

# **Maintenance Agreement Nueces County**

## **Terms and Conditions**

This Maintenance Agreement is between NUECES COUNTY which is located at 901 Leopard Street, Corpus Christi, Texas 78401 and CBM Archives of 11014 Leopard St., Corpus Christi, TX 78410. Subject to the terms and conditions set out below, CBM ARCHIVES agrees to maintain the equipment identified in Attachment - B as per this Maintenance Agreement.

### **1.0 Definitions**

Reference Attachment A to this AGREEMENT for the definition of terms that are applicable to this AGREEMENT. When any word or phrase defined therein, or a pronoun used in place thereof, is used in any part of this AGREEMENT, it shall have the meaning therein set forth.

### **2.0 Certification of Funds and Budget and Fiscal Provisions and Termination in the Event of Non-appropriation**

- 2.1 This Maintenance Agreement is subject to the budget and fiscal provisions that pertain to Nueces County.
- 2.2 Changes under this Maintenance Agreement will occur only after prior written authorization by the NUECES COUNTY. Any amount of the obligation on the part of NUECES COUNTY hereunder shall not at any time exceed the amount stated in such advance authorization by NUECES COUNTY.
- 2.3 This Maintenance Agreement shall begin on the date that it is executed by both NUECES COUNTY and CBM ARCHIVES and shall continue until the close of business of the then current fiscal year of the County of Nueces, unless renewed pursuant to paragraph 3.
- 2.4 This Section controls against any and all other provisions of this Maintenance Agreement.
- 2.5 Payment under authorization or orders by NUECES COUNTY shall be provided in Attachment B (Payment).
- 2.6 During the term of this Maintenance Agreement, NUECES COUNTY may provide thirty (30) days prior written notice, select any alternative Principle Period of Maintenance as a modification to this Maintenance Agreement whether or not such alternative represents an increase or decrease in service, and shall pay CBM ARCHIVES at a rate mutually agreed upon by the parties hereto for such alternative service.

### **3.0 Terms**

3.1 The effective term of this Agreement shall be from **October 1, 2012 to September 30, 2013.**

3.2 This Agreement may not be amended or modified in any manner whatsoever, except by written agreement signed by the duly authorized officers of each party.

### **4.0 Maintenance Agreement**

It is understood that this Maintenance Agreement shall be subject to all budgetary and fiscal requirements that pertain to Nueces County that are applicable under state statutes.

### **5.0 Services that CBM ARCHIVES agrees to provide for Hardware, Software & Technical Support:**

#### **5.1 Hardware Maintenance Plan**

The maintenance requirements for the imaging system at Nueces County will consider the CBM ARCHIVES architecture, system availability requirements and NUECES COUNTY maintenance concept. Attachment C, "Hardware Maintenance Plan," is herein incorporated in its entirety.

#### **5.1.1 Levels of Support and Responsibilities:**

The concept for maintenance for the County consists of the following requirements:

**Non-critical issues:** Nueces County should submit requests for repair of non-critical items to CBM Archives at [help.cbmarchives.com](mailto:help.cbmarchives.com)

**Tier-1:** Nueces County will refer the initial problem report to the IT department at Nueces County. In the event that the problem cannot be resolved by IT, the report will escalate to Tier-2.

**Tier-2:** CBM Archives will provide Tier-2 telephone support to IT. CBM will respond to this request within one hour that the problem is reported during normal business hours (See Section 5.6) if problems persist, CBM will escalate to Tier-3 and provide onsite support

**Tier-3:** CBM will provide onsite support utilizing CBM staff, third party support or a combination of the two.

### **5.1.2 Replacement of Parts**

Worn or defective parts will be replaced at no additional charge by the manufacturer to NUECES COUNTY provided that the wear or defect is not caused by misuse (provided that the manufacturer's warranty is still in effect). Replacement parts will either be new parts or parts equivalent in performance to new parts when used with the system. Parts removed from the system will become the property of CBM ARCHIVES.

CBM ARCHIVES will maintain a supply of spare parts for the Image Archive System; this inventory shall be based on the general maintenance history of the system being offered by CBM ARCHIVES.

Costs for the parts supply inventory are included in the maintenance charges under this Maintenance Agreement. Worn or defective parts will be replaced by the manufacturer at no charge to NUECES COUNTY under the general provisions of the Maintenance Agreement described in Section 5 (Services CBM ARCHIVES Agrees to Perform: Nonexclusive) of this Maintenance Agreement.

### **5.2 Software Maintenance Plan**

CBM ARCHIVES will maintain the systems software for the system including such items as modifications, re-certification of software, and documentation upgrades as follows:

- Provide software changes, updates, and patches necessary to maintain proper operation of the system and provide system security

- Provide licensing agreements for hardware or software.

- Provide documentation such as manuals, editors, assemblers and compilers.  
Provide specifications or procedures for maintaining system and application libraries.

### **5.3 Maintenance Charges**

Maintenance charges are to begin following the execution of the Maintenance Agreement. Maintenance services provided under this Maintenance Agreement will not include:

- Electrical work external to the equipment;

- Repair of damages resulting from acts of the NUECES COUNTY;

- Furnishing supplies or accessories, painting or refurbishing the equipment;

- Services in connection with the relocation of the equipment or the additional removal of items of equipment, attachments, features, or

other devices except as may be mutually agreed by subsequent amendment to this Maintenance Agreement;

Repair of equipment or facilities other than the equipment provided by CBM ARCHIVES; or repair of damage to such equipment caused by the use of that equipment for other than the data processing purposes for which it was designed.

The cost of reconditioning, repair, or replacement of equipment due to misuse or damage on the part of NUECES COUNTY is not covered by this agreement. CBM ARCHIVES will submit a cost estimate to restore the equipment to a fully operational condition. These cost estimates will be based upon the time and materials necessary to complete the repairs. These charges will be outside the scope of this agreement and will be billed separate and apart from the basic maintenance charges covered in this agreement.

#### **5.4 Preventive Maintenance**

5.4.1 CBM ARCHIVES agrees to provide preventive maintenance services in order to maintain the Image Archive System in good condition and working order on a mutually agreeable scheduled basis. The preventive maintenance schedule is to be based on CBM ARCHIVES's and NUECES COUNTY's mutual opinion of the particular service required for each item of hardware and software, it being understood that this schedule will be oriented around periods of time when its impact on the system is minimized.

5.4.2 If the NUECES COUNTY, because of operational or other needs, shall desire to re-schedule preventative maintenance, either in a single instance or in patterns, CBM ARCHIVES shall use his/her best efforts to accommodate such changes. In any event, NUECES COUNTY shall have the right to require CBM ARCHIVES to defer the scheduled preventative maintenance from any scheduled time to a date or time not later than ten (10) calendar days thereafter.

#### **5.5 Database Services**

CBM ARCHIVES agrees to provide DATABASE MAINTENANCE SERVICES for the Image Archive System. The schedule is to be based on CBM ARCHIVES and NUECES COUNTY mutual opinion of the particular service required for each database component of the Image Archive System. The schedule will be designed so that routine maintenance is performed during times when its impact on the system is minimized.

#### **5.6 Repair and Maintenance**

##### **5.6.1 Non-Critical Components:**

8:00 AM to 6:00 PM CENTRAL, Monday through Friday  
CBM ARCHIVES must respond to a customer problem report within 2-hours and provide on-site technical staff with 8-hours during regular hours of maintenance coverage.

### 5.6.2 Critical Components:

8:00 AM to 6:00 PM CENTRAL, Monday through Friday  
CBM ARCHIVES must respond to a customer problem report within a 1-hour call back and provide on-site technical staff within 4-hours during regular hours of maintenance coverage.

### 5.7 **Special Maintenance Services**

The following maintenance services are outside the scope of Preventative Maintenance and Repair Maintenance as described above and will be considered Special Maintenance Service items:

Repair of defects in Image Archive System equipment resulting from causes beyond the control of NUECES COUNTY and/or CBM ARCHIVES, such as acts of God;

Repair of defects in Image Archive System equipment resulting from the use of storage media other than that recommended by CBM ARCHIVES;

Repair of defects in Image Archive System equipment resulting from NUECES COUNTY's neglect, misuse or abuse of the Image Archive System equipment; and Repair of defects in the Image Archive System equipment resulting from any adjustment, repair, maintenance or alteration thereof by any person other than CBM ARCHIVES's maintenance engineers (except as provided in Section 6 [Maintenance Responsibility of NUECES COUNTY], or otherwise specifically authorized by CBM ARCHIVES), or the attachment, addition or connection of any other equipment or device to the Image Archive System equipment without the prior written consent of CBM ARCHIVES.

Transportation of the Image Archive System equipment to a new location specified by NUECES COUNTY.

The maintenance of obsolete equipment will be considered out of scope at the point in time that operating systems, upgrades and support are no longer available from the manufacturer. The life span of such equipment will be based on industry standards and manufacturer's recommended usage. Obsolete equipment will be evaluated by CBM ARCHIVES after the recommended useful life has expired and a maintenance contract will then be negotiated by both CBM Archives and NUECES COUNTY.

In the event that, in the opinion of CBM ARCHIVES, it will require more than four (4) hours to complete the Special Maintenance Service which CBM ARCHIVES has been requested to perform, or it is impracticable to perform the Special Maintenance Service at NUECES COUNTY's site, CBM ARCHIVES shall, prior to commencement thereof, submit to the NUECES COUNTY an estimate of the time required and an estimated cost for providing the requested Special Maintenance Services. Charges for all parts required to complete such work shall be at the current price in effect when a Work Order for Special Maintenance Service is received by

CBM ARCHIVES from NUECES COUNTY. Upon receipt of the Special Maintenance Service estimate from CBM ARCHIVES, NUECES COUNTY shall, at its option, issue a Work Order to CBM ARCHIVES for Special Maintenance Services.

Except as for emergency services required under this subsection, NUECES COUNTY shall provide CBM ARCHIVES twenty-four (24) hours written notice that special maintenance services are authorized and required under any given Work Order.

## **5.8 On-Call Maintenance Services**

On-call maintenance services are available where equipment or software services are not covered under an annual maintenance agreement. All on-call services will require a two hour minimum charge at the rate of \$150 per hour. CBM Archives will accept a standing purchase order that includes a designated number of hours. CBM will provide individual billing for each service call to be charged against the standing purchase order. If the standing purchase order has an unused balance at the end of the maintenance period, those funds will revert to Nueces County.

## **5.9 Maintenance and Repair Reports**

Upon the completion of each maintenance service (excepting preventative maintenance service, which has been previously scheduled on a periodic basis), CBM ARCHIVES shall furnish the NUECES COUNTY with a maintenance report specifying the following items:

Date and time of notification;

Date and time of arrival and departure of CBM ARCHIVES's maintenance engineers;

Time spent on repair activities; and

Description of malfunction and of the work performed.

## **6.0 Maintenance Responsibility of the NUECES COUNTY**

6.1 NUECES COUNTY shall notify CBM ARCHIVES's designated contact immediately upon the discovery of the system failure and shall permit CBM ARCHIVES prompt and free access to the system. NUECES COUNTY shall provide CBM ARCHIVES use of necessary Image Archive communication facilities and equipment at no charge to CBM ARCHIVES subject only to NUECES COUNTY's security regulations.

6.2 NUECES COUNTY will provide CBM ARCHIVES with an on-site storage and work area reasonably adjacent to the Image Archive System at no charge to CBM ARCHIVES. CBM ARCHIVES will supply storage cabinets, manual racks and other related field engineering materials, devices and aids necessary to maintain the system in good working order.

- 6.3 NUECES COUNTY personnel shall not attempt any repair or maintenance on the Image Archive System while this system is under the purview of this Maintenance Agreement unless previously agreed to in writing by CBM ARCHIVES as part of normal operator maintenance responsibilities. NUECES COUNTY will not make or allow any person other than CBM ARCHIVES's maintenance personnel to make any adjustment, repair or maintenance of the Image Archive System equipment or to relocate, change or correct said equipment to other equipment or devices supplied by any person other than CBM ARCHIVES without the prior written permission of CBM ARCHIVES.
- 6.4 The NUECES COUNTY shall provide a mutually acceptable time(s) for CBM ARCHIVES to implement modifications after reasonable notification by CBM ARCHIVES that such time is required.
- 6.5 NUECES COUNTY shall perform preventative maintenance cleaning of the Image Archive System equipment in accordance with written instruction and schedules prepared by CBM ARCHIVES.
- 6.6 NUECES COUNTY will assign a person or persons to coordinate all activities and personnel and to work with CBM ARCHIVES. CBM ARCHIVES agrees to work with said person or persons but it is understood by CBM ARCHIVES and NUECES COUNTY that said person or persons will neither be under the direction nor control of CBM ARCHIVES. The NUECES COUNTY will assign competent, trained personnel to operate the Image Archive equipment.
- 6.7 NUECES COUNTY personnel will be available for consultation and to answer pertinent questions on a high priority basis.
- 6.8 All necessary reference manuals, sample data, source documents, definition of terms, exceptions and other required information will be supplied by NUECES COUNTY to CBM ARCHIVES.
- 6.9 NUECES COUNTY will be responsible for all Image Archive System consumables such as pads, rollers, assemblies, etc.

#### **7.0 Technical Staff Assignment and Responsibilities**

NUECES COUNTY will monitor conformance and adherence to the work plans described in this Maintenance Agreement.

#### **7.1 Security Review of CBM ARCHIVES Personnel**

NUECES COUNTY has the right to review proposed CBM ARCHIVES personnel for security purposes, and reserves the right to reject their access to Image Archive System equipment, files or site locations if CBM ARCHIVES personnel fail to pass a background check.

#### **8.0 Transportation of Image Archive Equipment**

- 8.1 NUECES COUNTY will notify CBM ARCHIVES in advance of any plans to relocate any equipment that is covered by this Maintenance Agreement. If requested, CBM ARCHIVES will relocate or install or check out the system and equipment at the rates set forth in the maintenance price list in effect at the time of such relocation.
- 8.2 In the event that equipment being maintained under the terms and conditions of this Maintenance Agreement and is moved to another location within the scope of this Maintenance Agreement, CBM ARCHIVES shall continue to maintain the equipment at the new location. Charges for services and materials furnished by CBM ARCHIVES to dismantle and prepare equipment for shipment and installation in a new location will be charged at an additional cost at the rates specified in this Maintenance Agreement for Special Maintenance Services.
- 8.3 If the shipment of equipment is under the control of NUECES COUNTY and damage is incurred which results in abnormal costs for either labor or parts to restore the system to good operating condition at the new site, such costs will be borne by NUECES COUNTY.
- 8.4 When the NUECES COUNTY requests that the Image Archive equipment be reconfigured within the original or same room, NUECES COUNTY shall provide CBM ARCHIVES with a proposed floor plan and shall give CBM ARCHIVES at least ten (10) days notice prior to the proposed reconfiguration date of NUECES COUNTY's intent to modify the Image Archive System floor plan. CBM ARCHIVES shall prepare an estimate of charges for such reconfiguration based on its rate for Special Maintenance Services, and shall present this estimate to NUECES COUNTY for approval prior to commencing any activity in furtherance of such proposed equipment reconfiguration.

## **9.0 Addition to Equipment**

- 9.1 CBM ARCHIVES reserves the right of refusal when additional equipment is added to the configuration of the central or remote site(s) Image Archive equipment except when the equipment is supplied by CBM ARCHIVES.
- 9.2 When CBM ARCHIVES does agree to maintain additional Image Archive equipment under this Maintenance Agreement, the equipment must have at least a thirty (30) day warranty on parts from the manufacturer before CBM ARCHIVES will accept maintenance responsibility unless waived in writing by CBM ARCHIVES.
- 9.3 Should NUECES COUNTY elect to have the manufacturer install additional equipment, the equipment must pass CBM ARCHIVES's standard acceptance procedure before CBM ARCHIVES will assume maintenance of the equipment. All adjustments on the additional equipment must be set per manufacturer's specifications while running these acceptance tests.
- 9.4 If the manufacturer does not install the additional equipment, CBM ARCHIVES may elect to install same at the rate for Special Maintenance Services. Upon completion of the installation by CBM ARCHIVES, the additional equipment will be covered under this Maintenance Agreement.

9.5 Maintenance charges for equipment added to this Maintenance Agreement shall be priced at rate that which is in effect at that time.

#### **10.0 Removal of Equipment**

10.1 NUECES COUNTY will provide CBM ARCHIVES with ten (10) days notice of its intent to remove equipment from the Image Archive configuration. If requested, CBM ARCHIVES will prepare an estimate of the charges necessary to accomplish such removal based on the rate for Special Maintenance Services. Removal activities by CBM ARCHIVES shall not commence until the estimate of charges has been reviewed and approved by NUECES COUNTY in writing.

10.2 CBM ARCHIVES will not be responsible for any damage or system failures resulting from equipment that is relocated by NUECES COUNTY. The failure of equipment and or systems due to the relocation of equipment by NUECES COUNTY will not be covered under the terms of this agreement. If CBM ARCHIVES is required to provide technical support in order to remedy any problems or repairs the equipment or system, the charges will be based upon hourly rates as indicated in Section-12 plus the cost of any parts or services needed to restore the system to full operation.

10.3 After the designated equipment is removed, a corresponding reduction in the cost for providing Maintenance Services will be calculated by CBM ARCHIVES on the basis of the remaining Image Archive equipment, and the schedule of reduced charges will be presented to the NUECES COUNTY by CBM ARCHIVES for approval.

10.4 If the reduction in charges for Maintenance Services exceeds ten percent (10%) of the amount specified in this Maintenance Agreement, CBM ARCHIVES shall have the right to negotiate the rate for those services with NUECES COUNTY.

#### **11.0 Software Support and Maintenance**

11.1 Software maintained under this agreement is licensed to Nueces County.

11.2 All software licenses purchased through CBM Archives will be maintained for NUECES COUNTY. Support from a system software specialist will be available to NUECES COUNTY in identifying, verifying, reporting and resolving problems associated with such software.

11.3 Software updates and new versions will be installed by CBM ARCHIVES for systems included within the agreement. Updates to manuals resulting from software updates will be supplied to NUECES COUNTY free of charge.

11.4 Software support and maintenance provided under this Maintenance Agreement is contingent upon the necessary software library being maintained by NUECES COUNTY at the most current revision level, and NUECES COUNTY agrees to maintain the software library at this level for the duration of the software license.

## **12.0 Payment**

- 12.1 Under the terms of this Maintenance Agreement, NUECES COUNTY will pay CBM ARCHIVES annual maintenance services rendered under this Maintenance Agreement.
- 12.2 The annual total for Maintenance Services shall be as specified in the Cost Proposal (Exhibit B).
- 12.3 The charge for Special Maintenance Services shall be as follows:

Equipment Service Rate - \$110.00 per hour

### **12.4 Software Development**

CBM ARCHIVES may change the yearly maintenance costs at the end of any subsequent one (1) year term by giving NUECES COUNTY ninety (90) days prior written notice. In no event shall any percentage increase in maintenance charges for any succeeding year exceed ten (10) percent of the previous years' charges.

- 12.5 The NUECES COUNTY will forthwith pay all taxes lawfully imposed upon it with respect to the equipment or this Maintenance Agreement. CBM ARCHIVES will forthwith pay all taxes lawfully imposed upon it with respect to the equipment or this Maintenance Agreement. NUECES COUNTY makes no representation whatsoever as to the liability or exemption from liability of CBM ARCHIVES to any tax imposed by a governmental entity.

## **13.0 Method of Payment**

- 13.1 Invoice documentation furnished by CBM ARCHIVES under this Maintenance Agreement for services not covered under the annual payment must be in a form acceptable to NUECES COUNTY and shall be invoiced in arrears. All amounts paid shall be subject to audit by NUECES COUNTY. All charges incurred under this Maintenance Agreement for services not covered under the annual payment shall be due and payable only after services or use has been rendered and in no case in advance of such service or use.
- 13.2 Payment for maintenance services will be made on an annual basis. Annual payment as set out in Attachment A shall be due and payable within thirty (30) days from date of last signature executing this Agreement.
- 13.3 If any payment for properly invoiced and approved maintenance charges under this Maintenance Agreement is not remitted within thirty (30) days of proper invoice, CBM ARCHIVES reserves the right to suspend further maintenance services under this Maintenance Agreement upon thirty (30) days written notice to NUECES COUNTY.

## **14.0 Warranty**

- 14.1 CBM ARCHIVES warrants that the Image Archive System covered under this Maintenance Agreement will be maintained in good operating condition in accordance with the provisions of this Maintenance Agreement.
- 14.2 CBM ARCHIVES warrants that only equipment which meets the published performance criteria of the manufacturer will be used in maintaining the Image Archive System.
- 14.3 Except as state herein, there are no express or implied warranties respecting the Maintenance Agreement and the services provided hereunder, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

## **15.0 Insurance**

- 15.1 CBM ARCHIVES shall maintain the insurance requirements of workers compensation insurance endorsed with a waiver of subrogation in favor of Nueces County in the amount of the statutory obligations imposed under the Texas Workers' Compensation Law ("Statutory Texas").

## **16.0 Limitation of Liability**

- 16.1 In no event will CBM ARCHIVES be liable for loss of data or for any special, indirect, incidental or consequential damages arising out of this Maintenance Agreement or the performance of any services provided under this Maintenance Agreement. The foregoing limitation shall not apply to damages arising out of personal injury or death due to CBM ARCHIVES's negligence. CBM ARCHIVES shall not be liable for any injury to NUECES COUNTY's personnel or damage to NUECES COUNTY's property arising out of the performance of services under this Maintenance Agreement unless such injury or damage is due to the fault or negligence of CBM ARCHIVES.

## **17.0 Termination**

- 17.1 Nueces County reserves the right to terminate this agreement at any time with thirty (30) days notice. Any unused pro-rated share of the maintenance/support costs will be refunded to Nueces County save and except those expenses incurred by CBM ARCHIVES to pay third party vendors for purposes of obtaining necessary authority from software/hardware manufacturers specific to this Agreement.
- 17.2 Either party may terminate this Maintenance Agreement if the other party neglects or fails to perform or observe any of its material obligations hereunder, including, but not limited to, the timely payment of sums due, and such default continues for forty-five (45) days following the receipt of written notice.
- 17.3 Either party may terminate this Agreement if the other party (1) has been adjudicated as bankrupt, or (2) has filed a voluntary petition in bankruptcy, or (3) has made an

assignment for the benefit of creditors, or (4) a receiver has been appointed for such party.

## **18.0 Force Majeure**

18.1 It is expressly agreed that neither CBM ARCHIVES nor NUECES COUNTY shall be liable for any loss or damage resulting from delaying in performance or from failure to perform due in whole or in part to insurrection, civil war, revolutions, war (declared or undeclared), any Governmental Act, restraints of Government, fire, flood, epidemics, embargoes, lockouts, strikes, and for any other cause beyond CBM ARCHIVES's or NUECES COUNTY's reasonable control.

## **19.0 Proprietary Information**

19.1 CBM ARCHIVES understands and agrees that in the performance of work or services under this Maintenance Agreement, or in contemplation thereof, CBM ARCHIVES may have access to private or confidential information which may be owned or controlled by NUECES COUNTY and that such information may contain proprietary details, disclosures or sensitive information whose disclosure to or use by a third party will be damaging or illegal. CBM ARCHIVES agrees that all information disclosed by NUECES COUNTY to CBM ARCHIVES which is in written form and is marked confidential shall be held in confidence and used only in performance of services under this Maintenance Agreement. CBM ARCHIVES shall exercise the same standard of care to protect such information as is used to protect his/her own proprietary data.

19.2 NUECES COUNTY understands and agrees that in the performance of work or services under this Maintenance Agreement, or in contemplation thereof, NUECES COUNTY may have access to private or confidential information which may be owned or controlled by CBM ARCHIVES and that such information may contain proprietary details, disclosures or sensitive information whose disclosure to or use by a third party will be damaging or illegal. NUECES COUNTY agrees that all information disclosed by CBM ARCHIVES to NUECES COUNTY which is in written form and is marked confidential shall be held in confidence and used only in performance of services under this Maintenance Agreement. NUECES COUNTY shall exercise the same standard of care to protect such information as is used to protect his/her own proprietary data. NUECES COUNTY agrees to take appropriate action by instruction or agreement with its employees and consultants (agreements required in the case of consultants) who are permitted access to any such information to fulfill NUECES COUNTY's obligations hereunder. Except as set forth herein, or as may be permitted in writing by CBM ARCHIVES, NUECES COUNTY shall not provide or otherwise make available such information to any third party, except as required by law.

## **20.0 Laws and Regulations**

20.1 Articles and services covered by this Maintenance Agreement must comply with applicable Federal and State legal requirements, which are in effect on the day and year herein above written. If any term or provision of this Maintenance Agreement shall be found illegal or unenforceable then, notwithstanding such unenforceability, this Maintenance Agreement shall remain in full force and effect and the illegal term only shall be deemed stricken.

## **21.0 Contract Made in County of Nueces**

21.1 This Maintenance Agreement shall be deemed to be made and performable in, Nueces County, and shall be construed in accordance with, the laws of the State of Texas. Venue shall be in Nueces County, Texas.

## **22.0 Notice to Parties**

22.1 All notices to be given to parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and certified mail. Notices to shall be addressed as follows:

Mr. Mike Biddle  
Director of Information Technology  
Nueces County  
901 Leopard Street, Rm. 308  
Corpus Christi, Texas 78401

Notices to CBM ARCHIVES shall be addressed to:

H. Michael Lord  
President/COO - CBM Archives Co.  
11014 Leopard Street  
Corpus Christi, Texas 78410

## **23.0 Section Headings**

23.1 The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Maintenance Agreement.

## **24.0 Waiver**

24.1 The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants or provisions hereof by the other party at the time designated shall not be construed as a waiver of any such default or right to which the other party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

**25.0 Assignment**

25.1 This Maintenance Agreement may not be assigned by either party without the express written consent of the other party.

25.2 Consent to any assignment will not be unreasonably withheld.

**26.0 Entire Agreement**

26.1 No change or waiver of any provision of this Maintenance Agreement shall be valid unless made in writing and executed in the same manner as this Maintenance Agreement.

26.2 This Maintenance Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all proposals, all previous negotiations and agreements, written or oral, between the parties with respect to the subject matter hereof.

The undersigned signatory for CBM Archives hereby represents and warrants that the signatory is an officer of the organization for which he or she has executed this contract on behalf of the fun.

This Maintenance Agreement is executed by the undersigned on the dates indicated:

CBM Archives

\_\_\_\_\_  
H. Michael Lord President/COO

\_\_\_\_\_  
Date

Nueces County

\_\_\_\_\_  
Samuel Loyd Neal, Jr .County Judge

\_\_\_\_\_  
Date

Attested:

\_\_\_\_\_  
Diana Barrera  
Nueces County Clerk

\_\_\_\_\_  
Date

## **Attachment A**

### **Definitions**

**The following definitions have provided for clarity:**

*Maintenance Agreement:* Refers to this document in the context of which it was written.

*Principle Period of Maintenance:* Refers to the specific conditions and time of this document.

*Alternative Services:* Refers to services out of scope or pre negotiated changes in writing to this contract.

*Effective Date:* Date(s) that contract is in force.

*Business Hours:* 8:00am to 6:00pm Monday thru Friday.

*Special Maintenance Services:* Services that fall outside the scope of this contract.

*System:* Imaging Archival System

## Attachment B

### Cost Proposal

The following is a cost proposal submitted as part of CBM.

#### Annual Maintenance Cost:

#### Nueces County Imaging Center Annual Hardware, Software and Support October 1, 2012 Thru September 30, 2013

HARDWARE	Contract #	Exp. Date	Serial #	QTY	U-Price	Ext-Price
<b>Server:</b>						
Server Total						\$0.00
<b>Storage:</b>						
RAID Storage Total						\$0.00
<b>Desktop Workstation:</b>						
Desktop Workstation Total						\$0.00
<b>Scanner:</b>						
Fujitsu M4099Ddim	ScanCare+NBD	5/30/2009	501321	1	\$5,595.00	\$5,595.00
Fujitsu M4099Ddim	ScanCare+NBD	5/30/2009	501313	1	\$5,595.00	\$5,595.00
Fujitsu M4097Ddim	ScanCare+NBD	5/30/2009	519004	1	\$1,795.00	\$1,795.00
Fujitsu M4097Ddim	ScanCare+NBD	5/30/2009	519008	1	\$1,795.00	\$1,795.00
Fujitsu fi-4750DCdim	ScanCare+NBD	5/30/2009	502605	1	\$1,795.00	\$1,795.00
Fujitsu fi-4340C	ScanCare+NBD	9/18/2008	600793	1	\$1,395.00	\$1,395.00

Fujitsu fi-4340C	ScanCare+NBD	9/18/2008	600790	1	\$1,395.00	\$1,395.00
Fujitsu fi-4340C	ScanCare+NBD	9/18/2008	600904	1	\$1,395.00	\$1,395.00
Fujitsu fi-4340C	ScanCare+NBD	9/18/2008	600901	1	\$1,395.00	\$1,395.00
Fujitsu fi-4340C	ScanCare+NBD	4/14/2009	601436	1	\$1,395.00	\$1,395.00
Adaptec AHA-2940 Ultra SCSI Adapter				5	\$35.00	\$175.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	213	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4188	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4220	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4239	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4393	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4411	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4414	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4419	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4420	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4422	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4437	1	\$0.00	\$0.00
Fujitsu fi-6140c	Advance Exch	8/31/2013	4448	1	\$0.00	\$0.00
Fujitsu fi-6130	Advance Exch	7/8/2012	189995	1	\$0.00	\$0.00
Fujitsu fi-6130	Advance Exch	7/8/2012	189890	1	\$0.00	\$0.00
Fujitsu fi-6130	Advance Exch	7/8/2012	189943	1	\$0.00	\$0.00
<b>Scanner Total</b>						
						<b>\$23,725.00</b>

**HARDWARE TOTAL**

**\$23,725.00**

<b>SOFTWARE</b>						
Tokairo Server Enterprise Edition				1	\$1,488.00	\$1,488.00
Tokairo Client License (120 Full Users)				1	\$10,799.00	\$10,799.00
SW Dongle Omnican 8.0x M2620/M2596			BR010091	1	\$1,120.00	\$1,120.00
<b>SOFTWARE TOTAL</b>						
						<b>\$13,407.00</b>

**\$13,407.00**

**HARDWARE/SOFTWARE TOTAL** **\$37,132.00**

<b>System Support Service</b>	<b>Hrs.</b>	
Phone and On-site Technical Support: 8:00am to 6:00pm, Weekdays. Will be billed at an hourly rate of \$150, minimum of 30 minutes.		\$150.00
<b>SYSTEM SUPPORT SERVICE TOTAL</b>		<b>\$0.00</b>

**ANNUAL MAINTENANCE COST (One Payment)** **\$37,132.00**

**ADJUSTED TOTAL for QUARTLY PAYMENTS** **\$40,845.20**  
**4 QUARTLY PAYMENTS OF** **\$10,211.30**

## Attachment C

### Hardware Maintenance Plan

#### Maintenance Service Hours and Response Time:

Monday thru Friday  
8:00am to 6:00pm

Response to Initial Problem Notification:	1-hour
Provide Telephone Technical Support:	2-hours
Provide On-Site Technical Staff:	2-hours

#### Repair of Hardware Items:

General Hardware Failure Categories:

Server(s)	4-hours
Personal Computer(s)	24-hours
Printer(s)	24-hours
Scanner(s)	24-hours
Miscellaneous Equipment	24-hours

#### Preventive Maintenance Schedule:

Routine Preventive Maintenance:

Scanner(s) Cleaning and Adjustments	As Needed
ScanCare Kit Installation	As Needed
Printer(s) Cleaning and Toner Replacement	User Responsibility
Personal Computer(s) Cleaning	User Responsibility
Miscellaneous Equipment:	None