

## **PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of February, 2024, by and between the **CITY OF MISSOULA, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, 435 Ryman St., Missoula, MT 59802, referred to here as "City," and **Modus Technology, Inc.**, 1420 NW Gilman Boulevard #2562, Issaquah, Washington, 98027, hereinafter referred to as "Contractor."

### **RECITALS**

WHEREAS, the City desires to utilize Contractor to furnish independent services digitize It's microfiche records into archival PDFs (PDF/A).

WHEREAS, Contractor has represented to the City that Contractor has the necessary expertise to furnish said services and has available to Contractor the necessary staff and resources to perform the independent services in a timely manner consistent with the nature of the project.

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

1. **Purpose:** City desires to have Contractor preform services referenced in the attached Statement of Work.
2. **Effective Date:** This Agreement is effective upon the date of its execution by both parties. This is a limited agreement that terminates upon completion of the project, estimated in the Statement of Work.
3. **Scope of Work:**
  - a. Contractor will perform the work and provide the services in accordance with the requirements of the Statement of Work attached here to.
4. **Payment:**
  - a. City agrees to pay Contractor for services outlined in the estimates outlined in page 5 of the attached Statement of Work provided by the contractor in an amount not to exceed \$87,593.55. Payment for work beyond that described in the attached Statement of Work is expressly denied without prior written authorization from City. Such authorization must include signature of the Mayor.
  - b. Contractor shall submit monthly statements for services rendered. City shall pay Contractor within 30 days of receipt of an itemized invoice for the services rendered or shall notify Contractor of any dispute by City concerning the performance of any services and the basis therefore and shall pay Contractor

within thirty days for the services not in dispute. If any items are disputed by City, Contractor and representatives of City shall meet and confer regarding the disputed items within ten business days after City notifies Contractor of the services in dispute. City shall pay for any disputed services for which the dispute has been resolved to the satisfaction of the City within thirty days after such resolution.

**5. Independent Contractor Status:** The parties agree that Consultant, is an independent contractor for purposes of this agreement and the parties agree that Consultant is and shall be an independent contractor when performing services pursuant to this agreement. Consultant is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Consultant is not authorized to represent the City or otherwise bind the City in any dealings between Consultant and any third parties.

Consultant shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Consultant shall maintain workers' compensation coverage for all members and employees of Consultant's business, except for those members who are exempted by law.

Consultant shall furnish the City with copies showing one of the following: (1) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

**6. Indemnity and Insurance:** For other than professional services rendered, to the fullest extent permitted by law, Consultant agrees to defend, indemnify, and hold the City harmless against claims, demands, suits, damages, losses, and expenses connected therewith that may be asserted or claimed against, recovered from or suffered by the City by reason of any injury or loss, including but not limited to, personal injury, including bodily injury or death, property damage, occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Consultant or Consultant's agents or employees.

For the professional services rendered, to the fullest extent permitted by law, Consultant agrees to indemnify and hold the City harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or willful misconduct of the Consultant or Consultant's agents or employees.

For this purpose, Consultant shall provide City with proof of Consultant's liability insurance issued by a reliable company or companies for personal injury and property damage in amounts not less than as follows:

- Workers' Compensation—statutory
- Employers' Liability—\$1,000,000 per occurrence; \$2,000,000 annual aggregate
- Commercial General Liability—\$1,000,000 per occurrence; \$2,000,000 annual aggregate
- Automobile Liability—\$1,000,000 property damage/bodily injury; \$2,000,000 annual aggregate
- Professional Errors and Omissions Liability—\$1,000,000 per claim; \$2,000,000 annual aggregate

City shall be included or named as an additional or named insured on the Commercial General and Automobile Liability policies. The insurance must be in a form suitable to City.

**7. Professional Service:** Consultant agrees that all services and work performed under this agreement will be accomplished in a professional manner, in accordance with the accepted standards of Contractor's profession.

**8. Compliance with Laws:** Consultant agrees to comply with all federal, state, and local laws, ordinances, rules, and regulations.

**9. Nondiscrimination and Affirmative Action:** Consultant agrees and shall comply with the following Non-Discrimination and Affirmative Action policies:

**NON-DISCRIMINATION.** All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis of race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status, sexual orientation, or gender identity/expression, except where these criteria are reasonable bona fide occupational qualifications.

**AFFIRMATIVE ACTION POLICY.** Contractors, subcontractors, sub grantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action Plan, and Title 49 Montana Codes Annotated, entitled "Human Rights" or forfeit the right to continue such business dealings.

### **The City's Affirmative Action Policy Statement is:**

The Mayor of the City of Missoula or the Mayor's designee may adopt an affirmative action plan to provide all persons equal opportunity for employment without regard to race, ancestry, color, handicap, religion, creed, national origin, sex, age, sexual orientation, gender identity or expression, or marital status. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility to actively facilitate equal employment opportunity for all present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all human resource

actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring, and reporting are assigned to the City Personnel staff under the supervision and direction of the Chief Administrative Officer and the Mayor.

It is the policy of the City of Missoula to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an "affected" class. Equal opportunity shall be provided for all City employees during their terms of employment. All applicants for City employment shall be employed on the basis of their qualifications and abilities.

The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees, and applicants.

**10. Default and Termination:** If either party fails to comply with any condition of this agreement at the time or in the manner provided for, the other party, at its option, may terminate this agreement and be released from all obligations if the default is not cured within ten (10) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this agreement.

**11. Modification and Assignability:** This document contains the entire agreement between the parties and no statements, promises or inducements made by either party or agents of either party, which are not contained in this written agreement, may be considered valid or binding. This agreement may not be enlarged, modified, or altered except by written amendment signed by both parties hereto. The Consultant may not subcontract or assign Consultant's rights, including the right to compensation or duties arising under this agreement, without the prior written consent of City. Any subcontractor or assignee will be bound by all of the terms and conditions of this agreement.

**12. Ownership and Publication of Materials:** All reports, information, data, and other materials prepared by the Consultant pursuant to this agreement are the property of the City. The City has the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any re-use without written verification or adaptation by the Consultant for the specific purpose intended will be at

the City's sole risk and without liability or legal exposure to the Consultant. No material produced in whole or in part under this agreement may be copyrighted or patented in the United States or in any other country without the prior written approval of the City.

**13. Liaison:** designated liaison with Contractor is Aaron Bowman, and Contractor's designated liaison with City is Missy Kern.

**14. Previous Agreements:** This Agreement constitutes the entire understanding of the parties and is intended as a final expression of their agreement and a complete statement of the terms thereof. There are no promises, terms, conditions, or obligations, other than contained herein. This Agreement shall supersede all previous communications, representations, or agreements, either oral or written, between the parties.

**15. Applicability:** This agreement and any extensions of it shall be governed and construed in accordance with the laws of the State of Montana.

**WITNESS,** the parties here have executed this instrument the day and year first above written.

**CONSULTANT:**

**MAYOR:**

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Alex Coffey – Principal/Sales Mgr.  
Modus Technologies

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Andrea Davis  
City of Missoula, Montana

**ATTEST:**

**APPROVED AS TO FORM:**

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Claire Trimble, City Clerk

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Ryan Sudbury, City Attorney

(S E A L)



## **Proposed Work Steps & Schedule Plan**

### **1. Project Definition & Planning: Production Commencement Steps**

Expectations associated will be fully detailed and documented prior to starting any new project by having a meeting with all team members to establish scope and other details associated with the project. Samples will be created to verify the process so that the City of Missoula – CPDI staff and the Modus team have a clear understanding of what the final delivered indexed/named files will look like. We will also review timelines and expectations with regard to completion so that expectations are met.

### **2. Onsite Boxing and Inventorying of Microfilm:**

If requested, Modus Technology staff can come onsite to assist with putting the items that need to be scanned into boxes, and thoroughly inventorying of your records prior to transporting them to our facility.

### **3. Pick-Up, Inventory Tracking & Transportation:**

A Modus company vehicle and driver (pick-up/deliveries are not outsourced) will be used to pick-up your microfiche from your office location. Our company vehicle is tracked & monitored during pick-up and while in transit to ensure the safe transport of your records. A transmittal/pick-up & delivery slip clearly detailing what is picked up for scanning will be created and signed off on by an appointed client representative. A copy is given to the client representative and the Modus driver will retain a copy as well. Upon arrival at Modus corporate offices in Issaquah, WA, the quantities detailed on the pick-up and delivery slip are verified and put into our internal custom tracking software program and documented. (If the records are considered of a sensitive nature of the microfiche involved, Modus Technology can also provide City of Missoula - CPDI staff a "Point A to Point B notification" that the records have arrived at our secure scanning facility in Issaquah. We can notify by email or by phone call depending on City of Missoula - CPDI's staff preference for safe and secure transfer of the microfiche the same day.)

### **4. Data Tracking & Inventory:**

All items picked up for scanning are documented on a "chain of custody" transmittal/pick-up and delivery receipt. This a hard copy verification of how much, and what was picked up. Upon arriving at Modus offices in Issaquah, the quantity and items pick-up are confirmed then input into our inventory tracking sheet. Our inventory tracking sheet also tracks the status of the project detailing what has been scanned, indexed, QA'd, and completed.

### **5. Production/Conversion Process:**

We use current "state of the art" microfiche scanners with current production grade high resolution capture software for all paper, microfiche, and microfilm scanning. Microfilm will be scanned utilizing "ribbon" or "strip" scanning technology and software to ensure ALL images are scanned and nothing is missed. Images and files will be created in a format consistent with industry standards, AIIM/ANSI standards, and State Archives. (PDF/A in greyscale has been requested. Title bar will be scanned/saved.)

#### **6. Identification of Poor Quality – Microfilm:**

Microfiche will be reviewed and inspected before scanning to identify the quality of the images being scanned. A custom light table allows us to quickly check and see if the microfiche need to be replaced, repaired, or if it needs special attention or handling of any kind. This will be documented on our web-based tracking tool and the City of Missoula – CPDI's office staff will be notified. This is a "white glove" process where we actually use white 100% cotton when handling the fiche and film. Our inspection station used for this type of auditing of microfilm/microfiche will be implemented. (Cropping and Image Enhancement will be implemented, if needed.)

#### **7. Indexing/Naming of Files:**

Indexing/naming of your files is a critical step in the conversion process so that our clients can quickly and easily locate needed files. If selected as the vendor, we will meet with the City of Missoula's CPDI office staff and review the indexing/naming methodology so that scanned files can be located quickly and easily. The scanned and index information will be provided in a format that is easily ingested so that the fields accurately populate within the system (PDF or PDF/A format for your SaaS solution) process so that all or the data is scanned and indexed correctly. (Street Number and Name has been requested.)

#### **8. Quality Assurance/Accuracy:**

Since we use the latest scanning equipment and software to scan your images, this makes QA, verification, and accuracy confirmation easier and faster. During this process if any images need to be enhanced or rescanned it will occur at this time. If the quality of an image is considered poor after enhancement/rescanning, "best possible scan" will be affixed to the document name/metadata.

#### **\*Verification & Quality Control Procedures:**

The following steps will be taken to ensure that every file and page is captured and scanned at the highest quality level possible:

- Testing & verification prior to starting project
- Counting microfiche & verifying at time of scanning that all are present
- Image quality detection and testing / Regular scanner calibration
- Visual verification at the time of scanning- *"consistency checks will be implemented"*
- Post scanning audit & image review / Image enhancement (as needed)

All of the steps above enable us to make sure that nothing is missed and that image quality is maintained throughout the various handling steps involved with any project.

#### **9.Data Delivery:**

Scanned data can be delivered on either flash drive/s, external drive/s, or uploaded via FTP/SFTP. We currently upload into a variety of customer's software and we have experience with several software platforms. In this case, the scanned images can be posted for City of Missoula – CPDI by way of FTP/cloud drive and a final external hard drive copy when the project is completed.

#### **10.Security/Confidentiality:**

The security of your records while in our possession is paramount. You can have confidence working with Modus Technology. Our building is secure (video surveillance & alarm), our employees are bonded and fully background checked, and we follow all HIPAA/CJIS policies and procedures when handling your records. In addition, all employees sign a "**Confidentiality Agreement**" upon employment. Only Modus employees are allowed in the production area and where client information is present. We have been in business for over 30 years and have never had a breach of any kind.

### **11.Access to Files/File Requests:**

We know that our client may need access to files that are in our possession. If a file is needed from the microfiche, staff members can call or email and we can scan, password protect the file for confidentiality, and email the file to the requestor.

### **12.Timeline & Return of Original Records:**

We will complete your project/s within the time period that is required by City of Missoula – CPDI staff. All original microfiche checked out from City of Missoula – CPDI offices will be returned back to the customer site once completed and approved. As a complimentary service, Modus Technology will also hold the original records for 90-180 days at our secure facility in the event that City of Missoula CPDI staff will need more time to do a final review and QC .

### **Modus Technology's Summary of Project Assumptions & Volumes:**

#### Project Assumptions

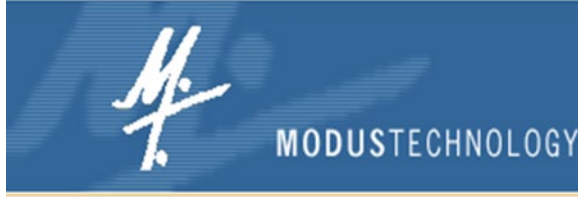
The City's microfiche inventory: 16mm

- Estimated number of microfiche/diazo duplicates/cards (16mm) - 75,000
- Average number of images per fiche/card – 30
- Estimated number of images total (16mm) – 2,250,000
- Estimated number of microfiche/diazo duplicates/cards (35mm) – 15,000
- Average number of images per fiche/cards – 5 to 6
- Estimated number of images total (35mm) – 135,000

1. Modus Technology will securely transport the records from Missoula to our secure scanning facility in a timely fashion.
2. Modus Technology will inventory and track all records into our tracking system.
3. Modus Technology will scan all records into a PDF/A – greyscale format requested.
4. Modus Technology will index by street number and name as requested.
5. Modus Technology will provide a QC or quality check of all scanned and indexed images.
6. Modus Technology will work with City of Missoula -CPDI staff on a completion schedule.
7. Modus Technology does **not** outsource any of our work, the project will begin and end at our secure facility. All of the project will be in our custody from start to finish.
8. Modus Technology will adhere to all scanning standards involved.
9. Modus Technology can back up the digital project for up to one year if customer requests it.  
(Payment Terms – Net 60 days)
10. Modus Technology staff (Marty Skognes or Alex Coffey) will work with City of Missoula - CPDI staff by way of "in person meetings or scheduled calls" to ensure all steps of the project are completed or satisfied.

In summary... Modus Technology is uniquely qualified to successfully complete your scanning project...Currently we still create microfilm and microfiche for clients and have a fully functional microfilming department. We are one of the last companies offering these services in the Pacific Northwest. Our ability to still create microfiche and microfilm enables us understand quality issues that will come up associated with your old microfiche/microfilm like deterioration due to use and age, excessive dust and dirt artifacts that may be present on the film, etc. Companies that do not have this ability/experience will not understand or know how to properly deal with the problems that can occur with microfilm when digitizing... Having this understanding will enable us to obtain the best digital scans possible from your microfiche as we believe would be advantageous for City of Missoula-CPDI staff.





## **Price Proposal Sheet - Microfiche Scanning Services**

### **Phase I: Microfiche Scanning (16mm) - PROJECT ASSUMPTIONS:**

- \*Estimated Number of Microfiche/Diazo Duplicates/Cards – 75,000
- \*Estimated Average Number of Images Per Fiche/Cards – 30
- \*Estimated Number of Images Total – 2,250,000
- \*Files To Be Indexed By – Address (Street Number & Name)
- \*Title Bar Will Be Saved as First Image of Each File For Verification
- \*Images Will Be Scanned In Grayscale For Best Quality
- \*Light/Dark Images May Need Manual Image Enhancement
- \*Cropping Will Be Done To The Copy Board (furthest dark edge around image – if needed -\$16.95 per hour)
- \*Delivered File Type – PDF format

### **SCANNING PRICING SCHEDULE: (16mm microfiche format)**

- |  |               |
|--|---------------|
| - Scanning of 16mm Images On Fiche     | \$ .033/image |
| - Indexing of Records                  | \$ 16.95/hour |
| - Pick-Up From Location (Missoula, MT) | \$ included   |

### **Estimated Project Costs:**

Scanning of Images 2,250,000 x \$ .033/image = \$ 74,250.00

Indexing of Files 332 x \$ 16.95/hour = \$ 5,627.40

ESTIMATED TOTAL -- \$ 79,877.40 -16MM FILM PROJECT

### **Phase II: Microfiche Scanning (35mm) -PROJECT ASSUMPTIONS:**

- \*Estimated Number of Microfiche/Diazo Duplicates/Cards – 15,000
- \*Estimated Average Number of Images Per Fiche/Cards – 5 to 6
- \*Estimated Number of Images Total – 135,000
- \*Files To Be Indexed By – Address (Street Number & Name)
- \*Title Bar Will Be Saved as First Image of Each File For Verification
- \*Images Will Be Scanned In Grayscale For Best Quality
- \*Light/Dark Images May Need Manual Image Enhancement
- \*Cropping Will Be Done To The Copy Board (furthest dark edge around image – if needed - \$16.95 per hour)
- \*Delivered File Type – PDF Format

### **SCANNING PRICING SCHEDULE: (35mm microfiche format)**

- |                                       |              |
|---------------------------------------|--------------|
| -Scanning of 35mm Images On Fiche     | \$.05/image  |
| -Indexing of Records                  | \$16.95/hour |
| -Pick-Up From Location (Missoula, MT) | \$ included  |

### **ESTIMATED PROJECT COSTS:**

-Scanning of Images 135,000 x \$ .05 image = \$ 6,750.00

-Indexing of Files 57 x \$ 16.95/hour = \$ 966.15

ESTIMATED TOTAL \$ 7,716.15 – 35MM FILM PROJECT

ESTIMATED GRAND TOTAL ABOVE FOR BOTH 16MM AND 35MM FILM - \$87,593.55