

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners
Philip Morley, County Administrator

FROM: Ruth Gordon, Jefferson County Clerk

DATE: 12/06/2010

SUBJECT: Conversion of Microfilm to Digital Images

STATEMENT OF ISSUE:

The Clerk's office possesses a great many microfilm records on 479 rolls of film and must maintain a microfilm viewer in order for the records to be accessed. This is a burden financially, logistically, and in terms of the quality of the images available. Technology provides solutions and I propose convert our microfilm to digital images.

ANAYLSIS:

BMI Imaging offers a unique method of converting these court records to a single image of the whole microfilm reel, thus greatly reducing the cost of the project while providing terrific tools for improving legibility and rapid access to the images. This cuts the cost of the conversion process by more than ½. We access microfilm records about twice a week now, but when we do need to get into the record it is very time consuming and the quality of the copies we can provide to the public is variable and sometime illegible. Members of the public access our microfilm daily and would benefit from greater accessibility.

FISCAL IMPACT:

We propose to spend \$2500 from the O&M Fund to try this method out.

RECOMMENDATION:

Please approve this contract so that we can proceed.

REVIEWED BY:

Philip Morley, County Administrator

Date

ORIGINAL



Imaging Services Agreement

Reproduction of Documents

BMI Imaging Systems, Inc., ("BMI") shall perform the services for Customer outlined in the attached Description of Services portion of this Agreement, subject to the following terms and conditions. The books, manuscripts, photographs, newspapers, periodicals, files, disks, tapes or other material provided by Customer shall be referred to as the "Documents." The products of digital or photographic reproduction processes shall be referred to as the "Image Product." BMI does not warrant that all customers Documents will be reproduced to the Image Product or that each reproduced image will be legible. BMI agrees to reprocess any missed or illegible Documents and, when determined by BMI to be technically possible, to insert the corrected or missing images into the Image Product. Customer must identify and return to BMI the appropriate missing or illegible Documents to BMI along with all Image Products within 90 days of the Image Product's availability to Customer. After such 90-days period, Customer agrees to pay for any retakes or corrections by Customer at BMI's then effective rates.

Transportation

Although some transportation of Documents and Image Product may be provided by BMI in furnishing services under this agreement, BMI is not and shall not be deemed a contract carrier and the limitations on liability and claims procedures outlined elsewhere in the Agreement shall apply to any such transportation services. In providing transportation of Documents or Image Product, BMI shall accept no liability for the loss or damage of Documents or Image Product beyond that which is detailed below.

Insurance and Liability

Customer shall maintain adequate property damage and loss insurance coverage or shall self-insure with respect to all Documents or other materials furnished by Customer to BMI. Customer acknowledges and agrees that it has unique knowledge of the value of the Documents and therefore expressly represents that it is solely responsible for maintaining any insurance, in such amounts as it deems appropriate, covering Documents while Documents are within the care, custody, and control of BMI. Additionally, Customer shall declare the value of Documents, during any transporting, processing, storing or copying by BMI, is the value of the media itself (paper, disk, film) on which the Documents were originally provided to BMI.

In any action to enforce a claim based on the alleged negligence of BMI, the burden of proving negligence shall be with the Customer. In any event, BMI's financial obligation to Customer for its negligent acts and/or admissions shall not exceed the contract price of this agreement. BMI shall have no liability to Customer for any damage or loss sustained by Customer as a result of BMI's obligations under this Agreement with respect to missing, illegible pages or damaged Documents or Image Products. BMI does not represent or warrant that its buildings are fireproof or the contents of the buildings (including the Documents and the Image Products) cannot be destroyed by fire.

Any claim for loss must be made by Customer within ninety (90) days of the date that Customer receives Image Product from BMI. Any action to enforce a claim must be brought within 180 days after the claim is made to BMI, or else the claim is waived. Any claim arising under this Agreement shall be finally settled by binding Arbitration conducted under the Commercial Arbitration Rules of the American Arbitration Association, as then in effect. Any such Arbitration shall be conducted in King County, Washington before

one arbitrator who shall be a lawyer or retired judge with experience in arbitrating commercial disputes. The award of the arbitrator, which may include equitable relief, shall be final and judgement may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

BMI, in the course of performing services for the Customer, may be required to install software to Customer's workstation, server or other connected device. Customer agrees to have performed adequate prior and ongoing backup of all data and programs connected to any networked device onto which BMI will be loading software or data. BMI makes no claim as to the serviceability of the software and Customer accepts refund of the cost of the software license(s) as total compensation from BMI for any damages that might arise out of the use or installation of such software. BMI makes no other warranties express or implied, including without limitation the warranty or merchantability or fitness for a particular purpose. In no event shall BMI be liable for special, punitive, incidental or consequential damages even if it has been advised of the possibility before.

Charges

All charges for services, together with any sales or other applicable tax, are due and payable no later than thirty (30) days after receipt of the invoice. Invoices will typically be provided by US Mail monthly for completed work. Unpaid accounts are subject to late payment charges or the lesser of 1% per month or the maximum rated permitted by law.

Solicitation

Customer agrees that they will not recruit, solicit, induce or otherwise contract with BMI personnel, whether employees of BMI or BMI contractors, for a period of 12 months following completion of any BMI provided services to client.

Title/Court Order

Customer represents and warrants that it owns, has acquired, or will acquire, all rights, title, interest, licenses and permissions necessary for BMI, its employees, agents and/or contractors to perform services to the Documents under this agreement without violation or infringement of any third party right or agreement. In the event of any such actual or threatened violation or infringement, Customer shall be solely liable for all damages, costs and expenses (including attorneys' fees) arising from or related thereto and Customer agrees to indemnify, defend and hold BMI harmless from and against, any and all actions, claims, liability, damages, costs and expenses (including attorneys' fees) arising from or related to any such actual or threatened violation or infringement. Customer acknowledges and agrees that BMI may in its sole discretion suspend, refuse to perform or terminate services, in whole or in part, after the receipt of (i) a third party allegation or complaint of a violation or infringement of any right or (ii) the receipt of an order of a court or other legal authority of competent jurisdiction to cease the performance of services related to the Documents.

BMI may refuse access to the Documents or the Image Product to the Customer if a Court of legal jurisdiction should so order. Customer hereby waives all claims for damages against BMI and agrees to indemnify and hold BMI harmless against any claims by any third party including without limitation attorneys, fees incurred in connection with this Agreement. While any claim or charge of BMI remains unpaid for 30 days or more, BMI's liability for any loss of or damage to Customer's records incurred during such period shall be that of a gratuitous bailee only and BMI shall have the right to destroy Customer's records without additional authorization from or notice to Client and to charge Client for the destruction. BMI shall have no liability to any shareholder, partner, director, officer or employee of Customer or any successor in interest to Customer if BMI applies any of the remedies permitted to BMI under this Agreement

Entire Agreement/Modification/Waiver

This Agreement supercedes any prior agreements and understandings between the parties relating to the subject matter of this Agreement. No supplement, amendment or modification of this Agreement shall be binding unless executed in writing by all of the parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver of this Agreement shall be binding unless executed by the party making the waiver.

Assignment

This agreement may be assigned upon the approval of the other party, which shall not be reasonably withheld. If assigned, the terms and obligations of this agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, legal representatives, successors and assigns.

Recovery of Litigation/Arbitration Costs

If any legal action or Arbitration or other proceeding is required for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation connection with any of the provisions of this Agreement, then each party shall bear the costs of its legal defense or attendance of binding arbitration.

Notices

Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon receipt by the party to whom notice is being given.

Governing Law

This Agreement shall be governed by and constructed in accordance with the laws of the State of Washington applicable to contracts made and to be performed in Washington.

For: _____
Customer (Company Name)

For Customer (Print Name)

Signature of Customer

Approved as to form only
11/24/10
Paul Albano
Paul Albano, Esq.
Attorney at Law

For: _____
BMI Imaging Systems, Inc