

**ORANGE COUNTY COMPTROLLER'S OFFICE
CONTRACT #2013-01-RAD
ARCHIVING DIGITIZED IMAGES TO MICROFILM**

This Contract is entered into on **November 1, 2013**, by and between **the Orange County COMPTROLLER**, hereinafter referred to as the COMPTROLLER, and **PFA, Inc.**, a **California** corporation, hereinafter referred to as PFA. PFA's Federal Identification Number is **FEIN # 95-2587603**. In consideration of the mutual promises contained herein, the COMPTROLLER and PFA agree as follows:

ARTICLE 1 – SERVICES

- A. This Contract is for Archiving Digitized Images to Microfilm as more specifically set forth in the Scope of Work in RFP #2013-01-RAD issued by the COMPTROLLER on April 26, 2013 (Exhibit A), and in PFA's Response received July 2, 2013 (Exhibit B), both of which are attached hereto and incorporated herein by reference. If there is any conflict between the terms set forth in Articles 1 through 27, inclusive, of this Contract and Exhibits A or B, the terms in the Articles will prevail.
- B. The COMPTROLLER estimates that there are approximately 2 million 300 dpi digitized images to be converted and archived onto 16 mm silver-base archival quality microfilm for this project, including the COMPTROLLER's Official Records, Clerk of the Board, and Records Management records.
- C. PFA has been selected to perform the process of converting digitized images of these pages, as provided by the COMPTROLLER and made available via an FTP site, into original rolls of 16mm silver-base archival quality microfilm.
- D. PFA understands and agrees that the original images obtained from the COMPTROLLER must remain intact and unaltered.
- E. In order for PFA to create the microfilm under the terms of this Contract, the COMPTROLLER will make available to PFA, via an FTP site, a mutually agreeable scheduled number of imaged documents which need to be converted by PFA. The COMPTROLLER will provide the best quality of documents possible for conversion.
- F. PFA and the COMPTROLLER will have regular contact to resolve any discrepancies or anomalies. It is anticipated that this contact may occur by meeting, by conference call, and/or by email.
- G. PFA will ensure the security of all digitized images received from the COMPTROLLER and associated microfilm rolls created. PFA agrees to keep a copy of the images on the PFA servers until the film is approved and shall ensure

that all images on its servers and those of its agents and employees are destroyed at the conclusion of all services to be performed under this Contract.

- H. The COMPTROLLER will have 30 days after the receipt of each delivery of images to review and examine the images for clarity, accuracy, and quality. If the images are unacceptable to the COMPTROLLER in terms of clarity, accuracy, or quality, PFA will provide new images that are acceptable to the COMPTROLLER at PFA's expense. Except as otherwise provided herein, unless an objection is made in writing as to the quality of the images rendered by PFA within the 30 day period, the COMPTROLLER will be deemed to have accepted PFA's performance as to those specific images, and PFA will be deemed to have fully performed its duties and obligations under this Contract with respect to those images.

Any images found after final acceptance by the COMPTROLLER not to have met the clarity, accuracy, and quality standards required may be corrected by PFA at the request of COMPTROLLER at an additional cost to the COMPTROLLER based upon the same rates set forth in Article 3.

- I. PFA acknowledges that the COMPTROLLER is the final arbiter for all quality concerns with the images.

ARTICLE 2 – SCHEDULE

PFA shall commence requested services on or about November 1, 2013, and complete all requested services on or about October 31, 2014. This Contract is for the conversion of all documents supplied to PFA for conversion between November 1, 2013 and October 31, 2014. This Contract may be renewed for four (4) additional one-year periods for the conversion to microfilm of those digitized images recorded/processed from November 1, 2014 through October 31, 2018.

The parties may extend or shorten any time deadlines set forth in Article I of this Contract by mutual agreement. Otherwise any changes must be in accordance with Article 27.

The COMPTROLLER will make available, via an FTP site, to PFA on a mutually agreeable schedule the imaged documents it is requesting to be converted by PFA. The COMPTROLLER will provide and deliver the best quality documents possible for conversion. The COMPTROLLER warrants that the information contained in the documents is the information the COMPTROLLER requires to be converted. PFA has 10 business days from the time the COMPTROLLER has provided the images to process the images and ship the microfilm to the COMPTROLLER. With the consent of the COMPTROLLER this timeframe may be extended to accommodate workflow.

PFA will ship the microfilm rolls back to the COMPTROLLER via a reputable, traceable delivery service such as UPS GroundTrac or 3 Day Select and will make deliveries to the COMPTROLLER of completed microfilm **c/o Comptroller's Records Management Department, 1800 Cypress Lake Drive, Suite 200, Orlando, FL 32837.**

The COMPTROLLER will have 30 days after the receipt of each delivery of microfilm to review it and examine the microfilm roll(s) for clarity, accuracy, and quality. If a microfilm roll is unacceptable to the COMPTROLLER in terms of clarity, accuracy, or quality, PFA will provide a new microfilm roll that is acceptable to the COMPTROLLER at PFA's expense. Except as otherwise provided herein, unless an objection is made in writing as to the quality of the Services rendered by PFA within the 30 day period as to that roll(s), the COMPTROLLER will be deemed to have accepted PFA's Services and performance, approved of the images as meeting the agreed-upon quality standards, and PFA will be deemed to have fully performed its duties and obligations under this Contract with respect to those roll(s). The parties may extend this time deadline on any individual microfilm roll or Services by mutual agreement.

ARTICLE 3 – PAYMENTS TO PFA

- A. Within 30 days of the COMPTROLLER's receipt and acceptance of a microfilm roll, PFA shall submit a written proper invoice to the COMPTROLLER for payment of services performed with regard to those images created. Said invoice must indicate the number of images converted to microfilm roll and the amount due PFA. PFA shall send the invoice to: Orange County Comptroller's Office, Attention: Fiscal Division, P.O. Box 38, Orlando, FL 32802.
- B. The COMPTROLLER will pay PFA, within 45 days of receipt of a written proper invoice, as compensation for PFA's Services, the amount of \$ 0.0265 per image for November 1, 2013 through October 31, 2014. It is estimated that the number of images to be converted to microfilm for annual periods of November 1 – October 31 is approximately 2 million images. However, the COMPTROLLER makes no representation as to the actual number of images to be converted under this Contract.
- C. By no later than September 1 of each year, PFA must provide the subsequent year's pricing per page 22 of 28 of Exhibit B, which in accordance with Exhibit B, must be fully documented and justified. The Comptroller will then decide to renew the contract or not for another year.
- D. PFA will assume responsibility for all shipping or delivery cost.

ARTICLE 4 – MODIFICATIONS OF WORK

- A. The COMPTROLLER reserves the right to make reasonable changes in the services to be performed by PFA, including alterations, reductions therein, or additions thereto. Upon receipt by PFA of the COMPTROLLER'S notification of a contemplated change, PFA shall (1) provide an estimate for the increase or decrease, if any, in cost due to the contemplated change, (2) notify the COMPTROLLER of any estimated change in the completion date, and (3) advise

the COMPTROLLER in writing if the contemplated change shall affect PFA's ability to meet the completion dates or schedules of this Contract.

- B. If the COMPTROLLER so instructs in writing, PFA shall immediately suspend work on that portion of its services affected by a contemplated change pending the COMPTROLLER'S decision to proceed with the change.
- C. If the COMPTROLLER elects to make the change, the COMPTROLLER shall issue a Contract Amendment and PFA shall not commence work on any such change until such Contract Amendment has been issued and signed by each of the parties.

ARTICLE 5 – TERMINATION

Either party may terminate this Contract without cause by giving the other party 14 days prior written notice. Notice shall be deemed effective upon receipt by the other party. PFA shall be paid in accordance with Article 3 for all services satisfactorily completed prior to the effective date of any termination, including any images created but not yet returned to the COMPTROLLER, but only when such images are returned to and accepted by the COMPTROLLER. In the event of termination by the COMPTROLLER, PFA agrees that it shall not have any claim against the COMPTROLLER for lost profits or compensation for lost opportunities.

ARTICLE 6 – PERSONNEL

- A. PFA represents that it has, or will secure at its own expense, all necessary personnel required to perform its services under this Contract. Such personnel shall not be employees of nor shall they have any contractual relationship with the COMPTROLLER. All of the services required hereunder shall be performed by PFA or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.
- B. PFA warrants that skilled and competent personnel to the highest professional standards in the field shall perform all services to be performed by it under this Contract.

ARTICLE 7 – INDEPENDENT CONTRACTOR RELATIONSHIP

- A. PFA is, and shall be, in the performance of all services under this Contract, an independent contractor, and shall not be deemed to be an employee, agent, or servant of the COMPTROLLER. All persons engaged in any of the services performed by PFA pursuant to this Contract shall at all times, and in all places, be subject to PFA's sole direction, supervision, and control. PFA shall exercise control over the means and manner in which it and its employees and agents perform the work, and in all respects PFA's relationship and the relationship of its employees

and agents, if any, to the COMPTROLLER shall be that of an independent contractor and not as employees, agents or servants of the COMPTROLLER.

- B. PFA does not have the power or authority to bind the COMPTROLLER in any promise, agreement, or representation.

ARTICLE 8 – INSURANCE

- A. PFA shall be responsible for payment of its own and its share of its employees' FICA and Social Security benefits with respect to this Contract.
- B. PFA shall possess the following insurance coverage and, upon request, will provide Certificates of Insurance to the COMPTROLLER to verify such coverage:
- Workers' Compensation – PFA shall provide coverage for its employees with Florida statutory workers' compensation limits, and no less than \$100,000.00 for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the COMPTROLLER and her agents, employees, and officials.
 - Commercial General Liability – PFA shall provide coverage for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than \$500,000.00, per occurrence, Combined Single Limits (CSL) or its equivalent. The General Aggregate limit shall either apply separately to this CONTRACT or shall be at least twice the required occurrence limit.

ARTICLE 9 – SUCCESSORS AND ASSIGNS

PFA shall not assign, sublet, convey, or transfer its interest in this Contract without the prior written consent of the COMPTROLLER. Nothing herein shall be construed as creating any personal liability on the part of any officer, employee, or agent of the COMPTROLLER, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COMPTROLLER and PFA.

ARTICLE 10 – GOVERNING LAW

This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Florida. Venue for any and all legal action necessary to enforce this Contract will be in Orange County, Florida.

ARTICLE 11 – REMEDIES

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to

every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 12 – PLEDGE OF CREDIT

PFA has no authority to, nor shall it, attempt to pledge the COMPTROLLER'S credit or make the COMPTROLLER a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. PFA further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 13 – CONTINGENT FEES

PFA warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for PFA, to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for PFA, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 14 – ACCESS AND AUDITS

PFA shall maintain complete and accurate books, records, and documents to justify all services performed and all charges pursuant to this Contract in accordance with standard and acceptable accounting practices. Such records and documents shall be maintained for a minimum of five (5) years after completion of all services under this Contract. The COMPTROLLER and/or her authorized employees, agents, or designees shall have reasonable access to such books, records, and documents of PFA as required in the opinion of COMPTROLLER for the purpose of inspection or audit during normal business hours. PFA will provide copies of all such books, records, and documents at Comptroller's office at PFA's expense.

ARTICLE 15 – PUBLIC RECORDS REQUESTS

In accordance with §119.0701(2), Florida Statutes 2013, this contract for services must include a provision that requires the contractor to comply with Florida public records laws, specifically to:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the Comptroller's Office in order to perform the service.
- B. Provide the public with access to public records on the same terms and conditions that the Comptroller's Office would provide the records and at a cost

- that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by Florida law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by Florida law.
 - D. Meet all requirements for retaining public records and transfer, at no cost, to the Comptroller's Office all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Comptroller's Office in a format that is compatible with the information technology systems of the Comptroller's Office.

Any contractor receiving a public records request relating to a Comptroller contract should immediately contact the Comptroller's Office to assure full compliance with public records laws.

ARTICLE 16 – NONDISCRIMINATION

PFA warrants and represents that it does not discriminate against any of its employees on the grounds of race, color, religion, physical handicap, sex, age, or national origin.

ARTICLE 17 – AUTHORITY TO PRACTICE

PFA hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business in order to provide the services required by this Contract and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COMPTROLLER upon request.

ARTICLE 18 – SEVERABILITY

If any term or provision of this Contract, or the application thereof, to any person or circumstances shall, to any extent, be held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

ARTICLE 19 – RISK OF LOSS

PFA understands that the digitized images supplied to PFA and the microfilm rolls to be created by PFA pursuant to this Contract constitute public records under the laws of the State of Florida. As such, PFA understands and agrees that PFA is solely responsible for

the safekeeping of such images and microfilm rolls during the time they are in the custody and control of PFA, its agents and employees.

PFA further understands that under Florida law, some of the images may be exempt from public inspection. PFA understands and agrees that it must maintain the confidentiality of such images and must ensure that only those persons required to provide PFA's services under this Contract will have access to such images and such persons will maintain the confidentiality of all records.

ARTICLE 20 – INDEMNIFICATION

To the extent permitted by law, the COMPTROLLER agrees to defend and hold harmless PFA for all losses, damages, expenses, and claims incurred by PFA as a result of incomplete or inaccurate information provided to PFA by the COMPTROLLER. However, nothing herein shall be deemed to constitute a waiver of COMPTROLLER'S sovereign immunity. PFA agrees to defend and hold harmless the COMPTROLLER for all losses, damages, expenses, and claims incurred by COMPTROLLER as a result of services performed by PFA under this Contract.

ARTICLE 21 – FORCE MAJEURE

Neither party will be responsible for any delay, interruption or other failure to perform under this Contract due to acts beyond the control of the responsible party. Force majeure events include, but are not limited to: natural disasters (e.g., lightning, earthquakes, hurricanes, floods); wars, riots, terrorist activities, and civil commotions; inability to obtain parts or equipment from third party suppliers; explosions and fires; embargoes, strikes, and labor disputes; governmental decrees; and any other cause beyond the reasonable control of a party.

ARTICLE 22 – TIME IS OF THE ESSENCE

Time is of the essence in the performance of all services required to be performed under this Contract.

ARTICLE 23 – REPRESENTATIVES

The COMPTROLLER's representative/liason during the performance of this Contract is Carol Foglesong, Assistant Comptroller, Records Administration Division, Orange County Comptroller's Office.

PFA's representative/liason during the performance of this Contract is Jim Harper, Vice President, PFA, Inc.

ARTICLE 24 – NOTICE

All notices required or permitted to be made by either party pursuant to this Contract shall be in writing and sent by fax or electronic mail and by certified mail, return receipt requested. All notices shall be sent to the party at the address set forth below or at such other address as the party may specify in a notice given in accordance with this section.

If sent to the COMPTROLLER, notices shall be sent to the attention of:

Carol Foglesong
Assistant Comptroller, Records Administration Division
Orange County Comptroller's Office
P.O. Box 38
Orlando, FL 32802-0038
Telephone No. 407-836-5982
Facsimile No. 407-836-5111
Email: carol.foglesong@occompt.com

If sent to PFA, notices shall be sent to the attention of:

Jim Harper
Vice President
PFA, Inc.
9980 Glenoaks Blvd, Suite F
Sun Valley, CA 91352
Telephone No. 800-429-8200
Facsimile No. 619-224-1721
Email: jharper@pfainc.com

ARTICLE 25 – COMPLIANCE WITH LAWS

PFA shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations with regard to PFA's performance of services under this Contract.

ARTICLE 26 – HEADINGS

The paragraph headings herein are for reference purposes only and are not intended to aid in or limit the construction or interpretation of any of the terms or conditions of this Contract.

ARTICLE 27 – ENTIRETY OF AGREEMENT

The COMPTROLLER and PFA agree that this Contract, including Exhibits A and B attached hereto, constitutes the entire understanding and agreement between the parties and that there are no promises or understandings other than those stated herein.

ARTICLE 28 – AMENDMENT

None of the provisions, terms, and conditions contained in this Contract may be added to, deleted, modified, superseded, or otherwise altered, except by written amendment executed by the parties hereto.

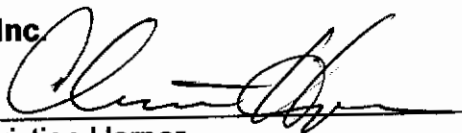
IN WITNESS WHEREOF, the parties have made and executed this Contract on behalf of the COMPTROLLER and PFA on the day and year above written.

ORANGE COUNTY COMPTROLLER

By: 
Jim Moye
Chief Deputy Comptroller

Date: 11-26-13

PFA, Inc

By: 
Christian Harper
Secretary/Treasurer

Attest: Sarah Matta

Date: 11/25/13