

MEMORANDUM OF AGREEMENT FOR MICROFILMING SERVICES

This Agreement entered into this ____ day of _____, 2010, by and between the City of Overland Park, Kansas, a municipal corporation, hereinafter referred to as CITY and Kansas Correctional Industries, hereinafter referred to as KCI.

WHEREAS, the CITY has a need to establish a long term image of certain planning documents; and

WHEREAS, the CITY has approved and proposes to have KCI provide microfilming services as needed;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

SCOPE OF SERVICES

KCI shall furnish the necessary personnel, facilities and such other services as may be required to fulfill the tasks identified and described in Attachment No. 1.

ARTICLE I: CITY RESPONSIBILITIES

The CITY agrees:

- A. To utilize the services of KCI to perform the services described herein for the fee as stipulated.
- B. To designate a single contact person for KCI to contact concerning the work and terms of this Agreement.
- C. To reimburse KCI for services provided according to the fees established in Attachment No. 2.

ARTICLE II: VENDOR RESPONSIBILITIES

KCI agrees:

- A. To provide the services described herein for the fees stipulated in Attachment No. 2. These services are to be performed in a manner as prescribed by the CITY.
- B. To meet standard established in Attachment No. 1, unless otherwise amended by agreement with the CITY.

- C. To provide transportation of the documents to and from KCI facilities.
- D. To be responsible for the security of all documents while in the custody of KCI, including having in place a document protection plan, disaster recovery plan and a business continuity plan.
- E. To provide a contact person for the CITY to contact concerning the work and terms of this Agreement.
- F. To provide corrected microfilm, if errors are found by the CITY, at KCI's expense. Any errors by KCI, identified in the CITY's proofing process, shall be corrected without any additional charge.
- G. To provide the CITY with a copy of their standards of operation at their microfilming facility, including work standards and quality control standards.
- H. To hold the CITY and the CITY's authorized representatives harmless from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the negligent performance thereunder by KCI under the provisions of this Agreement.
- I. To comply with the provisions of the Civil Rights Act of 1964 and the Kansas Act Against Discrimination and any subsequent revisions and additions to these statutes and shall not discriminate against any person in the performance of work under this Agreement because of race, color, religion, sex, disability, national origin, familial status, ancestry or age.
- J. That the services to be performed by KCI under the terms of this Agreement are personal and cannot be assigned, sublet, or transferred without the written consent of the CITY.

ARTICLE III: GENERAL ADMINISTRATION

The parties hereto mutually agree:

- A. This Agreement shall be in force and effect for the period commencing on January 1, 2011 and ending December 31, 2011, subject to the terms and conditions herein contained or as amended by written agreement.
- B. It is further agreed that this Agreement and all agreements entered into under the provision of this Agreement shall be binding upon the parties hereto and their successors and assigns.

ARTICLE IV: TERMINATION

The parties hereto mutually agree:

- A. The CITY and KCI have the right to terminate this Agreement by giving at least thirty (30) days' written notice in the event the CITY or KCI determines this Agreement should be abandoned or indefinitely postponed; PROVIDED, however, that in any case, KCI shall be paid the amount due for the services rendered up to the time of termination, on the basis of the provision of this Agreement.

- B. The CITY has the right to terminate this Agreement at any time, upon written notice to KCI in the event KCI fails to comply with all the terms and provisions of this Agreement or in any way defaults hereunder. KCI shall be paid the reasonable value of the services rendered to the date of termination; PROVIDED, that in the event of termination of this Agreement, KCI shall not be paid more than that which it would receive under the terms of this Agreement for those services rendered to the date of termination.

Executed in triplicate the date first above written.

CITY OF OVERLAND PARK, KANSAS

By: _____
Carl Gerlach, Mayor

ATTEST:

Marian Cook
City Clerk

APPROVED AS TO FORM:

J. Bart Budetti
Senior Assistant City Attorney

KANSAS CORRECTIONAL INDUSTRIES

By: _____
Rodney Crawford, Director

ATTEST:

Microfilm Specifications and Services Required

The records to be microfilmed for the Planning and Development Services Department, City of Overland Park, Kansas, generally fall into four categories.

1. Address Files – These consist of mostly letter-size copies of correspondence and reports. Some documents may be up to 13 x 17 inches. Film size required: 16mm inserted in standard 7 ³/₈ x 3 ³/₈ inch four-line fiche. Addition of certain identifying (indexing) required on each fiche. Duplicate 16mm reel required.
2. Commercial Plans – These consist of architect/engineer type drawings ranging in size from 13 x 17 inches to 36 x 48 inches. Film size required: 35mm inserted in standard 3M-type aperture card MMM 5001 (buff colored) or equivalent. Duplicate 35mm reel required. Addition of certain identifying information (indexing) required on aperture card.
3. House Plans – These consist of architect/engineer type drawings ranging in size from 13 x 17 inches to 36 x 48 inches. Film size required: 35mm inserted in standard 7 ³/₈ x 3 ³/₈ inch two-line fiche. Addition of certain identifying information (indexing) required on each fiche. Duplicate 35mm reel required.
4. Planning Commission Plans – These are the same as #2 above, except the card color is green.

All microfilming must comply with the density and resolution standards set forth in the following:

- Federal Standard 125D (Film Photograph & Film, Photographic, Processed for permanent records use);
- Kansas State Historical Society, K.S.A. 12-122 (Records Management Micrographics), K.S.A. 19-250 (Government Records Preservation Act), and K.S.A. 75-3506 (Agency Records Officers);
- American National Standards Institute (ANSI) PH1.28-1981, or PH1.41-1981, PH4.8-1978, and PH1.43-1983;
- Association for Information and Image Management (AIIM) Standards, AIIM Standards are included in the Kansas State Historical Society, Local Government Records Management Manual, Appendix C – Micrographic Resources.

Additional specifications include:

- Master reels of 16mm and 35mm film must be silver halide safety based permanent record film. Aperture cards/jackets must contain diazo duplicates.
- Each reel of film must include CITY listing of records at the beginning of the reel.
- Address files to be blipped and the CITY listing to be returned with Index Frame Number added.

QUOTE SHEET

Address Files (16mm)	1. Filming – cost per image	\$ <u> </u> .06
	2. Jackets – cost each	\$ <u> </u> .25
	3. Film insertion – cost each	\$ <u> </u> .50
	4. Indexing – cost each fiche	\$ <u> </u> .25
	5. Duplicate 16mm roll – (diaz) cost each	\$ <u> 12.00</u>
Commercial Plans (35mm)	1. Filming – cost per image	\$ <u> </u> .19
	2. Aperture Cards– cost each	\$ <u> </u> .45
	3. Film insertion – cost each	\$ <u> </u> .50
	4. Indexing – cost each card	\$ <u> </u> .25
	5. Duplicate 35mm roll – (diaz) cost each	\$ <u> 15.00</u>
House Plans (35mm)	1. Filming – cost per image	\$ <u> </u> .19
	2. Jackets – cost each	\$ <u> </u> .25
	3. Film insertion – cost each	\$ <u> </u> .50
	4. Indexing – cost each fiche	\$ <u> </u> .25
	5. Duplicate 35mm roll – (diaz) cost each	\$ <u> 15.00</u>
Planning Commission (35mm)	1. Filming – cost per image	\$ <u> </u> .19
	2. Aperture Cards– cost each	\$ <u> </u> .45
	3. Film insertion – cost each	\$ <u> </u> .50
	4. Indexing – cost each card	\$ <u> </u> .25
	5. Duplicate 35mm roll – (diaz) cost each	\$ <u> 15.00</u>
Specification Books	1. Filming – cost per image (Original only-no duplication)	\$ <u> </u> .06

Other Charges:

1. Pickups scheduled by the customer as needed through the KCI Customer Service Department @ 913-727-3254. A shipping charge of \$20.00 per pickup will be payable to KCI. All documents will be picked-up or delivered to the Microfilm Unit, Planning & Development Services Department, City Hall. The documents to be picked-up will clearly be marked by the City. A City staff person shall generally be available to supervise the pick-up.
2. Frame Indexing—frame numbers for each file to be placed onto customer provided transmittals—with contract there will be no charge (normally there is a \$15.00/hr-by time clock- charge for this service). Frames are to be typed onto the customer transmittal and emailed to the customer at the completion of the project.

Notes:

1. Sign permits and other departmental records - pricing will be quoted the same as the previously listed pricing for the type of similar filming required – 16mm or 35mm.
2. All 16mm filming will be done at a 32:1 reduction ratio unless the City of Overland Park specifies otherwise.
3. Transmittals shall be submitted by the City of Overland Park to the Microfilm Division through the email process in a format that can be opened by various software programs.
4. Summary sheets are to be completed and emailed to the customer at the completion of the project. (The summary sheets are an Overland Park created document that is sent to KCI at the start of each project with the transmittals.)
5. KCI is no longer able to accept documents containing the following information: 1) Date of Birth; 2) Social Security Number; or 3) Driver's License Number.

Signature: _____

Typed Name: Rod Crawford

Company Name: Kansas Correctional Industries

Address: Microfilm Division, PO Box 546, Norton, KS 67654

Phone/Fax Number: 785-877-3380 Ext. 231 or 239 Fax 785-877-5549

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due to Lack of Funding Appropriation or Budget Rescission or Allotment:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. If, in the judgment of the Secretary of the state agency party, as a result of a budget rescission ordered by the Governor, or a budget allotment ordered by the Secretary of Administration, insufficient funds remain to support the function performed in this agreement and for payment of charges hereunder, State may terminate this agreement upon giving 30 days' written notice. In the event of termination due to any circumstance set forth above, Contractor shall have the right to take possession of any equipment provided State under the contract, upon the effective date of termination. State will pay to the contractor all regular contractual payments incurred up to the effective date of termination, plus contractual charges, if any, incidental to the return of any such equipment. Upon termination of the agreement by the State, title to any such equipment shall revert to the contractor upon the effective date of termination. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss of damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."