

**AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR  
BETWEEN THE COUNTY OF MUSKEGON  
AND IMAGESOFT, INC.**

This Agreement (hereinafter referred to as "Agreement") is made by and between the County of Muskegon, a political subdivision of the State of Michigan (hereinafter referred to as "County"), having its principal place of business at 990 Terrace Street, Muskegon, Michigan 49442, and ImageSoft, Inc. having its principal place of business at 25900 W. 11 Mile Road, Suite 100, Southfield, MI 48034 (hereinafter referred to as "Contractor"), wherein Contractor agrees to provide and County agrees to accept the services specified herein.

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

1. DESIGNATED REPRESENTATIVE. Muskegon County Board Chair, Kenneth Mahoney, at (231) 724-6520 is the representative of County and will administer this Agreement for and on behalf of County. Scott D. Bade at phone number 248-948-8100 x200 is the authorized representative for Contractor. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES. Any notice of consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To County: Muskegon County, 990 Terrace Street, Muskegon, MI  
49442

To Contractor: ImageSoft, Inc., 25900 W. 11 Mile Road, Suite 100,  
Southfield, MI 48034

or at such other address or to such other person that the parties may from time-to-time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the United States mail.

3. SCOPE OF SERVICE. Contractor agrees to provide services to County in accordance with Exhibit A attached hereto and incorporated herein by reference.

4. TERM. Contractor shall commence performance on (enter date) and end performance upon completion, but no later than (enter date), unless otherwise directed by County or unless earlier terminated.

5. COMPENSATION OF CONTRACTOR. Contractor shall be paid for performance under this Agreement in accordance with the terms of Exhibit B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by County and which is delivered to the address given in Section 2, "Notices" above, following completion of the increments

identified on Exhibit B. Unless otherwise specified on Exhibit B, payment shall be net thirty (30) days from presentation of invoice.

6. **INDEPENDENT CONTRACTOR.** Contractor shall perform all of its services under this Agreement as an independent contractor and not as an employee of the County. Contractor understands and acknowledges that it shall not be entitled to any of the benefits of a County employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers compensation and protection of tenure.

7. **STANDARD OF PERFORMANCE.** Contractor represents that contractor has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Contractor shall perform all services under this Agreement in the manner and according to the standards observed by a competent practitioner of the same profession in which Contractor is engaged. All products of whatsoever nature, which contractor delivers to County pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession. Contractor shall correct or revise any errors or omissions, at County's request without additional compensation. Permits and/or licenses shall be obtained and maintained by Contractor without additional compensation.

8. **TAXES.** County shall not be responsible for paying any taxes on Contractor's behalf, and should County be required to do so by State, Federal, or local taxing agencies, Contractor agrees to reimburse County promptly for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, without limitation the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance and worker's compensation insurance.

9. **CONFLICT OF INTEREST.** Contractor covenants that Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by contractor.

10. **RESPONSIBILITIES OF COUNTY.** County shall provide all information reasonably necessary to the Contractor in performing the services provided herein.

11. **OWNERSHIP OF DOCUMENTS.** This Agreement is a written instrument, signed by County and the Contractor, for purposes of the Copyright Act of the United States and the copyright laws of any other country. County and Contractor agree that the copyright for any and all works of authorship, prepared under this Agreement, as a result of this Agreement, or in the course of performance of this Agreement, in any medium of expression, shall belong exclusively to County. County shall, for purposes of 17 U.S.C. § 201(a) and the copyright laws of any other country, be

deemed the sole and exclusive author of any and all such works. If and to the extent necessary, any and all such works shall be deemed works made for hire, prepared for County and belonging exclusively to it. If necessary to secure County's exclusive ownership of any or all such copyrights, Contractor shall perform all actions and execute all documents required to transfer any and all such rights exclusively to County, including each and all of the exclusive rights identified in Section 106 of the Copyright Act.

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. 17 U.S.C. § 202. Accordingly, County shall be the exclusive owner (both of the copyright and of every embodiment) of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production. Contractor shall not release any such works, items, or embodiments thereof, to any third party, except with the prior written approval of County.

All items, works, or embodiments thereof, produced in whole or in part under this Agreement shall, if subject to the copyright laws of the United States or of any other country, belong (both the copyright and all embodiments of the work or item) exclusively to County. County shall have the unrestricted authority to publish, disclose, distribute, otherwise use in whole or in part, or to prepare derivative works based on, any reports, data, documents or other works or materials prepared under this Agreement.

12. **RECORDS, AUDIT AND REVIEW.** Contractor shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Contractor's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. County shall have the right to audit and review all such documents and records at any time during Contractor's regular business hours or upon reasonable notice.

13. **INDEMNIFICATION.** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the County, its subsidiaries, departments, divisions, and agencies and their respective officials, officers, directors, employees, and agents from and against any and all liability, litigation, causes of action, and claims, by whomsoever brought or alleged, and regardless of the legal theories upon which based, and from and against all losses, costs, expenses, and fees and expenses of attorneys and expert witnesses resulting therefrom on account of, relating to, or arising out of bodily injury or death of any person, or on account of damage to property, including loss of use thereof, arising or allegedly arising out of or resulting from the work. The foregoing indemnity of the County shall include, but it not limited to, claims alleging or involving the negligence of Contractor, its subcontractors, or the joint negligence of Contractor, its subcontractors, and/or the County, but shall not extend to liability found to have resulted from the negligence of the County or another non-subcontractor third-party.

14. **INSURANCE.** Contractor is required to provide proof of the minimum levels of insurance coverage as indicated by the attached Exhibit C. The purpose of this coverage shall be to protect the County from claims which may arise out of or result from the Contractor's performance of services under the terms of this Agreement, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The insurance shall be written for not less than the minimum coverage specified in Exhibit C or as required by law, whichever is greater. All deductible amounts for any of the required policies are subject to approval by the County. BEFORE THE AGREEMENT IS SIGNED BY BOTH PARTIES, THE CONTRACTOR'S INSURANCE AGENCY MUST FURNISH TO THE COUNTY AN ORIGINAL CERTIFICATE OF INSURANCE VERIFYING LIABILITY COVERAGE. THAT COVERAGE MUST NAME THE COUNTY OF MUSKEGON AS AN ADDITIONAL INSURED. All such certificates shall contain a provision indicating that coverage for it under the policy WILL NOT BE CANCELLED, MATERIALLY CHANGED OR NOT RENEWED without THIRTY (30) DAYS prior written notice except for ten (10) days for nonpayment of premium having been given to the County.

If a motor vehicle is used to provide services or products under this Agreement, the Contractor must have vehicle liability insurance on any automobile including owned, hired, and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

15. **NONDISCRIMINATION.** The Contractor assures that in accordance with Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title IX of the Education Amendment of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), the Regulations issued thereunder by the U.S. Department of Health and Human Services (45 CFR Parts 80, 84, 86 and 91), the Michigan Handicapper's Civil Rights Act (1976, P.A. 220), and the Michigan Civil Rights Act (1976, P.A. 453), no individual shall, on the ground of race, creed, age, color, national origin or ancestry, religion, sex, marital status, or handicap be excluded from participation, be denied the benefit of, or be otherwise subjected to discrimination or harassment under any program or activity provided by this Contractor.

Additionally, assurance is given to County that good-faith efforts will be made to identify and encourage the participation of minority-, women- and handicapper-owned businesses in contract solicitations. The Contractor shall incorporate language in all contracts awarded: (1) prohibiting discrimination against minority-, women- and handicapper-owned business in subcontracting; and (2) making discrimination a material breach of contract.

16. NONEXCLUSIVE AGREEMENT. Contractor understands that this is not an exclusive Agreement and the County shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Contractor as the County desires.

17. ASSIGNMENT. Contractor shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of County and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

18. TERMINATION.

A. By County. County may, by written notice to Contractor, terminate this Agreement in whole or in part at any time, whether for County's convenience or because of the failure of Contractor to fulfill the obligations herein. Upon receipt of this notice, Contractor shall immediately discontinue all services (unless the notice directs otherwise), and deliver to County all data estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by Contractor in performing this Agreement, whether completed or in process.

i. For Convenience. County may terminate the Agreement upon thirty (30) days written notice. Following notice of such termination, Contractor shall promptly cease work and notify County as to the status of its performance.

Notwithstanding any other payment provisions of this Agreement, County shall pay Contractor for services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall Contractor be paid an amount in excess of the full price under this Agreement, nor for profit on unperformed portions of service. Contractor shall furnish to County such financial information as in the judgment of County is necessary to determine the reasonable value of the services rendered by Contractor. The foregoing is cumulative and shall not affect any right or remedy which County may have in law or equity.

ii. For Cause. Should Contractor default in the performance of this Agreement or materially breach any of its provisions and if such failure is not remedied by Contractor within thirty (30) days of written notice to Contractor of such default, County may, at County's sole option, terminate this Agreement.

B. By Contractor. Should County default in the performance of this Agreement or fail to pay Contractor all or any part of the payment set forth in Exhibit B, Contractor may, at Contractor's option, terminate this Agreement if such failure is not remedied by County within thirty (30) days of written notice to County of such default or late payment.

19. SECTION HEADINGS. The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

20. SEVERABILITY. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

21. REMEDIES NOT EXCLUSIVE. No remedy herein conferred upon or reserved to County is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

22. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement and each covenant and term is a condition herein.

23. NO WAIVER OF DEFAULT. No delay or omission of County to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to County shall be exercised from time-to-time and as often as may be deemed expedient in the sole discretion of County.

24. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreements, course of conduct, waiver or estoppel.

25. SUCCESSORS AND ASSIGNS. All representations, covenants and warranties set forth in the Agreement by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

26. NO THIRD-PARTY BENEFICIARY. No person dealing with the County or Contractor shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement. This Agreement is not intended to, nor shall it be interpreted to create a

special relationship between the County or the Contractor and any staff, visitors, residents, or other individuals who may have business through the County.

27. COMPLIANCE WITH THE LAW. Contractor shall, at his sole cost and expense, comply with all local, State, and Federal ordinances, laws, rules, regulations and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of Contractor in any action or proceeding against Contractor, whether County be a party thereto or not, that Contractor has violated any such ordinance or statute shall be conclusive of that fact as between Contractor and County.

28. MICHIGAN LAW. This Agreement shall be governed by the laws of the State of Michigan. Any litigation regarding this Agreement or its contents shall be filed in the County of Muskegon, if in State Court, or in the United States District Court for the Western District of Michigan, if in Federal Court.

29. TERMS AND CONDITIONS. The terms and conditions used in this Agreement shall be given their common and ordinary definition and will not be construed against either party.

30. EXECUTION OF COUNTERPARTS. This Agreement may be executed in any number of counterparts and each such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

31. AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, person, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any State and/or Federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Contractor hereby warrants that it shall not have breached the terms or conditions of any contract or agreement to which Contractor is obligated, which breach would have a material effect there on.

32. PRECEDENCE. In the event of the conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections. This Agreement and the attached Exhibits shall take precedence over any prior communication, either written or verbal, including Requests for Proposal (RFP) or RFP response.

33. CONFLICTING PROVISIONS. To the extent that there are conflicts in the provisions of this Agreement and Exhibit A, the terms and conditions of this Agreement shall prevail.

34. DATA PROTECTION. During the implementation and operation of any computer system there is the possibility of inadvertent or accidental loss of data. Also, computer hardware and software systems will occasionally stop working or fail to operate as designed, which may cause loss of data. Customer at all times is responsible for maintaining accurate and timely data backups to protect against loss of data. Additionally, computer systems are vulnerable to intrusion and/or theft of information from outside parties. Customer is responsible for data security and computer infrastructure at Customer facilities to prevent unauthorized access to the system and data. THEREFORE CUSTOMER IS RESPONSIBLE FOR DATA PROTECTION AT CUSTOMER FACILITIES, AND CONTRACTOR CANNOT BE HELD LIABLE FOR ANY LOSS OR THEFT OF DATA, OR SYSTEM INTRUSION AT CUSTOMER FACILITIES.

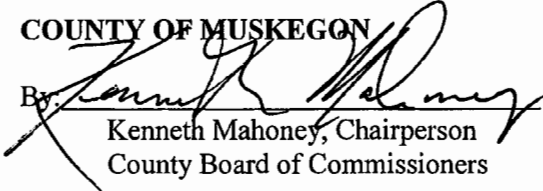
35. MARKETING. Either Party may communicate to the public, through a website, press release or other marketing vehicle, the fact that a business relationship exists and in general that work is being performed, so long as no specific information is disclosed which could reasonably be considered confidential.

36. HIRING OF EMPLOYEES. Each Party agrees that, without the prior consent of the other Party, it will not employ, offer employment or discuss employment with any employees or subcontractors of the other Party until one (1) year after the completion of the services provided by Contractor pursuant to this Agreement.

In Witness Whereof, the parties have executed this Agreement to be effective on the date executed by County.


Dated: \_\_\_\_\_

COUNTY OF MUSKEGON

By:   
Kenneth Mahoney, Chairperson  
County Board of Commissioners

Dated: 6/5/14

IMAGESOFT, INC.

By:   
Scott D. Bade

Its President



**EXHIBIT A**

**COUNTY OF MUSKEGON**

**ECM Phase 1**

**Scope of Services**

Included on SOW

**EXHIBIT B**  
**COUNTY OF MUSKEGON**  
**ECM Phase 1**  
**Contractor Compensation**



## **OWNERS AND CONTRACTORS PROTECTIVE LIABILITY**

Coverage on the Standard ISO 1992 Form, with limits of:

Per occurrence \$1,000,000

## **UMBRELLA OR EXCESS LIABILITY**

Per occurrence \$1,000,000

## **ENVIRONMENTAL AND POLLUTION LIABILITY**

Coverage for all pollution and environmental risks, including contractors, pollution liability coverage and pollution legal liability coverage and, where applicable, environmental umbrella coverage with coverage limits of:

Per occurrence \$1,000,000

1. The foregoing policies shall be evidenced by a certificate of insurance acceptable to the County. Such certificate shall be issued by an insurance carrier with an A.M. Best rating of "A-" or better and delivered to the County prior to the performance of any services hereunder. Such insurance certificate shall provide that the coverages evidenced thereby shall not be substantially modified or canceled without thirty (30) days' prior written notice to the County. Additional certificates, evidencing renewal of such policies during the time period they are required to be kept in effect, shall be delivered to the County no less than thirty (30) days prior to the expiration of the term of any required coverage.

2. Upon the request of the County, the Contractor shall deliver to the County copies of all policies listed in the foregoing paragraphs once a year, upon renewal, or upon procurement in the case of new or additional coverage, whichever occurs first. Claims-made policies shall not be acceptable to the County for any of the insurance coverages required herein.

3. The Contractor's indemnity obligation specified in Paragraph C of this Agreement shall not be negated or reduced by virtue of the denial of insurance coverage or refusal to defend the County for any occurrence or event which is subject to the said indemnity obligation.

4. Compliance by the Contractor with the requirements of this Article shall not relieve the Contractor from its indemnity obligation and liability pursuant to Paragraph C of this Agreement or any other liability to the County, whether specified in this Agreement or otherwise.

5. The Contractor agrees that the County shall have no responsibility to verify the Contractor's compliance with any insurance requirements contained in this Agreement or otherwise.

6. All notices, certificates, and policies referred to in this (Article, Section, Division, etc.) shall be sent to:

The County of Muskegon  
Attn: Purchasing  
141 East Apple Avenue  
Muskegon, MI 49442

**C. HOLD HARMLESS AGREEMENT**

All contracts must contain the following Hold Harmless Agreement:

To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the County, its subsidiaries, departments, divisions, and agencies and their respective officials, officers, directors, employees, and agents from and against any and all liability, litigation, causes of action, and claims, by whomsoever brought or alleged, and regardless of the legal theories upon which based, and from and against all losses, costs, expenses, and fees and expenses of attorneys and expert witnesses resulting therefrom on account of, relating to, or arising out of bodily injury to or death of any person or on account of damage to property, including loss of use thereof, arising or allegedly arising out of or resulting from the work. The foregoing indemnity of the County shall include, but is not limited to, claims alleging or involving the negligence of the Contractor, its subcontractors, or the joint negligence of the Contractor, its subcontractors, and/or the County, but shall not extend to liability found by way of final judgment to have resulted from the sole negligence of the County.

**D. SUBCONTRACTOR REQUIREMENTS**

Contractor agrees to contractually obligate its subcontractors to indemnify the County in precise conformance to the terms of Contractor's obligation to indemnify the County pursuant to this Agreement.

The Contractor further agrees to contractually obligate its subcontractors to provide insurance with the insurance coverages and limits of liability required to be provided by the Contractor pursuant to the terms and conditions of this Agreement.

**E. CANCELLATION OR REDUCTION IN COVERAGE**

Notice: In the event of a lapse or reduction in the required coverages, the Contractor shall cease operations and shall not resume operations until new insurance is in force.