and Consultant arising out of or regarding the Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Clerk as defined in this Agreement.

**22. GOVERNING LAW; VENUE:** The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

**23. NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.

**24. COMPLIANCE WITH ALL LAWS:** Consultant shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

**25. LEGAL AUTHORITY:** Consultant represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into the Agreement. Each person signing and executing the Agreement on behalf of Consultant represents and warrants that he has been fully authorized by Consultant to execute the Agreement on behalf of Consultant and to validly and legally bind Consultant to all the terms, performances and provisions of the Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either Consultant or the person signing the Agreement to enter into the Agreement.

**26. NO CONSTRUCTION AGAINST DRAFTING PARTY:** The Parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

**27. ORDER OF PRECEDENCE:** In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

**28. INTELLECTUAL PROPERTY RIGHTS:** The City and Consultant intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, URLs, domain names, music, sketches, web pages, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Consultant and paid for by the City pursuant to

this Agreement, in preliminary or final form and on any media whatsoever (collectively, “Materials”), shall belong to the City. The Consultant shall disclose all such items to the City and shall assign such rights over to the City upon completion of the Project. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are a “work made for hire” and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a “work made for hire,” the Consultant (by this Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity.

**29. SURVIVAL OF CERTAIN PROVISIONS:** The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Consultant’s obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

**30. ADVERTISING AND PUBLIC DISCLOSURE:** The Consultant shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Consultant’s advertising or public relations materials without first obtaining the written approval of the Clerk. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Consultant shall notify the Clerk in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

**31. TECHNOLOGY SERVICES SPECIFICATIONS:**

**a.** User ID Credentials: Internal corporate or customer (tenant) user account credentials shall be restricted, ensuring appropriate identity, entitlement, and access management and in accordance with established policies and procedures, as follows:

**(1)** Identity trust verification and service-to-service application (API) and information processing interoperability (e.g., SSO and Federation);

**(2)** Account credential lifecycle management from instantiation through revocation;

(3) Account credential and/or identity store minimization or re-use when feasible; and

(4) Adherence to industry acceptable and/or regulatory compliant authentication, authorization, and accounting (AAA) rules (e.g., strong/multi-factor, expire able, non-shared authentication secrets).

b. Vendor Supported Releases: The Contractor shall maintain the currency of all third-party software used in the development and execution or use of the Work with third-party vendor approved and supported releases, including, but not limited to, all code libraries, frameworks, components, and other products (e.g., Java JRE, code signing certificates, .NET, jQuery plugins, etc.), whether commercial, free, open-source, or closed-source.

c. Identity Management: The City's Identity and Access Management ("IdM") system is an integrated infrastructure solution that enables many of the City's services and online resources to operate more efficiently, effectively, and securely. All new and proposed applications must utilize the authentication and authorization functions and components of IdM. Strong authentication is required for privileged accounts or accounts with access to sensitive information. This technical requirement applies to all solutions regardless of where the application is hosted.

d. Additional Products or Services: The Parties acknowledge that the Contractor will continue to enhance and/or modify its existing products or services. To use those enhanced products or services, the City shall be entitled to order those offerings at any time throughout the duration of this Agreement provided the pricing is set out in this Agreement. Once agreed upon by the Parties, additional products or services shall be subject to the same terms and conditions as contained herein and any order placed by the City shall not create any additional binding conditions on the City and shall not act as an amendment of the terms and conditions of this Agreement. If additional products or services are requested by the City, the Parties shall follow the agreed upon order process and if no process is outlined, then the CIO, or other designated Agency personnel, shall be authorized to sign any necessary forms to acquire the products/services on behalf of the City. Additional licenses shall be prorated and co-termed with current licensing contained in this Agreement.

e. Reoccurring Security Audits: Prior to the Effective Date of this Agreement, the Contractor, will at its expense conduct or have conducted the following, and thereafter, the Contractor will at its expense conduct or have conducted the following at least once per year, and

immediately after any actual or reasonably suspected Security Breach: (i) a SSAE 18/SOC 2 Type 2 or other mutually agreed upon audit of the Contractor's security policies, procedures and controls; (ii) a quarterly external and internal vulnerability scan of the Contractor's systems and facilities, to include public facing websites, that are used in any way to deliver Services under this Agreement. The report must include the vulnerability, age, and remediation plan for all issues identified as critical or high; and (iii) a formal penetration test performed by qualified personnel of the Contractor's systems and facilities that are used in any way to deliver Work under this Agreement. The Contractor will provide the City the results of the above audits. The Contractor shall also protect data against deterioration or degradation of quality and authenticity by, at minimum, having a third party perform annual data integrity audits. In addition, the Contractor shall comply with the City's annual risk assessment and the results thereof.

**f.** Security Audit Results: The Contractor will provide the City the reports or other documentation resulting from the above audits, certifications, scans, and tests within seven (7) business days of the Contractor's receipt of such results. The report must include the vulnerability, age, and remediation plan for all issues identified as critical or high. Based on the results and recommendations of the above audits, the Contractor will, within thirty (30) calendar days of receipt of such results, promptly modify its security measures to meet its obligations under this Agreement and provide the City with written evidence of remediation. The City may require, at the Contractor's expense, that the Contractor perform additional audits and tests, the results of which will be provided to the City within seven (7) business days of Contractor's receipt of such results. To the extent the Contractor controls or maintains information systems used in connection with this Agreement, the Contractor shall provide the City with the results of all security assessment activities when conducted on such information systems, including any code-level vulnerability scans, application-level risk assessments, and other security assessment activities as required by this Agreement or reasonably requested by the City. The Contractor will remediate any vulnerabilities to comply with its obligations hereunder. If additional funds are required to perform the tests required by the City that are not accounted for in this Agreement, the Parties agree to amend this Agreement as necessary.

**g.** Performance Outside of the United States: The Contractor shall request written approval from the City to perform, or subcontract to perform, Services outside the United States. The City may approve or deny such request within the City's sole discretion. Any notice

or term in any Exhibit provided to the City by the Contractor regarding performance outside the United States shall be deemed ineffective and void if the City has not granted prior written approval for such performance. This prohibition shall also apply to using, transmitting, and maintaining City Data outside of the United States.

**h.** Transition of Services: Upon expiration or earlier termination of this Agreement or any Work provided hereunder, the Contractor shall accomplish a complete transition of the Services from the Contractor to the City or any replacement provider designated solely by the City without any interruption of or adverse impact on the Services or any other services provided by third parties under this Agreement. The Contractor shall cooperate fully with the City or such replacement provider and promptly take all steps required to assist in effecting a complete transition of the Services designated by the City. All Services related to such transition shall be performed at no additional to the City. The Contractor shall extend this Agreement monthly if additional time is required beyond the termination of this Agreement, if necessary, to effectuate the transition and the City shall pay a proration of the subscription fee.

**i.** Disaster Recovery and Continuity

**(1)** The Contractor shall maintain a continuous and uninterrupted business continuity and disaster recovery program with respect to the Work provided under this Agreement. The program shall be designed, in the event of a significant business disruption affecting the Contractor, to provide the necessary and sufficient capabilities, processes, and procedures to enable the Contractor to resume and continue to perform its duties and obligations under this Agreement without undue delay or disruption. In the event of equipment failures, the Contractor shall, at no additional expense to the City, take reasonable steps to minimize service interruptions, including using any back-up facilities where appropriate. Upon request, the Contractor shall provide the City with a copy of its disaster recovery plan and procedures.

**(2)** Prior to the Effective Date of this Agreement, the Contractor shall, at its own expense, conduct or have conducted the following, and thereafter, the Contractor will, at its own expense, conduct or have conducted the following at least once per year:

A. A test of the operability, sufficiency, and completeness of business continuity and disaster recovery program's capabilities, processes, and procedures that are necessary to resume and continue to perform its duties and obligations under this Agreement.

B. Based upon the results and subsequent recommendations of the testing above, the Contractor will, within thirty (30) calendar days of receipt of such results and recommendations, promptly modify its capabilities, processes, and procedures to meet its obligations under this Agreement and provide City with written evidence of remediation.

C. Upon request, the Contractor shall provide the City with report summaries or other documentation resulting from above testing of any business continuity and disaster recovery procedures regarding the Services provided under this Agreement.

D. The Contractor represents that it is capable, willing, and able to provide the necessary and sufficient business continuity and disaster recovery capabilities and functions that are appropriate for it to provide services under this Agreement.

**32. DELIVERY AND ACCEPTANCE:**

a. Acceptance & Rejection: Deliverables will be considered accepted (“Acceptance”) only when the City provides the Contractor affirmative written notice of acceptance that such Deliverable has been accepted by the City. Such communication shall be provided within a reasonable time from the delivery of the Deliverable and shall not be unreasonably delayed or withheld. Acceptance by the City shall be final, except in cases of Contractor’s failure to conduct proper quality assurance, latent defects that could not reasonably have been detected upon delivery, or the Contractor’s gross negligence or willful misconduct. The City may reject a Deliverable if it materially deviates from its specifications and requirements listed in this Agreement or its attachments by written notice setting forth the nature of such deviation. In the event of such rejection, the Contractor shall correct the deviation, at its sole expense, and redeliver the Deliverable within fifteen (15) days. After redelivery, the Parties shall again follow the acceptance procedures set forth herein. If any Deliverable does not perform to the City’s satisfaction, the City reserves the right to repudiate acceptance. If the City ultimately rejects a Deliverable, or repudiates acceptance of it, the Contractor will refund to the City all fees paid, if any, by the City with respect to any rejected Deliverable. Acceptance shall not relieve the Contractor from its responsibility under any representation or warranty contained in this Agreement, and payment of an invoice prior to Acceptance does not grant a waiver of any representation or warranty made by the Contractor.

b. Quality Assurance: The Contractor shall provide and maintain a quality assurance system acceptable to the City for Deliverables under this Agreement and shall provide



to the City only such Deliverables that have been inspected and found to conform to the specifications identified in this Agreement and any applicable solicitation, bid, offer, or proposal from which this Agreement results. The Contractor's delivery of any Deliverables to the City shall constitute certification that any Deliverables have been determined to conform to the applicable specifications, and the Contractor shall make records of such quality assurance available to the City upon request.

**c.** License to Deliverables: Effective upon Acceptance of each Deliverable, the Contractor grants the City a nonexclusive, royalty-free license to reproduce, modify, display, and use such Deliverable, and all intellectual property rights necessary to use the Deliverable as authorized, as necessary for the City's internal business purposes, provided the City complies with any license restrictions set forth in this Agreement and any attachments thereto. The City will not reverse engineer or reverse compile any part of a Deliverable unless agreed by the Parties in writing.

**d.** Incorporation of Deliverables: Upon Acceptance, each Deliverable will thereafter be subject to this Agreement's terms, including, without limitation, license, warranty, and indemnity terms.

**33. WARRANTIES AND REPRESENTATIONS:**

**a.** Notwithstanding the acceptance of any Work or Deliverable, or the payment of any invoice for such Work or Deliverable, the Contractor warrants that any Work or Deliverable provided by the Contractor under this Agreement shall be free from material defects and shall function as intended and in material accordance with the applicable specifications. The Contractor warrants that any Work or Deliverable, and any media used to distribute it, shall be, at the time of delivery, free from any harmful or malicious code, including without limitation viruses, malware, spyware, ransomware, or other similar function or technological means designed to disrupt, interfere with, or damage the normal operation of the Work or Deliverable and the use of City resources and systems. The Contractor's warranties under this Section shall apply to any defects or material nonconformities discovered within 180 days following delivery of any Work or Deliverable.

**b.** Upon notice of any defect or material nonconformity, the Contractor shall submit to the City in writing within 10 business days of the notice one or more recommendations for corrective action with sufficient documentation for the City to ascertain the feasibility, risks,

and impacts of each recommendation. The City's remedy for such defect or material non-conformity shall be:

(1) The Contractor shall re-perform, repair, or replace such Work or Deliverable in accordance with any recommendation chosen by the City. The Contractor shall deliver, at no additional cost to the City, all documentation required under this Agreement as applicable to the corrected Work or Deliverable; or

(2) The Contractor shall refund to the City all amounts paid for such Work or Deliverable, as well as pay to the City any additional amounts reasonably necessary for the City to procure alternative goods or services of substantially equivalent capability, function, and performance.

c. Any Work or Deliverable delivered to the City as a remedy under this Section shall be subject to the same quality assurance, acceptance, and warranty requirements as the original Work or Deliverable. The duration of the warranty for any replacement or corrected Work or Deliverable shall run from the date of the corrected or replacement Work or Deliverable.

d. **Customization Services**: The Contractor warrants that it will perform all customization services, if any, in a professional and workmanlike manner. In case of breach of the warranty of the preceding sentence, the Contractor, at its own expense, shall promptly re-perform the customization services in question or provide a full refund for all nonconforming customization services.

e. **Third-Party Warranties and Indemnities**: The Contractor will assign to the City all third-party warranties and indemnities that the Contractor receives in connection with any Work or Deliverables provided to the City. To the extent that the Contractor is not permitted to assign any warranties or indemnities through to the City, the Contractor agrees to specifically identify and enforce those warranties and indemnities on behalf of the City to the extent the Contractor is permitted to do so under the terms of the applicable third-party agreements.

f. **Intellectual Property Rights in the Software**: The Contractor warrants that it is the owner of all Deliverables, and of each and every component thereof, or the recipient of a valid license thereto, and that it has and will maintain the full power and authority to grant the intellectual property rights to the Deliverables in this Agreement without the further consent of any third party and without conditions or requirements not set forth in this Agreement. In the event of a breach of the warranty in this Section, the Contractor, at its own expense, shall promptly take

the following actions: (i) secure for the City the right to continue using the Deliverable as intended; (ii) replace or modify the Deliverable to make it non-infringing, provided such modification or replacement will not materially degrade any functionality as stated in this Agreement; or (iii) refund 100% of the fee paid for the Deliverable for every month remaining in the Term, in which case the Contractor may terminate any or all of the City's licenses to the infringing Deliverable granted in this Agreement and require return or destruction of copies thereof. The Contractor also warrants that there are no pending or threatened lawsuits, claims, disputes, or actions: (i) alleging that any of the Work or Deliverables infringes, violates, or misappropriates any third-party rights; or (ii) adversely affecting any Deliverables or Services, or the Contractor's ability to perform its obligations hereunder.

**g. Disabling Code:** The Work and any Deliverables will contain no malicious or disabling code that is intended to damage, destroy, or destructively alter software, hardware, systems, or data. The Contractor represents, warrants and agrees that the City will not receive from the Contractor any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design, or other malicious, illicit or similar unrequested code, including surveillance software or routines which may, or is designed to, permit access by any person, or on its own, to erase, or otherwise harm or modify any City system, resources, or data (a "Disabling Code"). In the event a Disabling Code is identified, the Contractor shall take all steps necessary, at no additional cost to the City, to: (i) restore and/or reconstruct all data lost by the City as a result of a Disabling Code; (ii) furnish to City a corrected version of the Work or Deliverables without the presence of a Disabling Code; and, (iii) as needed, re-implement the Work or Deliverable at no additional cost to the City. This warranty shall remain in full force and effect during the Term.

### **34. ACCESSIBILITY AND ADA WEBSITE COMPLIANCE**

**a. Compliance:** The Contractor shall comply with, and the Work and Work Product provided under this Agreement shall be in compliance with, all applicable provisions of §§ 24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established pursuant to Section § 24-85-103 (2.5), C.R.S (collectively, the "Guidelines"). The Contractor shall also comply with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

**b. Testing:** The City may require the Contractor's compliance to be determined by a third party selected by the City to attest that the Contractor's has performed all

obligations under this Agreement in compliance with §§ 24-85-101, *et seq.*, C.R.S., and the Accessibility Standards for Individuals with a Disability as established pursuant to Section § 24-85-103 (2.5), C.R.S.

c. **Validation and Remediation**: The Contractor agrees to promptly respond to and resolve any instance of noncompliance regarding accessibility in a timely manner and shall remedy any noncompliant Work Product, Service, or Deliverable at no additional cost to the City. If the City reasonably determines accessibility issues exist, the Contractor shall provide a “roadmap” for remedying those deficiencies on a reasonable timeline to be approved by the City. Resolution of reported accessibility issue(s) that may arise shall be addressed as high priority, and failure to make satisfactory progress towards compliance with the Guidelines, as agreed to in the roadmap, shall constitute a breach of contract and be grounds for termination or non-renewal of this Agreement.

**35. CONFIDENTIAL INFORMATION**

a. “Confidential Information” means all information or data, regardless of form, not subject to disclosure under the Colorado Open Records Act, § 24-72-201, *et seq.*, C.R.S. (“CORA”), and is marked or identified at the time of disclosure as being confidential, proprietary, or its equivalent. Each of the Parties may disclose (a “Disclosing Party”) or permit the other Party (the “Receiving Party”) access to the Disclosing Party’s Confidential Information in accordance with the following terms. Except as specifically permitted in this Agreement or with the prior express written permission of the Disclosing Party, the Receiving Party shall not: (i) disclose, allow access to, transmit, transfer or otherwise make available any Confidential Information of the Disclosing Party to any third party other than its employees, Subcontractors, agents and consultants that need to know such information to fulfill the purposes of this Agreement, and in the case of non-employees, with whom it has executed a non-disclosure or other agreement which limits the use, reproduction and disclosure of the Confidential Information on terms that afford at least as much protection to the Confidential Information as the provisions of this Agreement; or (ii) use or reproduce the Confidential Information of the Disclosing Party for any reason other than as reasonably necessary to fulfill the purposes of this Agreement. This Agreement does not transfer ownership of Confidential Information or grant a license thereto. The City will retain all right, title, and interest in its Confidential Information.

**b.** The Contractor shall provide for the security of Confidential Information and information which may not be marked, but constitutes personally identifiable information, HIPAA, CJIS, or other federally or state regulated information (“Regulated Data”) in accordance with all applicable laws and regulations. If the Contractor receives Regulated Data outside the scope of this Agreement, it shall promptly notify the City.

**c.** Disclosed information or data that the Receiving Party can establish: (i) was lawfully in the Receiving Party’s possession before receipt from the Disclosing Party; or (ii) is or becomes a matter of public knowledge through no fault of the Receiving Party; or (iii) was independently developed or discovered by the Receiving Party; or (iv) was received from a third party that was not under an obligation of confidentiality, shall not be considered Confidential Information under this Agreement. The Receiving Party will inform necessary employees, officials, Subcontractors, agents, and officers of the confidentiality obligations under this Agreement, and all requirements and obligations of the Receiving Party under this Agreement shall survive the expiration or earlier termination of this Agreement.

**d.** Nothing in this Agreement shall in any way limit the ability of the City to comply with any laws or legal process concerning disclosures by public entities. The Parties understand that all materials exchanged under this Agreement, including Confidential Information, may be subject to CORA. In the event of a request to the City for disclosure of possible confidential materials, the City shall advise the Contractor of such request to give the Contractor the opportunity to object to the disclosure of any of its materials which it marked as, or otherwise asserts is, proprietary or confidential. If the Contractor objects to disclosure of any of its material, the Contractor shall identify to the City the legal basis under CORA for any right to withhold. In the event of any action or the filing of a lawsuit to compel disclosure, the Contractor agrees to intervene in such action or lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. If the matter is not resolved, the City will tender all material to the court for judicial determination of the issue of disclosure. The Contractor further agrees to defend, indemnify, and save and hold harmless the City, its officers, agents, and employees, from any claim, damages, expense, loss, or costs arising out of the Contractor’s intervention to protect and assert its claim of privilege against disclosure under this Section, including but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs, and damages that the City may incur directly or may be ordered to pay.

**36. SAFEGUARDING PERSONAL INFORMATION:** “PII” means personally identifiable information including, without limitation, any information maintained by the City about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records. PII includes, but is not limited to, all information defined as personally identifiable information in §§ 24-73-101, C.R.S. “PII” shall also mean “personal information” as set forth at § 24-73-103(1)(g), C.R.S. If the Contractor or any of its subcontractors will or may receive PII under this Agreement, the Contractor shall provide for the security of such PII, in a manner and form acceptable to the City, including, without limitation, City non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. When applicable, the Contractor shall be a “Third-Party Service Provider” as defined in §24-73-103(1)(i), C.R.S., and shall maintain security procedures and practices consistent with §§24-73-101, *et seq.*, C.R.S. In addition, as set forth in § 28-251, D.R.M.C., the Contractor, including, but not limited to, the Contractor’s employees, agents, and subcontractors, shall not collect or disseminate individually identifiable information about the national origin, immigration, or citizenship status of any person, over and above the extent to which the City is required to collect or disseminate such information in accordance with any federal, state, or local law.

**37. DATA MANAGEMENT, SECURITY, AND PROTECTION**

**a. Compliance with Data Protection Laws and Policies:** The Contractor shall comply with all applicable laws, rules, regulations, directives, and policies relating to data protection, use, collection, disclosures, processing, and privacy as they apply to the Contractor under this Agreement, including, without limitation, applicable industry standards or guidelines based on the data’s classification relevant to the Contractor’s performance hereunder and, when applicable, the most recent iterations of § 24-73-101, *et seq.*; C.R.S., IRS Publication 1075; the Health Information Portability and Accountability Act (“HIPAA”); the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services (“CJIS”) Security Policy for all Criminal Justice Information; the Colorado Consumer Protection Act, the Payment Card Industry Data Security Standard (“PCI-DSS”), and the Minimum Acceptable Risk Standards for Exchanges (collectively, “Data Protection Laws”). If the Contractor becomes aware that it

cannot reasonably comply with the terms or conditions contained herein due to a conflicting law or policy, the Contractor shall promptly notify the City.

**b. Safeguarding Protected and Sensitive Information:** “Protected Information” means data, regardless of form, that has been designated as sensitive, private, proprietary, protected, or confidential by law, policy, or the City. Protected Information includes, but is not limited to, employment records, protected health information, student and education records, criminal justice information, personal financial records, research data, trade secrets, classified government information, other regulated data, and personally identifiable information as defined by §§ 24-73-101(4)(b) and 6-1-716(1)(g)(I)(A), C.R.S., as amended. Protected Information shall not include public records that by law must be made available to the public under CORA. To the extent there is any uncertainty as to whether data constitutes Protected Information, the data in question shall be treated as Protected Information until a determination is made by the City or an appropriate legal authority. Unless the City provides security protection for the information it discloses to the Contractor, the Contractor shall implement and maintain reasonable security procedures and practices that are both appropriate to the nature of the Protected Information disclosed and that are reasonably designed to help safeguard Protected Information from unauthorized access, use, modification, disclosure, or destruction and shall only use, hold, and maintain Protected Information in facilities located within the United States. Disclosure of Protected Information does not include disclosure to a third party under circumstances where the City retains primary responsibility for implementing and maintaining reasonable security procedures and practices appropriate to the nature of the Protected Information, and the City implements and maintains technical controls reasonably designed to safeguard Protected Information from unauthorized access, modification, disclosure, or destruction or effectively eliminate the third party's ability to access Protected Information, notwithstanding the third party's physical possession of Protected Information. If the Contractor has been contracted to maintain, store, or process personal information on the City's behalf, the Contractor is a “Third-Party Service Provider” as defined by § 24-73-103(1)(i), C.R.S.

**c. Data Access and Integrity:** The Contractor shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards necessary and appropriate to ensure compliance with the Data Protection Laws applicable to the Contractor's performance hereunder to ensure the security and confidentiality of data. The Contractor shall

protect against threats or hazards to the security or integrity of data; protect against unauthorized disclosure, access to, or use of data; restrict access to data as necessary; and ensure the proper and legal use of data. The Contractor shall not engage in “data mining” except as specifically and expressly required by law or authorized in writing by the City. Unless otherwise required by law, the City has exclusive ownership of all City Data under this Agreement, and the Contractor shall have no right, title, or interest in City Data obtained in connection with the Work provided herein. The Contractor has a limited, nonexclusive license to access and use data as provided in this Agreement solely for the purpose of performing its obligations hereunder. The City retains the right to access and retrieve City Data stored on the Contractor’s infrastructure at any time during the Term. All City Data created and/or processed by the Work, if any, is and shall remain the property of the City and shall in no way become attached to the Work, nor shall the Contractor have any rights in or to the City Data without the express written permission of the City. This Agreement does not give a Party any rights, implied or otherwise, to the other’s data, content, or intellectual property, except as expressly stated in this Agreement. The City retains the right to use the Work to access and retrieve data stored on the Contractor’s infrastructure at any time during the Term. Upon written request, the Contractor shall provide the City its policies and procedures to maintain the confidentiality of City Data and Protected Information.

**d. Response to Legal Orders for City Data:** If the Contractor is required by a court of competent jurisdiction or administrative body to disclose City Data, the Contractor shall first notify the City and, prior to any disclosure, cooperate with the City’s reasonable requests in connection with the City’s right to intervene, quash, or modify the legal order, demand, or request, and upon request, provide the City with a copy of its response. If the City receives a subpoena, legal order, or other legal demand seeking data maintained by the Contractor, the City will promptly provide a copy to the Contractor. Upon notice and if required by law, the Contractor shall promptly provide the City with copies of its data required for the City to meet its necessary disclosure obligations.

**e. Data Retention, Transfer, Litigation Holds, and Destruction:** Using appropriate and reliable storage media, the Contractor shall regularly backup data used in connection with this Agreement and retain such backup copies consistent with the City’s data and record retention policies. All City Data shall be encrypted in transmission, including by web interface, and in storage by an agreed upon National Institute of Standards and Technology



(“NIST”) approved strong encryption method and standard. The Contractor shall not transfer or maintain data under this Agreement outside of the United States without the City’s express written permission. Upon termination of this Agreement, the Contractor shall securely delete or securely transfer all data, including Protected Information, to the City in an industry standard format as directed by the City; however, this requirement shall not apply to the extent the Contractor is required by law to retain data, including Protected Information. Upon the City’s request, the Contractor shall confirm, by providing a certificate, the data disposed of, the date disposed of, and the method of disposal. With respect to any data in the Contractor’s exclusive custody, the City may request, at no additional cost to the City, that the Contractor preserve such data outside of record retention policies. The City will promptly coordinate with the Contractor regarding the preservation and disposition of any data and records relevant to any current or anticipated litigation, and the Contractor shall continue to preserve the records until further notice by the City. Unless otherwise required by law or regulation, when paper or electronic documents are no longer needed, the Contractor shall destroy or arrange for the destruction of such documents within its custody or control that contain Protected Information by shredding, erasing, or otherwise modifying the Protected Information in the paper or electronic documents to make it unreadable or indecipherable. The Contractor and its third-party services providers must develop and maintain a written policy for the destruction of such records.

**f. Software and Computing Systems:** At its reasonable discretion, the City may prohibit the Contractor from the use of certain software programs, databases, and computing systems with known vulnerabilities to collect, use, process, store, or generate data and information received under this Agreement. The Contractor shall fully comply with all requirements and conditions, if any, associated with the use of software programs, databases, and computing systems as reasonably directed by the City. The Contractor shall not use funds paid by the City for the acquisition, operation, or maintenance of software in violation of any copyright laws or licensing restrictions. The Contractor shall maintain commercially reasonable network security that, at a minimum, includes network firewalls, intrusion detection/prevention, and enhancements or updates consistent with evolving industry standards. The Contractor shall use industry-standard and up-to-date security tools, technologies and procedures including, but not limited to, anti-virus and anti-malware protections. The Contractor shall ensure that any underlying or integrated software employed under this Agreement is updated on a regular basis and does not pose a security

threat. The Contractor shall provide a software bill of materials (“SBOM”) annually or upon major changes to the solution(s) provided to the City under this Agreement. The Contractor shall provide a complete SBOM for the supported life of the solution(s). The Contractor shall monitor for security vulnerabilities in applicable software components and use a risk-based approach to mitigate any vulnerabilities.

**g. Background Checks:** The Contractor shall ensure that, prior to being granted access to Protected Information, the Contractor’s agents, employees, Subcontractors, volunteers, or assigns who perform work under this Agreement have all undergone and passed all necessary criminal background screenings, have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Agreement and Data Protection Laws, and possess all qualifications appropriate to the nature of the employees’ duties and the sensitivity of the data. If the Contractor will have access to federal tax information (“FTI”) under this Agreement, the Contractor shall comply with the background check and other provisions of Section 6103(b) of the Internal Revenue Code, the requirements of IRS Publication 1075, and the Privacy Act of 1974, 5 U.S.C. § 552a, *et. seq.*, related to federal tax information.

**h. Subcontractors and Employees:** If the Contractor engages a Subcontractor under this Agreement, the Contractor shall impose data protection terms that provide at least the same level of data protection as in this Agreement and to the extent appropriate to the nature of the Work provided. The Contractor shall monitor the compliance with such obligations and remain responsible for its Subcontractor’s compliance with the obligations of this Agreement and for any of its Subcontractors acts or omissions that cause the Contractor to breach any of its obligations under this Agreement. Unless the Contractor provides its own security protection for the information it discloses to a third party, the Contractor shall require the third party to implement and maintain reasonable security procedures and practices that are appropriate to the nature of the Protected Information disclosed and that are reasonably designed to protect it from unauthorized access, use, modification, disclosure, or destruction. Any term or condition within this Agreement relating to the protection and confidentiality of any disclosed data shall apply equally to both the Contractor and any of its Subcontractors, agents, assigns, employees, or volunteers. Upon request, the Contractor shall provide the City copies of its record retention, data privacy, and information security policies. The Contractor shall ensure all Subcontractors sign, or have signed, agreements

containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force so long as the Subcontractor has access to any data disclosed under this Agreement. Upon request, the Contractor shall provide copies of those signed nondisclosure agreements to the City.

**i. Security Breach:** If the Contractor becomes aware of a suspected or unauthorized acquisition or disclosure of unencrypted data, in any form, that compromises the security, access, confidentiality, or integrity of City Data, Protected Information, or other data maintained or provided by the City (“Security Breach”), the Contractor shall notify the City in the most expedient time and without unreasonable delay but no less than forty-eight (48) hours. A Security Breach shall also include, without limitation, (i) attempts to gain unauthorized access to a City system or City Data regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a City system for the processing or storage of data; or (iv) changes to the City’s system hardware, firmware, or software characteristics without the City’s knowledge, instruction, or consent. Any oral notice of a Security Breach provided by the Contractor shall be immediately followed by a written notice to the City. The Contractor shall maintain documented policies and procedures for Security Breaches including reporting, notification, and mitigation.

**j. Cooperation:** The Contractor shall assist the City with its efforts regarding recovery, lawful notices, investigations, remediation, and the necessity to involve law enforcement, as determined by the City and as required by law. The Contractor shall preserve and provide all information relevant to the Security Breach to the City; provided, however, the Contractor shall not be obligated to disclose confidential business information or trade secrets. Unless the Contractor can establish that neither it nor any of its agents, employees, assigns, or Subcontractors are the cause or source of the Security Breach, the Contractor shall indemnify, defend, and hold harmless the City for all claims, including reasonable attorneys’ fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from the City in connection with a Security Breach and any required lawful notices.

**k. Reporting:** The Contractor shall provide a written report to the City that identifies: (i) the nature of the unauthorized use or disclosure; (ii) the data used or disclosed; (iii) the parties responsible for the Security Breach (if known); (iv) what the Contractor has done or shall do to mitigate the effect of the Security Breach; and (v) what corrective action the Contractor

has taken or shall take to prevent future Security Breaches. Except as expressly required by law, the Contractor will not disclose or otherwise provide notice of the incident directly to any person, regulatory agencies, or other entities, without prior written permission from the City.

**l. Costs:** Notwithstanding any other provision of this Agreement, and in addition to any other remedies available to the City under law or equity, the Contractor will promptly reimburse the City in full for all costs incurred by the City in any investigation, remediation or litigation resulting from any Security Breach, including but not limited to providing notification to third parties whose data was compromised and to regulatory bodies, law-enforcement agencies, or other entities as required by law or contract; establishing and monitoring call center(s), and credit monitoring and/or identity restoration services to assist each person impacted by a Security Breach in such a fashion that, in the City's sole discretion, could lead to identity theft; and the payment of legal fees and expenses, audit costs, fines and penalties, and other fees imposed by regulatory agencies, courts of law, or contracting partners as a result of the Security Breach.

**m. Remediation:** After a Security Breach, the Contractor shall take steps to reduce the risk of incurring a similar type of Security Breach in the future as directed by the City, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the City at no additional cost to the City. The City may adjust or direct modifications to this plan, and the Contractor shall make all reasonable modifications as directed by the City. The City may, in its sole discretion and at the Contractor's sole expense, require the Contractor to engage the services of an independent, qualified, City-approved third party to conduct a security audit. The Contractor shall provide the City with the results of such audit and evidence of the Contractor's planned remediation in response to any negative findings. Implementation of corrective actions to remedy the Security Breach and restore the City's access to the Work shall occur within five (5) calendar days of the date the Contractor becomes aware of any Security Breach.

**n. Request for Additional Protections and Survival:** In addition to the terms contained herein, the City may reasonably request that the Contractor protect the confidentiality of certain Protected Information or other data in specific ways to ensure compliance with Data Protection Laws and any changes thereto. Unless a request for additional protections is mandated by a change in law, the Contractor may reasonably decline the City's request to provide additional

protections. If such a request requires the Contractor to take steps beyond those contained herein, the Contractor shall notify the City with the anticipated cost of compliance, and the City may thereafter, in its sole discretion, direct the Contractor to comply with the request at the City's expense; provided, however, that any increase in costs that would increase the Maximum Contract Amount must first be memorialized in a written amendment complying with City procedures. Obligations contained in this Agreement relating to the protection and confidentiality of any disclosed data shall survive termination of this Agreement, and the Contractor shall continue to safeguard all data for so long as the data remains confidential or protected and in the Contractor's possession or control.

**38. COMPLIANCE WITH DENVER WAGE LAWS:** To the extent applicable to the Consultant's provision of Services hereunder, the Consultant shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City's Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Consultant expressly acknowledges that the Consultant is aware of the requirements of the City's Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Consultant, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

**39. CITY EXECUTION OF AGREEMENT:** The Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

**40. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS:** The Agreement is the complete integration of all understandings between the Parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

**41. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** Consultant shall cooperate and comply with the provisions of Executive Order 94 and its

Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

**42. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:**

Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the Agreement, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**Exhibit List**

**Exhibit A** – Scope of Work and Budget

**Exhibit B** – Certificate of Insurance

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

**Contract Control Number:** CLERK-202472610-00  
**Contractor Name:** US IMAGING INC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_


\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

CLERK-202472610-00  
US IMAGING INC

By:  \_\_\_\_\_  
DocuSigned by:  
Alicia Floyd  
420F194966C349F...

Name: Alicia Floyd  
(please print)

Title: National Contract Specialist  
(please print)

ATTEST: [if required]

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)



# **EXHIBIT A**

## **SCOPE OF WORK AND BUDGET**

### **SECTION A: SCOPE OF WORK AND TECHNICAL REQUIREMENTS**

#### **A.1 PURPOSE AND INTRODUCTION:**

The Office of the Clerk and Recorder (OCR) is entering into this agreement with US Imaging to provide a turnkey service for the following services:

1. Digitization (scanning) and indexing of Plats
2. Digitization (scanning) and indexing of Contract files
3. Digitization (scanning) of miscellaneous books and paper records
4. Digitization (scanning) and indexing of Real Estate and Marriage License Index Books for years 1954 – 1993

US Imaging has demonstrated experience in all aspects of image capture, image enhancement, and indexing technologies and must demonstrate to the sole satisfaction of the OCR, that they can successfully deliver services of the type and scope.

It is estimated that scanning efforts will commence January 1, 2024, and continue through December 31, 2027, as determined by the needs of OCR. The commencement date may be adjusted based on OCR's business needs.

US Imaging has provided an alternate pricing methodology based on stages for the digitization and indexing of the inventory provided that the Office of the Clerk and Recorder will adopt.

#### **A.2 BACKGROUND:**

The OCR has been working on digitizing and preserving records within the office for at least the past five (5) years by converting from paper to digital images. The next phase of the project is to (a) convert OCR's paper Grantor/Grantee Real Estate Index and Marriage Index books from 1954-1993 to digital scanned images and (b) to create a record level (name) index for years 1954 – 1993. There is also contract files, plats, and a small amount of miscellaneous index and paper documents that will need to be scanned.

The benefits include but are not limited to:

- Online availability of documents to the public
- Broader search capabilities and faster retrieval of information
- Backup for disaster/recovery purposes
- Long term preservation of the City's records
- Promote access to digital material, and
- Mitigate against further deterioration of physical historical assets

The goal of this project is to digitize OCR's historical records and to create a comprehensive index to promote greater and efficient search and retrieval of those historical records.

### A.3 PROJECT DESCRIPTION

#### Plats, Contract Files, and Historical Grantor / Grantee Books

The historical Plats, contracts files, miscellaneous book or paper files, and Grantor and Grantee Index books are in various conditions, including good, fair or poor quality. The resulting digitized images must be of the highest quality possible. OCR also requires that these documents and books be returned to their original storage location and they must be returned in the same condition, without being cut, damaged or destroyed.

The Scope of Work serves as an overall framework as defined by OCR for the work to be completed by US Imaging. US Imaging understands that any future scanning efforts will be addressed with specific SOWs for the particular effort and will require an amendment to the contract resulting from the initial request for proposal and must have proper funding.

Any future projects, either by OCR or other City agencies that may choose to utilize this contract as a vehicle to perform future scanning needs, will have unique characteristics that may impact the cost structure of that scanning and/or indexing effort; and each project's requirements will be addressed when defining the SOW for those efforts. It is understood and agreed upon that any payment obligation of the City/OCR, whether direct or contingent, shall extend only to funds appropriated either by OCR or the agency requesting work under the resulting contract through a detailed SOW accompanied by the appropriate funding vehicle/requisition.

### A.4 SCOPE OF SERVICES:

The OCR will retrieve all original files, documents and/or other relevant materials for any given batch scan, and will inventory them prior to vendor pickup. US Imaging must confirm the materials in any given batch scan. The method of inventory tracking for each batch scan must be mutually agreeable between US Imaging and the authorized representative in OCR.

Below are the expectations for the various activities involved in the scanning and indexing of the inventory provided for costing in **Attachment A**. At a minimum, US Imaging will be required to perform the following for the image specifications:

- a. US imaging will inspect all books prior to scanning. As a standard, US Imaging has recommended off-site scanning of all books, contract files, plats, and miscellaneous books and files which will be scanned at their facility and digital files will be transmitted to the Clerk and Recorder staff. On-Site Content Inspection – After scanning, US Imaging's on-site staff will inspect 100% of the pages as 1"x1.5" thumbnail images to confirm that no pages have been double

fed, cut off, stretched, or contain scanner errors. Any pages with these issues will be rescanned at no charge before the on-site team leaves the premises. If pages are sequentially numbered within each book, US Imaging's on-site staff will confirm that the quantity of images within each book directory matches the last page number within each book. If there are any mismatches between the number of images and number of pages, they will be corrected if present or noted in the production report. 100% of the JPEG and TIFF images will be thoroughly inspected for legibility and image quality as 12"x18" full size images in Stage 2. If pages are too fragile to handle, US Imaging will bring this to the Office of the Clerk and Recorder's attention and recommend a Book Restoration and Binding Company. If pages are fragile but can be scanned US Imaging will handle them delicately. US Imaging scanners are equipped with slower scanning modes to ensure the page is kept intact. All costs associated with this work are included in the costs quoted.

- b. US Imaging will scan images with books intact to prevent cost of rebinding and recovering and to mitigate against any damage. Bound pages will not be cut and will remain in the binder and placed in a custom cradle, which holds the two pages (left and right) open, flat and level for capture. A glass platen will flatten the pages to minimize spine curvature and allow the scanner to obtain consistent focus and sharpness across both pages. US Imaging staff will manually extract each individual page and save it as a new single page image.
- c. Bound books will be scanned in color and saved in industry standard JPEG format with 85% quality compression.
- d. All JPEG images will be converted to 300 dpi single page black & white TIFF images with Group IV compression.
- e. Deskewed with solid black borders removed.
- f. Documents are numbered by in a predetermined format as mutually agreed upon by OCR and US Imaging and stored by the document number range or book number.
- g. All pages from the document will be included in the same multi-page TIFF. Data provided to OCR must be in a format and order as mutually agreed upon by OCR and US Imaging
- h. Data must be delivered to OCR in a hard drive.
- i. Pricing is at a per page/image cost for scanning. A detailed listing of services included in the pricing is included in the pricing on Attachment "A".
- j. For Grantor/Grantee and Marriage Book indexing, please note that US Imaging will be required to capture all index entries at the instrument (record) level for a fixed price per record. **Indexing is priced at a flat fee per record as shown on Attachment A.** In this context, a record is a recorded document or a marriage license record. There may be multiple grantor and/or grantee entries per record on a real estate index book, whereas a marriage license record will have a single entry for Bride and separate entry for Groom.

US Imaging will be required to coordinate the image format and indexing structure (300

dpi) with OCR's land recording software vendor, GovOS, County Fusion by Kofile Technologies, Inc., as all scanned images and indexing records will be imported into this program.

Upon the completion of Stage 1, a pilot will be delivered to OCR for review. The pilot will include a selection of images that will be cropped, inspected, indexed, enhanced and formatted for the **Property Info Recording System**. US Imaging will not proceed with Stage 2 until OCR has approved the pilot. Upon pilot approval, US Imaging will process Stage 2. If OCR elects to perform enhancements, approval will be required before Stage 2 is processed. Upon completion of Stage 3, US Imaging will provide to OCR a USB Hard Drive containing formatted images and indexes for the entire project. OCR will then coordinate with PropertyInfo for import of the project into their Recording System. US Imaging has completed approximately 50 projects for customers of PropertyInfo in the past.

### **Quality Control**

During capture, US Imaging's on-site staff will inspect 100% of the images to ensure that none of the pages are missing, overlapping, and cutoff or out of focus. If necessary, rescans are performed, at no charge, prior to the on-site team leaving the premise.

All Stage 1 JPEG and TIFF images are sent to OCR with a copy of US Imaging's proprietary software, *ImageXpress*. OCR will have access to the images while Stage 2 and 3 are being processed.

During the Stage 2 Image Inspection US Imaging will develop a Poor Quality Report as set forth below. The results of the report are presented to the Office of the Clerk and Recorder along with US Imaging's proprietary software, *ImageReview*, which allows the Office of the Clerk and Recorder to easily review and sort only the identified poor quality images for enhancement approval.

During Stage 3 all approved poor quality images are enhanced from the JPEG to produce the best quality image possible.

The OCR requires labels be applied to the shelving units to identify the location where books and boxes are to be returned after scanning in order to perform ad-hoc quality assurance checks after delivery.

### **Book Inspection**

US Imaging will perform a book inspection. If books or pages in mechanical binders require sorting or preparation, US Imaging has included all associated costs in their pricing. If pages are too fragile to handle, US Imaging must bring it to the OCR's attention and offer their recommendation. OCR will evaluate US Imaging's recommendation, and at its sole discretion, OCR will decide how to move forward or to remove the book from the project until restoration can be performed.

During the inspection process, each image will be visually inspected as a 12" W x 16"H

image on dual 20” portrait monitors at full size. On the left monitor the inspector will see the original color JPEG and on the right monitor the inspector will see the grayscale TIFF image. The JPEG will be compared to the TIFF, particular attention is given to the party names, legal description, Book-Page number, Document number, time-date stamps and signatures during this process. If any part of the image is considered illegible it will be added to the Poor Quality Image Report and noted with the issue. Examples of issues that will be identified on the Poor Quality Image Report are: image too dark, image too light, blurry, white spots, black spots, poor original, missing page, etc.

Excess Border Removal – Due to certain camera copy boards, page sizes, scratches on film and film formats, the automatic crop included in Stage 1 may leave large white borders, black borders, black lines, and shadows on the images. Manual cropping will be performed to provide a more accurate original page size, fewer bytes per image and better performance of your system and overall appearance of every image. No data or marginal notations will be removed from the image during this process.

- Single Inspect & Report Quality – Each black and white TIFF image will be visually inspected as a 12”W x 18”H image on 27” Portrait monitors at full size and compared to the color or grayscale JPEG image on a second monitor. TIFF images with missing, light data, or gray shaded boxes that turn black will be reported as poor quality. US Imaging’s staff will also check for sequential page order, missing pages, duplicate pages, “A” pages, retakes, and image quality. Particular attention is to be given to the Party Names, Dates, Legal Descriptions and Signatures during this process. If any part of the image is considered illegible it will be added to the Poor Quality Image Report. The poor quality issues that will be identified in the report are image too dark, image too light, blurry, white spots, black spots, poor original, out of order, missing, duplicate, “A” page and retake.

- Double Inspect & Verify –100% of the images will be inspected and reported a second time by a second inspector. The poor quality images identified by the first inspector and the second inspector will be consolidated into one Poor Quality Report to guarantee the highest image quality possible.

Page Duplication – Handwritten and Typed Books commonly have multiple Documents on a single page. These pages are duplicated so that each Document can have their own set of images. A 600-page Book commonly has 900 Documents and therefore 300 pages are duplicated.

- Double Page Duplication – Duplication of pages is performed a second time and the second set of duplicated images are electronically compared against the first set of duplicated images and any mismatches are corrected by a third set of operators to provide the most accurate duplicating possible.

- Single Group & Index – During microfilm and book scanning all of the images are stored as single pages images and stored in folders by each Roll #, Book # or Document Range. If Computer Index data is not available, US Imaging’s staff will manually group individual pages together for each document and index each document by the Document # or an

equivalent field identified by OCR. Grouping and Manual Indexing is done in a single pass and the accuracy will be approximately 98%.

- Double Group, Index & Verify –100% of the images will be grouped and indexed a second time by a second indexer. The documents and indexes identified by the first indexer and the second indexer will be compared electronically and any mismatches will be inspected, verified, or corrected by a third indexer to guarantee the highest grouping and indexing accuracy possible.

A copy of the Poor Quality Image Report will be sent to the Office of the Clerk and Recorder with US Imaging's propriety software, *ImageReview*. US Imaging created *ImageReview* to allow the Office of the Clerk and Recorder to quickly and efficiently review poor quality images that have been identified during the inspection process and approve poor quality images for Stage 3 enhancement. *ImageReview* lists all the images selected and their image quality issue. The software has the unique ability to retrieve the corresponding TIFF image within the software, allowing the Office of the Clerk and Recorder to check or uncheck the image for enhancement as they deem appropriate.

### **Book Handling**

US Imaging will remove books from their shelves in sequential order. Bound pages will remain in the binder and placed in a custom book cradle during capture to hold two (2) pages (left & right) open, flat, level and in focus. Pages in mechanical binders that are smaller than 12" will be removed from the binders and fed through a document scanner. After scanning, pages will be placed back into mechanical binders and US Imaging will put the books back onto shelves in order.

### **Book Scanning**

Books contain millions of colors. US Imaging will scan bound books two (2) pages (left & right) per image at 300 dpi in color and will save images industry standard JPEG format with 85% quality compression. Books with removable binders and pages under 12" must be scanned front & back simultaneously with 1 page per image and saved as color JPEG images. Photostat pages containing 256 shades of gray must be scanned in Grayscale to minimize JPEG file size. All JPEG images must be saved sequentially with an agreed upon, standardized nomenclature by the OCR and US Imaging.

### **JPEG to TIFF Conversion**

All JPEG images will be converted to 300 dpi single page Black & White TIFF images with Group IV compression. TIFF images will be sequentially numbered as mutually agreed upon US Imaging and OCR and reviewed by Kofile Technologies, Inc., OCR's land recording software vendor.

Each TIFF image will be automatically deskewed and solid black borders will be removed for optimum file compression. Manual cropping can also be performed to provide a more accurate original page size, fewer bytes per image and better performance of OCR Fusion system and overall appearance of every image. No data or marginal notations will be removed from the image during this process.

### USB Hard Drives

All single-page JPEG images will be copied to two (2) sets of external USB Hard Drives. One set will be returned to the OCR's office for review and on-site backup. One set will be stored with US Imaging for conversion to TIFF and off-site backup. Both USB hard drives are included in the cost associated with the project and not billed individually upon usage. All external USB Hard Drives and their contents shall be the property of OCR.

US Imaging maintains images and indexes on our servers for 30 days' post project. US Imaging will also maintain a backup of all images on a USB Hard Drive. The USB Hard Drive is kept in US Imaging's secured, temperature controlled vault until the Office of the Clerk and Recorder requests the backups be sent to them or destroyed. If OCR does not request destruction or receipt of the backups, they will remain in US Imaging's secured vault in perpetuity.

### Pilot Images

There will be a minimum of 1,000 images from each media type that will be cropped (if necessary), enhanced, grouped as documents, indexed by a mutually agreed upon format and saved as multi-page TIFFs that can be easily viewed by any imaging viewer for quality control. US Imaging will be required to provide access to the pilot images for review and quality assurance.

US Imaging must be able to export the images and indexes in the required format, verify and inspect all files and documents for processing, and address any questions or concerns prior to acceptance of the batch.

### Inspection & Report Quality

US Imaging has an inspection software program that will display the poor-quality images on a "poor quality" report that can be sorted and the reason they are flagged as poor quality. The inspection software will also be able to group images by the quality reason in order to minimize the OCR's staff time to inspect and display the image for each issue. It will allow OCR the option to deselect acceptable quality images from the poor-quality list and check or uncheck the image for enhancement that the Office of the Clerk and Record determines is not acceptable within the application.

Each image must be inspected visually at full size and checked for sequential order, missing pages, duplicate pages, "A" pages, retakes and image quality. Particular attention should be given to the party names, Book-Page #, Document #, time-date stamps and signatures during this process. If any part of the image is considered illegible, it will be added to the Poor-Quality Image Report. The poor quality issues that will be identified on the report are:

- image too dark
- image too light
- blurry
- white spots
- black spots
- dual polarity

- marginal notation
- cut off
- torn
- poor original
- out of order
- missing
- duplicate
- A page
- retake

US Imaging's enhancement software will adjust poor contrast of an entire page or specific area on a page of the poor image to provide the most legible image possible. In the event the software is not able to satisfy with the image quality, US Imaging may be requested to enhance the image from the JPEG back up or another available source. If US imaging is unable to enhance the originally scanned JPEG image, US Imaging will return on-site to perform rescans. This will allow us to capture individual pages at their unique requirements to obtain the best possible image.

Some of the OCR's documents/books contain a white border. US Imaging will ensure excess border removal on all images to reduce the bytes per image and provide better performance with OCR Fusion software and improve the overall appearance of every image. In the event there are marginal notations, US Imaging must ensure that no data or marginal notations are removed from the image during this process.

US Imaging shall ensure that scanned images are captured as single images and stored in folders by a mutually agreed upon format. If Book-Page # or Document # and Page Quantity data is present in the computer index created, US Imaging will be responsible for grouping the pages together as documents and index them by Book- Page#, document # or both. After grouping and indexing, US Imaging will ensure that all images have been grouped together correctly. If any mismatches occur, US Imaging will be responsible for correcting the errors to ensure the images and the indexes are back in sync. The expectation is that the OCR will receive 100% accuracy as the images are grouped and indexed.

Each Grantor / Grantee Book must be indexed by Name, Year and Alpha Range (Ex: Grantor|1938|A-C) and by Page by its Alpha Tab range (where appropriate). It is required that all images will be indexed according to the standards provided by OCR. In the event that there are entries on the pages that are handwritten and incomplete, US Imaging will provide a methodology for reporting the missing information to the OCR. OCR will make every attempt to retrieve the missing information and return it to US Imaging for incorporation into the incomplete record.

In the event that there are missing pages, US Imaging will provide a comprehensive report to OCR. OCR will determine if there is an opportunity to rectify the situation and provide any missing pages to US Imaging for incorporation into the incomplete images. In the event the OCR is unable to find the missing pages or replace unavailable pages, US Imaging



will ensure the incomplete image must includes an “Unused Page #” inserted into the appropriate place within the total number of scanned images that aligns with the total number of recorded pages.

### **Inventory and Handling**

US Imaging utilizes Google Docs to share our Inventory Reports with appropriate users. Access can be provided to any email address OCR provides to US Imaging. The live Inventory Report will be available for the life of the project. US Imaging updates the Inventory Report in real time throughout the life of the project.

Once the project is completed, the shared access of the report will be removed. Once the project is complete US Imaging will provide final Inventory Report the City Clerk as an excel spreadsheet.

All scanning will be performed on-site. Pages are scanned to PC's with 3 internal solid state hard drives, 1 drive contains the operating system and capture software, 2 drives mirror each other and store the images. US Imaging will connect the PC's to US Imaging's server via CAT 6 cable. The images are copied from the PC's to US Imaging's server, 100% of the images are visually inspected on the server and logged into US Imaging's on-line production report. All PC's and server are password protected.

Completed images are copied from the production server to USB Hard Drives and shipped to the Office of the Clerk and Recorder with a UPS Tracking. Upon request, padlock USB Hard Drives can be used for an additional cost.

Note: There is a loading dock available at the OCR's facility; however, there is no free public off-street proximal parking.

US Imaging's facility has video cameras inside and outside of the production facility and they maintain 2 weeks of recorded activity. US Imaging's main entrance has 2 man traps each with video surveillance and a panic button to US Imaging's alarm company and police department that is 4 blocks away. The entire facility has a sprinkler system with a direct link to the fire department that is only 3 blocks away.

Production PC's are password protected and do not have access to USB ports, DVD drives, printers or internet. US Imaging servers have solid state hard drives with RAID 10 redundancy that are protected behind a firewall as well as multilevel password and security access. Employees are not permitted to eat or drink at their work stations.

US Imaging will delete all images and indexes from US Imaging's servers 30 days after the images have been delivered to the Office of the Clerk and Recorder. Additionally, US Imaging will disk wipe the server drives so that all of the data is overwritten with rubbish binary data multiple times.

US Imaging has proven that they have met the qualification for a minimum of five (5) years of experience scanning documents in any condition, creating accurate index records, perform

appropriate quality assurance and control activities and provide appropriate project management and status reporting. US Imaging will perform yearly background checks on all employees. All employees assigned to the task will be required to meet all clearance requirements of OCR as well as being bonded by their preferred insurance company for access to the City's facilities for after-hours work.

US Imaging will be required to coordinate the image format, naming conventions, and indexing schema with OCR's land recording software vendor, County Fusion by Kofile Technologies, Inc., in order to ensure that all scanned images and the associated indexing information can be uploaded successfully into OCR Fusion application.

US Imaging estimates approximately 100GB of space for the final enhanced TIFF's. The Grantor/Grantee Indexes and Marriage records are approximately 54GB of this total. Depending on the quality of images this total could be 10-15% higher or lower than this estimate.

## Attachment "A"

**Phase 1: Budget to Scan Plats Off-Site****Rolled & Tubed Plats (24"x36")**

72,500 Plats	@	10% Plats with Backsides	=	7,250 Images
79,750 Images	@	10% Poor Quality Images	=	7,975 Poor Quality
72,500 Plats	@	100 Plats Prepped per Hour	=	725 Prep Hours
79,750 Images	@	100 Plats Scanned per Hour	=	798 Scan Hours
79,750 Images	@	200 Images per Gigabyte for Color/Grayscale JPEG Format	=	399 GB for JPEG's
79,750 Images	@	2,000 Images per Gigabyte for B&W TIFF Format	=	40 GB for TIFF's

**Stage 1**

Shipping (See Summary)

725 Hours	@	\$32.00 Per Hour to Prep / DePrep Post Scan	=	\$23,200.00
79,750 Images	@	\$2.05 Per Image to Scan & Inspect 300dpi JPEG	=	\$163,487.50
79,750 Images	@	\$0.025 Per Image to Convert JPEG to B&W TIFF	=	\$1,993.75
2 Drives	@	\$250.00 Per USB Hard Drive, Copying & Backup	=	\$500.00 86%
1 Shipment	@	\$60.00 Per USB Hard Drive Shipment	=	<u>\$60.00</u> \$189,241.25

**Stage 2**

79,750 Images	@	\$0.08 Per TIFF to Remove Excess Borders	=	\$6,380.00
79,750 Images	@	\$0.08 Per TIFF to Single Inspect & Report to 98% Quality	=	\$6,380.00
79,750 Images	@	\$0.08 Per TIFF to Single Group & Index to 98% Accuracy	=	\$6,380.00
1 Drive	@	\$250.00 Per USB Hard Drive, Copying	=	\$250.00 9%
1 Shipment	@	\$60.00 Per USB Hard Drive Shipment	=	<u>\$60.00</u> \$19,450.00

**Stage 3**

7,975 Poor Images	@	\$1.25 Per TIFF to Enhance & Replace Poor Quality	=	\$9,968.75
1 Drive	@	\$250.00 Per USB Hard Drive, Copying	=	\$250.00 5%
1 Shipment	@	\$60.00 Per USB Hard Drive Shipment	=	<u>\$60.00</u> \$10,278.75

**Total Investment = \$218,970.00**

**Phase 2: Budget to Scan Contract files Off-Site****Contract Records**

260 Boxes	@	11 Inches per Box	=	2,860 Inches	
140 Shelves	@	32.5 Inches per Shelf	=	4,550 Inches	
639 Boxes	@	40 Boxes per Pallet	=	16 Pallets	
7,410 Inches	@	200 Pages per Inch	=	1,482,000 Pages	
1,482,000 Pages	@	50% Pages with Backsides	=	741,000 Backsides	
2,223,000 Images	@	5% Poor Quality Images	=	111,150 Poor Images	
1,482,000 Pages	@	800 Pages Prepped per Hour	=	1,853 Prep Hours	
1,482,000 Pages	@	1,000 Pages Scanned per Hour	=	1,482 Scan Hours	
2,223,000 Images	@	400 Images per Gigabyte for Color/Grayscale JPEG Format	=	5,558 GB for JPEG's	
2,223,000 Images	@	4,000 Images per Gigabyte for B&W TIFF Format	=	556 GB for TIFF's	

**Stage 1**

16 Pallets		Shipping (See Summary)			
380 Boxes	@	\$6.00 Per New Archival Storage Box	=	\$2,280.00	
1,853 Hours	@	\$32.00 Per Hour to Prep Pages for Scanning	=	\$59,296.00	
2,223,000 Images	@	\$0.08 Per Image to Scan & Inspect 300dpi JPEG	=	\$177,840.00	
2,223,000 Images	@	\$0.015 Per Image to Convert JPEG to B&W TIFF	=	\$33,345.00	
2 Drives	@	\$250.00 Per USB Hard Drive, Copying & Backup	=	\$500.00	57%
1 Shipment	@	\$60.00 Per USB Hard Drive Shipment	=	<u>\$60.00</u>	\$271,041.00

**Stage 2**

500,000 Images	@	\$0.04 Per TIFF to Remove Excess Borders	=	\$20,000.00	
2,223,000 Images	@	\$0.04 Per TIFF to Single Inspect & Report to 98% Quality	=	\$88,920.00	
2,223,000 Images	@	\$0.04 Per TIFF to Single Group & Index to 98% Accuracy <sup>1</sup>	=	\$88,920.00	
1 Drive	@	\$250.00 Per USB Hard Drive, Copying	=	\$250.00	42%
1 Shipment	@	\$60.00 Per USB Hard Drive Shipment	=	<u>\$60.00</u>	\$198,150.00

**Total Investment = \$471,471.00**

**Phase 3: Budget to Scan Misc. Shelves Off-Site****Bound Books**

750 Inches	@	400 Pages per Inch (Books)	=	300,000 Images
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**Mechanical Books**

650 Inches	@	400 Pages per Inch (Files, Binders, etc.)	=	260,000 Images
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560,000 Images	@	10% Poor Quality Images	=	56,000 Poor Quality
300,000 Images	@	600 Bound Images Scanned per Hour	=	500 Scan Hours
260,000 Images	@	1,200 Mechanical Images Scanned per Hour	=	217 Scan Hours
560,000 Images	@	400 Images per Gigabyte for Color JPEG Format	=	1,400 GB for JPEG's
560,000 Images	@	4,000 Images per Gigabyte for B&W TIFF Format	=	140 GB for TIFF's

**Stage 1**

3 Pallets		Shipping (See Summary)		
52 Hours	@	\$32.00 Per Hour to Prep/De-Prep Pages	=	\$1,664.00
300,000 Images	@	\$0.21 Per Bound Image to Scan & Inspect 300dpi JPEG	=	\$63,000.00
260,000 Images	@	\$0.17 Per Mechanical Image to Scan & Inspect 300dpi JPEG	=	\$44,200.00
560,000 Images	@	\$0.015 Per Image to Convert JPEG to B&W TIFF	=	\$8,400.00
2 Drives	@	\$250.00 Per USB Hard Drive, Copying & Backup	=	\$500.00 55%
1 Shipment	@	\$60.00 Per USB Hard Drive Shipment	=	<u>\$60.00</u> \$117,824.00

**Stage 2**

560,000 Images	@	\$0.04 Per TIFF to Remove Excess Borders	=	\$22,400.00
560,000 Images	@	\$0.04 Per TIFF to Single Inspect & Report to 98% Quality	=	\$22,400.00
560,000 Images	@	\$0.04 Per TIFF to Single Group & Index to 98% Accuracy	=	\$22,400.00
1 Drive	@	\$250.00 Per USB Hard Drive, Copying	=	\$250.00 32%
1 Shipment	@	\$60.00 Per USB Hard Drive Shipment	=	<u>\$60.00</u> \$67,510.00

**Stage 3**

56,000 Images	@	\$0.50 Per TIFF to Enhance & Replace Poor Quality	=	\$28,000.00
1 Drive	@	\$250.00 Per USB Hard Drive, Copying	=	\$250.00 13%
1 Shipment	@	\$60.00 Per USB Hard Drive Shipment	=	<u>\$60.00</u> \$28,310.00

<b>Total Investment</b>	=	<b><u>\$213,644.00</u></b>
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## Phase 4: Budget to Scan GG Index Books Off-Site

### Mechanical Duplex Books (Oversize)

58 Books @ 1,500 Pages per Book (1986-1993 GR / GE Indexes) = 87,000 Images

### Mechanical Simplex Books (Some Oversize)

340 Books @ 1,000 Pages per Greenbar Book (1954-1986) = 340,000 Images

427,000 Images @ 15% Poor Quality Images = 64,050 Poor Quality  
 172,000 Images @ 400 OS Mechanical Images Scanned per Hour = 430 Scan Hours  
 255,000 Images @ 900 Simplex Mechanical Images Scanned per Hour = 284 Scan Hours  
 427,000 Images @ 400 Images per Gigabyte for Color JPEG Format = 1,068 GB for JPEG's  
 427,000 Images @ 4,000 Images per Gigabyte for B&W TIFF Format = 107 GB for TIFF's

### Stage 1

2 Pallet Shipping (See Summary)  
 172,000 Images @ \$0.31 Per OS Mechanical Image to Scan & Inspect 300dpi JPEG = \$53,320.00  
 255,000 Images @ \$0.11 Per Mechanical Image to Scan & Inspect 300dpi JPEG = \$28,050.00  
 427,000 Images @ \$0.015 Per Image to Convert JPEG to B&W TIFF = \$6,405.00  
 2 Drives @ \$250.00 Per USB Hard Drive, Copying & Backup = \$500.00 51%  
 1 Shipment @ \$60.00 Per USB Hard Drive Shipment = \$60.00 \$88,335.00

### Stage 2

427,000 Images @ \$0.04 Per TIFF to Remove Excess Borders = \$17,080.00  
 427,000 Images @ \$0.04 Per TIFF to Single Inspect & Report to 98% Quality = \$17,080.00  
 427,000 Images @ \$0.04 Per TIFF to Single Group & Index to 98% Accuracy = \$17,080.00  
 1 Drive @ \$250.00 Per USB Hard Drive, Copying = \$250.00 30%  
 1 Shipment @ \$60.00 Per USB Hard Drive Shipment = \$60.00 \$51,550.00

### Stage 3

64,050 Images @ \$0.50 Per TIFF to Enhance & Replace Poor Quality = \$32,025.00  
 1 Drive @ \$250.00 Per USB Hard Drive, Copying = \$250.00 19%  
 1 Shipment @ \$60.00 Per USB Hard Drive Shipment = \$60.00 \$32,335.00

**Total Investment = \$172,220.00**

Pick-up & Transport from Denver City/County (2-26' Trucks) = \$15,500.00  
 \_\_\_\_\_ Phase 1: Scan Plat Maps Off-Site = \$218,970.00  
 \_\_\_\_\_ Phase 2: Scan Contract Files Off-Site = \$471,471.00  
 \_\_\_\_\_ Phase 3: Scan Misc. Book and File Shelves Off-Site = \$213,644.00  
 \_\_\_\_\_ Phase 4: Scan Grantor/Grantee Index Books = \$172,220.00  
**Total Estimated Investment = \$1,091,805.00**

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> <b>Saginaw Bay Underwriters</b> 1258 S. Washington P. O. Box 1928 Saginaw, MI 48605	<b>CONTACT NAME:</b> Amy Jo List, CIC, CISR <b>PHONE (A/C, No, Ext):</b> 989 752-8600 <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b> alist@sbuins.com														
<b>INSURED</b> US Imaging, Inc. US Archives, Inc. 400 S. Franklin St Saginaw, MI 48607	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width: 20%;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Travelers Property Casualty</td> <td style="text-align: center;">25674</td> </tr> <tr> <td>INSURER B : Travelers Indemnity</td> <td style="text-align: center;">25658</td> </tr> <tr> <td>INSURER C : Travelers Casualty Surety</td> <td style="text-align: center;">31194</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Travelers Property Casualty	25674	INSURER B : Travelers Indemnity	25658	INSURER C : Travelers Casualty Surety	31194	INSURER D :		INSURER E :		INSURER F :	
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**COVERAGES**      **CERTIFICATE NUMBER:**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	ZPP12P09558	02/03/2024	02/03/2025	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>300,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b> \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	X	X	BA3L343676	02/03/2024	02/03/2025	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ <b>10000</b>	X	X	CUP2N02220A	02/03/2024	02/03/2025	EACH OCCURRENCE \$ <b>5,000,000</b> AGGREGATE \$ <b>5,000,000</b> \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y/N <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	UB9J77939A	02/03/2024	02/03/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
C	Prof Liability			107778115	02/03/2024	02/03/2025	\$5,000,000/\$25,000Ded
C	Cyber Liability			105511397	02/03/2024	02/03/2025	\$1,000,000/\$10,000Ded

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 Denver Clerk and Recorder its Elected and Appointed Officials, Employees and Volunteers are included as Additional Insured for Commercial General Liability, Auto Liability and Umbrella Liability. Waiver of Subrogation in favor of the additional insured applies to the General Liability, Auto Liability, Umbrella Liability and Workers Compensation. (3/24)

<b>CERTIFICATE HOLDER</b> Denver Clerk and Recorder 201 West Colfax Avenue, Dept. 101 Denver, CO 80202	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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