

**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES**  
**(MORE THAN \$100,000)\***

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:  
Iron Mountain Information Management, Inc.,  
(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. **SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The services are generally described as follows:

**Provide** off-site secure data storage services

\_\_\_\_\_.

2. **PAYMENTS BY COUNTY.** County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$ 180,000.

3. **TERM OF AGREEMENT.** The term of this Agreement is from July 1, 2012 to June 30, 2015, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and CONTRACTOR may not commence work before County signs this Agreement.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

**Exhibit A    Scope of Services/Payment Provisions**

**Exhibit B    Amendment to the PSA Sections**

**5. PERFORMANCE STANDARDS.**

5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.

5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

\*Approved by County Board of Supervisors on \_\_\_\_\_.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## **6. PAYMENT CONDITIONS.**

6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to County. If not otherwise specified, the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the County may require. The Contract Administrator or his or her designee shall certify the invoice; either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

## **7. TERMINATION.**

7.01. During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02. The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

**8. INDEMNIFICATION.** CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

## 9.0 INSURANCE.

### 9.01 Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's, Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such, insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

### 9.02 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

### 9.03 Insurance Coverage Requirements:

Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

☐ Exemption/Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

☐ Exemption/Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

☐ Exemption/Modification (Justification attached; subject to approval).



Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

☐ Exemption/Modification (Justification attached; subject to approval).

#### 9.04 Other Insurance Requirements.

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

## 10. RECORDS AND CONFIDENTIALITY.

- 10.01 Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.02 County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.03 Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.04 Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.05 Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11. **NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations, which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.
12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.
13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability, which County may incur because of CONTRACTOR's failure to pay such taxes.
14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Sean Dineen, Data Center Manager	Territory Vice President, Northern Cal
Name and Title	Name and Title
1590 Moffett Street Salinas, Ca. 93905	Iron Mountain Information Management, Inc. 6933 Preston Avenue Livermore, Ca. 94550
Address	Address
831-759-6991	800-899-4766
Phone	Phone



## 15. MISCELLANEOUS PROVISIONS.

- 15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.

- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

*This space left blank intentionally*



IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

By: [Signature]  
Purchasing Officer

Date: 7-5-12

By: \_\_\_\_\_  
Department Head (if applicable)

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Board of Supervisors (if applicable)

Date: \_\_\_\_\_

Approved as to Form<sup>1</sup>

By: [Signature]  
Deputy County Counsel

Date: 4-25-12

Approved as to Fiscal Provisions<sup>2</sup>

By: [Signature]  
Auditor/Controller

Date: 4-27-12

Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

**CONTRACTOR**

Iron Mountain Information Management, Inc.

Contractor's Business Name\*

By: [Signature]  
(Signature of Chair, President, or Vice-President)\*

POD CASTELLANOS - VICE PRESIDENT  
Name and Title

Date: 4/23/12

By: [Signature]  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

PAUL WARENS - Temporary Bus. MGR  
Name and Title

Date: April 23, 2012

Approved as to Form and Content:	
Iron Mountain Legal Department	
By:	<u>[Signature]</u>
Name:	<u>Samia Harrison Esq.</u>
Title:	<u>Corporate Counsel</u>
Date:	<u>23-Apr-12</u>

County Board of Supervisors' Agreement Number: \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

<sup>1</sup> Approval by County Counsel is required

<sup>2</sup> Approval by Auditor-Controller is required

<sup>3</sup> Approval by Risk Management is necessary only if changes are made in paragraph 8 or 9

## EXHIBIT A

### SCOPE OF SERVICES/PAYMENT PROVISIONS

#### I. Scope of Services

County of Monterey customer number is: 001704. Contractor shall provide off site secure data storage which will include the pick-up and delivery of data stored on various media forms from 1590 Moffett Street, Salinas, Ca. 93905 to a site designated by the CONTRACTOR on a scheduled basis and as needed by the County.

#### II. Rate Schedule

The following tables reflect the Rate Schedule for Backup Tape Vaulting:

STANDARD SERVICES (see <a href="http://cic.ironmountain.com/dataprotection/glossary">http://cic.ironmountain.com/dataprotection/glossary</a> for service definitions)		
DESCRIPTION	EFFECTIVE PRICE	PER
■ Scheduled Service*	\$30.00	Trip
■ Transport Container	\$5.82	Container
■ Media Handling	\$0.353	Item
■ Closed Container Handling	\$1.72	Item
■ Transport Container Handling	\$1.72	Item

STANDARD STORAGE (see <a href="http://cic.ironmountain.com/dataprotection/glossary">http://cic.ironmountain.com/dataprotection/glossary</a> for service definitions)		
DESCRIPTION	EFFECTIVE PRICE	PER
■ Slotted Media	\$0.407	Slot
■ Closed Container (Compact)	\$7.74	Container
■ Closed Container (Small)	\$7.74	Container
■ Closed Container (Medium)	\$13.033	Container
■ Closed Container (Large)	\$18.735	Container

PREMIUM STORAGE AND SERVICES (see <a href="http://cic.ironmountain.com/dataprotection/glossary">http://cic.ironmountain.com/dataprotection/glossary</a> for service definitions)		
DESCRIPTION	EFFECTIVE PRICE	PER
■ Standard Special Transport (24 hours)*	\$140.40	Trip/Sub-Account
■ Critical Special Transport (3 hours)*	\$178.88	Trip/Sub-Account
■ Holiday Charge*	\$104.00	Holiday
■ Container Locks	\$12.48	Lock
■ Security Clips	\$2.86	Clip

OTHER PROGRAM FEES (see <a href="http://cic.ironmountain.com/dataprotection/glossary">http://cic.ironmountain.com/dataprotection/glossary</a> for service definitions)		
DESCRIPTION	EFFECTIVE PRICE	PER
■ Administrative Fee	\$25.12	Account ID
■ Fuel Surcharge	*	Transportation Visit

\* A Fuel Surcharge is applied monthly based upon changes in the price of diesel fuel as published by the US Department of Energy. This charge is calculated monthly and included as a percentage of transportation related service charges. The current monthly Fuel Surcharge information can be found on the website at <http://cic.ironmountain.com/dataprotection/fuel/>.



CUSTOM STORAGE AND SERVICES (see <a href="http://cic.ironmountain.com/dataprotection/glossary">http://cic.ironmountain.com/dataprotection/glossary</a> for service definitions)		
DESCRIPTION	EFFECTIVE PRICE	PER
■ Scheduled Same Place/Same Campus Transport*	\$10.92	Trip
■ Scheduled Same Building/Same Campus Transport*	\$16.38	Trip
■ Slotted Media Storage - Round Reel	\$1.25	Slot
■ Slotted Media Storage - Oversized	\$1.53	Slot
■ Transport Rental	\$1.09	Each per Day
■ Closed Container (Extra Large)	\$48.05	Container
■ Closed Container (Cabinet)	\$152.88	Container
■ Cart	\$152.88	Cart
■ Transport Cart	\$32.92	Cart
■ Custom Bar Code Labels	\$ .29	Label
■ Third Party Transportation		Priced per Shipment
■ Minimum Monthly Fee	\$240.24	Account Number

Additional Services beyond those listed in this Pricing Schedule are available. For service descriptions, please go to Additional Services at <http://cic.ironmountain.com/dataprotection/additional/>.

#### Data Backup and Recovery - Monthly Cost Estimate

#### Iron Mountain Offsite Tape Vaulting Monthly Cost Estimate

##### ► STANDARD SERVICES

DESCRIPTION	PRICE	PER	QTY	TOTAL
■ Scheduled Service	\$50.23	Trip	21.00	\$1,054.83
Total Standard Services Monthly Cost Estimate				\$1,054.83

##### ► OTHER PROGRAM FEES

Monthly fee for account maintenance, support, and administrative services.

DESCRIPTION	PRICE	PER	QTY	TOTAL
■ Administrative Fee	\$25.12	Account ID	1	\$25.12
Total Other Program Fees Monthly Cost Estimate				\$25.12

### III. Term of the Agreement

The term of this Agreement shall be from July 1, 2012 through June 30, 2015 unless sooner terminated pursuant to the terms of this Agreement.

### IV. Payment Provisions

- a. For the services described in this Agreement, the **maximum obligation of the County shall be**

Term	Amount
July 1, 2012 – June 30, 2013	\$60,000
July 1, 2013 – June 30, 2014	\$60,000

July 1, 2014 – June 30, 2015	\$60,000
<b>Maximum Agreement Amount</b>	<b>\$180,000</b>

- b. Payment conditions as specified in Section III of the body of this Agreement shall apply. In the event that the Agreement is terminated prior to completion of the services, the amount paid shall be reflect the services provided up to the termination date and should the County determine a reimbursement is owed, the Contractor shall reimburse the County within thirty (30) days of the termination.
- c. Invoices shall be mailed to:

Monterey County Information Technology  
1590 Moffett Street  
Salinas, Ca. 93905  
Attn: Accounts Payable



## EXHIBIT B

### STANDARD LANGUAGE REVISIONS TO PSA

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The provisions set forth below shall supersede and take the place of the paragraphs(s) they replace. All other provisions of this Professional Services Agreement shall remain in full force and effect.

I. The revisions are as follows:

- a. Section 5.01 the phrase “*or immediate family of an employee of the County*” shall be deleted.
- b. Section 6.01 shall be modified by adding the following: “*County shall be liable for late charges at the rate equal to the lesser of one percent (1%) per month or the highest rate legally permitted in the state where County is located, calculated from the date payment was due until the date payment is made. Prior to delivery of Deposits upon the expiration or termination of this Agreement, Iron Mountain may require payment by certified check. If County fails to pay Iron Mountain may, at its option: (a) suspend service, or (b) terminate this Agreement. Iron Mountain shall have other rights and remedies as may be provided by law.*”
- c. Section 7.02 shall be deleted and replaced with the following in lieu thereof; “*In the event that either party materially fails to provide the services in accordance with this Agreement, the other party shall provide written notice to the alleged breaching party describing the nature of material non-performance. The County and CONTRACTOR shall promptly appoint representatives to meet in good faith to develop a plan to remedy such performance, including a timetable. The alleged breaching party shall have a minimum of sixty (60) days from the date it receives such written notice to cure, failing which the other party shall have the right to terminate the Agreement upon the expiration of the sixtieth (60<sup>th</sup>) day.*”
- d. Section 8 shall be deleted and replaced with the following in lieu thereof: “**General Indemnification Provision.** *CONTRACTOR shall indemnify, defend and hold harmless, County, its governing board, directors, officers, and employees from any third party claim, loss, injury, damage, expense, and liability resulting from bodily injury to or death of any person and loss of or damage to property (excluding the stored materials), caused by claimed or actual intentional or negligent act or omissions of CONTRACTOR, its employees, or agents, excepting only loss, injury or damage to the extent caused by the sole negligence or willful misconduct of the County.*”
- e. Section 9.01 shall be amended to remove the last two sentences in paragraph 1.
- f. Section 9.02 shall be deleted and replaced with the following in lieu thereof: “**Qualifying Insurers:** *All coverages except surety, shall, at the inception of coverage and/or renewal, be issued by companies which hold a current policy holder’s alphabetic and financial size category rating of not less than A-VII, according to the current Best’s Key Rating Guide. Should a carrier’s rating fall below A- during any given policy period, CONTRACTOR shall replace that carrier upon policy expiration with a carrier having an A- rating or better. Should a carrier rating fall below B+ at any time, that carrier shall be replaced as soon as possible.*”
- g. Section 10.01 shall be modified by inserting the word “applicable” immediately preceding the word “federal” in sentence 1. The following sentences shall be added to this paragraph: “*Notwithstanding the foregoing, CONTRACTOR is authorized to comply with any subpoena or similar order related to the Deposits, provided that CONTRACTOR notifies County promptly upon*

*receipt thereof, unless such notice is prohibited by law. CONTRACTOR will cooperate with County's efforts to quash or limit any subpoena, at County's expense. County acknowledges that its shipments may be subject to inspection while in transit by federal, state or local government entities ("Government Inspectors"), and County authorizes CONTRACTOR to fully cooperate with such inspections. CONTRACTOR shall bear no responsibility for loss or damage to Deposits or containers housing Deposits, caused by Government Inspectors."*

- h. A new Section 16 shall be added as follows: "**16. LIABILITY IN EVENT OF LOSS OF DEPOSITS.** *CONTRACTOR shall not be liable for any loss or destruction of, or damage to, Deposits, however caused, unless caused by CONTRACTOR's negligent acts or omissions. In no event shall either party be liable for any consequential, incidental, special or punitive damages, or for loss of profits or loss of data, regardless of whether an action is brought in tort, contract or under any other theory.*"