

RESOLUTION NO. 148, SERIES 2018

A RESOLUTION PURSUANT TO THE CAPITAL AND OPERATING BUDGET ORDINANCES, APPROVING THE APPROPRIATION TO FUND THE FOLLOWING NONCOMPETITIVELY NEGOTIATED AMENDMENT TO SOLE SOURCE CONTRACT FOR CORRECTIONS CONCERNING SERVICE, MAINTENANCE AND REPAIR OF THE PROPRIETARY RADPRO AND SECURPASS FULL BODY SECURITY SCREENING SYSTEM – (VIRTUAL IMAGING, INC. - \$29,000 FOR A NEW NOT-TO-EXCEED AMOUNT OF \$104,000.00).

Sponsored By: COUNCIL MEMBER MARIANNE BUTLER

BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: The following appropriation for the listed contract is hereby approved:

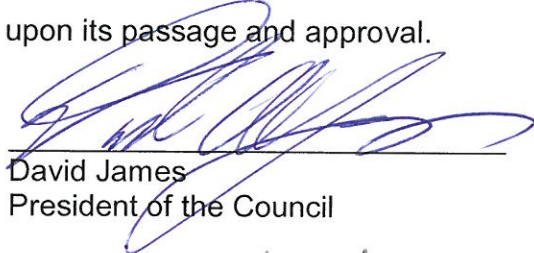
**CORRECTIONS**

\$29,000.00 for a new not-to-exceed amount of \$104,000.00 for an amendment to the noncompetitively negotiated Sole Source Contract with Virtual Imaging, Inc. for service, maintenance and repair of RadPro and SecurPASS body scanners from April 24, 2015 through April 23, 2019.

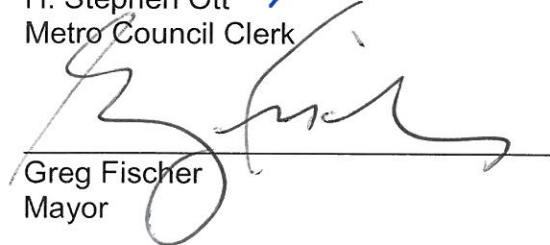
SECTION II: This Resolution shall take effect upon its passage and approval.



H. Stephen Ott  
Metro Council Clerk



David James  
President of the Council



Greg Fischer  
Mayor

10/30/18  
Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell  
Jefferson County Attorney



BY: 

RESOLUTION NO. 148, SERIES 2018

A RESOLUTION PURSUANT TO THE CAPITAL AND OPERATING BUDGET ORDINANCES, APPROVING THE APPROPRIATION TO FUND THE FOLLOWING NONCOMPETITIVELY NEGOTIATED AMENDMENT TO SOLE SOURCE CONTRACT FOR CORRECTIONS CONCERNING SERVICE, MAINTENANCE AND REPAIR OF THE PROPRIETARY RADPRO AND SECURPASS FULL BODY SECURITY SCREENING SYSTEM – (VIRTUAL IMAGING, INC. - \$29,000 FOR A NEW NOT-TO-EXCEED AMOUNT OF \$104,000.00).

Sponsored By: COUNCIL MEMBER MARIANNE BUTLER

BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: The following appropriation for the listed contract is hereby approved:

**CORRECTIONS**

\$29,000.00 for a new not-to-exceed amount of \$104,000.00 for an amendment to the noncompetitively negotiated Sole Source Contract with Virtual Imaging, Inc. for service, maintenance and repair of RadPro and SecurPASS body scanners from April 24, 2015 through April 23, 2019.

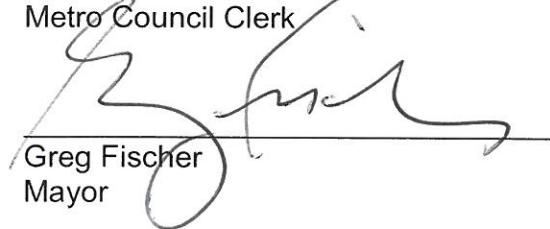
SECTION II: This Resolution shall take effect upon its passage and approval.



H. Stephen Ott  
Metro Council Clerk



David James  
President of the Council



Greg Fischer  
Mayor

10/30/18  
Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell  
Jefferson County Attorney



BY: 

## AMENDMENT TO CONTRACT

This Amendment to Contract, made and entered into by and between the **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, acting by and through its **DEPARTMENT OF CORRECTIONS**, hereinafter referred to as "**METRO GOVERNMENT**" and **VIRTUAL IMAGING, INC.**, with offices located at at 5600 Broken Sound Boulevard, Boca Raton, Florida 33487 herein referred to as "**CONTRACTOR**",

### WITNESSETH:

**WHEREAS**, the Metro Government and Contractor entered into a contract for service, maintenance and repair of RadPro and SecurPASS full body security screening system ("Contract"); and

**WHEREAS**, the parties wish to amend the Contract to extend its duration and update its pricing for that extended duration;

**NOW, THEREFORE**, it is agreed by and between the parties hereto as follows:

**Section I.** That the above recitals are true and correct and are incorporated herein, in their entirety, by this reference.

**Section II.** That Agreement Section A, Fees and Compensation, Subsection A, is hereby amended in its entirety to read as follows:

The Metro Government shall pay Contractor for services rendered pursuant to and as described in Attachment A. Total compensation payable to Contractor for services rendered pursuant to this Agreement shall not exceed **ONE HUNDRED FOUR THOUSAND DOLLARS (\$104,000.00)** unless otherwise agreed to by the parties in writing.

**Section III.** That Agreement Section, III, Duration, Subsection A, is hereby amended in its entirety to read as follows:

This Agreement shall begin April 24, 2015 and shall continue through and including April 23, 2019

**Section IV.** That there is hereby added to Agreement Attachment A attached to this Amendment and fully incorporated herein.

**Section V.** All other terms and conditions as set forth in the Contract shall remain in full force and effect as if fully set out herein.

WITNESS the agreement of the parties hereto by their signatures affixed hereon.

APPROVED AS TO FORM AND  
LEGALITY CONTINGENT  
UPON APPROVAL OF  
OF THE APPROPRIATION FOR  
THIS CONTRACT BY THE  
METRO COUNCIL

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT

  
MICHAEL J. O'CONNELL  
JEFFERSON COUNTY ATTORNEY

  
JOEL NEAVEILL, DIRECTOR, PURCHASING  
DEPARTMENT

Date: 10/2/18

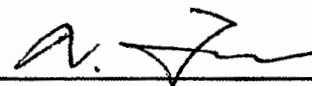
Date: 10/2/18

DEPARTMENT OF CORRECTIONS

  
MARK BOLTON  
DIRECTOR

Date: 9-27-18

VIRTUAL IMAGING, INC.

By: 

Title: Vice President

Date: 10/30/18

Taxpayer Identification No.  
(TIN): \_\_\_\_\_

Louisville/Jefferson County  
Revenue Commission Account  
No.: \_\_\_\_\_

**ATTACHMENT A**

**SERVICE AGREEMENT**

This Service Agreement # 080118MO is entered into by and between Virtual Imaging, Inc. ("Virtual Imaging") and Louisville Municipal Jail ("Customer").

**Equipment Address:**  
Louisville Municipal Jail  
400 S. Sixth Street  
Louisville, KY 40202

**Billing Address:**  
Louisville Municipal Jail  
400 S. Sixth Street  
Louisville, KY 40202

**Equipment Type:** See Exhibit A - Equipment Management Form, a copy of which is attached hereto and made a part hereof.

Virtual Imaging and Customer agree that Virtual Imaging shall provide service and/or replacement part coverage as specified on Exhibit A - Equipment Management Form to the Customer for the equipment listed on Exhibit A - Equipment Management Form ("Equipment"), subject to the terms and conditions contained herein and in the included Exhibit B - Terms and Conditions attached hereto and made a part of this Service Agreement. This Service Agreement together with Exhibits A and B are collectively referred to as the "Agreement." The term of this Agreement shall begin on 04 / 24 / 18 and end on 04 / 23 / 19 (the "Term").

**Total Agreement Price:** \$29,000.00 (Plus Applicable Tax)

**Price Includes:** See attached Exhibit A - Equipment Management Form

**Billing:** Customer will be billed \$29,000.00 in advance. Customer's invoice will be due and payable within thirty (30) days of the invoice date. Customer's invoice will cover the period beginning on 04 / 24 / 18 and ending on 04 / 23 / 19.

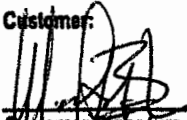
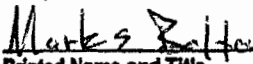
*This Agreement is subject to and contingent upon Virtual Imaging's inspection of the Equipment. As determined from Virtual Imaging's inspection and in its sole determination, if any Equipment is not up to Virtual Imaging's standard or has pre-existing conditions, all such Equipment must be repaired by Virtual Imaging, at Customer's sole cost and expense, and fully functional prior to being covered under this Agreement.*

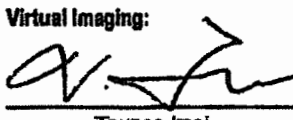
*By execution of this Agreement by an authorized signatory, Customer acknowledges and agrees that it has read, understands and agrees to be bound by the terms and conditions of this Agreement, as well as any additional terms and conditions checked below, copies of which are attached hereto (if applicable).*

**ADDITIONAL TERMS AND CONDITIONS**

- Protection Plus
- Protection Plus Point of Sale
- Protection Plus and Protection Plus Point of Sale are not applicable

**Acceptance Signature:**

Customer:  
  
 \_\_\_\_\_  
 Customer Signature Date 12-1-18  
  
 Printed Name and Title

Virtual Imaging:  
  
 \_\_\_\_\_  
 Tsuneo Imai Date 8/10/18  
 President  
 Nobuhiro Togawa for Tsuneo Imai

**EXHIBIT A  
EQUIPMENT MANAGEMENT FORM  
Louisville Municipal Jail – SVC # 080118MO**

VI Inventory # S/N #	Equipment	Options	Effective Date	Annual \$
Serial # 122	RadPRO SecurPASS	Includes: Monoblock and glassware for first year due to special circumstances. Future contracts will have separate options for these items.	04 / 24 / 18	\$14,500.00
Serial # 198	ConPass	Includes: Monoblock and glassware for first year due to special circumstances. Future contracts will have separate options for these items.	04 / 24 / 18	\$14,500.00
<b>Plan Coverage</b>	Contract Coverage Hours (Mon-Fri – 8am – 5pm) No Company Observed Holidays Parts and Labor 2 PM per year coverage within contract hours			
PLEASE SEE TERMS AND CONDITIONS ATTACHED HERETO AND MADE A PART HEREOF FOR PARTS AND SERVICES NOT COVERED				
				<b>Total Agreement Price: \$29,000.00</b>

Initials: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Virtual: *AT*  
 Date: *8/20/18*



## Exhibit B

### Terms and Conditions to the Service Agreement For the Platinum, Gold and Silver Service Plans

The Service Agreement is subject to the following terms and conditions (the "Terms and Conditions"). For purposes of this Exhibit B, all references herein to the term "Agreement" will mean the Service Agreement, together with Exhibit A attached thereto and this Exhibit B. All defined terms used herein but not so defined will have the meanings ascribed thereto in the Service Agreement. All prior and/or contemporaneous negotiations and agreements, oral or written, between Virtual Imaging and Customer as it relates to the service plans outlined below (Platinum Service Plan, Gold Service Plan and/or Silver Service Plan) purchased by Customer pursuant to this Agreement are superseded by these Terms and Conditions. Any terms different from or in addition to these Terms and Conditions, whether communicated orally, or contained in any Customer proposal, acknowledgment, invoice or any other document used by Customer will not form part of this Agreement, even if Customer purports to condition Customer's acceptance of this Agreement on Virtual Imaging's agreement to such different or additional terms or conditions, and Virtual Imaging hereby expressly rejects all such different or additional terms and conditions.

#### Service Plans Features

**Platinum Service Plan** – Subject to the terms and conditions set forth herein, the Platinum Service Plan includes:

- Routine Preventive Maintenance (which encompasses cleaning, lubrication and adjustments – See Section entitled "Routine Preventive Maintenance" below for further details and restrictions) and repair service (which includes time and labor for repair of the Equipment) (hereinafter Routine Preventive Maintenance and repair service is collectively referred to as the "Service") for the Equipment.
- Equipment Part Coverage (which includes providing replacement parts for the Equipment, subject to the exclusions outlined below under the Section below entitled "Exclusions").
- Coverage under Protection Plus for the following models of Canon detectors when the Platinum Service Plan is purchased for eligible detectors after the point of sale of such detectors: CXDI-710C Wireless; CXDI-810C Wireless; CXDI-410C Wireless; CXDI-701C Wireless; CXDI-801C Wireless; CXDI-401C Wireless; CXDI-501G; CXDI-401G Compact; CXDI-401C Compact; CXDI-50RF; CXDI-501C; CXDI-401C Fixed; CXDI-70C; CXDI-80C; CXDI-50G; CXDI-55C; CXDI-55G; and CXDI-60C. Coverage under Protection Plus Point of Sale for the following models of Canon detectors when the Platinum Service Plan is purchased for eligible detectors at the point of sale of such detectors: CXDI-710C Wireless; CXDI-810C Wireless; CXDI-410C Wireless; CXDI-701C Wireless; CXDI-801C Wireless; CXDI-401C Wireless; CXDI-501G; CXDI-401G Compact; CXDI-401C Compact; and CXDI-50RF. Separate terms and conditions apply for each of Protection Plus and Protection Plus Point of Sale, which are attached to this Agreement, as applicable. Protection Plus and/or Protection Plus Point of Sale are subject to change or termination by Virtual Imaging, in its sole discretion, at any time; however, any such change or termination will not impact detectors that have been enrolled in Protection Plus or Protection Plus Point of Sale, as applicable, prior to the effective date of such change or termination.

**Gold Service Plan** – Subject to the terms and conditions set forth herein, the Gold Service Plan includes:

- Service (as defined above under the "Platinum Service Plan") for the Equipment.
- Equipment Part Coverage – which includes providing replacement parts for the Equipment, subject to the exclusions outlined below under the Sections below entitled "Exclusions" and "Additional Terms and Conditions for Gold and Silver Service Plans- Equipment Part Coverage Exclusions."

**Silver Service Plan** – Subject to the terms and conditions set forth herein, the Silver Service Plan includes:

- Equipment Part Coverage – which includes providing replacement parts for the Equipment, subject to the exclusions outlined below under the Sections below entitled “Exclusions” and “Additional Terms and Conditions for Gold and Silver Service Plans-Equipment Part Coverage Exclusions.”

**Term and Termination** – The Term of this Agreement is set forth on the first page of the Service Agreement. Either party may terminate this Agreement in the event that the other party materially breaches any of the terms or conditions of this Agreement and fails to cure said breach within thirty (30) days after its receipt from the non-breaching party of written notice outlining such breach. Notification of the breach must be sent by the non-breaching party to the breaching party via a nationally recognized overnight carrier service. Material breach, for purposes of this Agreement, means a breach of any term or condition of this Agreement, including, without limitation, Customer’s timely payment of all amounts due under this Agreement. Notwithstanding the foregoing, Virtual Imaging will have the right to immediately terminate this Agreement as further provided in the Section below entitled “Exclusions.” In the event that Customer terminates this Agreement for any reason other than due solely to Virtual Imaging’s uncured material breach, Customer will be required to immediately pay to Virtual Imaging all amounts due and owing under this Agreement, including, if applicable, the remaining quarterly charges due for the balance of the Term, and Customer agrees that in addition to such payment, Virtual Imaging will be entitled to recover any other damages available to it at law or equity as a result of or in connection with such termination.

**Customer Phone Support** - Customer phone support (which includes technical and applications support for the Equipment covered by this Agreement) is available from 8:00 AM to 8:00 PM (EST) Monday through Friday (except for Virtual Imaging observed holidays, a list of which will be provided by Virtual Imaging to Customer upon Customer’s written request, referred to herein as “Observed Holidays”) by calling Virtual Imaging’s Call Center at 561-893-8400.

**Equipment Part Coverage Delivery** - Orders for Equipment parts which are covered by this Agreement can be made by calling Virtual Imaging’s Call Center at 561-893-8400. Orders for parts covered pursuant to this Agreement will be shipped by Virtual Imaging on the same day via overnight service for next day delivery provided that such order is received by Virtual Imaging Monday through Friday (except for Observed Holidays) before 4:00 PM (EST). Orders for Equipment parts which are covered by this Agreement that are received by Virtual Imaging after 4:00 PM (EST) will be shipped by Virtual Imaging on the next business day.

**Charges** - Customer will be billed in advance for the upcoming quarter and payment in full in U.S. dollars is due to Virtual Imaging within thirty (30) days of the invoice date (“Due Date”). Applicable taxes will be added to the charges and reflected in the invoice sent to Customer. Prepaid charges will not be refundable except as provided in the Section below entitled “Exclusions.” Customer will be placed on collect on delivery (COD) status if payment is not received on the Due Date. A late charge of 1.5% per month (or the maximum legal interest rate allowed by applicable law, if less) will be assessed for payments not received by the Due Date. Additionally, Virtual Imaging may withhold Service under this Agreement in whole or in part until any delinquent payment is received by Virtual Imaging. If payment is delinquent and cannot be collected on demand, Customer agrees to pay all costs and expenses incurred by Virtual Imaging, including reasonable attorney’s fees and court costs, in connection with Virtual Imaging’s efforts to collect any payment due by Customer pursuant to this Agreement. Customer is responsible for all state, local or excise taxes levied on Service or sales during the Term of this Agreement. If Customer is tax-exempt, a current tax-exemption certificate must be mailed to Virtual Imaging immediately upon execution by Customer of this Agreement.

**Exclusions**

(a) Software (which includes, but is not limited to operating software, diagnostic software and firmware) is not covered under this Agreement. Notwithstanding the foregoing, during the Term of this Agreement, Virtual Imaging will provide updates for RadPRO® and Canon brand software products which Virtual Imaging sold to Customer.

(b) If for any reason Virtual Imaging is unable to obtain Equipment parts for the Equipment covered under this Agreement, Virtual Imaging may, without liability, cancel any balance of the Term of this Agreement as to such Equipment and refund the unearned portion of any prepaid charges made pursuant to this Agreement. If the cost of a part needed to Service the Equipment or a replacement part exceeds fifty percent (50%) of the Equipment’s fair market value, such part will not be covered. Equipment or parts replaced or removed by Virtual Imaging in connection with this Agreement will become the sole property of Virtual Imaging, and Customer hereby disclaims any and all interest therein.

(c) Virtual Imaging may, without liability, terminate this Agreement if Customer relocates the Equipment from the present Customer Facility (as defined below) or removes or deletes any Equipment from Exhibit A without Virtual Imaging's prior written consent, which consent may be withheld in Virtual Imaging's sole discretion. Virtual Imaging will not be obligated to perform Service or provide Equipment Part Coverage on any Equipment damaged as a result of (i) any willful act, tampering, negligence, abuse or misuse of the Equipment; (ii) any Equipment service performed on the Equipment by anyone other than Virtual Imaging personnel or a third-party who has been expressly authorized by Virtual Imaging to perform such Equipment service on its behalf; or (iii) power failures or modifications, operator error, fire, water damage, terrorism, war, insurrection or an act of God. Customer will provide Virtual Imaging clear and safe access to the Equipment for purposes of providing Service, and will maintain a fully functional and safe working environment for Virtual Imaging's service representative to perform such Service.

**EXCLUSION OF WARRANTIES AND LIMITATION OF LIABILITY – VIRTUAL IMAGING EXPRESSLY DISCLAIMS ALL WARRANTIES EXPRESS OR IMPLIED INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE RELATING TO THE USE OR PERFORMANCE OF THE EQUIPMENT AND THE PARTS. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE FURNISHING OF SERVICE BY VIRTUAL IMAGING PURSUANT TO THIS AGREEMENT DOES NOT ASSURE UNINTERRUPTED OPERATION AND USE OF THE EQUIPMENT. VIRTUAL IMAGING WILL NOT BE LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE UNLESS CAUSED DIRECTLY BY VIRTUAL IMAGING'S NEGLIGENCE OR WILLFUL MISCONDUCT. THE LIABILITY OF VIRTUAL IMAGING ARISING UNDER OR RELATING TO THIS AGREEMENT WILL IN NO EVENT EXCEED THE FEE OR AMOUNT RECEIVED BY VIRTUAL IMAGING FROM CUSTOMER FOR THE SERVICE WHICH CAUSES ANY SUCH LIABILITY. IN NO EVENT WILL VIRTUAL IMAGING BE LIABLE FOR DAMAGES SUCH AS LOST INCOME OR LOST PROFITS, LOST DATA, OR ANY OTHER DIRECT, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THEORY OF LIABILITY (WHETHER CONTRACT, STRICT LIABILITY OR TORT), IN ANY WAY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES OR PARTS PROVIDED AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY. Unless prohibited by law, no action arising out of or relating to this Agreement, regardless of the form of action, may be brought by Customer more than one (1) year after the action accrued.**

**No Assignment** – Customer will inform Virtual Imaging promptly in writing of any change of name, change of any office location, or change of legal form of its business. Customer cannot assign this Agreement without Virtual Imaging's prior written consent (which consent will be in Virtual Imaging's sole discretion), and any attempted assignment without such consent will be void.

**Restrictions on Hiring Employees** - Customer acknowledges that Virtual Imaging has invested considerable amounts of time and money in training its employees in the systems, procedures, methods, forms, reports, formulas, computer programs, plans, techniques and other valuable information that are proprietary and unique to Virtual Imaging's manner of conducting its business and that Virtual Imaging makes such information available to its employees, its parent and its affiliates, on a confidential basis. Therefore, Customer agrees that no employees of Virtual Imaging, its parent or its affiliates, will be hired by Customer or its subsidiaries, affiliates or facilities for the Term of this Agreement and twelve (12) months thereafter, and that Customer will not permit any employees of Virtual Imaging, its parent or its other affiliates to provide services for any Customer or any of its subsidiaries, affiliates or facilities indirectly (through consulting contracts, contracts with third parties that employ or otherwise retain any Virtual Imaging employees, or otherwise) for the Term of this Agreement and twelve (12) months thereafter. Customer agrees that if Customer or any of its subsidiaries, affiliates or facilities violates the conditions set forth in this Section, Customer will pay to Virtual Imaging, and Virtual Imaging will accept as liquidated damages and not as a penalty, an amount equal to two (2) times the annual salary of the employee(s) retained or allowed to work for Customer in violation of this Section. Customer agrees that the foregoing restrictions are reasonably necessary to protect Virtual Imaging's legitimate business interest, and that they are reasonable as to their scope and duration.

**Miscellaneous** - The headings in this Agreement are inserted for convenience of reference only and will not constitute a part hereof. This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all previous proposals and agreements whether oral or written. Only those representations or statements contained in this Agreement will be binding upon Virtual Imaging as a warranty or otherwise. Customer's acceptance of the Agreement is expressly limited to these Terms and Conditions and the terms and conditions set forth elsewhere in this Agreement, and Customer may not modify, add, delete or otherwise alter any of the terms and conditions set forth in this Agreement. No amendment, modification or alternation of the terms and conditions set forth in this Agreement will be binding unless the same is set forth in a

writing which expressly states such intent, and such writing is dated subsequent to the date hereof and approved and executed by a duly authorized officer of each party, unless otherwise provided herein. No work orders, service requests, purchase orders, invoices or similar instructions delivered to Virtual Imaging by Customer or otherwise made by Customer will amend, alter or modify this Agreement (except as provided in the preceding sentence), but rather will be deemed requests subject to, and in all cases superseded by and subject to, the terms and conditions of this Agreement. Neither party will be liable to the other for failure to perform because of causes or events beyond the control of the parties which cannot be foreseen (or if foreseeable, are unavoidable) and which prevent or hinder the performance of the party's obligations hereunder. No provision of this Agreement will be deemed waived by course of conduct, unless such waiver is made in a writing signed by the parties stating that it is intended specifically to modify this Agreement, nor will any course of conduct operate or be construed as a waiver of any subsequent breach of this Agreement, whether of a similar or dissimilar nature. If any term or provision of this Agreement is held invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining terms and provisions will not be affected or impaired.

In the performance of Virtual Imaging's obligations under this Agreement, Virtual Imaging will at all times act as and be deemed an independent contractor. Nothing in this Agreement will be construed to render Virtual Imaging or any of its employees, agents or officers, an employee, joint venture, agent or partner of Customer. Neither party is authorized to assume or create any obligations or responsibilities, express or implied, on behalf of the other party, except as may be specifically provided for herein. The employees, methods, facilities and equipment of Virtual Imaging will at all times be under Virtual Imaging's exclusive direction and control.

**Law Governing Agreement** - This Agreement is made within the State of Florida and this Agreement and any dispute, claim or controversy between the parties arising out of or relating to this Agreement will be governed by and construed in accordance with the laws of the State of Florida without regard to its conflict of law provisions. Customer hereby consents to the exclusive jurisdiction and venue of either the U.S. District Court for the Southern District of Florida or the state courts located in Palm Beach County, Florida. Customer further agrees that all suits commenced by Customer against Virtual Imaging upon any and all causes of action, whether or not such causes of action have arisen under or relate to this Agreement and regardless of the legal theory upon which such causes of action are based, will be brought exclusively in either the U.S. District Court for the Southern District of Florida or the state courts located in Palm Beach County, Florida. **The parties irrevocably waive any right to a jury trial in any and all causes of action between them, whether or not such causes of action have arisen under or relate to this Agreement and regardless of the legal theory upon which such causes of action are based.**

#### **Additional Terms and Conditions for Gold and Silver Service Plans**

**Equipment Part Coverage Exclusions** - Consumable parts and/or supplies, including, but not limited to, Equipment batteries, glassware (which may include, but is not limited to, X-ray tubes, image intensifiers, and camera tubes), bulbs, styli, and any other parts or supplies that are replaced due to normal operation, or any other items which may be expressly excluded as noted on Page 1 of this Agreement or Exhibit A – Equipment Management Form of this Agreement, are not covered under this Agreement. For the avoidance of doubt, this Section does not apply to the Platinum Service Plan.

#### **Additional Terms and Conditions for Platinum and Gold Service Plans**

**Hours of Service** – Unless Virtual Imaging agrees in its sole discretion in writing to the contrary, Service will be provided during normal business hours Monday through Friday, 8:00 AM - 5:00 PM local time at the location of the Equipment specified in this Agreement (the "Customer Facility"), excluding Observed Holidays. Service after normal business hours, on weekends or on Observed Holidays may, in Virtual Imaging's sole discretion, be provided, but such Service will be billed as overtime at a rate of one and one-half (1.5) times Virtual Imaging's current billing rate. Because Routine Preventative Maintenance can take up to four (4) hours to complete, Routine Preventative Maintenance will not begin later than 1:00 PM local time/Customer Facility unless otherwise agreed upon by Virtual Imaging and Customer in writing. Virtual Imaging reserves the right to withhold or discontinue Service if timely payment is not made as required by this Agreement. While no assurances can be given, Virtual Imaging will endeavor to (i) return all calls for Service received after 8:00 AM but prior to 3:00 PM local time/ Customer Facility within two (2) hours after the call has been received by Virtual Imaging's Call Center (561-893-8400) (calls received after 3:00 PM Customer Facility local time will result in a return call the next morning), and (ii) dispatch a Service representative on site within four (4) hours

of the call being received by Virtual Imaging's Call Center after 8:00 AM but prior to 3:00 PM local time/Customer Facility (calls received after 3:00 PM local time/ Customer Facility may result in a service representative being dispatched the following morning).

**Routine Preventive Maintenance** - Routine Preventive Maintenance includes checking to confirm that the Equipment is functioning as per manufacturer's published specification and notifying Customer of any issues and suggested repairs. Virtual Imaging certified Field Service Engineers will provide Routine Preventive Maintenance at six (6) month intervals, during the regular hours of service as described in the "Hours of Service" Section above at a date and time that is mutually agreed upon by the Field Service Engineer and Customer. Virtual will contact Customer to establish the date and time for the Routine Preventative Maintenance, and Customer will make the Equipment and the area where the Equipment is located available to Virtual Imaging so that the Routine Preventive Maintenance can be completed on the scheduled date and time. If the Equipment or Equipment area is not made available on the scheduled date and time, or if Customer cancels the scheduled appointment, it will be Customer's responsibility to re-schedule the Routine Preventive Maintenance within sixty (60) days of the originally scheduled date by calling Virtual Imaging's Call Center at 561-893-8400. If the Routine Preventive Maintenance is not re-scheduled and completed within sixty (60) days of the originally scheduled date, Customer waives the right to receive Routine Preventive Maintenance for that six (6) month interval and will be required to wait until the next six (6) month interval, if applicable, to receive Routine Preventative Maintenance. Routine Preventive Maintenance should be considered as a line of defense against unplanned downtime and Equipment failure. Field Service Engineers will not be repairing the Equipment during the Routine Preventive Maintenance. Customer will be responsible for scheduling a request for repair service to address any issues identified during the Routine Preventive Maintenance. Depending upon the Service Plan selected by Customer, the Equipment parts necessary to repair the Equipment may not be covered and Customer will need to pay for such Equipment part replacement within thirty (30) days of its receipt of an invoice. For additional information, please refer to the "Service Plans Features" Section above.



**Office of Management and Budget  
Division of Purchasing  
Non-Competitive Contract Request Form**

Department	Corrections (LMDC)	Department Contact	Ronna Martin
Contact Email	Ronna.Martin@louisvilleky.gov	Contact Phone	502-574-2189

Contract Type: check one	<b>New</b>	<b>Amendment</b>		
		Additional Funds	Time Extension	Scope
Professional Service				
Sole Source (goods/services)		✓	✓	
	<b>Start</b>	<b>End</b>		
Requested Contract Dates (MM/DD/YYYY)	04/24/2015	04/23/2019		

**VENDOR INFORMATION**

Vendor Legal Name	Virtual Imaging, Inc.				
DBA					
Point of Contact	Jose Luis Conceicao	Email	josec@viffa.com		
Street	5600 Broken Sound Blvd.				
Suite/Floor/Apt		Phone	561-893-8510		
City	Boca Raton	State	FL	Zip Code	33487
Federal Tax ID#		SSN# (if sole proprietor)			
Louisville Revenue Commission Account #					
<u>Human Relations Commission Certified Vendors</u>	Certified Minority Owned Business	Certified Woman Owned business	Disabled Owned business		
Select if applicable					

**FINANCIAL INFORMATION**

Not to Exceed Contract Amount	<b>\$104,000</b>		(including reimbursement expenses, if applicable)		
Fund Source: General Fund	✓				
Federal Grant		Federal Granting Agency			
Other		Describe:			
Account Code String #	1101	370	3030	30010	531513
Payment Rate	per hour		per day		per service
	per month	\$29,000	Other		
Payment Frequency	Monthly		Upon Completion / Delivery		
	✓	Quarterly		Other	



**Office of Management and Budget  
Division of Purchasing  
Non-Competitive Contract Request Form**

**CONTRACT SCOPE and PURPOSE** (Attach additional documentation if necessary)

**Amendments:** Describe the circumstances under which a time extension or scope change is needed.

**New:** Be specific about the work to be performed / product to be purchased including but not limited to: scope of work; description of service; work product created; why the service / product is necessary; and benefit to Louisville Metro Government.

Annual software maintenance/updates/upgrades of body scanning equipment and service/repair of body scanning machines as needed.

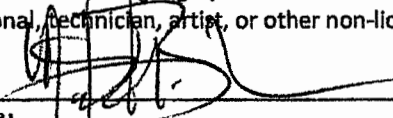
Annual cost has increased from \$25,000 per year to \$29,000.00 per year from 4/24/2018 - 4/23/2019.


**JUSTIFICATION FOR NON-COMPETITIVE GOOD/SERVICE** (Attach additional documentation if necessary)

Provide justification including but not limited to: a description of the unique features that prohibit competition; research conducted to verify the vendor as the only known source (sole source); why the service (PSC) is not feasible to be provided by LMG staff or expertise does not exist; known compatibility, proprietary and/or timing issues.

Software is proprietary to the vendor providing the maintenance, service and repairs for the software and machine. The vendor designed, manufactured and installed the machine, and is to the knowledge of Louisville Metro Department of Corrections, the only vendor able to provide software support, updates, upgrades and machine service and/or repairs as needed.

**AUTHORIZATIONS:** Per KRS 45A.380, I have determined that competition is not feasible for the above described good / service and there is a single source within a reasonable geographical area of the good / service to be procured; or the resulting contract is for the services of a licensed professional, technician, artist, or other non-licensed professional service.

Department Director  Date 8-22-18  
 Signature  
 Mark Bolton Director  
 Printed Name

Purchasing Director  Date 8/23/18  
 Signature  
 Joel Neaveill