

TO:

Sealed bid: Records Management

Buyer: Mark Atkins, File #42

Solicitation No. CRFQ 0212 SW21*01

Bid opening Date: 8/20/2020

Bid Opening time: 1:30PM

Fax number 304-558-3970

From:
Gary M. Hartsog
Alpha Records Management
Phone: 304-255-9060
Fax: 304-255-4156

RECEIVED
2020 AUG 20 PM 2:57
WV PURCHASING
DIVISION

RFQ No: CRFQ SWC21*1
Buyer: Mark Atkins
Bid Opening Date: 8-20-2020
Bid Opening Time: 1:30

59 pages

BID RECEIVED LATE
Buyer Mark Atkins
Witness Tara
DISQUALIFIED

REQUEST FOR QUOTATION
CRFQ 0212 SWC2100000001
Statewide Contract for Records Management
(RECMGT21)

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Office of Technology (WVOT) to establish a Statewide Open-End contract for records management and storage services per the attached documents.

This solicitation is intended to replace the current Statewide Contract for Records Management (RECMGT) expiring 11/30/2020. The RECMGT contract can be viewed on the Purchasing Division's Statewide Contracts page at:
<http://www.state.wv.us/admin/purchase/swc/RECMGT.htm>

Note: Please refer to Specification Section 5.2.1 Storage, for additional information.

- 2. DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in Section 2 of the General Terms and Conditions.

2.1 "Contract Item" or "Contract Items" means the list of items identified in Section 4.1 below and on the Pricing Pages.

2.1 "Box" means a storage container used for temporary or permanent storage of files, record, or records. A standard box size is 15" L x 12" W x 10"H equal to approximately one (1) cubic foot in size.

2.2 "Business Hours" means Monday – Friday 8:00 AM through 5:00 PM EST excluding weekends and Federal and State holidays. State Holidays are as follows:

- New Year's Day (January 1)
- Martin Luther King Day (Third Monday in January)
- President's Day (Third Monday in February)
- Memorial Day (Last Monday in May)
- West Virginia Day (June 20)
- Independence Day (July 4)
- Labor Day (First Monday in September)
- Columbus Day (Second Monday in October)
- Veterans Day (November 11)
- Thanksgiving (Fourth Thursday in November)
- Day After Thanksgiving (Fourth Friday in November)
- Christmas Day (December 25)

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- 2.2 “Disaster”** means any occurrence of fire, flood, storm, earthquake, explosion, epidemic, riot, sabotage or other condition of extreme peril resulting in substantial damage or injury to persons or property within this state, whether such occurrence is caused by an act of God, nature or man, including an enemy of the United States..
- 2.3 “NFPA”** means National Fire Protection Association (www.nfpa.org).
- 2.4 “Pricing Pages”** means the schedule of prices, estimated order quantity and totals contained in wvOASIS or attached hereto as **Exhibit_A** and used to evaluate the Solicitation responses.
- 2.5 “Record”** means a document, book, paper, photograph, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in Chapter 5A Article 8 Public Records Management and Preservation Act for the Department of Administration. This can be used with the link: <http://code.wvlegislature.gov/5a-8/>
- 2.6 “Solicitation”** means the official notice of an opportunity to supply the State with goods or services that are published by the Purchasing Division.

3. CURRENT ENVIRONMENT:

- 3.1** Pursuant to the West Virginia Code §5A-8-1 through §5A-8-22, and Legislative Rules 148-CSR-12, 148-CSR-13, and 148-CSR-14, the Department of Administration is responsible for the management of the State’s day-to-day records management program.
- 3.2** Agencies are required to follow retention/destruction schedules that have been approved by the Department of Administration.
- 3.3** Currently records are stored in Charleston, West Virginia, and are picked-up at the state agency locations by the vendor. The agency locations are located throughout the state. Most records are received in boxes 1.2 cubic feet in size. However, some are delivered in other formats previously approved by the State Records Administrator or the records management vendor.

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4. QUALIFICATIONS: Vendor, or Vendor's staff, if requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:

4.1 Vendor must be Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health (HITECH) compliant. An executed Business Associate Addendum (see attachment **Exhibit_B**) will be required prior to award.

4.2 Vendor must have established information security and privacy policies. Vendor must provide proof of a third-party audit of the security and privacy policies within the last 365 days upon request.

4.3 Vendor must have an established personnel security program designed to evaluate employee trustworthiness before being granted access to sensitive data. Vendor must provide documentation of security program upon request.

4.4 Vendor must have a documented plan for handling security and privacy incidents that complies with the West Virginia Notice of Confidentiality Policies and Information Security Accountability Requirements, made part of this contract through the General Terms and Conditions item #30.

4.4.1 The Vendor's incident management plan must define a security or privacy incident as an unauthorized access of an agency's records or any missing agency records from the vendor's custody.

4.4.2 The Vendor's incident management plan must describe what steps of the process are handled internally or externally; and

4.4.3 The Vendor's incident management plan must include timeframes or milestones.

4.4.4 The Vendor must provide the incident management plan within 30 calendar days of the contract start date to:

WV Office of Technology
Attention: Andrew Lore
Capitol Complex Bld. 5 10th Floor
Charleston, WV 25305
Andrew.C.Lore@wv.gov

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5. GENERAL REQUIREMENTS:

- 5.1 Contract Items and Mandatory Requirements:** Vendor shall provide Agency with the Contract Items listed below on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.

Facility Requirements:

- 5.1.1** The vendor must provide a facility that will protect all records from disaster as defined in West Virginia Code §5A-8-3. This may be viewed at <http://code.wvlegislature.gov/5A-8-3/>

5.1.1.1 The vendor must bear all costs related to recovery or restoration of damaged records in the care of the vendor.

- 5.1.2** The vendor must provide a facility that meets the following requirements for archival storage of records:

5.1.2.1 The vendor must provide storage to accommodate a minimum of 200,000 cubic feet for the State's existing records and must have the capacity to expand this storage as the State's storage requirements increase.

5.1.2.2 The Vendor's storage facility must provide the following physical security measures.

5.1.2.2.1 Facility must have security locks at each exterior entrance.

5.1.2.2.2 Facility must have 24-hour, 7 days-per-week, 365-days-per-year monitored anti-intrusion alarm system to protect against unauthorized entry.

5.1.2.2.3 Facility must have a policy for providing access to the records storage area to ensure only duly authorized individuals have access.

5.1.2.2.3.1 Vendor should submit the policy with their bid and must provide documentation of such policy prior to award.

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- 5.1.2.3** The records storage area must have an independent circulating system to keep the air as free as possible of pollutants and dust and to prevent the entry of unfiltered air from other parts of the building.
- 5.1.2.4** The vendor must provide smoke detection within the entire facility in accordance with NFPA code or standards.
- 5.1.2.5** The vendor must provide a fire suppression system in the records storage areas.
- 5.1.2.6** The vendor must provide a records storage area that is climate controlled (maximum temperature of 72 degrees Fahrenheit, and relative humidity between 45 and 60) 24-hours a day, 7 days-per-week, 365 days-per-year.
- 5.1.2.7** The vendor must limit its flooding risk by storing records in a facility that is located out of the 100-year floodplain.
- 5.1.2.7.1** Vendor should submit the elevation certificate with their bid and must provide the elevation certificate from a land surveyor verifying the facility is out of the 100-year floodplain prior to award.
- 5.1.2.8** The vendor must keep records a minimum of one inch (1") above the floor level with the optimum of three inches (3").
- 5.1.2.8.1** Records must be stored away from windows, steam, sewer, or water pipes.
- 5.1.2.9** The Vendor must provide a moisture detection system throughout the records storage area.
- 5.1.2.10** The Vendor must minimize light exposure to the records and must keep the lids on boxes at all times.
- 5.1.3** Records stored at the facility must only be viewed by authorized persons. The vendor must have security controls or policies to allow access only to those persons approved to retrieve/view records for their respective agency. Vendor must provide documentation of such policies and procedures prior to award.

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Indexing and Invoicing:

5.1.4 The vendor must provide an indexing system for records inventory and must index each box or file submitted.

5.1.4.1 The indexing system must provide a minimum of sixty (60) characters per box or per file in the records description field.

5.1.5 The vendor must invoice each state agency storing records at the facility monthly in arrears.

5.1.6 The vendor must maintain a log of personnel or authorized individuals that have accessed records or boxes and must provide the log upon agency request.

5.1.7 The vendor must provide reporting on agency records, including inventory, storage costs, and activity, upon request to agency-authorized personnel, and to the Department of Administration-authorized personnel.

5.1.7.1 These reports shall include, but not be limited to, the following:

5.1.7.1.1 The agencies storing records in the facility and the total volume in number of boxes and cubic feet for each agency.

5.1.7.1.2 The account numbers, box numbers, date records were received by vendor, date of records, destruction dates, and full descriptions of the records.

5.1.7.1.3 The total amount of cubic feet of storage for the State.

5.1.7.1.4 The itemized cost for each for an agency.

5.1.7.1.5 The itemized cost for the State.

5.1.7.1.6 The authorized users for each account.

5.1.7.1.7 The requests for action made for each agency/account.

5.1.7.1.8 The destruction eligibility of records.

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5.1.8 The vendor must include on its monthly invoice to the agency all billing activity detail for the month.

5.1.9 Vendor must only bill for storage of records that an agency has requested to be stored at the storage facility.

5.1.9.1 Once vendor is notified in writing by an agency that records have been permanently removed, or when records destruction is requested by an agency, no further storage fees shall be billed for any subsequent month for those records, regardless of the length of time it takes vendor to process said requests.

5.2 **Requirements & Pricing for Storage, Supplies, Pick Up, Retrieval, and Destruction:**

STORAGE:

5.2.1 **Contract Item #1: Transfer Existing Records to Vendor's Storage Facility:** The successful vendor should transfer existing records to their storage facility within eight (8) months of contract start date and must have all records transferred within (12) months of contract start date.

5.2.1.1 The successful vendor shall be responsible for all costs associated with the pick-up and organization of all records currently in storage at Iron Mountain, 5736 MacCorkle Avenue SE Charleston, WV 25304.

5.2.1.2 The successful vendor shall transfer currently stored records in their existing boxes, or furnish boxes and repackage records if needed, at no additional cost.

5.2.1.3 Vendor must have a secure tracking system in place to document the chain of custody of records from the time vendor takes possession of the records until their final disposition.

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5.2.2 Contract Item #2: The vendor must index existing records at time of transfer from the current storage facility.

5.2.2.1 The vendor must provide indexing of boxes during transfer from current storage facility at no charge.

5.2.3 Contract Item #3: The vendor must accommodate storage of a minimum of 200,000 cubic feet for the State's records currently stored with the ability to expand.

5.2.3.1 The vendor must provide a monthly cost per cubic foot for storage at the facility.

5.2.3.2 The vendor must invoice each state agency storing records at the facility monthly in arrears.

SUPPLIES:

5.2.4 Contract Item #4: The vendor must provide storage boxes; Approximate dimensions: 15" L x 12" W x 10" H. (equal to approximately one (1) cubic foot of storage).

5.2.4.1 Vendor to provide cost per box.

5.2.4.2 Vendor shall provide replacement boxes for boxes damaged while in the vendor's possession at no cost to the agency.

PICK UP:

5.2.5 Contract Item #5: The vendor must pick up the records within a maximum of five (5) business days after written request by the agency. The vendor shall not take possession of records that do not include a description identifying the records and a date the records are eligible for destruction.

5.2.5.1 The vendor must provide a cost per box for pick-up.

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5.2.6 Contract Item #6: The vendor must index all new records received from an agency.

5.2.6.1 The vendor must provide a cost per box for indexing of new records picked up from an agency.

RETRIEVAL/DELIVERY:

5.2.7 Contract Item #7: The vendor must retrieve any record in storage and hand deliver it to the authorized agency personnel within five (5) business days of written notification.

5.2.7.1 The vendor must provide a cost per box for retrieval and delivery of records from an agency.

5.2.7.2 Records must be delivered during normal business hours.

5.2.7.3 Records may only be signed for by authorized personnel as identified on the vendors Access Authorization Form and signed by the agency head.

5.2.7.4 Records must be delivered by the vendor and cannot be delivered by a third party.

5.2.8 Contract Item #8: The vendor must retrieve any record in storage and hand deliver them to requesting agency within three (3) calendar days of written request, including weekends or holidays, if it is identified by the agency as an Emergency.

5.2.8.1 The vendor must provide a cost per box for emergency retrieval and delivery of records from an agency.

5.2.8.2 Records may only be signed for by authorized personnel as identified on the vendors Access Authorization form and signed by the agency head.

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5.2.9 Contract Item #9: The vendor must provide a secure area for authorized agency personnel to view records at no cost at its facility.

RECORD DESTRUCTION:

5.2.10 Contract Item #10: The vendor must provide paper record destruction services at the authorized agency representative's written request.

5.2.10.1 The request must include the written approval of the State Records Administrator to destroy the specified records.

5.2.10.1.1 No records shall be destroyed without State Records Administrator approval.

5.2.10.2 Records must be destroyed by a crosscut shredder for paper records using a cross-cut shredder to achieve 5/16-inch-wide or smaller strips. Alternatively, strips may be set at the industry standard of 1/2 inch, but when deviating from the 5/16-inch requirement, shredded paper must be safeguarded until it reaches the stage where it is rendered unreadable. Pulping of data should be accomplished only after material has been shredded.

5.2.10.3 Vendor shall provide proof of destruction to the owner of the record once they have been destroyed

5.2.10.4 The vendor must provide a cost per box for destruction of paper records.

5.2.11 Contract Item #11: The vendor must provide destruction of microfilm at the authorized agency representative's request.

5.2.11.1 The agency written request must include the written approval of the State Records Administrator to destroy the specified records.

5.2.11.1.1 No records shall be destroyed without State Records Administrator approval.

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5.2.11.2 Vendor shall provide proof of destruction to the owner of the record once they have been destroyed.

5.2.11.3 Microfilm and microfiche must be shredded to achieve 1/35-inch by 3/8- inch strips.

5.2.11.4 The vendor must provide a cost per box for destruction of microfilm.

6. CONTRACT AWARD:

6.1 Contract Award: This Contract is intended to provide Agencies with a purchase price on all Contract Items. The Contract shall be awarded to the Vendor that provides all Contract Items meeting the required specification for the lowest overall total cost as shown on the Exhibit_A Pricing Pages.

6.1.1 The initial Contract will be for five (5) years with three (3) optional one-(1) year renewals for years six, seven, and eight. Renewal options will be initiated by the West Virginia Purchasing Division upon mutual agreement with the successful vendor and processed by the West Virginia Purchasing Division as Change Orders.

6.2 Pricing Pages: The vendor should complete the Pricing Pages by entering in the price for each contract item on wvOASIS and **Exhibit_A**. The vendor should complete the Pricing Pages in their entirety as failure to do so may result in the vendor's bid being disqualified.

The **Exhibit_A Pricing Page** has been provided in Excel and formatted to automatically calculate the **Total Cost** when the **Unit Price** is entered for each commodity line item. However, it is the Vendor's responsibility to ensure the pricing for their bid submission is correct. In the event of any errors, the **Unit Price** shall prevail.

The Pricing Page contains a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied.

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The Vendor should electronically upload The Exhibit_A Pricing Page in wvOASIS, as an electronic document or submit with their paper bid. In most cases, the Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to:

Mark Atkins, Senior Buyer
West Virginia Department of Administration
Purchasing Division
2019 Washington Street East
Charleston, WV 25305
Phone: (304) 558-2307
Fax: (304) 558-4115
Email: mark.a.atkins@wv.gov

7. ORDERING AND PAYMENT:

- 7.1 Ordering:** Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written form of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If vendor has the ability to accept on-line orders, it should include in its response a brief description of how agencies may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing agency orders on-line.
- 7.2 Payment:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

8. DELIVERY AND RETURN:

- 8.1 Delivery Time:** The vendor shall pickup or deliver standard orders within five (5) business days after orders are received. The vendor shall deliver emergency orders within three (3) calendar days after orders are received. The vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met.
- 8.2 Late Delivery:** The agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

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Any agency seeking to obtain items from a third party under this provision must first obtain the approval of the Purchasing Division.

8.3 Delivery Payment/Risk of Loss: Standard pickup/delivery shall be per the price established in the contract to the agency's location. The agency will pay delivery charges on all emergency orders per the price established in the contract.

9. VENDOR DEFAULT:

9.1 The following shall be considered a vendor default under this Contract.

9.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.

9.1.2 Failure to comply with other specifications and requirements contained herein.

9.1.3 Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

9.1.4 Failure to remedy deficient performance upon request.

9.2 The following remedies shall be available to agency upon default.

9.2.1 Immediate cancellation of the Contract.

9.2.2 Immediate cancellation of one or more release orders issued under this Contract.

9.2.3 The following remedies are available for damages associated with a breach of protected information:

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9.2.3.1 If the breach is related to a direct result of the vendor's failure to meet its contract obligation to protect personally identifiable information (PII) or otherwise prevent its release, the vendor shall bear the costs associated with (a) the investigation and resolution of the breach; (b) notifications to individuals, regulators or others required by state or federal law; (c) a credit monitoring service (d) a website or a toll-free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the PII breach (or other similar publication if the named publication has not issued an updated average per record per cost in the last 5 years at the time of the data breach); and (e) complete all corrective actions as reasonably determined by the vendor based on root cause.

9.2.3.2 Any fines or penalties levied against the State by a regulatory body.

9.2.4 Any other remedies available in law or equity.

10. MISCELLANEOUS:


10.1 No Substitutions: The vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.

10.2 Vendor Supply: The vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, the vendor certifies that it can supply the Contract Items contained in its bid response.

10.3 Reports: The vendor shall provide reports upon request as required in Section 5.1.7 above. Failure to supply such reports may be grounds for cancellation of this Contract.

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10.4 Contract Manager and Customer Service Representative: During its performance of this Contract, the vendor must designate and maintain a primary contract manager responsible for overseeing the vendor's responsibilities under this Contract and must provide a dedicated customer service representative to process all requests for action by authorized agency personnel and authorized Department of Administration personnel. The Contract manager and the dedicated customer service representative must be available during normal business hours to address any customer service or other issues related to this Contract. The vendor should list its Contract manager and dedicated customer service representative and his or her contact information below.

Contract Manager: Gary M. Hartsog 
Telephone Number: 304-255-9060
Fax Number: 304-255-4156
Email Address: ghartsog@alpharecords.com

Customer Service Representative: Jeff Peele
Telephone Number: 304-255-9060
Fax Number: 304-255-4156
Email Address: jpeele@alpharecords.com

EXHIBIT_A PRICING PAGE

CRFQ 0212 SWC210000001

(RECMGT2.1)

Records Management - Offsite Storage and Document Destruction

Commodity Line Number	Description	Unit of Measure	Estimated Quantity	Unit Price	Extended Price
STORAGE:					
5.2.1.1 Contract Item #1	Transferring Existing Records to New Storage Facility	Per Cubic Foot	195,000	No Charge	\$0.00
5.2.2.1 Contract Item #2	Indexing Existing Records at time of Transfer from existing Storage Facility	Per Box	195,000	No Charge	\$0.00
5.2.3.1 Contract Item #3	Records Monthly Storage Fee	Per Cubic Foot	195,000	\$ 0.26	\$ 51,090.00
SUPPLIES:					
5.2.4.1 Contract Item #4	Storage Boxes (Approximate Dimensions 15"L x 12"W x 10"H)	Per Box	5,000	\$ 1.85	\$ 9,250.00
PICK UP:					
5.2.5.1 Contract Item #5	Records Pick Up (within 5 business days of request)	Per Box	2,500	\$ -	\$ -
5.2.6.1 Contract Item #6	Indexing New Records	Per Box	2,500	\$ -	\$ -
RETRIEVAL/DELIVERY:					
5.2.7.1 Contract Item #7	Retrieval/Delivery of Paper Records [Five (5) Business Day of Written Request]	Per Box	5,000	\$ 1.84	\$ 9,200.00
5.2.8.1 Contract Item #8	Emergency Retrieval/Delivery of Paper Records [Three (3) Calendar Days of Written Request]	Per Box	500	\$ 9.79	\$ 4,895.00
SECURE VIEWING AREA:					
5.2.9 Contract Item #9	Secure Area at Vendor's Facility for Records Viewing	Each (Per Visit)	100	No Charge	\$0.00
DESTRUCTION:					
5.2.10.4 Contract Item #10	Destruction of Paper Records	Per Box	5,000	\$ 3.06	\$ 15,300.00
5.2.11.4 Contract Item #11	Destruction of Microfilm	Per Box	50	\$ 4.90	\$ 245.00

Total Cost \$ 89,980.00

Please type or print legibly

Vendor: Alpha Records Management, Inc.
Vendor Representative: Gary M. Hartsog
Phone Number: 304-255-9060
Email: ghartsog@alpharecords.com

WV-10
Approved / Revised
06/08/18

State of West Virginia VENDOR PREFERENCE CERTIFICATE

Certification and application is hereby made for Preference in accordance with **West Virginia Code, §5A-3-37.** (Does not apply to construction contracts). **West Virginia Code, §5A-3-37,** provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code.** This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

- 1. **Application is made for 2.5% vendor preference for the reason checked:**
Bidder is an individual resident vendor and has resided continuously in West Virginia, or bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia, for four (4) years immediately preceding the date of this certification; or,
- Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; or,
- Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,

- 2. **Application is made for 2.5% vendor preference for the reason checked:**
Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,

- 3. **Application is made for 2.5% vendor preference for the reason checked:**
Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; or,

- 4. **Application is made for 5% vendor preference for the reason checked:**
Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,

- 5. **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,

- 6. **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

- 7. **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with West Virginia Code §5A-3-59 and West Virginia Code of State Rules.**
Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

- 8. **Application is made for reciprocal preference.**
Bidder is a West Virginia resident and is requesting reciprocal preference to the extent that it applies.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) rescind the contract or purchase order; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: Alpha Records Management, Inc.

Signed: Gary M. Hartog

Date: August 20, 2020

Title: President

*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

West Virginia Ethics Commission

**Disclosure of Interested Parties to Contracts**

Pursuant to *W. Va. Code* § 6D-1-2, a state agency may not enter into a contract, or a series of related contracts, that has/have an actual or estimated value of \$1 million or more until the business entity submits to the contracting state agency a Disclosure of Interested Parties to the applicable contract. In addition, the business entity awarded a contract is obligated to submit a supplemental Disclosure of Interested Parties reflecting any new or differing interested parties to the contract within 30 days following the completion or termination of the applicable contract.

For purposes of complying with these requirements, the following definitions apply:

"Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership or corporation, but does not include publicly traded companies listed on a national or international stock exchange.

"Interested party" or "Interested parties" means:

- (1) A business entity performing work or service pursuant to, or in furtherance of, the applicable contract, including specifically sub-contractors;
- (2) the person(s) who have an ownership interest equal to or greater than 25% in the business entity performing work or service pursuant to, or in furtherance of, the applicable contract. (This subdivision does not apply to a publicly traded company); and
- (3) the person or business entity, if any, that served as a compensated broker or intermediary to actively facilitate the applicable contract or negotiated the terms of the applicable contract with the state agency. (This subdivision does not apply to persons or business entities performing legal services related to the negotiation or drafting of the applicable contract.)

"State agency" means a board, commission, office, department or other agency in the executive, judicial or legislative branch of state government, including publicly funded institutions of higher education: Provided, that for purposes of *W. Va. Code* § 6D-1-2, the West Virginia Investment Management Board shall not be deemed a state agency nor subject to the requirements of that provision.

The contracting business entity must complete this form and submit it to the contracting state agency prior to contract award and to complete another form within 30 days of contract completion or termination.

This form was created by the State of West Virginia Ethics Commission, 210 Brooks Street, Suite 300, Charleston, WV 25301-1804. Telephone: (304)558-0664; fax: (304)558-2169; e-mail: ethics@wv.gov; website: www.ethics.wv.gov.

West Virginia Ethics Commission Disclosure of Interested Parties to Contracts

(Required by W. Va. Code § 6D-1-2)

Name of Contracting Business Entity: Alpha Records Management, Inc. Address: 216 Business Street
Beckley, WV 25801

Name of Authorized Agent: Gary Hartsog Address: 216 Business St., Beckley, WV 25801

Contract Number: CRFQ SWC21*01 Contract Description: RECORDS MANAGEMENT

Governmental agency awarding contract: WV Purchasing Division

Check here if this is a Supplemental Disclosure

List the Names of Interested Parties to the contract which are known or reasonably anticipated by the contracting business entity for each category below (attach additional pages if necessary):

1. Subcontractors or other entities performing work or service under the Contract

Check here if none, otherwise list entity/individual names below.

Alpha Engineering Services, Inc., provides employees for Alpha Records; both are owned and operated by the same management team.

2. Any person or entity who owns 25% or more of contracting entity (not applicable to publicly traded entities)

Check here if none, otherwise list entity/individual names below.

Gary M. Hartsog, 100% owner of all stock in Alpha Records Management, Inc., and Alpha Engineering Services, Inc.

3. Any person or entity that facilitated, or negotiated the terms of, the applicable contract (excluding legal services related to the negotiation or drafting of the applicable contract)

Check here if none, otherwise list entity/individual names below.

Signature: Gary M. Hartsog

Date Signed: August 20, 2020

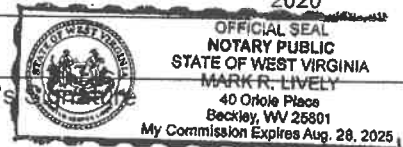
Notary Verification

State of West Virginia, County of Raleigh

I, Gary M. Hartsog, the authorized agent of the contracting business entity listed above, being duly sworn, acknowledge that the Disclosure herein is being made under oath and under the penalty of perjury.

Taken, sworn to and subscribed before me this 20th day of August

Mark R. Lively
Notary Public's



To be completed by State Agency:

Date Received by State Agency: _____

Date submitted to Ethics Commission: _____

Governmental agency submitting Disclosure: _____

STATE OF WEST VIRGINIA
Purchasing Division
PURCHASING AFFIDAVIT

CONSTRUCTION CONTRACTS: Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

ALL CONTRACTS: Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

AFFIRMATION: By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: Alpha Records Management, Inc.

Authorized Signature: *Gary M. Hartwig* Date: August 20, 2020

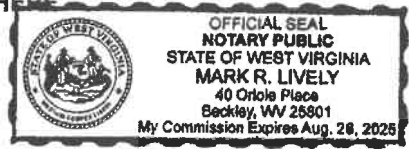
State of West Virginia

County of Raleigh, to-wit:

Taken, subscribed, and sworn to before me this 20 day of August, 2020.

My Commission expires Aug. 28, 2025.

AFFIX SEAL HERE



NOTARY PUBLIC *Mark R. Lively*

Purchasing Affidavit (Revised 01/19/2018)



Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia
Request for Quotation
33 - Service - Misc

Proc Folder: 738719

Doc Description: Statewide Contract for Records Management - (RECMGT21)

Proc Type: Statewide MA (Open End)

Date Issued	Solicitation Closes	Solicitation No	Version
2020-07-31	2020-08-18 13:30:00	CRFQ 0212 SWC2100000001	1

BID RECEIVING LOCATION

BID CLERK
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 WASHINGTON ST E
CHARLESTON WV 25305
US

VENDOR

Vendor Name, Address and Telephone Number:
Alpha Records Management, Inc.
216 Business Street
Beckley, WV 25801
304-255-9060

FOR INFORMATION CONTACT THE BUYER

Mark A Atkins
(304) 558-2307
mark.a.atkins@wv.gov

Signature X

FEIN # 55-071695

DATE August 20, 2020

All offers subject to all terms and conditions contained in this solicitation

ADDITIONAL INFORMATION

The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Office of Technology (WVOT) to establish a Statewide Open-End contract for records management and storage services per the attached documents.

This solicitation is intended to replace the current Statewide Contract for Records Management (RECMGT) expiring 11/30/2020. The RECMGT contract can be viewed on the Purchasing Division's Statewide Contracts page at: <http://www.state.wv.us/admin/purchase/swc/RECMGT.htm>

Note: Please refer to Specification Section 5.2.1 Storage, for additional information.

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Document Storage Services	0.00000	LS		

Comm Code	Manufacturer	Specification	Model #
78131804			

Extended Description :

Document Storage Services:

Note: Vendor shall use Exhibit_A Pricing Page for bid pricing.

If vendor is submitting a bid online, Vendor should enter \$0.00 in the Oasis commodity line.

Vendor shall enter pricing into the Exhibit_A Pricing Page and must attach with bid.

See section 18 of Instructions to Bidders for additional information.

SCHEDULE OF EVENTS

Line	Event	Event Date
1	Technical Questions due by 10:00am EDT	2020-08-06

SWC2100000001	Document Phase Final	Document Description Statewide Contract for Records Management - (RECMGT21)	Page 3 of 3
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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions



Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia
Request for Quotation
33 - Service - Misc

Proc Folder: 738719

Doc Description: ADDENDUM_1 SWC for Records Management - (RECMGT21)

Proc Type: Statewide MA (Open End)

Date Issued	Solicitation Closes	Solicitation No	Version
2020-08-12	2020-08-20 13:30:00	CRFQ 0212 SWC2100000001	2

BID RECEIVING LOCATION

BID CLERK
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 WASHINGTON ST E
CHARLESTON WV 25305
US

VENDOR

Vendor Name, Address and Telephone Number:
Alpha Records Management, Inc.
216 Business Street
Beckley, WV 25801
304-255-9060

FOR INFORMATION CONTACT THE BUYER

Mark A Atkins
(304) 558-2307
mark.a.atkins@wv.gov

Signature X

FEIN # 55-071695

DATE August 20, 2020

All offers subject to all terms and conditions contained in this solicitation

ADDITIONAL INFORMATION:

ADDENDUM_1: Is issued for the following:

1. To extend the bid opening date from 08/18/2020 to 08/20/2020 at 1:30pm EDT.
2. To publish the Agency's response to the questions submitted by Vendors during the Technical Questioning period.

No other changes made.

The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Office of Technology (WVOT) to establish a Statewide Open-End contract for records management and storage services per the attached documents.

This solicitation is intended to replace the current Statewide Contract for Records Management (RECMGT) expiring 11/30/2020. The RECMGT contract can be viewed on the Purchasing Division's Statewide Contracts page at: <http://www.state.wv.us/admin/purchase/swc/RECMGT.htm>

Note: Please refer to Specification Section 5.2.1 Storage, for additional information.

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Document Storage Services	0.00000	LS		

Comm Code	Manufacturer	Specification	Model #
78131804			

Extended Description :

Document Storage Services:

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SCHEDULE OF EVENTS

Line	Event	Event Date
1	Technical Questions due by 10:00am EDT	2020-08-06

SWC2100000001	Document Phase Final	Document Description ADDENDUM_1 SWC for Records Management - (RECMGT21)	Page 3 of 3
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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

GENERAL TERMS AND CONDITIONS:

- 1. CONTRACTUAL AGREEMENT:** Issuance of a Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
- 2. DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.
 - 2.1. "Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
 - 2.2. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.
 - 2.3. "Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.
 - 2.4. "Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.
 - 2.5. "Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.
 - 2.6. "Award Document"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.
 - 2.7. "Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
 - 2.8. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
 - 2.9. "Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

Term Contract

Initial Contract Term: This Contract becomes effective on upon award and extends for a period of Five (5) year(s).

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to Three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Alternate Renewal Term – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

Fixed Period Contract: This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

One Time Purchase: The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

Other: See attached.

4. NOTICE TO PROCEED: Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

Open End Contract: Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

Service: The scope of the service to be provided will be more clearly defined in the specifications included herewith.

Combined Service and Goods: The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

One Time Purchase: This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

BID BOND (Construction Only): Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

PERFORMANCE BOND: The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

LABOR/MATERIAL PAYMENT BOND: The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

MAINTENANCE BOND: The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

LICENSE(S) / CERTIFICATIONS / PERMITS: In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. **INSURANCE:** The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section.

Vendor must maintain:

Commercial General Liability Insurance in at least an amount of: 1,000,000.00 per occurrence.

Automobile Liability Insurance in at least an amount of: 1,000,000.00 per occurrence.

Professional/Malpractice/Errors and Omission Insurance in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

Commercial Crime and Third Party Fidelity Insurance in an amount of: _____ per occurrence.

Cyber Liability Insurance in an amount of: 3,000,000.00 per occurrence.

Builders Risk Insurance in an amount equal to 100% of the amount of the Contract.

Pollution Insurance in an amount of: _____ per occurrence.

Aircraft Liability in an amount of: _____ per occurrence.

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

9. WORKERS' COMPENSATION INSURANCE: The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. [Reserved]

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

_____ for _____

Liquidated Damages Contained in the Specifications

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence with regard to all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

38. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE: This Contract may be utilized by other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"), provided that both the Other Government Entity and the Vendor agree. Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

39. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

40. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.requisitions@wv.gov.

41. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision. The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

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Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

42. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
- c. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
- d. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

43. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a

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“substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

44. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the vendor must submit to the Agency a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

45. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

Gary M. Hartsog, President
 (Name, Title)
 Gary M. Hartsog, President
 (Printed Name and Title)
 216 Business Street, Beckley, WV 25801
 (Address)
 304-255-9060/ 304-255-4156
 (Phone Number) / (Fax Number)
 ghartsog@alpharecords.com
 (email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

Alpha Records Management, Inc.
(Company)

Gary M. Hartsog, President
(Authorized Signature) (Representative Name, Title)

Gary M. Hartsog, President
(Printed Name and Title of Authorized Representative)

August 20, 2020
(Date)

304-255-9060/ 304-255-4156
(Phone Number) (Fax Number)

WV STATE GOVERNMENTHIPAA BUSINESS ASSOCIATE ADDENDUM

This Health Insurance Portability and Accountability Act of 1996 (hereafter, HIPAA) Business Associate Addendum ("Addendum") is made a part of the Agreement ("Agreement") by and between the State of West Virginia ("Agency"), and Business Associate ("Associate"), and is effective as of the date of execution of the Addendum.

The Associate performs certain services on behalf of or for the Agency pursuant to the underlying Agreement that requires the exchange of information including protected health information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the "HITECH Act"), any associated regulations and the federal regulations published at 45 CFR parts 160 and 164 (sometimes collectively referred to as "HIPAA"). The Agency is a "Covered Entity" as that term is defined in HIPAA, and the parties to the underlying Agreement are entering into this Addendum to establish the responsibilities of both parties regarding HIPAA-covered information and to bring the underlying Agreement into compliance with HIPAA.

Whereas it is desirable, in order to further the continued efficient operations of Agency to disclose to its Associate certain information which may contain confidential individually identifiable health information (hereafter, Protected Health Information or PHI); and

Whereas, it is the desire of both parties that the confidentiality of the PHI disclosed hereunder be maintained and treated in accordance with all applicable laws relating to confidentiality, including the Privacy and Security Rules, the HITECH Act and its associated regulations, and the parties do agree to at all times treat the PHI and interpret this Addendum consistent with that desire.

NOW, THEREFORE: the parties agree that in consideration of the mutual promises herein, in the Agreement, and of the exchange of PHI hereunder that:

1. Definitions. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
 - a. Agency Procurement Officer shall mean the appropriate Agency individual listed at: <http://www.state.wv.us/admin/purchase/vrc/agency/il.html>.
 - b. Agent shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).
 - c. Breach shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.

- d. Business Associate shall have the meaning given to such term in 45 CFR § 160.103.
 - e. HITECH Act shall mean the Health Information, Technology for Economic and Clinical Health Act. Public Law No. 111-05. 111th Congress (2009).
 - f. Privacy Rule means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and 164.
 - g. Protected Health Information or PHI shall have the meaning given to such term in 45 CFR § 160.103, limited to the information created or received by Associate from or on behalf of Agency.
 - h. Security incident means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.
 - i. Security Rule means the Security Standards for the Protection of Electronic Protected Health Information found at 45 CFR Parts 160 and 164.
 - j. Subcontractor means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.
2. Permitted Uses and Disclosures.
- a. PHI Described. This means PHI created, received, maintained or transmitted on behalf of the Agency by the Associate. This PHI is governed by this Addendum and is limited to the minimum necessary, to complete the tasks or to provide the services associated with the terms of the original Agreement, and is described in Appendix A.
 - b. Purposes. Except as otherwise limited in this Addendum. Associate may use or disclose the PHI on behalf of, or to provide services to, Agency for the purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original Agreement, or as required by law, if such use or disclosure of the PHI would not violate the Privacy or Security Rules or applicable state law if done by Agency or Associate, or violate the minimum necessary and related Privacy and Security policies and procedures of the Agency. The Associate is directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Agency.
 - c. Further Uses and Disclosures. Except as otherwise limited in this Addendum, the Associate may disclose PHI to third parties for the purpose of its own proper management and administration, or as required by law, provided that (I) the disclosure is required by law, or (II) the Associate has obtained from the third party reasonable assurances that the PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party by the Associate; and, (III) an agreement to notify the Associate and Agency of any instances of which it (the third party) is

aware in which the confidentiality of the information has been breached. To the extent practical, the information should be in a limited data set or the minimum necessary information pursuant to 45 CFR § 164.502, or take other measures as necessary to satisfy the Agency's obligations under 45 CFR § 164.502.

3. Obligations of Associate

- a. **Stated Purposes Only.** The PHI may not be used by the Associate for any purpose other than as stated in this Addendum or as required or permitted by law.
- b. **Limited Disclosure.** The PHI is confidential and will not be disclosed by the Associate other than as stated in this Addendum or as required or permitted by law. Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI unless Agency gives written approval and the individual provides a valid authorization. Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Associate will report to Agency any use or disclosure of the PHI, including any Security Incident not provided for by this Agreement of which it becomes aware.
- c. **Safeguards.** The Associate will use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the PHI, except as provided for in this Addendum. This shall include, but not be limited to:
 - I. Limitation of the groups of its workforce and agents, to whom the PHI is disclosed to those reasonably required to accomplish the purposes stated in this Addendum, and the use and disclosure of the minimum PHI necessary or a Limited Data Set;
 - II. Appropriate notification and training of its workforce and agents in order to protect the PHI from unauthorized use and disclosure;
 - III. Maintenance of a comprehensive, reasonable and appropriate written PHI privacy and security program that includes administrative, technical and physical safeguards appropriate to the size, nature, scope and complexity of the Associate's operations, in compliance with the Security Rule;
 - IV. In accordance with 45 CFR § 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
- d. **Compliance With Law.** The Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to, the Privacy and Security Rules.

- e. Mitigation. Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the PHI by Associate in violation of the requirements of this Addendum and report its mitigation activity back to the Agency.
- f. Support of Individual Rights.
- I. Access to PHI. Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying, and in electronic format, if requested, within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.
 - II. Amendment of PHI. Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.
 - III. Accounting Rights. Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.528 and consistent with Section 13405 of the HITECH Act. Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:
 - the date of disclosure;
 - the name of the entity or person who received the PHI, and if known, the address of the entity or person;
 - a brief description of the PHI disclosed; and
 - a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
 - IV. Request for Restriction. Under the direction of the Agency, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section

13405 of the HITECH Act and 45 CFR § 164.522, when the Agency determines to do so (except as required by law) and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."

- V. Immediate Discontinuance of Use or Disclosure. The Associate will immediately discontinue use or disclosure of Agency PHI pertaining to any individual when so requested by Agency. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.
- g. Retention of PHI. Notwithstanding Section 4.a. of this Addendum, Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.f. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. Agent's, Subcontractor's Compliance. The Associate shall notify the Agency of all subcontracts and agreements relating to the Agreement, where the subcontractor or agent receives PHI as described in Section 2.a. of this Addendum. Such notification shall occur within 30 (thirty) calendar days of the execution of the subcontract and shall be delivered to the Agency Procurement Officer. The Associate will ensure that any of its subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder. The Agency may request copies of downstream subcontracts and agreements to determine whether all restrictions, terms and conditions have been flowed down. Failure to ensure that downstream contracts, subcontracts and agreements contain the required restrictions, terms and conditions may result in termination of the Agreement.
- i. Federal and Agency Access. The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504. The Associate shall also make these records available to Agency, or Agency's contractor, for periodic audit of Associate's compliance with the Privacy and Security Rules. Upon Agency's request, the Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Associate's subcontractors, if any.
- j. Security. The Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI. In addition, compliance with 74 FR 19006 Guidance Specifying the Technologies and Methodologies that render PHI Unusable, Unreadable, or Indecipherable to Unauthorized individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XIII is required, to the extent practicable. If Associate chooses not to adopt such methodologies as defined in 74 FR 19006 to secure the PHI governed by this Addendum, it must submit such written rationale, including its Security

Risk Analysis, to the Agency Procurement Officer for review prior to the execution of the Addendum. This review may take up to ten (10) days.

- k. Notification of Breach. During the term of this Addendum, the Associate shall notify the Agency, Records Management Program Manager, and, unless otherwise directed by the Agency in writing, the WV Office of Technology immediately by email or web form upon the discovery of any Breach of unsecured PHI; or within 24 hours by email or web form of any suspected Security Incident, Intrusion or Unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data effecting this Agreement. Notification shall be provided to the Agency Procurement Officer at www.state.wv.us/admin/purchase/vrc/agencyll.htm and, unless otherwise directed by the Agency in writing, the Office of Technology at incident@wv.gov or <https://apps.wv.gov/ot/lr/Default.aspx>. Notification to the Records Management Program Manager will be made via their supplied email address.

The Associate shall immediately investigate such Security Incident, Breach or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, the Associate shall notify the Agency Procurement Officer and Record Management Program Manager, and, unless otherwise directed by the Agency in writing, the Office of Technology of: (a) Date of discovery; (b) What data elements were involved and the extent of the data involved In the Breach; (c) A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data; (d) A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized; (e) A description of the probable causes of the improper use or disclosure; and (f) Whether any federal or state laws requiring individual notifications of Breaches are triggered.

Agency will coordinate with Associate to determine additional specific actions that will be required of the Associate for mitigation of the Breach, which may include notification to the individual or other authorities.

All associated costs shall be borne by the Associate. This may include, but not be limited to costs associated with notifying affected individuals.

If the Associate enters into a subcontract relating to the Agreement where the subcontractor or agent receives PHI as described in Section 2.a. of this Addendum, all such subcontracts or downstream agreements shall contain the same incident notification requirements as contained herein, with reporting directly to the Agency Procurement Officer. Failure to include such requirement in any subcontract or agreement may result in the Agency's termination of the Agreement.

- l. Assistance in Litigation or Administrative Proceedings. The Associate shall make itself and any subcontractors, workforce or agents assisting Associate in the performance of its obligations under this Agreement, available to the Agency at no cost to the Agency to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Agency, its officers or employees based upon claimed violations of

HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inaction or actions by the Associate, except where Associate or its subcontractor, workforce or agent is a named as an adverse party.

4. Addendum Administration.

- a. Term. This Addendum shall terminate on termination of the underlying Agreement or on the date the Agency terminates for cause as authorized in paragraph (c) of the Section, whichever is sooner.
- b. Duties at Termination. Upon any termination of the underlying Agreement, the Associate shall return or destroy, at the Agency's option, all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents and subcontractors to assist the Agency with any HIPAA required accounting of disclosures survives the termination of the underlying Agreement.
- c. Termination for Cause. Associate authorizes termination of this Agreement by Agency, if Agency determines Associate has violated a material term of the Agreement. Agency may, at its sole discretion, allow Associate a reasonable period of time to cure the material breach before termination.
- d. Judicial or Administrative Proceedings. The Agency may terminate this Agreement if the Associate is found guilty of a criminal violation of HIPAA. The Agency may terminate this Agreement if a finding or stipulation that the Associate has violated any standard or requirement of HIPAA/HITECH, or other security or privacy laws is made in any administrative or civil proceeding in which the Associate is a party or has been joined. Associate shall be subject to prosecution by the Department of Justice for violations of HIPAA/HITECH and shall be responsible for any and all costs associated with prosecution.
- e. Survival. The respective rights and obligations of Associate under this Addendum shall survive the termination of the underlying Agreement.

5. General Provisions/Ownership of PHI.

- a. Retention of Ownership. Ownership of the PHI resides with the Agency and is to be returned on demand or destroyed at the Agency's option, at any time, and subject to the restrictions found within Section 4.b. above.
- b. Secondary PHI. Any date or PHI generated from the PHI disclosed hereunder which would permit identification of an individual must be held confidential and is also the property of Agency.

- c. Electronic Transmission. Except as permitted by law or this Addendum, the PHI or any data generated from the PHI which would permit identification of an individual must not be transmitted to another party by electronic or other means for additional uses or disclosures not authorized by this Addendum or to another contractor, or allied agency, or affiliate without prior written approval of Agency.
- d. No Sales. Reports or data containing the PHI may not be sold without the Agency's or the affected individual's written consent.
- e. No Third-Party Beneficiaries. Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Agency, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. Interpretation. The provisions of the Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The interpretation of this Addendum shall be made under the laws of the state of West Virginia.
- g. Amendment. The parties agree that to the extent necessary to comply with applicable law they will agree to further amend this Addendum.
- h. Additional Terms and Conditions. Additional discretionary terms may be included in the release order or change order process.

AGREED:

Name of Agency: West Virginia Office of Technology

Name of Associate: Alpha Records Management, Inc.

Signature: _____

Signature: Gary M. Hartzog

Title: _____

Title: President

Date: _____

Date: August 20, 2020

EXHIBIT A

Name of Associate: Alpha Records Management, Inc.

Name of Covered Entity: **West Virginia Public Employees Insurance Agency, Department of Health and Human Resources, Department of Veterans Assistance, WV Office of Technology**

Describe the PHI:

Any individually identifiable health information held or maintained by the above covered entities, or information that could be combined with other information to identify an individual, including information related to an individual's health condition, the provision of care to the individual, payment information for the provision of healthcare. The PHI may be past, present or future protected health information of an individual in the context of this agreement. The PHI may contain individual identifiers including name, address, birthdate or Social Security numbers. This information includes but is not limited to medical records data, including account numbers, health insurance information, testing, lab results or diagnostic information, health status, medical history including past physical or mental health conditions, healthcare providers rendering services.

SOLICITATION NUMBER: CRFQ 0212 SWC2100000001 Addendum Number: 1

The purpose of this addendum is to modify the solicitation identified as CRFQ 0212 SWC2100000001 ("Solicitation") to reflect the change(s) identified and described below.

Applicable Addendum Category:

- Modify bid opening date and time
- Modify specifications of product or service being sought
- Attachment of vendor questions and responses
- Attachment of pre-bid sign-in sheet
- Correction of error
- Other

Description of Modification to Solicitation:

1. To extend the bid opening date from 08/18/2020 to 08/20/2020 at 1:30pm EDT.
2. To publish the Agency's response to the questions submitted by Vendors during the Technical Questioning period.

No other changes made.

Additional Documentation: Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Addendum_1

CRFQ 0212 SWC2100000001
RECMGT21
Technical Question Response

Attachment_A

Question #1: Due to the large value and significant scope of this solicitation, I would like to formally request the State's consideration in extending the current due date of 18 August 2020 until 2 September 2020. Such an extension will allow all potential vendors a sufficient amount of time to adequately address this substantial solicitation while ensuring that the State receives back durable and reliable responses from the greatest number of potential bidders.

Response #1: The State will extend the bid opening day and time to 08/20/2020 at 1:30pm EDT.

Question #2: The "Exhibit_A" Pricing Page indicates approximately 195,000 cubic feet of records to be transferred and stored. The RFQ has a provision requiring adequate storage for future increases in records stored. *Is there an estimate available, perhaps year-by-year, for the volumes that may be required?*

Response #2: We do not anticipate any significant increase. The volume of storage the past three years was 2017- 195,693 cartons, 2018- 189,791 cartons and 2019- 192,493 cartons.

Question #3: For Contract Items (5.2.5.1 #5, (5.2.7.1) #7, and (5.2.8.1) #8 there is a cost per box for pick-up and delivery to state agency offices, wherever located in West Virginia. *Is it intended that this cost, cover transportation and handling as well as pulling and refiling the box when returned?*

- a. *If there are no transportation cost in addition to the pick-up/delivery cost noted above, is there an estimate or history of where boxes are generally delivered in the state (by city) and how often?*

Response #3: Yes, the cost per box must be all inclusive.

Response #3a: An estimate is not available. Historically, documents are mostly delivered in the Charleston metro area.

Question #4: *Is there any assurance that a New Vendor, transferring the records from the Current Vendor, will have adequate cooperation from the Current Vendor to make an efficient and effective transfer?*

Response #4: The state anticipates full cooperation from the current vendor.

Question #5: *Will an accurate index of existing records be available to a New Vendor prior to the transfer of the records from the Current Vendor?*

Response #5: The state will work with the current vendor and the State agencies utilizing record storage to provide an accurate and complete index.

Addendum_1

CRFQ 0212 SWC210000001
RECMGT21
Technical Question Response

Attachment_A

Question #6: 5.2.6.1 – Indexing of all new Records – Please explain the indexing requirements.

- a. Will the West Virginia approved user enter the carton/file information in a web-based application or complete a form of the metadata provided by the vendor?
- b. Or is it the expectation that the vendor will open the carton and work to identify the contents of the carton?
- c. Will there be a requirement that the vendor capture each file information in a carton – if so please provide an average number of files per carton and fields to be indexed.

Response #6a: The user will enter the carton/file information in the method requested by the vendor.

Response #6b: See Response #6a

Response #6c: No

Question #7: 5.2.7 The vendor must retrieve any record and hand deliver to the authorized agency personnel. Does this mean the expectation is that the vendor will have access to the facilities to make deliveries to an office?

Response #7: It is expected that the vendor will arrange delivery with the requesting agency and comply with an agency's access policies.

Question #8: 5.2.8.1 Emergency Retrieval and Delivery. You have asked for this as a per box price would you consider as a per trip price with a maximum number of cartons? Example – Emergency trip with a maximum of 10 cartons.

Response #8: No. Emergency retrieval and delivery will be charged by box as required in the solicitation.

Question #9: The proposal references microfilm but there is not a request for the storage of the material?

Response #9: The state considers microfilm a record and expects it will be stored and charged as per Cubic Foot of space required for storage.

Question #10: 5.2.9 Secure Area – There is a request to provide a secure area to review records, however there is not a price for the retrieval and refile of the requested cartons. Can pricing be added for the retrieval and refile from the vendor's site for records viewing?

Response #10: No, all costs will be included in the Per Box retrieval fee regardless of where files are viewed.

Addendum_1

CRFQ 0212 SWC2100000001
RECMGT21

Attachment_A

Technical Question Response

Question #11: Image of Demand – There isn't a place to provide pricing for image on demand – meaning can we offer to image information for West Virginia users and provide the file or carton back electronically – Pricing Minimum for first 50 pages and then per image?

Response #11: No imaging of records will be permitted under this contract.

Question #12: Can the vendor provide a complete price list of all record management services/supplies available to the State? As an example if the State would request a larger carton it would be nice to be able to support the request.

Response #12: No, only commodities/services specifically listed in the RFQ may be provided under this contract.

Question #13: What are the States payment terms?

Response #13: Per General Terms and Conditions:

#14 PAYMENT IN ARREARS: Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears.

#15 PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administer under contract by a banking institution, process payment for goods and services through state designated credit cards.)

Question #14: Will the State consider separating line items for retrieval and delivery?

Response #14: No, as the pricing will be the same for both services.

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ 0212 SWC210000001

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

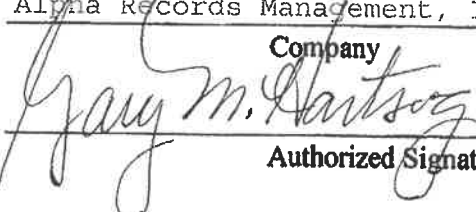
Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:
(Check the box next to each addendum received)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Alpha Records Management, Inc.

 Company


 Authorized Signature
 August 20, 2020

 Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

AMENDMENT TO REQUEST FOR QUOTATION
Statewide Contract for Records Management
STATE OF WEST VIRGINIA

REQUEST FOR QUOTATION
(RECMGT21)
CRFQ 0212 SWC2100000001

Dated: August 20, 2020

In the event that the State of West Virginia (the "State" or "Customer") awards a contract to Alpha Records Management, Inc., ("ARM" or "Vendor") as a result of this Request for Quotation (RFQ) the terms and conditions of such resulting contract (Agreement) shall be amended to include the following additional terms and conditions (Vendor Terms). In the event of a conflict between the below stated Vendor Terms and the terms and conditions set forth in the Agreement, the Vendor Terms set forth below shall be deemed to be the controlling terms and conditions.

1. **Limitation of Liability**. Notwithstanding anything to the contrary in this Agreement or any document referenced herein, this section entitled "**Limitation of Liability**" shall control with respect to ARM's Liability in connection with the Deposits and related data. For the purposes of this Agreement, Customer declares the following values for the items stored under this Agreement (Deposits):
 - a. for hard-copy records, \$1.00 per carton, linear foot of open-shelf files or other storage pricing unit, and
 - b. for media, the cost of replacing the physical item (each a Declared Value).

Customer acknowledges that it has declined to declare an excess valuation, for which an excess valuation fee would have been charged. ARM shall not be liable under this Agreement, with respect to any claims related to the Deposits and data therein or with respect to any non-storage service or electronic storage services performed, unless ARM fails to exercise such care as a reasonably careful person would exercise under like circumstances. If liable, the amount of ARM's Liability with respect to Deposits and related data is limited to the Declared Value set forth above. Deposits and data are not insured by ARM against loss or damage, however caused. If Deposits and/ or data are placed by the State of West Virginia in the custody of a third-party carrier for transportation the carrier shall be solely responsible for any claim related to the Deposits and/or data while in the custody of the carrier. In no event shall either party be liable for any consequential, incidental, special or punitive damage, or for loss of profits or loss or interruption of business, or the loss of recreating any data or information, regardless of whether an action is brought in tort, contract or under any other

theory of liability. This section is not intended to, and shall not be construed as, excluding or limiting any liability contrary to applicable law or public policy, including by way of example liability for death or bodily injury, with respect to which the parties acknowledge are not subject to the foregoing limitation. If applicable law or public policy renders any portion of this section unenforceable or invalid, the remainder of the section shall remain in full force and effect.

ARM takes no responsibility for the contents and the presence or absence of a particular file within a carton unless such file has been inventoried by ARM and that inventory listing provided to the Customer.

Additionally, this section does not apply to a data breach attributable to lost, stolen or improperly viewed records. In the event that a record is lost, stolen or improperly viewed, ARM will be responsible for costs reasonably required to mitigate the consequences of such breach.

2. **Operational Procedures**. Customer shall comply with ARM's reasonable operational requirements, as modified from time to time, regarding cartons, carton integrity, deliver/pickup volumes, preparation for pickup, security, secure shredding protocols, access and similar matters. Extraordinary volume requests may involve additional costs, such as overtime, which customer will pay at ARM's overtime rates, provided Customer consents to such costs in advance.
3. **Governmental Orders**. ARM is authorized to comply with any subpoena or similar order related to the materials provided to it by Customer, at Customer's expense, provided that ARM notifies Customer promptly upon receipt thereof, unless such notice is prohibited by law. ARM will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.
4. **Ownership Warranty**. Customer warrants that it is the owner or legal custodian of the materials provided to ARM and has full authority to direct their disposition in accordance with the terms of this Agreement. Customer shall reimburse ARM for any expenses reasonably incurred by ARM (including reasonable legal fees) by reason of ARM's compliance with the instructions of Customer in the event of a dispute concerning the ownership, custody or disposition of Customer's materials provided by Customer to ARM.
5. **Safe Material and Premises**. Customer shall not store with ARM nor deliver to ARM for shredding and material that is highly flammable, explosive, hazardous, toxic, radioactive, medical waste, organic material which may attract vermin or insects, or otherwise dangers or unsafe to store or handle, or any material which is regulated under any federal or state law or regulation relating to the environment. Customer shall not store negotiable instruments, jewelry, check

stock or other items that have intrinsic value. Any Customer premises where ARM employees perform services or make deliveries hereunder shall be free of hazardous substances and any other hazardous or dangerous conditions.

6. **Force Majeure.** In no event shall either Party be liable for delay or inability to perform caused by acts of God, governmental actions, labor unrest, acts of terrorism, riots, unusual traffic delays or other causes beyond its reasonable control.

7. **Performance of Services by Affiliates.** ARM may subcontract, delegate and/or assign its obligations under this Agreement, in whole or in part, to an affiliate of ARM. An affiliate means any entity controlling, controlled by, under common control with or having a common parent with ARM. ARM acknowledges that it shall remain directly liable to the Customer for the performance of any and all such delegated obligations.

ARM uses persons employed by Alpha Engineering Services, Inc. (AES) of Beckley, WV to perform tasks for ARM. AES and ARM have the same employment personnel policies and practices and have the same ultimate ownership.

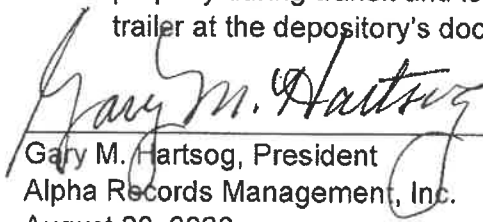
8. **Paper Destruction Services.** In accordance with Specification 5.2.10.2, alternately, the paper is shredded in ½ inch strips and immediately compressed and baled in (approximately)1500 lb. bales. It is stored in a safeguarded location until it is transported by truck to a mill for immediate recycling by pulping into feedstock for other paper products.

9. **Destruction of Microfilm.** In accordance with 5.2.11.3, Microfilm and microfiche will be either shredded to 1/35 x 3/8-inch strips or incinerated.

10. **Facility Requirements.** ARM is in the process of expanding ARM's capacity to store materials and will have adequate space to store the Customer's 200,000 cubic feet of existing records and will have capacity to expand this storage as Customer's storage requirements increase. If increase of more than 5% or 10,000 cubic feet is anticipated during any future three-month period Customer will advise Vendor of such anticipated increase and allow at least six (6) months to ensure proper storage space is available for Customer.

11. **Transfer Existing Records to ARM's Storage Facility.** Customer will ensure that the transfer of records from the current depository will be facilitated in a timely and cooperative manner. Records being transferred from the current depository will be on standard pallets, typically 48 standard cartons per pallet, stacked with identifying markings and/or labels visible and readable without

unstacking the cartons, shrink-wrapped to ensure the cartons will stay stacked properly during transit and loaded by depository's personnel on ARM's tractor trailer at the depository's dock.



Gary M. Hartsog, President
Alpha Records Management, Inc.
August 20, 2020