Item# 22-0013
Munis Contract# 3203153

CITY OF SANTA FE

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **PORTABLE MICROGRAPHICS**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

A. The Contractor shall perform the following work set forth in more detail in Exhibit "A" attached hereto and incorporated herein by reference.

2. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily Performed, a sum not to exceed fifty-seven thousand six hundred thirteen dollars and thirty-four cents ($57,613.34) including gross receipts tax. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($57,613.34). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor

within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on September 30, 2022 unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of City funds or due to the Appropriations paragraph herein. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE City's OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

B. Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the

Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

13. Amendment.

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Entire Agreement.

This Agreement, together with any other documents incorporated herein by reference and all related Exhibits and Schedules constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. In the event of any inconsistency between the statements in the body of this Agreement, and the related Exhibits and Schedules, the statements in the body of this Agreement shall control.

15. Penalties for violation of law.

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such

laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

19. Professional Liability Insurance.

Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

20. Other Insurance

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this

Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. Contractor shall maintain the above insurance for the term of this Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

21. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments

22. Indemnification.

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

23. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

24. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

25. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

26. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: Jason Kluck, 200 Lincoln Ave. SF, NM 87501 jmkluck@santafenm.gov

To the Contractor: John Pinkston, 2415 Princeton NE Suite K Abq, NM 87107 cjpinkston@earthlink.net

27. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

Jarel LaPan Hill
Jarel LaPan Hill (Jan 11, 2022 10:20 MST)

JAREL LAPAN HILL, CITY MANAGER

DATE: Jan 11, 2022

CONTRACTOR:
Portable Micrographics

NAME

Owner-President
TITLE

DATE: 1-5-2022

CRS#02489665009

Registration # 19-105967

ATTEST:

KRISTINE BUSTOS MIHELCIC, CITY CLERK XIV
XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Mary McCoy
_____
MARY MCCOY, FINANCE DIRECTOR

_____
Land Use 1004501.510310
Munis contract 3203153 AH
AH

PORTABLE MICROGRAPHICS, INC.
Microfilm & Imaging Services

December 9, 2021

Amanda RomeroAvila
Land Use Department
City of Santa Fe, NM

Thank you for your interest in our services. This proposal is broken into 2 groups:

- The 2019 permit files still at your office in Santa Fe.
- The 2020 permit files still at your office in Santa Fe.

The following is the work flow and per image pricing for scanning/digitizing, microfilming, conversion of the microfilm to PDF format and indexing the files using your existing naming convention, to be provided by the City of Santa Fe in an Excel Spreadsheet.

WORKFLOW FOR THE 2019 PERMIT FILES AND OTHER MISCELLANEOUS FILES:

There are 14 boxes of large format drawings, 36 boxes of permit supporting documents. The 2019 permit files will be picked up in Santa Fe and transported to our office in Albuquerque. All of the files will be organized in numerical/chronological order by permit number. We will prepare the files for microfilming by removing any folder clips, staples, taping down any small or loose papers and unfold any oversize drawings. Then the files will be microfilmed, once the microfilm in inspected and meets the New Mexico Microphotography Standards the microfilm will be digitized and the files will be named using the permit number and the address. Once completed the Digital files will be delivered on a DVD or a portable hard drive.

WORKFLOW FOR THE 2020 PERMIT FILES AND OTHER MISCELLANEOUS FILES:

There are 5 boxes of large format drawings, 28 boxes of permit supporting documents. The 2020 permit files will be picked up in Santa Fe and transported to our office in Albuquerque. All of the files will be organized in numerical/chronological order by permit number. We will prepare the files for microfilming by removing any folder clips, staples, taping down any small or loose papers and unfold any oversize drawings. Then the files will be microfilmed, once the microfilm in inspected and meets the New Mexico Microphotography Standards the microfilm will be digitized and the files will be named using the permit number and the address. Once completed the Digital files will be delivered on a DVD or a portable hard drive.

Pricing per task:

- Document preparation of files will be charges at $ 18.00 per hour
- Microfilming documents up to 11" X 17" will be charges at $ 0.035 per page
- 16mm film processing charge of $ 7.50 per roll
- Microfilming documents larger than 11" X 17" will be charges at $ .65 per page
- 35mm film processing charge of $15.00 per roll
- Conversion of 16mm and 35mm microfilm to pdf image and naming of the file will be charged at $.065 per image
- Naming of the files without the names provided $18.00 per hour

ESTIMATED PRICE FOR THE 2019 PERMIT FILES AND OTHER MISCELLANEOUS FILES

The following is the estimate for the completion of the 2019 files along with all other files listed above.

Document preparation 220 hours X $ 18.00 per hour	$	3,960.00
95,000 pages 11'X17" or smaller X $ .035 16mm microfilming.....	$	3,325.00
38 rolls of 16mm microfilm processing X $ 7.50 per rolls.....	$	285.00
30,000 pages larger than 11'X17" X $ .65, 35mm microfilming.....	$	19,500.00
54 – 35mm rolls processing X $ 15.00 per roll	$	810.00
125,000 images to pdf from microfilm X $ .065 per image	$	8,125.00
	$	36,005.00
New Mexico Gross Receipts Tax 7.875 %.....	$	2,835.39
	$	38,840.39

ESTIMATED PRICE FOR THE 2020 PERMIT FILES AND OTHER MISCELLANEOUS FILES

The following is the estimate for the completion of the 2020 files along with all other files listed above. (Some 2020 files are still at City Hall and were not counted)

Document preparation 120 hours X $ 18.00 per hour	$	2,160.00
75,600 pages 11'X17" or smaller X $ .035 16mm microfilming.....	$	2,646.00
31 rolls of 16mm microfilm processing X $ 7.50 per rolls.....	$	232.50
10,000 pages larger than 11'X17" X $ .65, 35mm microfilming.....	$	6,500.00
20 – 35mm rolls processing X $ 15.00 per roll	$	300.00
85,600 images to pdf from microfilm X $ .065 per image	$	5,564.00
	$	17,402.50
New Mexico Gross Receipts Tax 7.875 %.....	$	1,370.45
	$	18,772.95

COMBINED TOTALS

Estimated Price for the 2019 permit files & others files....	$ 38,840.39
Estimated Price for the 2019 permit files & others files....	$ 18,772.95
	$ 57,613.34

The above quoted pricing is just an estimate, the final bill will be for the actual number of images.

All microfilm produced will meet or exceed the New Mexico State Archives Standards.

The estimated turnaround time on the paper files will be 90-120 weeks. If you need any of the files while we are working on them, please let us know and they will be scanned and emailed to you, up to 50 pages per week at no cost, additional files/pages per week will be at $.50 per page up to 11" X 17" and any pages over 11" X 17" will be charged at $ 1.50 per page.

If you have any further questions please contact me at 877-881-4665 office or 505-228-2808 cell.

Sincerely,

John Pinkston

John Pinkston
Portable Micrographics, Inc.
2415 Princeton NE Suite K
Albuquerque, NM 87107