



CONTRACT

(fee-for-service contract with an individual, business, non-profit, or governmental entity of another state)

Begin Date 7/14/11	End Date 7/13/14	Agency Tracking # 32117-00111	Edison Record ID 25930
Contractor Legal Entity Name Richards & Richards Office Records Management, Inc.			Edison Vendor ID 0000075924

Service Caption (one line only)
Storage and management of the State's records

Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	CFDA #
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Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2012			\$350,000.00		\$350,000.00
2013			\$350,000.00		\$350,000.00
2014			\$90,870.00		\$90,870.00
TOTAL:			\$790,870.00		\$790,870.00

American Recovery and Reinvestment Act (ARRA) Funding: YES NO

Ownership/Control

African American
 Asian
 Hispanic
 Native American
 Female
 Person w/Disability
 Small Business
 Government
 NOT Minority/Disadvantaged
 Other:

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

RFP The procurement process was completed in accordance with the approved RFP document and associated regulations.
 Competitive Negotiation The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.
 Alternative Competitive Method The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.
 Non-Competitive Negotiation The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.
 Other The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with all interested parties or all parties in a predetermined "class."

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Ronald A. Plumb

OCR USE - FA

FA1236198

Speed Chart (optional)	Account Code (optional)	Contract #
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**CONTRACT
 BETWEEN THE STATE OF TENNESSEE,
 DEPARTMENT OF GENERAL SERVICES
 AND
 RICHARDS & RICHARDS OFFICE RECORDS MANAGEMENT, INC.**

This Contract, by and between the State of Tennessee, Department of General Services, hereinafter referred to as the "State" and Richards & Richards Office Records Management, Inc., hereinafter referred to as the "Contractor," is for the provision of State Records Storage and Management Services, as further defined in the "SCOPE OF SERVICES."

The Contractor is a for-profit corporation.
 Contractor Federal Employer Identification Number: 62-1397961
 Contractor Place of Incorporation or Organization: Tennessee

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2. The Contractor shall, as applicable:
 - Ensure secure storage of State of Tennessee records
 - Establish and maintain an electronic database of State records
 - Allow, by authorized State staff, pickup and delivery of records
 - Provide appropriate space at its location, for authorized State staff to review records
 - Deliver trainings that, at a minimum, prepare assigned State staff for access to and use of the electronic database
- A.3. More specifically, Contractor deliverables shall include the following:
 - a. *Account Representation:* The Contractor shall appoint a representative for the State, as a primary point of contact who shall ensure a high level of responsiveness to the State's records storage needs.
 - b. *Processing of State Records containers:* The Contractor shall work with the State to ensure complete and accurate processing of State Records containers. Processing shall consist of acceptance, labeling, input to its electronic database, and stocking of containers. Electronic inventory is to be updated every 24 hours. Database fields shall include:
 - (1) Barcode (containing no leading zeroes)
 - (2) Foremost Number (if applicable)
 - (3) Contents Start Date
 - (4) Contents End Date
 - (5) Contents Range Start (if applicable)
 - (6) Contents Range End (if applicable)
 - (7) Description
 - (8) Records Disposition Authority (RDA) number, which shall be a required field of ten (10) alpha/numeric characters.
 - (9) Agency Name, which shall be populated by drop-down selection containing Agency ID
 - (10) Agency ID (for example, 321.00)
 - (11) Department ID (for example, 32101)
 - (12) Date Added to Storage
 - (13) Date Removed from Storage (if applicable)
 - (14) Edit Date (if applicable)
 - (15) Editor ID (if applicable)
 - (16) Container Type
 - (17) Status
 - (18) Location
 - (19) Total Number of Boxes
 - (20) Detail of boxes damaged during transfer, and subsequently replaced
 - (21) RDA-required destruction date



- c. The Contractor shall exercise good faith cooperation with the State to ensure improvement of the records management database. This shall include, but not necessarily be limited to capture and use of the State's RDA numbers, in a database field that:
- (1) Allows drop-down functionality;
 - (2) Accommodates a 10-digit alpha-numeric input; and
 - (3) Requires RDA input before a data save is allowed.
- d. *Barcoding of "Recovered" containers:* Following the May 2010 flooding, a number of boxes were shipped to a records recovery Contractor. As those are returned, the Contractor will be required to:
- (1) Assign a barcode (as is required for all boxes);
 - (2) Include a separate indicator that the container was "Recovered";
 - (3) Record in its electronic database any identified and barcoded "Foremost" number labeled on each container. This Foremost number should be recorded in the Contractor's database as an "Alternate ID" to the Contractor's unique identifier.
- e. *Records Access:* In the course of daily operations, the Contractor will not be required to pickup storage containers from nor deliver them to State office locations. These will remain State responsibilities. However, the Contractor shall make accommodations for the following:
- (1) State employee retrieval of storage containers, when requested and authorized by the established method not later than 2 PM Central time, by 8 AM on the next business day.
 - (2) Emergency requests, when submitted and authorized by the established method, shall be processed on the day of request.
 - (3) New and return storage container submissions, when received by 2 PM Central time, shall be systematically processed and ready for physical receipt by 8 AM on the next business day.
 - (4) Applicable and appropriate space, at the Contractor's facility, for the purpose of viewing retrieved records, by authorized individuals. Accommodation shall include, at no additional cost to the State:
 - i. table or desk and chair(s)
 - ii. access to a copier, fax machine, laptop or PC with internet access, and scanner
 - (5) Emergency weekend retrieval when appropriately authorized.
 - (6) Applicable logs and receipts are maintained, detailing pickups and deliveries, for verification and audit purposes.
- f. *Restocking:* The Contractor shall accommodate the State's demand for return storage containers, by restocking as applicable and appropriate.
- g. *Standard Report Requirements:* The Contractor shall ensure the following reporting functionality:
- (1) A database download/export shall be available to State staff weekly; its availability shall be likewise weekly communicated to designated State staff.
 - (2) A standard inventory report shall be available to authorized State users, at no additional cost to the State, via the internet, and shall include all fields specified under Contract Section A.3.b.
 - (3) A standard RDA report shall be available to authorized State users, at no additional cost to the State, via the internet.
 - (4) Users shall have the ability to search, and to narrow searches, by any field contained in the electronic database.
 - (5) Reports shall be printable.
- h. *Storage Containers:* The Contractor shall accommodate the State's requirements relative to storage container type, size, and total number. Containers in use by the State are corrugated cardboard, and inventory varies by size.
- i. *File Tracking:* Expired operational policies and flood-related cleanup have created the potential for loose files to be returned to storage from agencies or from the records restoration contractor, without any indication as to which storage box they belong. Current policy prohibits retrieval of individual files. However, residual loose files will exist, and the Contractor will be required, to allow access by appropriate State staff, to research their correct storage, and to file accordingly.

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- j. *Pallet Sort Space:* The Contractor shall provide floor space to accommodate at least 30 pallets, for a period of time not currently defined, but expected to last not longer than two years. This space will be utilized as long as shipments are being received from the records restoration Contractor. Because some of the pallet contents are not yet identified, State records management staff will use this space to stage, verify, and sort pallets upon arrival from the records restoration contractor.
- k. *Training:* With input from the Warehouse and Distribution Services Division management team, the Contractor shall develop instruction on use of its records electronic database. The Contractor shall then deliver training to assigned State Records Officers and Records Coordinators, which shall meet the following requirements:
- (1) Training shall be provided at no cost to the State, either at the Contractor's facility or online.
 - (2) Method of delivery – computer-based vs. classroom – shall be left to the discretion of the Contractor, in consultation with Warehouse and Distribution Services Division management.
 - (3) Training shall be delivered initially to all Records Officers and Coordinators, and then as-needed for newly assigned Officers and Coordinators, or as the database changes.
 - (4) Records Officers and Coordinators shall be required to attend training prior to being authorized to access the system.
 - (5) Training material shall be reviewed and approved by Records Management staff before initial training begins. Training material will be added to the electronic database instruction material as needed.
- l. *Permanent Removal of Records:* The Contractor shall have the capacity, through an acceptable report, to certify permanent removal of State records. This report must contain the following data elements:
- (1) Original date and time the container was entered to storage
 - (2) Date, time, and User ID for any check out
 - (3) Date, time, and User ID for any check-in
 - (4) Date, time, and User ID for any electronic document modification (when the container information is modified in the electronic database)
 - (5) Date, time, and User ID for permanent removal
 - (6) Once a container is permanently removed, those documents should be "hidden" from the rest of the inventory, yet still documented for permanent record.
 - (7) An agency should be able to query for permanently removed containers.
- m. *Lost Boxes/Files:* The Contractor agrees and commits to the following:
- (1) Any box or file not located and delivered in the expected timeline will be considered by the State to be lost or stolen.
 - (2) The Contractor shall have a written policy/resolution plan for lost or stolen storage containers.
 - (3) The policy/plan must include, but is not limited to, notifications, location, escalation, timelines and status updates to both the State contract administrator and the applicable State agency.
- n. *Secure Storage and Facility Standards:* The Contractor shall ensure that its storage facility's infrastructure is adequate for the purpose of storing State of Tennessee records, by requiring, at a minimum:
- (1) Solid construction;
 - (2) Secure loading and unloading areas;
 - (3) Floors capable of supporting at least 300 pounds per square foot;
 - (4) Floors above ground level;
 - (5) Walls rated fire resistant;
 - (6) Adequate fire suppression systems; the facility and the storage room shall have fire detection devices and alarms installed and fully operational;
 - (7) Compliance with all applicable standards required by the National Fire Protection Association;
 - (8) It shall not be located in close proximity to hazardous materials or in an area in which there is a risk for fire, smoke, explosion, flood, seismic activity or wind damage;



- (9) Adequate security systems in place 24 hrs per day, every day, which shall include an efficient intrusion alarm system covering at least all doors, windows, vents, etc., that could provide access into the facility;
- (10) Motion sensors to prevent theft;
- (11) All fire, intrusion alarms are electronically linked to a 24 hour/7day response service;
- (12) Adequate capacity for current and future State needs;
- (13) A written disaster recovery plan for any reasonably possible natural or manmade disaster;
- (14) Applicable and adequate rodent and insect protection;
- (15) A secure and efficient locking system, for the facility in general and the storage area in particular.

o. *Facility Visitors:* The Contractor shall ensure that its facility is adequately secure by requiring the following at a minimum:

- (1) Access to the storage area must be strictly limited with identification tags supplied by the Contractor for its staff.
- (2) Any facility visitors must sign in/out and logs must be maintained.
- (3) Visitors must be escorted at all times. The visitor logs must be available for viewing by applicable State authority(ies).
- (4) The Contractor shall provide for on-site review of State records stored at the Contractor's facility during normal business hours. No additional fees, other than any standard retrieval, photocopying, or fax transmission fees may be assessed for on-site review of records.

p. *Optional Services:* The Contractor shall make available to the State, upon request, the following optional services:

- (1) Destruction of records by shredding.
- (2) Delivery of State records storage containers.

q. *End Term Transition Services:*

- (1) The Contractor recognizes that the services provided under this contract are important to the State's overall business and upon its expiration or termination, a successor may assume these services for the State. The Contractor shall assist with an orderly and efficient transition to such successor. The Contractor agrees to provide continuing services as the State transitions to receive such services from the successor. The services required are those defined under this contract.
- (2) Within ninety (90) days of the Contract End Date, whether by expiration or termination, the Contractor shall assist the State to ensure an orderly transfer of responsibility and/or continuity of those services required under the term of the contract for the succeeding contract period. The Contractor shall discontinue providing the service or accepting new assignments under the terms of this contract, in a manner and on the date specified by the State, in order to ensure the completion of such service prior to the termination of the contract.
- (3) *Permanent Removal:* At termination of this contract, the Contractor shall make available for removal all stored records at the Contractor's facility, on a date or dates designated by the State. Permanent Removal shall be completed at the rate specified in contract section C.3.

A.4. The Contractor shall maintain a database – as required under Contract Section A.3.c. – all State records data received, generated, recorded, or otherwise produced during the term of this Contract, and shall provide a methodology satisfactory to the State for archiving and retrieving the data, at no additional cost to the State.

- a. At contract termination, all historical data shall remain the property of the State and shall be returned to the State, at no additional cost to the State, within 90 days of termination, in an electronic database format acceptable to the State (i.e., Excel, Access, etc.).

B. CONTRACT PERIOD:

- B.1. This Contract shall be effective for the period beginning July 14, 2011 and ending on July 13, 2014. The Contractor hereby acknowledges and affirms that the State shall have no obligation for



services rendered by the Contractor which were not performed within this specified contract period.

- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of a contract amendment. If a term extension necessitates additional funding beyond that which was included in the original Contract, an increase of the State's maximum liability will also be effected through contract amendment, and shall be based upon payment rates provided in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **Seven Hundred Ninety Thousand, Eight Hundred Seventy Dollars (\$790,870)**. The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.



b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Contract Reference	Cost Item Description	State's Cost				
		Year 1: July 14, 2011 through July 13, 2012	Year 2: July 14, 2012 through July 13, 2013	Year 3: July 14, 2013 through July 13, 2014	Year 4: July 14, 2014 through July 13, 2015	Year 5: July 14, 2015 through July 13, 2016
1. A.3.h.: Monthly charge to State for storage of inventory:	1.0 cubic foot container	\$0.159/container	\$0.159/container	\$0.159/container	\$0.159/container	\$0.159/container
	1.5 cubic foot container	\$0.2385/container	\$0.2385/container	\$0.2385/container	\$0.2385/container	\$0.2385/container
	2.0 cubic foot container	\$0.318/container	\$0.318/container	\$0.318/container	\$0.318/container	\$0.318/container
	2.5 cubic foot container	\$0.3975/container	\$0.3975/container	\$0.3975/container	\$0.3975/container	\$0.3975/container
2. A.3.e.(1)	All-inclusive cost to retrieve a storage container	\$2.00/container	\$2.00/container	\$2.00/container	\$2.00/container	\$2.00/container
3. A.3.f.	All-inclusive cost to restock a storage container	\$2.00/container	\$2.00/container	\$2.00/container	\$2.00/container	\$2.00/container
4. A.3.b., A.3.d.	Cost of initial processing of a container into storage, including bar coding, data entry, labeling, handling, and any other steps associated with processing a single new storage container	\$2.00/container	\$2.00/container	\$2.00/container	\$2.00/container	\$2.00/container
5. A.3.e.(2)	Emergency retrieval of storage container (after hours, weekends, or holidays)	\$125.00/container	\$125.00/container	\$125.00/container	\$125.00/container	\$125.00/container
6. A.3.l., A.3.q.(3)	Permanent Removal and certification of removal of a container from the Contractor's facility.	\$7.25/cubic foot				
7. A.3.i.	File Tracking	\$0.02/file	\$0.02/file	\$0.02/file	\$0.02/file	\$0.02/file
8. A.3.p.(1)	Shredding, per cubic foot	\$1.00/cu. ft.				
9. A.3.e.(1)	Retrieval of container for destruction	\$2.00/container	\$2.00/container	\$2.00/container	\$2.00/container	\$2.00/container
10. A.3.p.(2)	Delivery Fee	\$10/1 st box and \$1.00 each additional box	\$10/1 st box and \$1.00 each additional box	\$10/1 st box and \$1.00 each additional box	\$10/1 st box and \$1.00 each additional box	\$10/1 st box and \$1.00 each additional box

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C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Ron Plumb, Director Office of Financial Management
 Department of General Services
 665 Mainstream Dr., 2nd Floor
 Nashville, TN 37243
Ron.plumb@tn.gov
 Telephone) 615-532-7272
 Fax) 615-532-2305

Stacey Hooper, Director, Warehousing & Distribution Division
 6500 Centennial Blvd.
 Nashville, TN 37243-8020
Stacey.hooper@tn.gov
 Telephone) 615-350-3373
 Fax) 615-350-3321

a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).

- (1) Invoice Number (assigned by the Contractor)
- (2) Invoice Date
- (3) Contract Number (assigned by the State)
- (4) Customer Account Name(s): This will include the Department of General Services/Warehouse & Distribution Services, and a number of other agencies, yet to be determined. The Contractor will accommodate agency additions (and deletions as necessary) upon request by the State.
- (5) Customer Account Number(s) (assigned by the Contractor to the above-referenced Customers): The Contractor will accommodate agency additions (and deletions as necessary) upon request by the State.
- (6) Contractor Name
- (7) Contractor Federal Employer Identification, Social Security, or Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
- (9) Contractor Remittance Address
- (10) Description of Delivered Service
- (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
 - iv. Amount Due by Service
 - v. Total Amount Due for the invoice period
 - vi. An Excel-based backup document of the invoice

b. The Contractor understands and agrees that an invoice under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) only be submitted for completed service and shall not include any charge for future work;
- (3) not include sales tax or shipping charges; and



- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.
- a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).
 - b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least ninety (90) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not



be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.

- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of *Tennessee Code Annotated*, Section 12-4-124, *et seq.* for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an

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offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.

- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401, *et seq.*
- D.11. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.14. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.15. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.16. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.17. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The



Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

- D.19. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.20. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.21. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Stacey Hooper, Director, Warehousing & Distribution Division
 Department of General Services
 6500 Centennial Blvd.
 Nashville, Tn 37243-8020

Stacey.Hooper@tn.gov
 Telephone #) 615-350-3373
 FAX #) 615-615-3321

The Contractor:

R. Stephen Richards, President & CEO
 Richards & Richards Office Records Management, Inc.
 Physical Address:
 1741 Elm Hill Pike
 Nashville, TN 37210
 Office Telephone – (615) 242-9600
 Fax – (615) 242-2100
 Email – steve@richardsandrichards.com
 Executive Assistant – Lanita Sexton
 Email – lsexton@richardsandrichards.com

Mailing Address:
 PO Box 17070
 Nashville, TN 37217



All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.
- a. The Contractor shall maintain, at minimum, the following insurance coverage:
- (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or five hundred thousand dollars (\$500,000.00) per occurrence for employers' liability whichever is greater.
 - (2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
 - (3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence.
 - (4) Professional Malpractice Liability with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate.
- b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

NOTE: "Umbrella" or "excess" insurance is not an acceptable substitute for the specified minimum amounts of required liability and workers compensation insurance. The Contractor shall provide, no later than the contract start date, a valid certificate of insurance naming the State of Tennessee as an additional insured.



E.6. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

E.7. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.8. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;



- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.9. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

IN WITNESS WHEREOF,

RICHARDS & RICHARDS OFFICE RECORDS MANAGEMENT, INC.:

7/25/2011

CONTRACTOR SIGNATURE

DATE

R. Stephen Richards, President & CEO

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF GENERAL SERVICES:

7/26/11

Steven G. Cates, Commissioner

DATE



ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Richards & Richards Office Records Management, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	62-1397961

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

R. Stephen Richards, President & CEO

PRINTED NAME AND TITLE OF SIGNATORY

7/25/2011

DATE OF ATTESTATION