

**CONTRACT BETWEEN DAKOTA COUNTY AND  
CYCLOMEDIA TECHNOLOGY, INC.  
FOR DIGITAL STREET-LEVEL IMAGE SERVICES AND LICENSE**

This Contract ("Contract") is made and entered into by and between Cyclomedia Technology, Inc. ("Cyclomedia" or "Contractor"), a Delaware corporation with its principal place of business at 8215 Greenway Blvd, Suite 300, Middleton, WI 53562, and the County of Dakota, by and through its Assessing Services Department ("County"), a political subdivision of the State of Minnesota with its principal place of business at Dakota County Administration Center, 1590 Highway 55, Hastings, MN 55033.

**WHEREAS**, the County previously entered into contracts with Cyclomedia for digital street-level image services and license after selecting Cyclomedia's response to the County's Request for Proposals, and

**WHEREAS**, the County wishes to continue receiving the digital street-level image services and software license provided by Cyclomedia,

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants, promises and agreements contained herein, the parties agree as follows:

**A. GENERAL TERMS AND CONDITIONS.**

1. **ENTIRE AGREEMENT.** These terms and conditions ("**Terms**"), together with the Service Schedule (Exhibit 1), Statement of Work (Exhibit 2), Insurance Terms (Exhibit 3) and Standard Assurances (Exhibit 4) (collectively the "Contract"), contain all of the terms and conditions of the agreement between Cyclomedia and the County for the services to be sold or provided to the County, to the exclusion of any other statements and agreements and to the exclusion of any terms and conditions incorporated in the County's order or other documents of the parties,

2. **CONFLICT OF TERMS.** In the event that there is a conflict between the terms of this Contract and any Exhibit, the terms of this Contract shall govern.

3. **DEFINITIONS.** In addition to terms defined elsewhere in this Contract, the following terms will have the following meanings.

3.1 **"Authorized Users"** means those individuals authorized by the County to access the Cyclomedia Offerings, as permitted by the applicable Service Schedule, and who have been supplied user identifications and passwords.

3.2 **"Cyclomedia Data"** means the data collected by the Cyclomedia Offerings, including statistics relating to how often data is captured, transferred, stored, copied, manipulated, or downloaded, performance metrics relating to Cyclomedia Offerings, Image Material, Information Products and configuration settings.

3.3 **"Cyclomedia Offerings"** means the Services as described in this Contract and the Exhibits.

3.4 **"Cyclomedia Property"** means the Cyclomedia Offerings, Documentation, Image Material, Information Products, Cyclomedia Data, Cyclomedia's Marks (including without limitation

"Cyclomedia"), Cyclomedia's Confidential Information, all Documentation or data provided by Cyclomedia to the County under these Terms, and all corresponding intellectual property rights.

3.5 **"County Data"** means all data or information provided or submitted by the County.

3.6 **"County Property"** means County Data, the County's Marks, and the County's Confidential Information and all corresponding intellectual property rights.

3.7 **"Documentation"** means the technical, user and reference manuals, notes, instructions and summaries, technical release notes, specifications and any other supporting documentation related to the Cyclomedia Offerings, in digital or printed form.

3.8 **"Image Material"** means the photographs taken from land, air, or water and digital seamless 360-degrees photographs taken at street-level ("Geo)Cycloramas") related to the Cyclomedia Offerings, in digital or printed form, including the associated metadata, and offered for use with the Software.

3.9 **"Information Products"** means the data, datasets and/or object information and/or change detection data related to the Cyclomedia Offerings in any form, including but not limited to LiDAR data, LiDAR point clouds, 3D data and data regarding objects in the public space, such as traffic signs, road markings, pedestrian ramps and light poles.

3.10 **"Marks"** means any trademarks, service marks and logos, whether registered or unregistered.

3.11 **"Statement of Work" or "SOW"** means the form that specifies the Services the County is purchasing, attached as Exhibit 2.

3.12 **"Service(s)"** means the provision of Software, Image Material, Information Products, hosting and maintenance and the professional services as described in this Contract and the Exhibits.

3.13 **"Software"** means the object code version of the Cyclomedia software, whether such software is accessed remotely over the Internet or is provided on media to the County for use on computing devices under the control of the County.

3.14 **"Subscription Term"** means the term during which Services are made available to the County over the Internet, as defined in this Contract and the Exhibits.

3.15 **"Third Party Technology"** means the object code version of software or other technology that is licensed by Cyclomedia or the County from third parties, whether such software or technology is accessed remotely over the Internet or is provided on media for use on computing devices under the control of Cyclomedia or the County, as applicable.

4. **TERM.** The term of this Contract shall commence on the date that all parties have executed this Contract and shall continue in effect until the end of the last purchased Subscription Term, unless earlier terminated by law or according to the provisions of this Contract.

## 5. **PAYMENT.**

5.1 **Total Cost.** The total amount to be paid by the County pursuant to this Contract shall not exceed \$578,775.00 (the "Contract Maximum"), except as provided in this section 5.1. The Contract Maximum includes an initial fee of \$406,695.00 for Services relating to capturing and provision of the Image Material and LiDAR data and the initial year of cloud hosting and a fee of \$43,020.00 per year for

four additional years of cloud hosting and Esri plug-in, API and support, as identified on the Statement of Work (Exhibit 2). The initial fee is based on an estimate of the miles of Image Material to be published as identified on the Statement of Work. In the event the actual miles to be published exceed the estimated miles identified on the Statement of Work, Cyclomedia shall provide written notice of such increase to the County and the County's Authorized Representative shall approve payment for miles of Image Material published in addition to the Statement of Work estimate at the rate of \$110.00 per mile.

5.2 Time of Payment. Cyclomedia shall invoice the County for 30% of the initial Services fee as described in Exhibit 2 (\$125,466.00) following notice from Cyclomedia that it will commence work to capture the Image Material. The remainder of the initial Services fee (\$281,754) shall be invoiced following completion of the initial Services, including but not limited to publishing the full Image Material and LiDAR data identified on the Statement of Work. The annual cloud hosting fee (\$43,020.00) shall be invoiced at the beginning of each successive Subscription Term, as defined in section 24. All fees and costs are due and payable within thirty-five (35) days from the County's receipt of the invoice.

5.3 Payment for Unauthorized Claims. The County may refuse to pay any claim that is not specifically authorized by this Contract. Payment of a claim shall not preclude the County from questioning the propriety of the claim. The County reserves the right to offset any overpayment by reducing future payments.

5.4 Payment Upon Early Termination. In the event that this Contract is terminated before completion of the Services, the County shall pay Cyclomedia for Services provided in a satisfactory manner and costs incurred by Cyclomedia for work in progress, up to the date of the Notice of Termination. In no case shall such payment exceed the Contract Maximum, except for claims related to additional mileage requested by and delivered to County in accordance with section 5.1 above.

## **6. COMPLIANCE WITH LAWS/STANDARDS.**

6.1 General. Cyclomedia shall abide by all Federal, State and local laws; statutes, ordinances, rules and regulations now in effect or hereafter adopted pertaining to this Contract or to the facilities, programs and staff for which Cyclomedia is responsible. This includes, but is not limited to all requirements of Contractor in the Standard Assurances attached as Exhibit 3 and incorporated herein by reference.

6.2 Violations. Any violation of such laws, statutes, ordinances, rules, or regulations shall constitute a material breach of this Contract, and shall entitle the County to terminate this Contract upon delivery of written Notice of Termination to Cyclomedia. Notwithstanding any other provision of this Contract, such termination shall be effective as of the date of such notice.

6.3 Choice of Law. This Contract shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principles of conflict of laws. All proceedings related to this Contract shall be venued in the State of Minnesota. The foregoing does not prohibit Cyclomedia from instituting an action in any court of competent jurisdiction to

obtain injunctive relief to protect or enforce its intellectual property rights, as they relate to the Image Material or the Services.

## **7. CYCLOMEDIA'S OBLIGATIONS.**

7.1 General. Cyclomedia shall provide the Services and shall furnish all labor, materials, transportation, tools, supplies, equipment, etc. necessary to capture, store, and index front elevation high-quality Image Material of all improved properties within Dakota County as described in this Contract and in the Statement of Work.

### **7.2. Technical Requirements for Image Material.**

- i. Quality. All delivered Image Material shall meet the requirements as defined in the Statement of Work and shall be subject to acceptance by the County as provided in section 9.1, notwithstanding anything to the contrary on any Exhibit. Image Material that does not comply with these requirements will be recaptured at no additional expense to the County. Image material will have adequate tint, brightness, and contrast so that an individual can adequately distinguish color and property detail. The County will have the ability to view the Image Material on a high definition monitor and extract reproducible black and white or color prints or digital files thereof which the County may retain perpetually and use for County business purposes and may distribute to third parties (e.g. residents) as permitted or required by applicable law, provided there is no distribution of entire contiguous data sets.
- ii. Image Detail. The Image Material should be taken such that it reflects the best overall value of the property. All images should show unobstructed curbside, public right-of-way views of each improved parcel that are free of sun spots and glare, and have no shadow effect.
- iii. Image Restrictions. Images must conform to the following: An appropriate distance should be utilized such that the Image Material is adequately captured but detail properly distinguished. To the extent people are captured in Image Material, their faces must be blurred by Cyclomedia. To the extent vehicle license plates are captured in Image Material, they must be blurred by Cyclomedia. To the extent any garage doors are open and personal contents are visible in Image Material, County will provide a list of properties to Cyclomedia for garage door blurring, subject to the following conditions: The County shall provide a single file identifying all necessary garage blurring locations, for which Cyclomedia shall complete blurring in a single batch, as opposed to multiple requests on different days.
- iv. Image Labeling and Indexing. No labeling of the imagery will be required. All Image Material must be indexed and categorized according to County specifications and compatible with iasWorld.
- v. Compatibility with iasWorld. The County utilizes the Tyler Technologies REMS of iasWorld. Cyclomedia shall work with Assessing Systems staff and IT Department to provide adequate indexing format and storage requirements for the Image Material within the Tyler product database.

**8. COUNTY'S OBLIGATIONS.** The County shall provide maps and mapping components in the County's possession in "as is" condition and on an "as needed" basis to Cyclomedia. The County will furnish this data digitally without any support or representation or warranty, including but not limited to warranties of fitness, merchantability, and/or completeness of the digital data.

**9. ACCEPTANCE AND CHANGE ORDERS**

**9.1 Acceptance.** Notwithstanding anything to the contrary in any Exhibit, the County shall identify any image(s) in the Image Material that do not meet the specifications for quality and completeness described in the Statement of Work and shall notify the Cyclomedia within 30 business days of the County's receipt of the data that the image(s) are being rejected. The Image Material shall be deemed to have been accepted by the County when: a) County notifies Cyclomedia before the end of the acceptance period that the Cyclomedia Offerings are accepted; or b) Cyclomedia has not within the acceptance period received a written notice from the County identifying specifically any basis for not approving the Image Material. If the County does not accept the Image Material, the County and Cyclomedia will draft a list of errors preventing acceptance and Cyclomedia will remedy these errors within a reasonable time. When Cyclomedia has not succeeded in remedying all errors within a reasonable period, parties may discuss any possible next steps or the County may terminate this Contract pursuant to article 18.

**9.2 Change Orders.** If either party wishes to change the scope or performance of the Cyclomedia Offerings, it will submit details of the requested change to the other in writing. Cyclomedia will, within a reasonable time after such request, provide a written estimate to County of (a) the likely time required to implement the change; (b) any necessary variations to the fees and other charges for the Cyclomedia Offerings arising from the change; (c) the likely effect of the change on the Cyclomedia Offerings; and (d) any other impact the change might have on the performance of these Terms. Promptly after receipt of the written estimate, the parties will negotiate and, if such change is accepted by the Parties, agree in writing on the terms of such change (a "Change Order"). Neither party will be bound by any Change Order unless it is signed in accordance with Section 19.

**10. INDEMNIFICATION.**

**10.1 Indemnification by Cyclomedia.** Any and all claims that arise or may arise against Cyclomedia, its agents, servants or employees as a consequence of any act or omission on the part of Cyclomedia or its agents, servants, employees, or subcontractors while engaged in the performance of capturing, processing, and providing images as required under the terms of this Contract to County shall in no way be the obligation or responsibility of the County. This includes, but shall not be limited to, claims that any Software infringes any United States copyright or misappropriates any trade secret. Cyclomedia agrees that it will indemnify, and hold harmless and defend the County, its officers and employees against any and all liability, damages, claims or actions, including reasonable attorney's fees that the County, its officers or employees may hereafter sustain, incur or be required to pay, in connection with any third party claim arising out of or by reason of any act or omission of Cyclomedia, its agents, servants or employees in the execution, performance, or failure to adequately perform Cyclomedia's obligations under this Contract, including the License Agreement or any material violation of any applicable Regulation. Cyclomedia will pay all such costs and damages incurred by the County in any action such related to a violation of any applicable Regulation or this Contract, or those costs and damages agreed to in a monetary settlement of such action. If the Software becomes, or in Cyclomedia's opinion is likely to become, the subject of an infringement or misappropriation claim, Cyclomedia may, at its option and

expense, either: (i) procure for the County the right to continue using the Software as part of the Cyclomedia Offerings, or (ii) replace or modify the Software so that it becomes non-infringing (provided any such replacement or modification does not materially degrade the Software's functionality as described in the then-current Documentation). Notwithstanding the foregoing, Cyclomedia will have no obligation with respect to any Third Party Technology or County Property or any infringement or misappropriation claim if the Software is being misused by County, used in violation of these Terms or any Regulations, used in nonconformance with the Documentation, or has been modified by the County or any third party. Cyclomedia's obligations under this Section will constitute its sole and exclusive obligations and the County's sole and exclusive remedy in the event that any claim or action is brought against the County alleging that the Cyclomedia Offerings infringe, misappropriate, or otherwise violate the rights of any third party. This Section shall survive expiration of the Contract.

**10.2 Indemnification by the County.** The County will indemnify, defend and hold harmless Cyclomedia, its officers and employees against all liability, damages, claims or actions, including reasonable attorneys' fees in connection with any third party claim arising out of the County's material violation of any applicable Regulation or misuse of the License provided hereunder. The County will pay all such costs and damages incurred by Cyclomedia in any such action related to the misuse or material violation of the License or, in connection with any third party claim, any applicable Regulation, or those costs and damages agreed to in a monetary settlement of such action. It is understood and agreed that the provisions of Minn. Ch. 466, the Municipal Tort Claims Act, and other applicable laws, govern liability arising from the County's material violation of any applicable Regulation or misuse of the License.

**10.3 Notification and Cooperation.** The obligations under this Article 9 are conditioned on (a) the indemnified party notifying the indemnifying party promptly in writing upon the earlier of receiving notice of an indemnified claim or of the commencement of any Action asserting an indemnified claim, (b) the indemnified party giving the indemnifying party sole control of the defense and any related settlement negotiations, and (c) the indemnified party cooperating with the indemnifying party in the defense. The indemnified party may, at its election and expense, participate in the defense with its own counsel. The Indemnifying Party must obtain the written consent of the indemnified Party prior to making any compromise, settlement, or admission of wrongdoing implicating the indemnified Party. The Indemnifying Party shall not admit or settle such claim without such prior written consent.

**11. INSURANCE.** At its own expense and in order to protect Cyclomedia and to protect the County under the indemnity provisions, Cyclomedia shall procure and maintain policies of insurance covering the term of this Contract, as set forth in the Insurance Terms (Exhibit 3), in connection with claims that may arise from or in connection with the performance of work or services hereunder by Cyclomedia, its agents, representatives, employees, servants, or subcontractors. Such policies of insurance shall apply to the extent of, but not as a limitation upon or in satisfaction of, the indemnity provisions herein. The County may withhold payments or immediately terminate this Contract for failure of Cyclomedia to furnish proof of insurance coverage or to comply with the insurance requirements as stated in Exhibit 3.

**12. INDEPENDENT CONTRACTOR STATUS.** Cyclomedia, which shall include its employees, agents, servants, and any subcontractors, shall not be considered an employee of the County while engaged in the performance of any work or services required herein, and shall be considered an independent contractor. Nothing contained in this Contract shall be construed to create the relationship of employer and employee between the County and Cyclomedia. Cyclomedia shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services. Cyclomedia

shall have discretion as to working methods, hours and means of operation. Cyclomedia acknowledges and agrees that neither it nor any of its employees providing services hereunder is entitled to receive any of the benefits received by County employees and is not eligible for workers' or unemployment compensation benefits as a County employee. Cyclomedia also acknowledges and agrees that no withholding or deduction for state or federal income taxes, FICA, FUTA, or otherwise, will be made from the payments due Cyclomedia, and that it is Cyclomedia's sole obligation to comply with the applicable provisions of all federal and state tax laws.

### **13. SUBCONTRACTING.**

13.1 Subcontracting Generally Prohibited. Cyclomedia shall not enter into any subcontract for the performance of the services and labor contemplated under this Contract nor assign any interest, right, duty, or obligation in the Contract without prior written consent of all parties and subject to such reasonable conditions or other provisions as are deemed necessary. Notwithstanding the foregoing, Cyclomedia shall be entitled to engage partners providing non-employee personnel utilized, directed, and/or supervised by Cyclomedia as workforce augmentation, who shall have access to, but never possess, Cyclomedia's Image Material and associated data for capturing and/or analytics purposes. Cyclomedia shall be fully responsible to the County for the actions and performance of such partners related to this Contract.

13.2. Subcontractors; Third Party Technology. Cyclomedia shall have the right to use or subcontract with third parties to provide the Cyclomedia Offerings; provided, however, that Cyclomedia is not released from responsibility for its obligations under these Terms. Cyclomedia shall have the right to use any Third Party Technology in the Cyclomedia Offerings, and such Third Party Technology incorporated in the Cyclomedia Offerings may be subject to the terms and conditions of the third party.

13.3 Payment of Subcontractors. Pursuant to Minn. Stat. § 471.425, Subd. 4a, Cyclomedia agrees to pay any subcontractor within ten (10) days of Cyclomedia's receipt of payment from the County for undisputed services provided by the subcontractor. Cyclomedia agrees to pay interest of 1.5% per month for any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10.

**14. TIMELINESS.** Time is of the essence in this Contract. Failure by a party to perform its obligations in a timely manner may be considered by the other party as a material breach.

**15. SUSPENSION OF SERVICES.** In the event that the County's account is ten (10) days or more overdue (except with respect to charges then under reasonable and good faith dispute), or if at any time Cyclomedia believes in good faith that the prospect of payment is impaired, in addition to any of its other rights or remedies in law or in this Contract, Cyclomedia reserves the right to immediately suspend services provided under this Contract without liability, until the County pays all overdue amounts in full or in Cyclomedia's sole judgment provides adequate assurance of the County's ability to fulfill its payment obligations, either then due or thereafter arising. Suspension will not relieve the County of its obligation to pay the total fees owed. This clause does not limit the rights of each party to terminate the Contract as detailed in this Contract.

**16. LIQUIDATED DAMAGES.** If Cyclomedia fails for any reason, excepting delays caused for reasons beyond the control of Cyclomedia, to complete delivery of all products purchased in this Contract

by August 1<sup>st</sup>, 2026, it is hereby agreed that the County shall have the right to deduct, as liquidated damages, from any money or monies due or coming due to Cyclomedia an amount equal to \$200.00 per day for each and every calendar day after August 1<sup>st</sup>, 2026 capped at 20% of the fees for the Services the delay in delivery refers to, during which time the Contract remains unfinished and uncompleted. Any monies deducted are not to be construed as a penalty, but as liquidated damages to compensate for the additional costs and inconvenience incurred by the County. Liquidated damages shall apply to all deliverables and shall take effect on August 2, 2026.

**17. DEFAULT: FORCE MAJEURE.** Neither party shall be liable to the other party for any loss or damage resulting from a delay or failure to perform due to unforeseeable acts or events outside of the defaulting party's reasonable control, providing that the defaulting party give notice to the other party as soon as possible. Acts and events may include acts of God, acts of terrorism, war, fire, flood, epidemic, acts of civil or military authority, and natural disasters.

## **18. TERMINATION.**

18.1 Termination for Cause. In addition to other specifically stated terms of this Contract or as otherwise provided by law, the following conditions may constitute default, unless excused or waived, and shall warrant termination of this Contract for cause:

- a) The written admission by Cyclomedia that it is bankrupt; the filing by Cyclomedia of a voluntary petition under the Federal Bankruptcy Act; or the filing of an involuntary petition under the Federal Bankruptcy Act against Cyclomedia unless dismissed within ninety (90) days.
- b) The making of any arrangement with or for the benefit of Cyclomedia's creditors involving an assignment to a trustee, receiver or similar fiduciary.
- c) Making material misrepresentations either in the attached exhibits and documents or in any other material provision or condition relied upon in the making of this Contract.
- d) Failure to provide services or payment called for by this Contract within the time specified in this Contract or any extension of this Contract.
- e) Failure to perform any other material provision of this Contract.

18.2 Termination for Cause Notice. Either party may terminate this Contract for cause as defined in section 18.1 by giving seven (7) days written notice of its intent to terminate to the other party unless a different procedure and/or effective date is provided within the specific section of this Contract under which the default, failure or termination occurs. Said notice shall specify the circumstances warranting termination of the Contract. The terminating party shall provide the other party with notice and a reasonable opportunity to cure a specified default under sections 18.1 d) and e) prior to terminating the Contract, unless the other party cannot be deemed able or prepared to cure such default. No prior notice or opportunity to cure is required for a violation of sections 18.1 a), b) or c). Notice of Termination for Cause shall be given by certified mail or personal delivery to the authorized agent of the other party.



Notice is deemed effective upon delivery of the Notice of Termination to the address of the party stated in Section 19 of this Contract.

18.3 Termination by County—Lack of Funding. Notwithstanding any provision of this Contract to the contrary, the County may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, Minnesota Agencies or other funding source, or if its funding cannot be continued at a level sufficient to allow payment of the amounts due under this Contract. Written notice of termination sent by the County to Cyclomedia by certified mail or personal delivery to Cyclomedia's authorized agent is sufficient notice under the terms of this Contract. The County is not obligated to pay for, and Cyclomedia is not obligated to provide, any services after written notice of termination for lack of funding. The County will not be assessed any penalty or damages if the Contract is terminated due to lack of funding.

18.4 Effect of Termination. Upon termination of this Agreement, the parties will return or destroy any Confidential Information received from the other hereunder. Termination will not relieve County of the obligation to pay any fees accrued or payable to Cyclomedia prior to the effective date of termination. Cyclomedia will not refund any pre-paid Subscription fees unless County terminates for cause, in which case Cyclomedia will refund pre-paid fees for the remainder of a Subscription Term, on a prorated basis. The provisions of this Agreement or any Exhibit hereto that should, by their nature, survive termination of this Agreement will survive any termination.

## **19. CONTRACT RIGHTS AND REMEDIES.**

19.1 Rights Cumulative. All remedies available to either party under the terms of this Contract or by law are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

19.2 Waiver. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Contract shall not be construed to be modification of the terms of this Contract unless stated to be such in writing and signed by authorized representatives of the County and Cyclomedia. If either party fails to enforce any provision or condition of this Contract, that failure does not waive the provision or condition or the party's right to enforce it.

## **20. REPRESENTATIVES AND LIAISONS.**

20.1 Authorized Representatives. The following names persons, and his or her successor(s), are designated the authorized representatives of parties for purposes of this Contract. These persons have authority to bind the party they represent and to consent to Change Orders, modifications, and subcontracts, except that, as to the County, the authorized representative shall have only the authority specifically or generally granted by the Dakota County Board of Commissioners. Notification required to be provided pursuant to this Contract shall be provided to the following named persons and addresses, unless otherwise stated in this Contract, or in a modification to this Contract.

### **To Cyclomedia:**

Bryan Mueller  
Chief Revenue Officer, President  
8215 Greenway Blvd, Suite 300  
Middleton, WI 53562

### **To the County:**

Scott Lyons  
Dakota County Assessor  
Assessing Services Department  
1590 Highway 55

[Cyclomediabmueller@cyclomedia.com](mailto:Cyclomediabmueller@cyclomedia.com) Hastings, MN 55033  
[scott.lyons@co.dakota.mn.us](mailto:scott.lyons@co.dakota.mn.us)

Telephone:  
510-900-5142

Telephone:  
651-438-4436

20.2 **Liaisons.** To assist the parties in the day-to-day performance of this Contract and to develop service, ensure compliance, and provide ongoing consultation, a liaison shall be designated by Cyclomedia and the County. The parties shall keep each other continually informed, in writing of any change in the designated liaison. At the time of execution of this Contract, the following persons are the designated liaisons:

Cyclomedia Liaison:

County Liaison:

**21. MODIFICATION.** Any modification of these Terms will be effective only if in writing and signed by authorized representatives of each party.

**22. SEVERABILITY.** The provisions of this Contract shall be deemed severable. If any part of this Contract is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Contract, unless the part or parts that are void, invalid, or otherwise unenforceable shall substantially impair the value of the entire Contract with respect to either party, in which case the affected party may terminate the Contract for cause in accordance with section 17, above.

## **B. LICENSE AGREEMENT**

**23. CYCLOMEDIA LICENSE.** Cyclomedia shall provide the County with a license for access to and use of the Software, Image Material and LiDAR data as identified in the Statement of Work, attached as Exhibit 2, which license is further specified in this section B of the Contract and Exhibit 1. County staff will be allowed unlimited logins to access GeoCycloramas using the Street Smart web application and API for the duration of the Subscription Term. The County may extract reproducible black and white or color prints or digital files of the Image Material ("Country Extractions") and the County obtains a perpetual, non-transferable and non-sublicensable rights of ownership to the County Extractions for County business purposes and for distribution to third parties (e.g. residents) as permitted or required by applicable law, provided there is no distribution of entire contiguous data sets.

**24. SUBSCRIPTION TERM.** The initial Subscription Term shall commence on the earlier of: (1) August 1, 2026, when the parties' February 4, 2021 contract expires, or (2) the date the Image Material identified on Exhibit 2 is accepted by the County and available for County use through the Cyclomedia Software and shall remain in effect for a period of one (1) year. The Subscription Term shall then be extended for four additional one-year terms following the County's payment of the annual fee identified in sections 5.1 and 5.2.

**25. USER NAMES, PASSWORDS AND COMPLIANCE.** The County is responsible for keeping its user name(s) and password(s) confidential and secure, and limiting access to the Cyclomedia Offerings to its Authorized Users. The County is solely responsible and liable for any activity that occurs under its account, including without limitation all actions of Authorized Users. The County will notify Cyclomedia in writing within 3 days of the County's discovery of any unauthorized use.

## 26. OWNERSHIP AND GRANT OF RIGHTS.

26.1 Cyclomedia Property. Title to and ownership of all intellectual property rights relating to the Cyclomedia Property will at all times remain with Cyclomedia, including all adaptations, modifications, derivative works, additions or extensions, whether made by Cyclomedia, the County, or a third party.

26.2 County Data. As between Cyclomedia and the County, all County Data is owned by the County. The County grants Cyclomedia a limited, non-exclusive right to use, access, duplicate, sublicense, and modify the County Data solely to perform its responsibilities under these Terms.

26.3 Grant of Rights. During each Subscription Term, Cyclomedia grants to the County limited, non-exclusive, non-transferable, non-sub-licensable rights to access and use the Cyclomedia Offerings identified in the applicable Statement of Work. The Service Schedule in Exhibit 1 will specify any additional license rights granted to the County. All other rights are reserved by Cyclomedia.

26.4 Extracted Material. All Country Extractions pursuant to section 23 of this Contract are the sole property of Dakota County subject to the limitations as defined in section 23.

## 27. CONFIDENTIAL INFORMATION.

27.1 Definition of Confidential and Proprietary Information. “**Confidential Information**” means trade secret other non-public information of or concerning a party or its business, suppliers, products, or services, disclosed by a Party (“**Disclosing Party**”) to the other Party (“**Receiving Party**”). Without limitation, and subject to applicable law, the Cyclomedia Offerings and Cyclomedia Data are Cyclomedia Confidential Information and the County Data are the County Confidential Information. Information will not be considered to be Confidential Information to the extent that it (i) is already known to Receiving Party on a non-confidential basis when first obtained from Disclosing Party; (ii) is or becomes publicly known through no wrongful act of Receiving Party, except as otherwise required by the Minnesota Government Data Practices Act; (iii) is rightfully received by Receiving Party from a third party without restriction; or (iv) was independently developed by Receiving Party without use of any Confidential Information of Disclosing Party. Neither party will use or disclose any Confidential Information of the other party except as permitted by these Terms or as otherwise required by law. Confidential Information of Disclosing Party will be maintained under secure conditions by Receiving Party using reasonable security measures and, in any event, not less than the same security measures used by Receiving Party for the protection of its own Confidential Information.

27.2 Compelled Disclosure. If Receiving Party is compelled by law to disclose Confidential Information of Disclosing Party, it will, if possible, provide Disclosing Party with prior notice of the compelled disclosure and reasonable assistance to the extent permitted by law, at Disclosing Party’s cost, if Disclosing Party wishes to contest the disclosure. Nothing in this section 27.2 shall require a Party to provide assistance if the Party determines that such assistance is not consistent with the Minnesota Government Data Practices Act.

27.3 Remedies. If Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of Disclosing Party in breach of this Section, Disclosing Party will have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

## 28. LIMITED WARRANTY.

28.1 Cyclomedia Offerings. Cyclomedia warrants the Cyclomedia Offerings will operate in substantial conformity with the Service Schedule in Exhibit 1 and Documentation provided by Cyclomedia to the County. In the event of any breach of the warranty in this Section, which must be reported in writing by the County within five (5) calendar days after the County discovers or reasonably should have discovered such breach, the County's sole and exclusive remedy, and Cyclomedia's sole obligation, will be for Cyclomedia to correct the reported nonconformity within a commercially reasonable period, as may be further described in the Service Schedule in Exhibit 1. The media on which Software is delivered is warranted for thirty (30) days following delivery.

28.2 Limitations. Cyclomedia does not make any warranty and is not responsible in any way for Third Party Technology or for loss of County Data. The County acknowledges that communications and transactions conducted on-line may not be absolutely secure, that there may be system or Internet failure that limits the County's accessibility to the Cyclomedia Offerings, and that on-line services are not guaranteed to be error-free. Except as provided under section 9.1, by using the Cyclomedia Offerings, the County accepts all responsibility and risk associated with its use of the Cyclomedia Offerings and the Internet generally.

28.3 Disclaimer of All Other Warranties. THE EXPRESS WARRANTIES IN THESE TERMS ARE IN LIEU OF, AND CYCLOMEDIA DISCLAIMS, ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), RELATED TO THESE TERMS, WHETHER ARISING BY LAW, CUSTOM OR USAGE IN THE TRADE, COURSE OF DEALING, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF, MERCHANTABILITY, AND FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT CYCLOMEDIA OR A THIRD PARTY SOFTWARE SUPPLIER IS AWARE OF ANY SUCH PURPOSE). *CYCLOMEDIA MAKES NO REPRESENTATION OR WARRANTY THAT THE COUNTY'S USE OF THE CYCLOMEDIA OFFERINGS, OR ANY SERVICE OR THE CYCLOMEDIA SITE, WILL BE IN COMPLIANCE WITH ANY LAW OR REGULATION.*

**29. LIMITATION OF LIABILITY.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR PROFITS, FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS) RELATED TO THIS CONTRACT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT FOR LIABILITY ARISING FROM GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT, THE TOTAL CUMULATIVE LIABILITY OF CYCLOMEDIA FOR ANY BREACH OF THIS CONTRACT WILL NOT EXCEED THE AMOUNTS PAID OR PAYABLE BY THE COUNTY UNDER THESE TERMS.

**30. COUNTY COMPLIANCE WITH LAWS/STANDARDS.** The County shall comply with all requirements of laws and regulations applicable to the County's use of the Cyclomedia Offerings.

**31. NON-SOLICITATION.** During the Term and for a period of 6 months following the termination or expiration of these Terms, the County agrees not to solicit, nor attempt to solicit, the services of any employee or sub-contractor of Cyclomedia who provides services to the County during the Term without prior written consent. The County will not be in violation this Section if an employee or subcontractor of Cyclomedia responds to a public advertisement of an open position and is subsequently hired.

**32. CHOICE OF LAW; DISPUTE RESOLUTION.** These Terms will be interpreted and construed in accordance with the laws of the State of Minnesota and the United States, excluding conflict of laws provisions. All disputes relating to these Terms will be subject to the exclusive jurisdiction of state and

federal courts in Minnesota, and the parties will submit to the personal and exclusive jurisdiction and venue of these courts; provided, however, that the foregoing does not prohibit Cyclomedia from instituting an action in any court of competent jurisdiction to obtain injunctive relief to protect or enforce its intellectual property rights.

**33. RELATIONSHIP OF THE PARTIES.** The parties are independent contractors, and neither party has any power or authority, nor will it represent that it has any power or authority, to bind the other party or to assume or create any obligation or responsibility, express or implied, on behalf of the other party, or in the other party's name.

**34. GENERAL.**

34.1 Assignment. These Terms binds the parties' representatives, successors, and assigns, except that neither party may assign these Terms without the prior written consent of the other party unless it is: (a) to an affiliate of the party; or (b) to a purchaser of all or substantially all of the business or assets of the party, whether by merger or otherwise, and written notice is provided within 30 days to the other party.

34.2 Notices. Any written notice required to be given to a party will be given by personal delivery to that party, or mailed by registered or certified mail, return receipt requested, postage prepaid, to that party at that party's address on the Contract.

34.3 Force Majeure. Except for the obligation to make payments, neither party will be liable for delays or breaches in its performance under these Terms due to causes beyond its reasonable control.

34.4 Modifications; Severability; Waiver. Any modification of these Terms will be effective only if in writing and signed by both parties. Any provision of these Terms that is held to be invalid, illegal or unenforceable will be severed from these Terms, and the remaining provisions will remain in full force and effect. No failure or delay by either party to exercise any right or remedy will be construed as a current or future waiver of such remedy or right.

34.5 Counterparts. These Terms may be executed in any number of counterparts, each of which will be deemed an original, and all of which taken together will constitute one and the same instrument. Facsimile signatures, or other electronic signatures, are binding and have the same effect as a handwritten signature.

**35. ELECTRONIC SIGNATURES.** Each party agrees the electronic signatures of the parties included in this Contract are intended to authenticate this writing and to have the same force and effect as wet ink signatures.

**In Witness Whereof**, the parties have executed this Agreement.

<b>Cyclomedia Technology, Inc.</b>	
By:	By:
Print Name: Bryan Mueller	Print Name:
Title: President, CRO	Title:
Date:	Date:

## **EXHIBIT 1**

### **SERVICE SCHEDULE**

#### **Street Smart Cloud - Software as a Service ("SaaS")**

This Service Schedule applies in addition to the Contract to the provision of Street Smart Cloud, a secure, scalable service that includes the hosting and provision of Image Material, Information Products and Software.

1. Definitions. In addition to terms defined in the Contract, the following terms will have the following meanings:

1.1 **"Cyclomedia Site"** means the website provided by Cyclomedia to the County so it may access Street Smart, Information Products and Image Material on a remote basis.

1.2 **"Subscription Fee"** means the annual fee for a Street Smart Cloud Subscription.

1.3 **"Subscription Start Date"** means the date that the initial Subscription Term begins as defined in the Contract.

1.4 **"System"** means the computers, servers and related equipment used by or on behalf of Cyclomedia to provide access to the Services.

2. Cyclomedia Responsibilities. Cyclomedia will provide access to the Cyclomedia Site as of the Subscription Start Date, respond to Service incidents, and host and maintain the Cyclomedia Site and County Data as set forth in this Schedule and the Contract. Cyclomedia will make reasonable efforts to make the Cyclomedia Site available to the County twenty-four hours a day, seven days a week.

3. County Responsibilities. The County (i) will upload sufficient County Data, in a suitable format, for Cyclomedia to provide the Services; (ii) will have suitable computing devices to access the Cyclomedia Offerings; (iii) is solely responsible for providing adequate security of the County's internal systems, County Data and for all third-party fees associated with provision of the Services; and (iv) will comply with all third party acceptable use policies related to Third Party Technology used to view the Image Material.

4. Use Guidelines. The County will use the Services including any (downloaded) Image Material or Information Products and adaptations, modifications, derivative works, additions or extensions thereof, solely for its internal business purposes and the specific purposes agreed upon in the Contract and will not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit the Services; (ii) attempt in any way to circumvent or otherwise interfere with any security precautions, procedural controls, or other measures relating to the Cyclomedia Offerings; (iii) attempt to reverse engineer or decompile any component or element of the Cyclomedia Offerings, (iv) transfer to third parties or permit third parties to use the County's user name and password or Cyclomedia Property, (v) disclose the Image Material or the Information Products or adaptations, modifications, derivative works, additions or extensions thereof to the public (including all conceivable Internet applications) except as permitted under the Contract or as required by law, (vi) systematically download the Image Material and/or the Information Products except as permitted under the Contract or as required by law, (vii) use the Image Material and/or the Information Products for systematic extraction, inventory, annotation and/or change detection of (characteristics of) objects and 'points of interest' (hereinafter "Data Analysis") for commercial purposes of any nature whatsoever, including but not limited to renting, leasing, (sub)licensing,

selling, alienating, pledging, transferring as security or under any title whatsoever and allowing third parties to use (the results of) the Data Analysis for any purpose whatsoever. (viii) use the System or the Services for any acts that are contrary to any applicable Regulations, or (ix) copy any Documentation other than is necessary for the purposes permitted under these Contract and for backup purposes, provided that the County shall not remove any of Cyclomedia's Marks when copying such Documentation. For purposes of clause (vii), the use of Image Material and/or Information Products for County business purposes as permitted by the Contract and applicable law shall not be considered a use for commercial purposes prohibited by clause (vii). Cyclomedia may immediately suspend all access to the Cyclomedia Site and disable all Authorized User logins in the event Cyclomedia reasonably suspects a misuse of the Services. If the County intends to use the Services including any (downloaded) Image Material or Information Products and adaptations, modifications, derivative works, additions or extensions thereof, for purposes other than those agreed upon pursuant to the Contract, the County will request Cyclomedia in writing for its upfront approval of such intended purposes. Approval by Cyclomedia will be at her sole discretion but shall not be unreasonably withheld. Upon reasonable notice to the County, Cyclomedia may audit and inspect the use of the Services by the County in the event Cyclomedia reasonably suspects a misuse of the Services.

5. Management of Services. Cyclomedia is at all times entitled to make changes in the log-in procedure. Cyclomedia will notify the County about such changes as soon as possible. Without prior notice being required, Cyclomedia is entitled to discontinue the operation of the System and/or the Services temporarily or to restrict use to the extent this is reasonably necessary for maintenance purposes or for necessary adjustments to or improvements in the System and/or Services without the County or an Authorized User being entitled to claim any compensation from Cyclomedia.

6. Payment. The County shall pay the agreed-upon fees and charges according to the terms of the Contract.

7. Suspension of Service. Cyclomedia has the right to suspend, terminate, or otherwise restrict the County's use of the Services or the Software if such use (a) results in a failure or delay of any network or system of Cyclomedia or a third party, (b) is in violation of the Use Guidelines, or (c) if necessary or desirable for maintenance or improvement purposes. Cyclomedia is not liable for any Action arising from the suspension, termination, or restriction of the Services or access to the Services pursuant to this Section.

8. Effect of Termination. The County has (30) days after the effective date of termination of this Agreement, or after the termination of a Statement of Work, to return or destroy any Confidential Information of Cyclomedia. Further, if the County terminates the Service before the end of the Subscription Term, the County will not be entitled to any refund of prepaid fees and any fees by owed by the County are immediately due and payable.



9. Warranty. Cyclomedia warrants that the Cyclomedia Offerings will operate in substantial conformity with the Documentation. Cyclomedia does not guarantee that the County's access to or use of the Cyclomedia Offerings will be uninterrupted or error-free.

## EXHIBIT 2

**This STATEMENT OF WORK** is prepared for Dakota County, Minnesota (hereinafter referred to as "Customer") located at 1590 Highway 55, Hastings MN 55033 and Cyclomedia Technology, Inc., a Delaware corporation (hereinafter referred to as "Cyclomedia"), located at 8215 Greenway Blvd, Suite 300 Middleton, WI 53562 as of [REDACTED] ("Issue Date").

This statement of work details services to be performed and products to be delivered by Cyclomedia Technology, Inc. to Dakota County, Minnesota (the "Customer"), pricing and payment terms, and the designated project areas with respect to the defined deliverables.

### 1. Deliverables / Professional Services

#### 1.1. Professional Services

- a. Cyclomedia will capture approximately **3802 miles** of 360-degree GeoCycloramas™, including LiDAR data capture and processing, based on shapefiles provided by the Customer. Pricing includes cloud-based storage and access for the duration of the license term.
- b. The terms and agreements of the Contract and Exhibit 1 apply.
- c. As long as the Customer maintains an active license to Cyclomedia Imagery, no additional fees will be charged for the storage of historical data.
- d. Privacy Filtering Option: Blurring of faces and vehicle license plates is required for public-facing websites.
- e. Esri integrations and customer support are included.
- f. Includes two hours of web-based training.
- g. Access to and use of the Professional Services is subject to the Customer's acceptance of the Cyclomedia End User Terms and Service Schedule (see attached License Agreement).

#### 1.2. Software

Customer staff will have unlimited login access to GeoCycloramas via the Street Smart web application for the duration of the license term. Staff with appropriate Esri™ licenses may also access GeoCycloramas through Street Smart for ArcGIS and the Street Smart Widget for ArcGIS Web AppBuilder.

## **2. Fee Schedule**

- Prices are valid 90 days from the issue date of this Statement of Work.
- Pricing is subject to change if the contract is not fully executed within 120 days of the Statement of Work issue date.

## 2.1. Professional Services

Description	Quantity	Price	Total
3D GeoCyclorama Imagery* with LiDAR	3802	\$110.00	\$418,220.00
ESRI ArcGIS integrations, customer support, and troubleshooting	Enterprise Use	\$5,000.00	\$5,000.00
2025 Annual License/hosting credit		(\$16,525.00)	(\$16,525.00)
Total Project Amount			\$406,695.00

\* The Customer will be invoiced based on the actual number of miles published. Any mileage published in excess of 3802 miles will be invoiced based on the per-mile pricing outlined in the chart above for 3D GeoCyclorama Imagery with LiDAR\* and for the Elevation Visualization Tool.

NOTE: If the Customer does not choose to purchase 3D GeoCycloramas with LiDAR Point Cloud Integration and Hosting, they will be required to download the LiDAR point cloud data within 60 days of availability. A premium fee will apply if Cyclomedia is requested to host the LiDAR point cloud data over the license term.

## 2.2. Invoicing

Cyclomedia Technology Inc. will invoice according to the following terms:

- 30% of Imagery for mobilization: \$125,466.00
- Remaining 70% of the Imagery and ESRI Integrations upon full publishing of the imagery, approximately \$281,229.00, based on actuals, includes:
  - \$292,754.00 for final imagery
  - \$5,000.00 Esri plug-in, API, support
  - (\$16,525.00) 2025 Annual license/hosting credit
- Annual license/hosting years 2 through 5: \$43,020.00
  - \$38,020.00 for annual license/hosting
  - \$5,000.00 for Esri plug-in, API and support

Payment terms: Net 35

## 3. Corporate Information

Legal Entity	Cyclomedia Technology, Inc.
Business Address	8215 Greenway Blvd, Suite 300 Middleton, WI 53562
General Contact Information	Info-us@Cyclomedia.com .510.900.5142
Point of Contact	Bryan Mueller President, CRO E: <a href="mailto:bmueller@cyclomedia.com">bmueller@cyclomedia.com</a> T: 510.900-5142

### 3.1. Cyclomedia Technology, Inc. Project Team

William Wetzel, Account Executive	bwetzel@cyclomedia.com	630.815.6520
Andrew Bohnsack, Data Capture Projects Mgr.	abohnsack@cyclomedia.com	360.502.3923
Jill Scharbarth, Solution Engineer	jscharbarth@cyclomedia.com	608.774.441

### 3.2. Cyclomedia Content

Our patented technology creates a GeoCyclorama™ which is a spherical 360-degrees panoramic image. More than just pictures, GeoCycloramas provide an immediate and comprehensive overview of the geography. GeoCycloramas are recorded every five (5) meters (approximately 16.4 ft.); providing multiple viewing perspectives of all objects.

### 3.3. Software

#### 3.3.1. Street Smart™

This interactive web viewer built on HTML5 technology provides cloud access to GeoCycloramas and tools.

- Use Street Smart on the desktop
- Conduct searches with address, postal code or coordinates
- Integrate with your own applications and work processes using the Street Smart API
- Where historical GeoCycloramas exist, “time travel” to see previous dates
- Save GeoCyclorama views as images

#### 3.3.2. Street Smart Widget for Web AppBuilder for ArcGIS

Bring GeoCyclorama display into applications created using Web AppBuilder with the Street Smart widget.

- Add recording point layer to web map used in the application
- View GeoCycloramas
- Where historical GeoCycloramas exist, “time travel” to see previous dates
- Save GeoCyclorama views as images
- Edit feature layers in the web map with the measurement tool or enable ad hoc measuring

#### 3.3.3. Street Smart for ArcGIS Desktop

Visualization, measurement and overlay tools within ArcGIS Pro allow you to fully leverage the power of GeoCycloramas within your existing ArcGIS environment.

- Open GeoCycloramas from a recording point layer added to the map
- View one or multiple GeoCycloramas
- Measure on GeoCycloramas
- Use the native editing capabilities of ArcGIS to collect features in 2D or 3D
- Save GeoCyclorama views as images

#### 3.3.4. Hosting

- Street Smart Cloud – Secure, scalable hosting service managed by Cyclomedia is included with the Project. Cyclomedia processes and stores GeoCycloramas in the Microsoft Azure Cloud.
- Street Smart Administrator – The named administrator can view the settings and statistics for the customer account in the Street Smart account tool. New accounts, restrictions and permissions are managed by Cyclomedia.
- For active customers with multiple data collections, the two most current GeoCyclorama collections are stored as high-definition 100-megapixel images. Unless prior arrangement is made, older years are resampled to 11 megapixels.

#### 3.3.5. Developer Tools

Street Smart APIs are industry standard Javascript APIs. Documentation, code examples and support are available through our website.

#### 3.4. Acquisition

Cyclomedia's solution will provide the Customer with high resolution, 100-megapixel images captured every 5-meters with high accuracy. Multiple images will be available in which to view, analyze, and measure assets.

In order to determine the proper coverage, Cyclomedia will refer to the Shapefiles provided by the Customer that delineate the area to be driven in one or multiple passes. The Cyclomedia vehicle is equipped with a tracking device. This enables Cyclomedia managers to login and track the location of the driver.

Images will not be collected during rainstorms, dust storms, with snow cover, at night or during any other environmental factors that will obscure the image quality and detail. It is Cyclomedia's standard operating procedure that imagery is only collected when the sun angle is at least 12-degrees above the horizon and with minimal moisture in the environment.

### 4. Production

During the image production phase, Cyclomedia will ensure that the imagery is of high quality and meets internal quality control standards for imagery including, at a minimum, images will be free of digital artifacts, excessive shadows, radiometric and tonal imbalance, glare, extreme contrast, smearing, warping or distortion of features, ghosting, voids, and artificial colorations.

The raw position measurements from the GPS/IMU sensors in the vehicle, plus the reference data from a network of permanent GNSS reference stations, are processed into an accurate position and orientation for each 360-degrees image. Our patent portfolio enables Cyclomedia alone to construct geometrically correct 360-degrees images from a moving vehicle, creating distortion-free street level imagery. Our unmatched location fidelity, with an average standard deviation across projects of 10 cm and approximately 3.9-inches allows our imagery to become a valuable GIS asset.

The five images captured by our camera unit at each recording point are prepared for editing including adjustment for white balance, chromatic aberration, de-mosaicking (color filter array interpolation), color artifacts reduction and tone mapping and then combined into a 360-degrees view. Several different image operations are performed on the 360-degrees image soon after, including local contrast enhancement, sharpening and adaptive histogram enhancements.

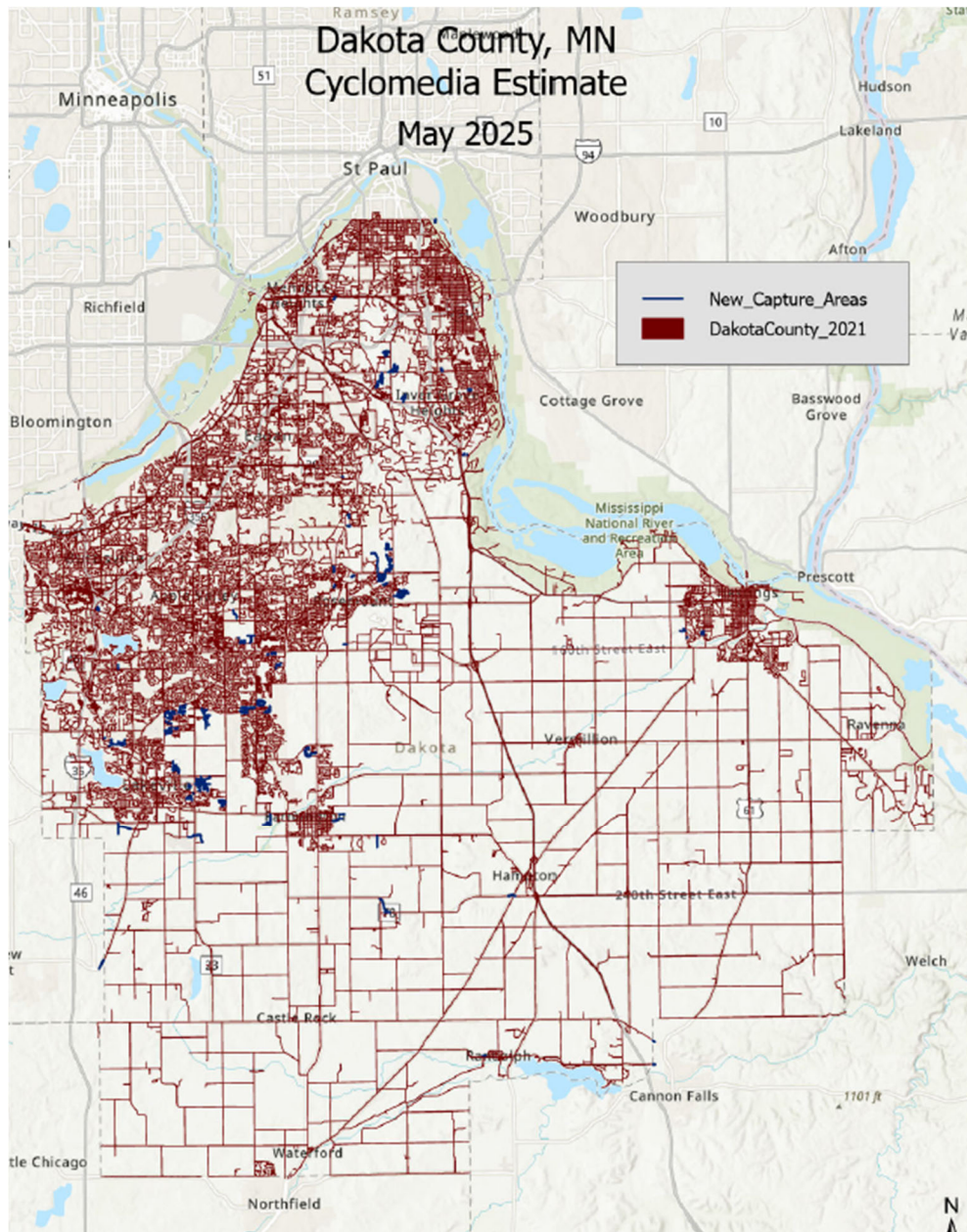
The LiDAR data is processed to produce a depth surface for Cyclomedia's Measure Smart technology. Measure Smart is enhanced measuring technology that relies on the depth surface rather than calculating location based on pixel locations in multiple GeoCycloramas. Measure Smart makes measuring quicker and easier.

As soon as these steps are done, quality reports are automatically generated. These reports are used in the manual controls to approve a series of images. Images may be rejected after the automated reporting or after visual inspection. Examples of problems that are caught by the quality control process are over or underexposure, wide class differences between the front and rear camera, or high inaccuracy in the position. In addition, systematic series of images are randomly checked for visible defects, such as dirt or water on the lenses or low sun angle glare. Quality control requires that images in urban areas are visually inspected every tenth image and those in outlying areas are inspected every tenth image. In addition, the team will also check whether the recordings completely cover the project area.

This completeness check is done based on the recording locations compared with the Customer's map or Open Street Map data stored by default in Street Smart. Images that have been rejected or areas that are missing will be redone in the rework process.

## **5. Schedule and Delivery**

Cyclomedia will plan, drive, process, and perform quality control on the imagery commencing as soon as practical following the signing of this document.



A driver can be expected to collect approximately 40 linear miles of data per day. This collection timeframe factors in a slower drive time in densely populated areas. Collection of this project will include contingency time for bad weather and missed days. The project is planning for a 5 to 7 week capture window, pending weather or other causes for delay. Cyclomedia will make images accessible approximately 4 to 6 weeks after the start of image collection.

#### 5.1. Schedule for Data Collection and Publication

The schedule for data collection depends on geographic location, availability of systems and staff, and weather restrictions. Cyclomedia cannot accurately collect any data below 32-degrees F and cannot collect LIDAR with snow on the ground due to reflectivity.

Once initial data collection starts, the project proceeds forward in drive areas. The data is reviewed for quality and completeness by the Cyclomedia team and is then submitted for the automated processing using Cyclomedia's proprietary cloud software. The post-processed data is again reviewed for quality and is then published. The first images through this entire process will be published for the Customer to see approximately 4 to 6 weeks after the first drive is completed. Additional imagery will be published in cascading drives, and the final imagery will be published approximately 4 to 6 weeks after the final drive is completed. At times, the drives are non-contiguous such as when systems are redeployed due to weather delays and must then be rescheduled to complete the collection process.

After the first several data sets have been published, if included in the contract, Customer training will be scheduled so that the Customer is given instruction on how to access and use the data sets as published.

## 6. Quality Control

The recording of 3D Cycloramas takes place systematically and on a large scale. However, we do not lose sight of the details, and we strive for the maximum coverage in each recording area. The recording area is agreed upon with the customer before capture and will define the locations where images will be recorded. On roadways divided by a median, the images are recorded in both directions. We photograph all paved public roads. Private properties and Risk areas are excluded from capturing. Prior to delivery, we check the dataset for its completeness and quality and return to recapture any missing 3D Cycloramas, if necessary.

During capture, parts of the project area can be non-accessible because of construction, etc. Further, 3D Cycloramas can be rejected during the internal quality check. If more than three 3D Cycloramas in a row are missing and redrives are necessary, these streets will be captured again. Cyclomedia will only return for recapturing if more than 2% of the agreed project area is missing or doesn't meet the quality criteria.

#### 6.1. Data Collection

Resolution: Cyclorama / 360-degrees image = 14400 x 7200 pixels (100 MP)

Field of View:

- Horizontal (HFOV): 360-degrees
- Vertical (VFOV): 180-degrees (in which part of the photography vehicle is visible and the lowest 30° is monochrome)

Spatial Pixel Size:

- Cyclorama: 0.025-degree (= 0.44 cm <0.17 in> at 10 m <33 ft> from the capture location)

Positioning Quality:



- The average standard deviation of the position is 10 cm (4 in), while the orientation deviation is 0.1-degree (excluding in long tunnels, forested areas and urban canyons).

Metric Quality:

- Geometrically correct: The accuracy of the spatial angle between 2 pixels is 0.025-degree for HD-Cyclorama's, and 0.075-degree for standard resolution.
- Precise measurements of objects: X, Y and Z measurements have an average absolute standard deviation of 10 cm (4 in), excluding in long tunnels, forested areas and urban canyons.
- Precise measurements of distances: Measurement of heights, lengths or widths have a relative standard deviation of approximately 2 cm (0.79 in)

#### 6.2. Conforming Data Quality

Cyclomedia will evaluate a random sample of data and if the quality is within the specifications, the data set is deemed accepted. Any correction of detected errors is at the sole option of Cyclomedia and does not change the acceptance of the entire data set. If the Customer does not provide written documentation of quality outside of specification within 15 days of delivery to the Customer, that data is deemed acceptance. Cyclomedia has 15 days from the receipt of any such documentation to respond, including if considered necessary by Cyclomedia, a plan to address the issues documented.

#### 6.3. Cyclomedia Product Specifications

Cyclomedia product offers and solutions are summarized in the above sections. Product specifications that define the details for Customer deliverables are listed below and available as separate PDF documents upon request.

- Street Smart
- 3D GeoCyclorama
- LiDAR Point Cloud
- Blurring Process

#### 6.4. Other

Unless specified elsewhere, hosting of delivered data in a GIS environment is not included or is provided at additional cost.

## 7. Training

Up to two (2) hours of web-based training is included with the license agreement. Please contact Cyclomedia for additional web-based training pricing. A technician is available to answer questions via email or phone for the duration of the license term. Onsite training is available for an additional fee of \$1,750/day plus travel expenses.

## 8. Technical Support

Technical support services, via phone or email, are available via the Cyclomedia Service Desk contact form for all support cases is on our website at: <http://www.cyclomedia.com/us/support/contact-service-desk>. Typical response/resolution time for tech support inquiries is within 24 hours of initial contact.

## 9. Final Delivery Report

The Final Delivery Report provides the Customer with a summary of the overall miles driven, areas collected and positional accuracy of the recording points. Each GeoCyclorama has associated metadata with information on the date and time it was captured, the accuracy of the recording point, the spatial reference system, and camera system information. The accuracy of each recording point is reported to the Customer geographically in a heat map as Figure 1 below demonstrates.



Figure 1: Green shows high positional accuracy, red is poor positional accuracy due to minimal GPS/IMU signal under urban canyons and dense vegetation.

**EXHIBIT 3**  
**INSURANCE TERMS**

Contractor agrees to provide and maintain at all times during the term of this Contract such insurance coverages as are indicated herein and to otherwise comply with the provisions that follow. Such policy(ies) of insurance shall apply to the extent of, but not as a limitation upon or in satisfaction of, the Contract indemnity provisions..

**APPLICABLE SECTIONS ARE CHECKED**

☒ 1. Workers Compensation.

Workers' Compensation insurance in compliance with all applicable statutes including an All States or Universal Endorsement where applicable. Such policy shall include Employer's Liability coverage in an amount no less than \$500,000. If Contractor is not required by Statute to carry Workers' Compensation Insurance, Contractor agrees: (1) to provide County with evidence documenting the specific provision under Minn. Stat. § 176.041 which excludes Contractor from the requirement of obtaining Workers' Compensation Insurance; (2) to provide prior notice to County of any change in Contractor's exemption status under Minn. Stat. § 176.041; and (3) to defend, hold harmless and indemnify County from and against any and all claims and losses brought by Contractor or any subcontractor or other person claiming through Contractor for Workers' Compensation or Employers' Liability benefits for damages arising out of any injury or illness resulting from performance of work under this Contract. If any such change requires Contractor to obtain Workers' Compensation Insurance, Contractor agrees to promptly provide County with evidence of such insurance coverage.

☒ 2. General Liability.

"Commercial General Liability Insurance" coverage, providing coverage on an "occurrence" basis. Policy shall include, but not be limited to, coverage for Bodily Injury, Property Damage, Personal Injury, Contractual Liability (applying to this Contract), Independent Contractors, "XC&U" and Products-Completed Operations liability (if applicable). An Insurance Services Office "Comprehensive General Liability" policy which includes a Broad Form Endorsement GL 0404 (Insurance Services Office designation) shall be considered to be an acceptable equivalent policy form. Claims-made coverage is acceptable.

A total combined general liability policy limit of at least \$2,000,000 per occurrence and aggregate, applying to liability for Bodily Injury, Personal Injury, and Property Damage, which total limit may be satisfied by the limit afforded under its Commercial General Liability policy, or equivalent policy, or by such policy in combination with the limits afforded by an Umbrella or Excess Liability policy (or policies); provided, that the coverage afforded under any such Umbrella or Excess Liability policy is at least as broad as that afforded by the underlying Commercial General

Liability policy (or equivalent underlying policy). Coverage under such policy may be subject to a deductible, not to exceed \$25,000 per occurrence. Contractor agrees to maintain such insurance for at least one (1) year from Contract termination.

☒ Such policy(ies) shall name Dakota County, its officers, employees and agents as Additional Insureds thereunder.

☒ 3. Professional Liability

Professional Liability (errors and omissions) insurance with respect to its professional activities to be performed under this Contract. This amount of insurance shall be at least \$2,000,000 per occurrence and aggregate. Coverage under such policy may be subject to a deductible, not to exceed \$25,000 per occurrence. Contractor agrees to maintain such insurance for at least one (1) year from Contract termination.

Contractor therefore agrees that it will not seek or voluntarily accept any such change in its Professional Liability insurance coverage if such impairment of Dakota County's protection could result; and further, that it will exercise its rights under any "Extended Reporting Period" ("tail coverage").

☒ 4. Automobile Liability

Business Automobile Liability insurance covering liability for Bodily Injury and Property Damage arising out of the ownership, use, maintenance, or operation of all owned, non-owned and hired automobiles and other motor vehicles utilized by Contractor in connection with its performance under this Contract. Such policy shall provide total liability limits for combined Bodily Injury and/or Property Damage in the amount of at least \$2,000,000 per accident

☒ Such policy, shall include Dakota County, its officers, employees and agents as Additional Insureds thereunder.

☐ 5. Network Security and Privacy Liability

Network security and privacy liability insurance, including first-party costs, for any breach that compromises data obtained while providing services under this Agreement. This insurance should to cover claims which may arise from failure of Contractor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service. The required limit shall not be less than \$2,000,000 per occurrence with a \$4,000,000 aggregate limit. Claims-made coverage is acceptable. Such insurance shall name Dakota County, its officials, employees, volunteers and agents as additional insureds. The policy shall provide an extended reporting period of not less than thirty-six (36) months from the expiration date of the policy, if the policy if not renewed.

☒ 6. Evidence of Insurance

Contractor shall promptly provide Dakota County with a Certificate of Insurance prior to commencement of any work. At least 10 days prior to termination of any such coverage, Contractor shall provide Dakota County with evidence that such coverage will be renewed or replaced upon termination with insurance that complies with these provisions.

☒ 7. Insurer: Policies.

All policies of insurance shall be issued by financially responsible insurers licensed to do business in the State of Minnesota by a n insurer with a current A.M. Best Company rating of at least A:VII.

☒ 8. Release and Waiver.

Contractor agrees to rely entirely upon its own property insurance for recovery with respect to any damage, loss or injury to the property interests of Contractor. Contractor hereby releases Dakota County, its officers, employees, agents, and others acting on their behalf, from all claims, and all liability or responsibility to Contractor, and to anyone claiming through or under Contractor, by way of subrogation or otherwise, for any loss of or damage to Contractor's business or property caused by fire or other peril or event, even if such fire or other peril or event was caused in whole or in part by the negligence or other act or omission of Dakota County or other party who is to be released by the terms here of, or by anyone for whom such party may be responsible.

Contractor agrees to effect such revision of any property insurance policy as may be necessary in order to permit the release and waiver of subrogation agreed to herein. Contractor shall, upon the request of Dakota County, promptly provide a Certificate of Insurance, or other form of evidence as may be reasonably requested by Dakota County, evidencing that the full waiver of subrogation privilege contemplated by this provision is present; and/or, if so requested by Dakota County, Contractor shall provide a full and complete copy of the pertinent property insurance policy(ies).

Revised: 11/23

## EXHIBIT 4 STANDARD ASSURANCES

1. **NON-DISCRIMINATION.** During the performance of this Contract, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because the person is a member of a protected class under, and as defined by, federal law or Minnesota state law including, but not limited to, race, color, creed, religion, sex, gender, gender identity, pregnancy, national origin, disability, sexual orientation, age, familial status, marital status, veteran's status, or public assistance status. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without unlawful discrimination. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this nondiscrimination clause.

The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, sex, national origin, disability, sexual orientation, age, marital status, veteran's status, or public assistance status.

No funds received under this Contract shall be used to provide religious or sectarian training or services.

The Contractor shall comply with any applicable federal or state law regarding non-discrimination. The following list includes, but is not meant to limit, laws which may be applicable:

A. The Equal Employment Opportunity Act of 1972, as amended, 42 U.S.C. § 2000e *et seq.* which prohibits discrimination in employment because of race, color, religion, sex, or national origin.

B. Equal Employment Opportunity-Executive Order No.11246, 30 FR 12319, signed September 24, 1965, as amended, which is incorporated herein by reference, and prohibits discrimination by U.S. Government contractors and subcontractors because of race, color, religion, sex, or national origin.

C. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 *et seq.* and 45 C.F.R. 84.3 (J) and (K) implementing Sec. 504 of the Act which prohibits discrimination against qualified handicapped persons in the access to or participation in federally-funded services or employment.

D. The Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.* as amended, and Minn. Stat. § 181.81, which generally prohibit discrimination because of age.

E. The Equal Pay Act of 1963, as amended, 29 U.S.C. § 206(d), which provides that an employer may not discriminate on the basis of sex by paying employees of different sexes differently for the same work.

F. Minn. Stat. Ch. 363A, as amended, which generally prohibits discrimination because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age.

G. Minn. Stat. § 181.59 which prohibits discrimination against any person by reason of race, creed, or color in any state or political subdivision contract for materials, supplies, or construction. Violation of this section is a misdemeanor and any second or subsequent violation of these terms may be cause for forfeiture of all sums due under the Contract.

H. Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 through 12213, 47 U.S.C. §§ 225, 611, with regulations at 29 C.F.R. § 1630, which prohibits discrimination against qualified individuals on the basis of a disability in term, condition, or privilege of employment.

I. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* and including 45 CFR Part 80, prohibits recipients, including their contractors and subcontractors, of federal financial assistance from discriminating on the basis of race, color or national origin which includes not discriminating against those persons with limited English proficiency.

J. The Pregnancy Discrimination Act of 1978, which amended Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* which prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions.

K. Equal Protection of the Laws for Faith-based and Community Organizations-Executive Order No. 13279, signed December 12, 2002 and as amended May 3, 2018. Prohibits discrimination against grant seeking organizations on the basis of religion in the administration or distribution of federal financial assistance under social service programs, including grants and loans.

L. Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, with regulations at 41 C.F.R. Part 60-250, which prohibits discrimination in employment against protected veterans.

2. **DATA PRIVACY**. For purposes of this Contract, all data created, collected, received, stored, used, maintained, or disseminated by Contractor in the performance of this Contract are subject to the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, ("MGDPA") and the Minnesota Rules implementing the MGDPA. Contractor must comply with the MGDPA as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. Contractor does not have a duty to provide access to public data to a data requestor if the public data are available from the County, except as required by the terms of this Contract. If Contractor is a subrecipient of federal grant funds under this Contract, it will comply with the federal requirements for the safeguarding of protected personally identifiable information ("Protected PII") as required in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, and the County Protected PII procedures, which are available upon request. Additionally, Contractor must comply with any other applicable laws on data privacy. All subcontracts shall contain the same or similar data practices compliance requirements.

3. **RECORDS DISCLOSURE/RETENTION**. Contractor's bonds, records, documents, papers, accounting procedures and practices, and other evidences relevant to this Contract are subject to the examination, duplication, transcription, and audit by the County and either the Legislative or State Auditor, pursuant to Minn. Stat. § 16C.05, subd. 5. and the U.S. Department of Health and Human Services. Such evidences are also subject to review by the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. The Contractor agrees to

maintain such evidences for a period of six (6) years from the date services or payment were last provided or made or longer if any audit in progress requires a longer retention period.

4. **WORKER HEALTH, SAFETY AND TRAINING.** Contractor shall be solely responsible for the health and safety of its employees in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subcontractors and other persons who may perform work in connection with this Contract. Contractor shall ensure all personnel of Contractor and subcontractors are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks engaged in under this Contract. Each Contractor shall comply with federal, state, and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act which are applicable to the work to be performed by Contractor.

5. **PROHIBITED TELLECOMMUNICATIONS EQUIPMENT/SERVICES.** If Contractor is a subrecipient of federal grant funds under this Contract, Contractor certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018) (the "Act"), and 2 CFR § 200.216, Contractor will not use funding covered by this Contract to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Contractor will include this certification as a flow down clause in any agreement related to this Contract.

6. **CONTRACTOR GOOD STANDING.** If Contractor is not an individual, Contractor must be registered to do business in Minnesota with the Office of the Minnesota Secretary of State and shall maintain an active/in good standing status with the Office of the Minnesota Secretary of State, and shall notify County of any changes in status within five calendar days of such change. Business entities formed under the laws of a jurisdiction other than Minnesota must maintain a certificate of authority (foreign corporations, limited liability companies, limited partnerships, and limited liability limited partnerships), or a statement of foreign qualification (foreign limited liability partnerships), or a statement of partnership authority (general partnerships). See Minn. Stat. §§ 303.03 (corporations); 322C.0802 (limited liability companies); 321.0902 and 321.0907 (foreign limited partnership); 321.0102(7) (foreign limited liability limited partnerships); 323A.1102(a) (foreign limited liability partnership); 321.0902 and 321.0907 (foreign general partnerships).

7. **CONTRACTOR DEBARMENT, SUSPENSION, AND RESPONSIBILITY CERTIFICATION.** Federal Regulation 45 CFR 92.35 prohibits the State/Agency from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government. Similarly, Minn. Stat. § 16C.03, subd. 2 provides the Commissioner of Administration with the authority to debar and suspend vendors who seek to contract with the State/Agency. Vendors may be suspended or debarred when it is determined, through a duly authorized hearing process, that they have abused the public trust in a serious manner.

By signing this Contract, the Contractor certifies that it and its principals\* and employees:

A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state, or local governmental department or agency; and



B. Have not within a three (3) year period preceding this Contract: 1) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract; 2) violated any federal or state antitrust statutes; or 3) committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

C. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity for: 1) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction; 2) violating any federal or state antitrust statutes; or 3) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

D. Are not aware of any information and possess no knowledge that any subcontractor(s) that will perform work pursuant to this Contract are in violation of any of the certifications set forth above; and

E. Shall immediately give written notice to the Authorized Representative should Contractor come under investigation for allegations of fraud or a criminal offense in connection with obtaining, or performing a public (federal, state, or local government) transaction; violating any federal or state antitrust statutes; or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

\*\*“Principals” for the purposes of this certification means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager; plant manager; head of a subsidiary, division, or business segment and similar positions).

#### Directions for Online Access to Excluded Providers

To ensure compliance with this regulation, identification of excluded entities and individuals can be found on the Office of Inspector General (OIG) website at [https://oig.hhs.gov/exclusions/exclusions\\_list.asp](https://oig.hhs.gov/exclusions/exclusions_list.asp)

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