



CLACKAMAS COUNTY

Records Management

CAROL HOPKINS
RECORDS MANAGER

1810 Red Soils Ct. Ste. 120
OREGON CITY, OR 97045

March 10, 2022
Board of Commissioners
Clackamas County

Approval of a IGA with Multnomah County for the Digitization of their Counties Archival film. The Total value is \$3,000,000.00. The funding is through Multnomah County for service provided by Records Management. County General Funds are not involved.

Purpose/Outcome: Records Management will be digitizing Multnomah County Archival film. This will create revenue to decrease Records Management's support from General Fund.

Dollar Amount

And Fiscal Impact: The consideration for this agreement will be \$3,000,000.00. As stated above the revenue offset operation costs for Records Management.

Funding Source: Funding provided by Multnomah County for services rendered from Records Management.

Duration: The term of this agreement is shall be from April 1, 2022 to March 1, 2031. After this time the agreement may be renewed in five year increments.

Previous Board

Action/Review: No previous action or review by the Board.

Counsel Review: February 9, 2022 by Counsel, Andrew Naylor

Procurement

Review: No as this an Intergovernmental Agreement.

Contact

Person: Carol Hopkins – chopkins@clackamas.us, 503-655-8656.

Contract No. Department does not assign a contract number

BACKGROUND: Records Management was contacted by Multnomah County Records Unit for the purpose of converting their older security rolls of film to a digital format. Multnomah County Records Staff made a site visit to review our process and discuss the project. After the discussion Records Management and Multnomah County agreed to the terms detailed in this Intergovernmental Agreement for you review and approval.

RECOMMENDATION: Records Management recommends the Board approve the attached IGA between Records Management and Multnomah County for the conversion of the Counties Archival film.

Respectfully submitted,

Carol Hopkins
Records Manager
Records Management



INTERGOVERNMENTAL AGREEMENT
Contract Number DCA-IGA-E-13015-2021

This is an Agreement between CLACKAMAS COUNTY, a political subdivision of the State of Oregon, (“Clackamas County” or “Contractor”) and Multnomah County, a political subdivision of the State of Oregon (“County”), each a “Party” and referred to collectively as the “Parties”.

CONTRACTOR NAME: CLACKAMAS COUNTY
 CONTRACTOR ADDRESS: 2051 Kaen Road
 CITY, STATE, ZIP: Oregon City, OR 97045

Contract Documents. This Contract includes the following attached documents:

Attachments

| Attachment Letter | Description |
|-------------------|--|
| 1 | HIPAA Joint Business and 42 CFR Part 2 Agreement |
| 2 | Clackamas County Service Fee Rates |
| 3 | Terminology and Definitions |
| 4 | Representative Role and Responsibility |
| | |

PURPOSE:

The purpose of this agreement is to engage in the service of digitization of microforms as described in detail in Oregon Administrative Rule Chapter 166, Division 25, Microfilm Standards Division 15). The rule can be found here:

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=25754>

- a. Statement of Work (SOW):
 - i. Work: Clackamas County will perform high speed digitization of microforms of records held by County on a project by project basis, details of which will be established and documented in writing at the initiation of each project. Specific responsibilities governing digitization will be outlined under the Responsibilities of each Party, in Sections 3 & 4 below.
 - ii. Unless otherwise indicated in these specifications, or approved by County Representative or designee, Clackamas County shall ensure all digitization services provided for County under this Contract shall comply with the standards set forth in Oregon Administrative Rules Chapter 166, Division 17, Electronic Records Division 20, The Protection and Storage of Public Records can be found at:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=559>
 and OAR 166-020 at:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=560>
 - iii. Work Completed: Completion dates will be determined on a project by project basis dependent upon size and scope of digitization required.

- iv. Payments: All fees shall be based on Clackamas County Service Fee Rates (Attachment I) Contractor shall hold firm price rates for the first twelve (12) months of the Contract. Thereafter, any changes to the service fee rates implemented by Contractor shall be submitted to County no less than sixty (60) days prior to the proposed date of change. County reserves the right to reject any price modifications that are unacceptable to County.
- v. Payment Due: County shall have thirty (30) days to verify and accept that all project items have been completed to satisfaction. County shall pay the Contractor within thirty (30) days of the County's acceptance of the Work and the invoice as complete and accurate.

The Parties agree as follows:

1. **TERM.** The term of this agreement shall be from Friday, April 01, 2022 to Saturday, March 01, 2031. This agreement may be renewed thereafter in five (5) year increments.
2. **CONSIDERATION.** The maximum payment under this Contract, including expenses, is \$3,000,000.00, which may be adjusted at any time at County's sole discretion. County and Contractor will use best efforts to annually estimate and set a Not to Exceed expenditure cap for the upcoming annual period.
3. **RESPONSIBILITIES OF CONTRACTOR.** Contractor agrees that no Work will be subcontracted outside the Records Management program.
 - A. Materials Handling: Clackamas County personnel must handle Materials, as defined in Terminology and Definitions (Attachment J), in a way that avoids and prevents physical, chemical or biological or other types of damage to microforms. If damage occurs, Clackamas County personnel must immediately cease digitization services activity and notify County Representative, as defined in Representative Role and Responsibility (Attachment K). If it is determined that digitization services activities cannot be performed without causing additional damage, County Representative will be consulted for instructions on how to proceed. Prior to the commencement of services, some Materials may be additionally insured by County, and known special handling requirements defined beyond general requirements described below will be established at the initiation of each project.

Microforms must be handled with cotton gloves to avoid damage caused by acidic skin oils and fingerprints. All microforms should be handled by edges or leaders and be returned to their housings as soon as they have been scanned. Rolled film should never be pulled tight on the reel to avoid abrasions.

Microforms should be stored in their enclosures when not being actively scanned. These enclosures should not be stored near photocopiers or cleaning supplies, or on wood structures due to the risks of contamination by ozone, ammonia, and other chemical contaminants which can produce oxidizing and micro blemishes on the film.

Materials will be prepared by County workforce members and must be returned in the same order, orientation, and condition as they were received.

Contractor will notify County Representative immediately of any contamination of, limitations of access to, or loss of Materials. If initial notification is not written, Contractor will follow up with additional written notification within twenty-four (24) hours of the occurrence.
 - B. Output: Output of the scans will be loaded onto an empty Solid State Drive (SSD) or similar agreed upon mass media storage, provided by County.

Output images may not be altered beyond standard image processing, defined as page rotation, blank page detections, de-skew, de-speckle, cropping to image edge and density of solid black areas. The content of any image shall not be altered in any way.

Output may never be sold, distributed or duplicated for distribution in any form without explicit, written consent from the County Representative, and must not be retained any longer than is necessary to perform Quality Control activities, as defined below.

C. Quality Control: Prior to the return of source Materials, output on SSD drive will be returned to County and to be assessed for:

- Completeness - All Materials have been captured, all content has been captured for each piece of material and no content is repeated.
- Overall legibility - All content is readable and focused properly. Smallest details are captured legibly and completely. Images are in the correct order.
- Format Compliance - Images are delivered in the specified file formats and are able to be opened successfully in programs associated with those file formats.
- Indexing - Agreed upon project Metadata and file naming conventions are present and accurate.

In the case where the output does not meet these requirements, Contractor shall repeat the digitization services to replace the output that does not meet the requirements, at no additional cost to County. Deadlines to complete and deliver repeat digitization services will be agreed upon by the Parties following notification from County that the output failed to meet the defined requirements.

Specific projects may have additional quality controls in excess of this standard. These will be defined at the outset of each project, if needed.

D. Access to Materials: County shall have access to its Materials stored at Clackamas County during a digitization project, if urgently needed. Contractor shall acknowledge any access requests within one (1) business day of receiving a request from County.

If the material has already been digitized, and the digitized output is acceptable for purposes of retrieval, Contractor will provide the output to the County's Representative via a secure method of transfer such as SSD, email, or secure file transfer protocol (SFTP), within two (2) business days.

If the original material is requested, Contractor will have the material ready for pick up by the County Representative or their designee within two (2) business days.

E. Records Regulations & Confidentiality: Records, as defined in Terminology and Definitions (Attachment J), shall be considered confidential in nature. Contractor shall be liable for damages arising from the unauthorized release, whether intentional or unintentional, of County Records and information while such Materials are in the Contractor's possession.

County's Records Officer has final determination of how Federal and State of Oregon Records management regulations are interpreted and applied at County Records. Any changes made by Clackamas County in response to changes in regulation must be approved by County Records Officer and documented by County Representative.

F. Communications: County Representative will be the sole point of contact for all digitization services performed by Contractor. Any requests by Contractor for changes to services in general must be provided to County Representative in writing and must be approved in writing before proceeding with any further work.

Any requests by Contractor for changes to services pertaining to a specific project must be provided to County Representative in writing and must be approved in writing and incorporated into the project plan before proceeding with any further work. Any notifications of activities that affect or potentially affect access to Materials or impact a project that do not arise from the project itself must be communicated in writing to County Representative as soon as the Contractor becomes aware of the impact.

- G. Project: There are no guarantees to Contractor of a certain level of work to be approved under this Contract.
- a. County will initiate, and approve or decline projects on a case by case basis.
 - b. Upon receipt of written project initiation from County, Contractor will provide a project estimate indicating the following ("Project Estimate"):
 - i. Estimated Cost
 - ii. Current rates to be charged
 - iii. Estimated delivery date
 - iv. Anticipated number of hours required to complete the work
 - v. Which Party will transport the Work Materials
 - c. The cost estimate will be based on Contractor's then-current pricing schedule. .
 - d. Project Approval:
 - i. County may approve, request more information, make changes to, or decline any Project Estimate, at County's sole discretion.
 - ii. Contractor may decline to perform any project requested by County under this Contract if Contractor determines, in its sole discretion, it has insufficient resources to perform the requested Work for the requested project.
 - e. County will not accept the following types of fees (this is a representative example and is not all-inclusive):
 - i. Transfer including Load
 - ii. Shipping and Handling
 - iii. Transportation Surcharges
 - iv. Delivery or Pick Up Fees
 - v. Handling/Transfer Fees
 - vi. Storage Fees
 - vii. Minimum Order Fees
 - viii. Fuel Surcharge
 - f. Upon completion of the Work, Contractor will provide County with a work order detailing the following:
 - i. Number of images put to film
 - ii. Number of rolls produced
 - iii. Actual hours of labor used

A job log will be provided upon County's request.

- g. Upon request, Contractor shall provide a sample set of output to County Representative for review prior to approval of the Project Estimate.
- h. Materials Disposal: Thirty (30) days following the project close, Contractor will responsibly and entirely dispose of all electronic information sent to the Contractor and output stored on Contractor's equipment, networks, systems, devices, or in Contractor's facilities.
- i. When disposing of output, Contractor will follow and apply the standards for data sanitization and secure destruction set by Oregon Administrative Rule – Chapter 166, Division 17, Part 90 and NIST SP800-88 Revision 1, Guidelines for Media Sanitization.
 - ii. Contractor will provide documentation of sanitization activities (such as Clear or Purge) if requested as a deliverable for a project, as determined in the project initiation. (See NIST SP 800-88 Rev 1 Appendix G for an example of a Certificate of Sanitization, (i.e. authorization of destruction of digital images).
 - iii. County is responsible for removing Materials from the FTP site.
- i. Contractor shall issue a complete and accurate Invoice within thirty (30) days of project close date.
- H. Business Reviews: Contractor and County will meet at least once a year (“Annually”) to review and discuss the following topics, including but not limited to: projects and processes, issue and resolution plans, organizational changes related to staffing, services, systems, etc., equipment changes and potential and/or scheduled projects (hereinafter “Business Review Meeting”).
- Upon request from County, Contractor will make available the following reports or logs completed which may have been completed in the course of County project work:
- Issues and Film Inspection Sheet Log(s)
 - Quality Control Log
 - Quality Control Methods
 - Completed Projects Log
 - Personnel cleared and approved to work on County projects
 - Equipment and systems maintenance and calibration logs and reports
- Parties will mutually set expectations of who from each party will attend the Business Review Meeting(s), and set forth a general agenda of what topics (“including but not limited to”) will be covered as part of the Review. Both parties will work together to Plan: determine the final agenda/topics for each Review, time to meet, agreed upon method by which they will meet (i.e. in person, virtual). If for any reason either party is unable to attend the scheduled Business Review Meeting, notification will be sent immediately (via email or phone) as soon as possible to the other Party, and the Business Review meeting will be rescheduled.
- I. Pick Up and Delivery: As indicated in the Project Estimate, either Party may be responsible for transporting the Materials to be digitized by Contractor. When transporting Materials, the

Materials will be picked up from and/or delivered to the other Party's Facilities (as described in Section J. Facilities).

- a. Unless otherwise indicated in the Project Estimate, any transportation of Materials shall be via either:
 - i. A third party approved and cleared by Contractor or County, in locked trucks with security cleared drivers, or
 - ii. By a Contractor or County vehicle driven by authorized workforce members of the County or Contractor.
- b. Materials pickup and delivery will occur during normal business hours of the Party's respective offices. Times will be established by mutual agreement via phone or email.

Contractor will confirm receipt of Materials via email to County Representative and will provide reasonable advance notice of changes to the expected return date described in the Project Estimate. Each party will be required to complete a delivery receipt, and accept, by written signature, Materials being received, prior to taking possession of any delivered Materials.

Chain of custody information for the movement of analog Materials and storage devices (solid-state drives) between County facilities, delivery vehicles, and Contractor facilities will be maintained by both Parties and any third parties authorized to transport the Materials.

J. Facilities:

Contractor: All services will be performed in Clackamas County office, located at 1810 Red Solis Ct., Suite 120, Oregon City, OR 97045. In the event that scanning must be performed at other Clackamas County facilities, a site visit and IT security review by County of the location must be completed prior to project commencement.

County: The County location for pickup or delivery of all Materials shall be 1620 SE 190th Ave., Portland Oregon 97233, unless otherwise indicated in an approved Project Estimate.

- K. Authorized Records Personnel: Scanning and indexing of County Records will be performed only by permanent Clackamas County employees in Clackamas County facilities, unless otherwise explicitly agreed to, in writing, on a project by project basis.

Compliance with Laws: Contractor must meet all applicable requirements and standards required by applicable law as they pertain to staff, facilities, equipment, vehicles, or any other component related to the collection, transportation, transmission, safeguarding, and storage of County Materials or to perform Work for County. Compliance explicitly includes, but is not limited to, CJIS and HIPAA security requirements.

- L. Equipment: Routine maintenance shall be performed on any equipment used for digitization of County Records to avoid damage to original Materials. Maintenance for microfilm scanners includes: cleaning screens and optical systems according to manufacturer specifications, replacing darkened lamps, and the use of dust covers for idle equipment.

- M. Sustainability Practices: Contractor shall dispose of chemicals used in digitization processing in accordance with all applicable environmental laws, requirements, standards and industry best practices.

4. **RESPONSIBILITIES OF COUNTY**. County agrees to:

- A. Materials Preparation: Prepare microforms for scanning prior to sending them to Contractor. Intellectual preparation will include preparing a condition report which notes any pre-existing damage to the Materials and completing a full inventory of the Materials to be sent, both of which will be provided to Contractor in hard copy along with the source Materials.

Physical preparation of the microforms themselves will include replacing damaged or deteriorating enclosures or housings if source material will be retained, dusting, and rewinding reels that have been wound too tightly or too loosely to ensure uniform tension.

- B. Output: County will include an empty SSD onto which Contractor will load output for delivery of the source Materials to County.
- C. Quality Control: Within thirty (30) days of the receipt of the output on the SSD, County will review and assess the output for:
- Completeness - All Materials have been captured, all content has been captured for each piece of material and no content is repeated.
 - Overall legibility - All content is readable and focused properly. Smallest details are captured legibly and completely. Images are in the correct order.
 - Format Compliance - Images are delivered in the specified file formats and are able to be opened successfully in programs associated with those file formats.
 - Indexing - Agreed upon project Metadata and file naming conventions are present and accurate.

In the case of acceptable output, County will notify Contractor via email of the project closure.

In any case of output not meeting the defined requirements, County will notify Contractor via email of the Materials with flawed or otherwise unacceptable output that need to be rescanned. Upon receipt of the new scans, County will reassess the new output according to the same criteria and notify Contractor of the acceptance or rejection of the output. If the re-scanned output is acceptable, County will notify Contractor to close the project and issue the invoice.

- D. Access to Materials: County will make good faith efforts to ensure that project Materials will not be required during the projected duration of the project.

In the event that an urgent need for Materials arises, County will immediately notify Contractor of the need for Materials and will provide, or follow up with:

- The specific Materials being requested.
- Whether the digitized output or the physical original is needed.
- The method of transfer or pick up as soon as the relevant information is available, or within twenty-four (24) hours, whichever comes first.

- E. Communications: County Representatives will be designated for the account and by project. Any changes to the representatives during the duration of the Contract or a project will be communicated to Contractor via email within one (1) business day of the change being made.

County will approve or decline any written changes to requested services, in writing within forty-eight (48) hours of receipt of the written request for changes.

County will communicate via email any activities that affect or potentially affect access to Materials or impact a project as soon as they are aware of the impact, but within seventy-two (72) hours of that potential impact.

- F. Project: County agrees to perform certain tasks to facilitate Contractor's digitization work as set forth herein. Upon initiation of a potential new project, County will provide to Contractor, in writing via email, the details of the proposed project including, but not limited to:
- the approximate number of Materials (reels or sheets),
 - output type and format requirements with appropriate and relevant standards, targets, and quality control specifications,
 - metadata and file naming convention requirements,
 - Representative for the project,
 - delivery and pickup scheduling and logistics, and
 - reporting requirements and timing details.

Upon receipt of a Project Estimate from Contractor, County will approve or decline the project.

Final project close out will be completed within thirty (30) days of return delivery to County or pickup by County, of source Materials and output on SSD or other agreed upon mass storage media (unless previously returned to County due to an urgent need). Close out activities include, but are not limited to, final quality control checks, reporting and determination of close date. County will notify Contractor of project close as soon as these activities have been completed.

- G. Business Reviews: Plan, schedule and participate in Business Review Meetings as previously described.

5. **TERMINATION.** This agreement may be terminated by either Party upon thirty (30) day's written notice.
6. **INDEMNIFICATION.** Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, County shall indemnify, defend and hold harmless Contractor from and against all liability, loss and costs arising out of or resulting from the acts of County, its officers, employees and agents in the performance of the Contract. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, Contractor shall indemnify, defend and hold harmless County from and against all liability, loss and costs arising out of or resulting from the acts of Contractor, its officers, employees and agents in the performance of the Contract.
7. **INSURANCE.** Each Party shall each be responsible for providing worker's compensation insurance as required by law. Neither Party shall be required to provide or show proof of any other insurance coverage.
8. **ADHERENCE TO LAW.** Each Party shall comply with all federal, state and local laws and ordinances applicable to the Contract and the Work contemplated herein.
9. **NON-DISCRIMINATION.** Each Party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
10. **ACCESS TO RECORDS.** Each Party shall have reasonable access to the books, documents and other records of the other which are related to the Contract for the purpose of examination, copying and audit, unless otherwise limited by law.
11. **SUBCONTRACTS AND ASSIGNMENT.** Neither Party will subcontract or assign any part of the Contract without the written consent of the other Party.

12. **PAYMENT/BILLING.** All invoices must be billed to “Multnomah County” and include the following information:

- a. Invoice number and invoice date,
- b. Vendor name and address,
- c. Multnomah County contract number,
- d. Description of goods and/or services delivered,
- e. Detail units of measure, price per unit, extended amount per line items; and
- f. Total invoice amount.

13. **ORS 190-COOPERATION OF GOVERNMENT UNITS.** This Contract is an intergovernmental agreement subject to Chapter 190 of the Oregon Revised Statutes. The Contract **does not** constitute an authorization by a public body under ORS 190.010 or 190.110 for a Party to perform one or more inherent governmental responsibilities of or for the other Party.

14. **DATA USE.**

- a. As applicable, the Parties agree to share the data identified in Contract, which is necessary for the completion of the Services contemplated herein, subject to the following terms and conditions. Each Party grants to the other a license to access the data identified in Contract solely for the purposes and Work described in this Contract.
- b. The Parties agree to: (i) disclose to the other only the minimum data necessary to accomplish the receiving Party’s identified purpose, and only as permitted under the Contract and relevant laws; (ii) keep and maintain the other’s data in strict confidence, using such degree of care as is appropriate and consistent with its obligations described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; and (iii) not use, sell, rent, transfer, distribute, or otherwise disclose or make available the other Party’s data for any purpose not directly related to its performances under the Contract or for the benefit of anyone other than the disclosing Party without that Party’s prior written consent. To avoid ambiguity, a Party receiving data from the other is prohibited from using or further disclosing that data other than as permitted or required by the Contract or as required by law.
- c. If the Work involves payment and/or health care operations activities and requires that it receive from County data protected under 42 CFR Part 2, the following terms shall apply.
 - (i) Contractor acknowledges and agrees that it shall be fully bound by the provisions of 42 CFR Part 2.
 - (ii) Contractor acknowledges and agrees it has implemented appropriate risk management techniques, including administrative, technical, and physical safeguards, to protect and otherwise prevent unauthorized uses and disclosures of data subject to 42 CFR Part 2. Without limitation, the technical safeguards employed will incorporate industry recognized system hardening techniques and will reflect a risk-based assessment of the data protected relative to the likely harm from unauthorized access to the data. Contractor will at least annually audit its safeguards to ensure all information systems within its control and involved in storing, using, or transmitting data subject to 42 CFR Part 2 is secure and that reasonable and appropriate measures have been used to protect the data from unauthorized disclosure, modification, or destruction.
 - (iii) Contractor will immediately notify County upon any unauthorized use, disclosure, breach, or suspected breach of data subject to 42 CFR Part 2 and will comply with all applicable breach notification laws. Contractor agrees to cooperate with County in the investigation and remedy of any such breach, including, without limitation, complying with any law concerning unauthorized access or disclosure, as may be reasonably

requested by County. Contractor will promptly reimburse County for the costs of any breach notifications, expenses, or other fees, including any state or federal fines associated with a breach of data subject to 42 CFR Part 2 while in Contractor's possession or control. Contractor will send any applicable notifications regarding a breach to the following notification email address: IT.Security@multco.us.

(iv) Contractor will only re-disclose data subject to 42 CFR Part 2 when the re-disclosure recipient: (A) is a contract agent or subcontractor of Contractor that is assisting Contractor to provide services described in the Contract; and (B) agrees by contract to only further disclose the County's data subject to 42 CFR Part 2 to Contractor or County.

d. All data exchanged hereunder will remain the property of the disclosing Party. Except for the uses expressly permitted herein, nothing contained in this Contract will be construed as a grant of any right or license or an offer to grant any right or license by either Party to the other with respect to the data exchanged hereunder, or any derivative works thereof.

15. **THIS IS THE ENTIRE AGREEMENT.** This Contract constitutes the entire agreement between the Parties. This Contract may be modified or amended only by the written agreement of the Parties.

MULTNOMAH COUNTY INTERGOVERNMENTAL AGREEMENT
Contract Number: DCA-IGA-E-13015-2021

CONTRACTOR SIGNATURE

I have read this Contract including any attached Exhibits and Attachments. I understand the Contract and agree to be bound by its terms.

Signature: _____

Title: _____

Name (print): _____

Date: _____

MULTNOMAH COUNTY SIGNATURE

This Contract is not binding on the County until signed by the Chair or the Chair's designee.

County Chair or Designee: _____ Date: _____

Department Director Review (optional):

Director or Designee: _____ Date: _____

County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: _____ Date: _____

Attachment 1

Health Insurance Portability and Accountability Act of 1996 (HIPAA) Business Associate and 42 CFR Part 2 Qualified Service Organization Agreement

A. General.

For purposes of this Contract, Contractor is County's business associate and will comply with the obligations set forth below and under HIPAA. Further, County operates certain federally-funded substance use disorder programs directly subject to 42 CFR Part 2 and will transmit information about Individuals in a program subject to 42 CFR Part 2 under the Contract. Therefore, Contractor is also a Qualified Service Organization as defined under 42 CFR § 2.11 for the purpose of the Contract. Contractor and County agree to amend this Contract if necessary to allow County to comply with the requirements of HIPAA and its implementing regulations and 42 CFR Part 2.

B. Definitions.

Terms used, but not otherwise defined in this Contract, will have the same meaning as those terms in 45 CFR 160.103, 164.103, 164.402, 164.501 and 42 CFR Part 2. A reference to a regulation means the section as in effect or as amended, and for which compliance is required.

1. *Breach*: as defined in 45 CFR 164.402 and includes the unauthorized acquisition, access, use, or disclosure of Protected Health Information (PHI) that compromises the security or privacy of such information.
2. *Designated Record Set*: as defined in 45 CFR 164.501.
3. *Individual*: as defined in 45 CFR 160.103 and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g). Also includes a patient in a program subject to 42 CFR Part 2.
4. *Privacy Rule*: the standards for privacy at 45 CFR Part 160 and Part 164, subpart A and E.
5. *Protected Health Information (PHI)*: means any information created for or received from County under the Contract from which the identity of an Individual can reasonably be determined, and includes, but is not limited to, all of the information within the statutory meaning of "Protected Health Information" in 45 CFR 160.103.
6. *Required by Law*: as defined in 45 CFR 164.103.
7. *Secretary*: the Secretary of the U.S. Department of Health and Human Services (HHS) or designee.
8. *Security Rule*: the Standards for Security of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subpart A and C.
9. *Unsecured Protected Health Information*: PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in 45 CFR 164.402.

C. Contractor's Obligations.

1. Contractor agrees to not use or disclose Protected Health Information (PHI) other than as permitted or required by this Contract or as required or permitted by law. Contractor further agrees to use or disclose PHI only on behalf of, or to provide services to, the County in fulfilling Contractor's obligations under this Contract, and to not make uses or disclosures that would violate the Privacy Rule or 42 CFR Part 2 if done by County or violate the minimum necessary standard as described below.
2. When using, disclosing, or requesting PHI, Contractor agrees to make reasonable efforts to limit the PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request, in accordance with 45 CFR 164.514(d), with the following exceptions:
 - a) disclosures to or requests by a health care provider for treatment, except for drug & alcohol treatment information, for which a specific written consent is required;
 - b) disclosures made to the Individual about his or her own PHI;
 - c) uses or disclosures authorized by the Individual;
 - d) disclosures made to the Secretary in accordance with the HIPAA Privacy Rule;
 - e) uses or disclosures that are Required by Law; and
 - f) uses or disclosures that are required for compliance with the HIPAA Transaction Rule.
3. Contractor is directly responsible for full compliance with the requirements of 42 CFR Part 2 and the HIPAA Privacy Rule and Security Rule to the same extent as County.
4. Contractor agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Contract.
5. Contractor agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the County as required by 45 CFR 164 Subpart C.
6. Contractor agrees to immediately notify County of any known or suspected incident or complaint involving PHI, including use or disclosure of PHI in violation of or not provided for by this Contract of which it becomes aware.
7. Contractor shall immediately notify County of a Breach of Unsecured PHI of which Contractor (or Contractor's

employee, subcontractor, officer or agent) knows or should have known of through the exercise of reasonable diligence. Contractor's notification to County must:

- a) Be in writing and provide an individual's contact information if needed for County's follow up communications;
 - b) Be made to County without unreasonable delay and no later than 10 calendar days after discovery of the Breach. A Breach is considered discovered as of the first day on which the Breach is known, or reasonably should have been known, to Contractor, subcontractor of Contractor, or any employee, officer or agent of Contractor, other than the individual committing the Breach;
 - c) Include the Individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach and the types of PHI involved;
 - d) Include the date of the Breach and date of discovery of the Breach;
 - e) Include description of what Contractor is doing to investigate the Breach, to mitigate loss, and to protect against any further or future Breaches;
 - f) Provide all information necessary for County to notify impacted Individuals under 45 CFR 164.404 without unreasonable delay after Contractor's discovery of the Breach; and
 - g) Provide any and all information, including preparation of reports or notices, needed for County to provide notification required under 45 CFR 164.406 and 164.408, as required or requested by County.
8. Contractor agrees to mitigate, to the extent practicable and without unreasonable delay, any harmful effect that is known to Contractor of a use or disclosure of PHI or Breach of Unsecured PHI by Contractor in violation of the requirements of this Contract or HIPAA.
 9. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides PHI that is received from County, or created or received by Contractor on behalf of County, agrees in writing to the same restrictions and conditions that apply through this Contract to Contractor with respect to such information in accordance with 45 CFR 164.502(e)(1)(ii), 164.308(b)(2), and 42 CFR Part 2.
 10. Contractor agrees to provide access to PHI about an Individual contained in a Designated Record Set within the time, manner, form and format specified in Individual's or County's request as necessary to satisfy the County's obligations under 45 CFR 164.524. If an Individual requests access to information directly from Contractor, Contractor agrees to forward the request to County within 2 working days of receipt. County will be responsible for any denials of requested PHI.
 11. Contractor agrees to make any amendments to PHI in a Designated Record Set that the County directs or agrees to pursuant to 45 CFR 164.526 within the time and manner specified in County's request. Contractor shall not respond directly to requests from Individuals for amendments to their PHI in a Designated Record Set. Contractor agrees to forward the request to County within 2 working days of receipt.
 12. Contractor agrees to make internal practices, books and records, including policies and procedures relating to the use and disclosure of PHI received from, or created, maintained or received by Contractor on behalf of County available to County or Secretary upon request of County or Secretary, in a time and manner designated by the County or the Secretary for purposes of the Secretary determining County's compliance with HIPAA.
 13. Contractor agrees to document disclosures of PHI and information related to such disclosures as required for County to respond to a request by an Individual for an accounting of disclosure of PHI in accordance with 45 CFR 164.528. Contractor will make available, at a minimum, the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. Contractor agrees to implement an appropriate record keeping process to comply with this Section.
 14. Contractor agrees to provide County or an Individual, within the time and manner specified in the request from County or Individual, information under Item 13 of this Section, to permit County to respond to a request by an Individual for an accounting of disclosure of PHI in accordance with 45 CFR 164.528.
 15. Contractor must forward to County within 2 working days of receipt any request for restriction or confidential communications as described under 45 CFR 164.522 received from an Individual. Contractor must process such request in the time and manner as directed by County.
 16. If Contractor conducts in whole or part electronic transactions on behalf of County for which HHS has established standards, Contractor will comply and require its subcontractors and agents to comply, with each applicable requirement of the HIPAA Electronic Transactions Rule under 45 CFR Parts 160 and 162 and of any operating rules adopted by HHS with respect to the standard transactions.
 17. Contractor acknowledges that in receiving, storing, processing, or otherwise dealing with any PHI subject to 42 CFR Part 2, it is fully bound by the provisions of the federal regulations governing Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2.
 18. Contractor shall resist any effort in a judicial proceeding to obtain access to PHI subject to 42 CFR Part 2 program except as expressly provided for in 42 CFR Part 2. Contractor shall immediately notify County if Contractor receives such request.

D. Termination.

1. Notwithstanding any other termination provisions in this Contract, County may terminate this Contract in whole or in part upon 5 working days written notice to Contractor if the Contractor breaches any provision contained in this Contract and fails to cure the breach to County's satisfaction within the 5 working day period; provided, however, that in the event termination is not feasible County may report the breach to the Secretary.
2. Upon termination of this Contract for any reason, Contractor will extend the protections of this Contract to any PHI that Contractor is required to retain under any provision of this Contract. The terms of this Contract shall remain in

effect until all of the PHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI as agreed upon by County, protections are extended to such information, in accordance with the termination provisions in this Section.

3. The obligations of Contractor under this Section D shall survive termination of the Contract.

E. Remedies in Event of Breach.

Contractor recognizes that irreparable harm will result to County, and to County business, in the event of breach by Contractor of any of the covenants and assurances contained in this Contract. As such, in the event of breach of any of the covenants and assurances contained in Section C above, County will be entitled to enjoin and restrain Contractor from any continued violation of Section C. Furthermore, in the event of breach of Section C by Contractor, County is entitled to reimbursement and indemnification from Contractor for County's reasonable attorneys' fees and expenses and costs, including notices the County is required to give as a result of any Breach of Unsecured PHI, that were reasonably incurred as a result of Contractor's breach. The remedies contained in this Section E are in addition to (and do not supersede) any action for damages and/or any other remedy County may have for breach of any part of this Contract. This provision in Section E shall survive termination of the Contract.

F. Interpretation.

Any ambiguity in this Contract shall be resolved in favor of a meaning that permits County to comply with HIPAA and its implementing regulations and 42 CFR Part 2.

ATTACHMENT 2

**CLACKAMAS COUNTY SERVICE FEE RATES
As of April 2021**

Contract Number: DCA-IGA-E-13015-2021

| | |
|--|----------------|
| 16mm silver microfilm processing | .024 per image |
| 35mm silver microfilm processing | .30 per image |
| 35mm vendor minimum order charge (on 35mm reels with less than 300 images) | \$100/reel |
| 16mm jacketing | \$ 1.50/jacket |
| 35mm jacketing | \$ 2.75/jacket |
| 16mm Diazo Duplicate | \$ 10.50/reel |
| 35mm Diazo Duplicate | \$ 13.65/reel |
| 16mm Silver Duplicate | \$ 16.28/reel |
| 35mm Silver Duplicate | \$ 19.58/reel |
| Polysulfide Treatment 16mm | \$ 3.20/reel |
| Polysulfide Treatment 35mm | \$ 6.40/reel |
| Images loaded to Flash Drive | \$.00 Included |
| Labor: Scanning, quality control and any document preparation | \$67.00/hour |

Attachment 3

Terminology and Definitions

Contract Number: DCA-IGA-E-13015-2021

1. "Authorized Representative" are workforce members (employees) designated by each Party. Account Representative - Role and Responsibility (Attachment K) as their respective authorized agents for communications under the Contract.
2. "Business Associate" is defined under 45 CFR 160.103.
3. "Contract" means the Cover Page, the Standard Terms and Conditions, and all schedules and attachments incorporated by reference.
4. "Covered Entity" is defined under 45 CFR 160.103.
5. "Deliverable" refers, collectively, to the Goods, SaaS, Services, and Works to be provided under the Contract.
6. "Digitization" is the process of converting information into a digital (computer-readable) form. In the context of archives it is a means of creating digital surrogates of analog materials.
7. "Goods" means the tangible or intangible assets to which County will receive certain rights, title, and interest from Contractor, and that Contractor will otherwise sell or license to County under the Contract.
8. "Indexing" refers to the process of assigning metadata to digital files in order to facilitate fast and accurate retrieval.
9. "Loss" and "Losses" means any claim, damage, loss, liability or expense including, without limitation, attorney fees and legal costs suffered directly or by reason of any act, omission, claim, suit or judgment.
10. "Materials" refers to the original, archival, source microforms that will be digitized.

11. "Microform" is a scaled down reproduction of a document on film or paper created using a micro photographic process. They are created for the purposes of transmission, storage, preservation, reading and printing.

12. "Output" refers to producing, delivering or supplying data using a computer or other device.

13. "Protected Data" is information whose use, exchange, transmission, and storage, is restricted under state or federal law, administrative rule, or policy. Protected Data includes, without limitation, PII, PHI, information protected under 42 CFR Part 2, criminal justice information and criminal history record information (defined in the FBI Criminal Justice Information Services (CJIS) Security Policy, version 5.6), information protected under the Family Rights and Privacy Act (FERPA), and financial information.

14. "Public Records" is defined by the Oregon Public Records Law, including ORS 192.311 to 192.475, the provisions for the Custody and Maintenance of Public Records, ORS 192.005 to 192.170, and laws incorporated by reference.

15. "Record" means information prepared, owned, used, or retained by either Party, and pertaining to their respective operations and business related to the Contract, that is inscribed on a tangible medium, commonly a document, or that is stored in an electronic or other medium and is retrievable in perceivable form.

16. "Services" means the professional, technical, creative, technology and/or other services that Contractor will provide to the County under the Contract.

17. "Term" begins on the means the period of time during which the Contract is in effect and as set forth in the Contract.

18. "Works" means the custom tangible or intangible deliverables that the Contractor will develop for and provide to the County under the Contract.

| |
|---|
| Attachment K |
| Representative - Role & Responsibility |
| Contract Number: DCA-IGA-E-13015-2021 |

| Organization | Representative Name | Role | Responsibilities | Location/Address | Contact Information | Direct Report |
|------------------|---------------------|---------------------------------------|--|------------------|--|---|
| Clackamas County | Carol Hopkins | Records Manager | Account and Project Management | Clackamas, OR | CHopkins@clackamas.us | Carol Hopkins (Denise Hinkle as backup) |
| Clackamas County | Denise Hinkle | Senior Records and Archive Specialist | Prepping, Scanning, Indexing, Exporting, Quality Control | Clackamas, OR | DHinkle@clackamas.us | Carol Hopkins (Denise Hinkle as backup) |
| Clackamas County | Bipan Lakhanpal | Records and Archives Specialist | Prepping, Scanning, Indexing, Exporting, Quality Control | Clackamas, OR | BLakhanpal@clackamas.us | Carol Hopkins (Denise Hinkle as backup) |
| Clackamas County | Ian Willard | Records and Archives Specialist | Prepping, Scanning, Indexing, Exporting, Quality Control | Clackamas, OR | IWillard@clackamas.us | Carol Hopkins (Denise Hinkle as backup) |
| Clackamas County | Mojdeh Bahar | Records and Archives Specialist | Prepping, Scanning, Indexing, Exporting, Quality Control | Clackamas, OR | MBahar@clackamas.us | Carol Hopkins (Denise Hinkle as backup) |
| Multnomah County | Lauren Kelly | Account Manager | Project Creation, Management | Portland, Oregon | 503-988-0021; lauren.kelly@multco.us | Lisa Whedon |
| Multnomah County | Deidre Thieman | Project Supervisor | Project Creation, Management | Portland, Oregon | 503-988-3741; deidre.thieman@multco.us | Lauren Kelly |
| Multnomah County | Paige Monlux | Project Supervisor | Project Creation, Management | Portland, Oregon | 503-988-3741; paigem@multco.us | Lauren Kelly |
| Multnomah County | Terry Baxter | Project Supervisor | Project Creation, Management | Portland, Oregon | 503-988-3741; terry.baxter@multco.us | Lauren Kelly |