RESOLUTION APPROVING AGREEMENT WITH DATASHIELD CORPORATION FOR CONFIDENTIAL DOCUMENT DESTRUCTION/SHREDDING SERVICES

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat.§23-103, the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the County requires safe and secure document shredding services; and,

WHEREAS, DataShield Corporation has the equipment and expertise to provide document shredding services; and,

WHEREAS, the County desires to enter into an agreement for confidential document destruction/shredding services with DataShield Corporation, a copy of which is attached hereto; and,

WHEREAS, entering into an agreement for confidential document destruction/shredding services with DataShield Corporation is in the best interests of the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board hereby approves and adopts the confidential document destruction/shredding services agreement with DataShield Corporation, a copy of which is attached.

BE IT FURTHER RESOLVED that the Chairman of this Board, together with the County Clerk is hereby authorized to sign on behalf of this Board the agreement with DataShield Corporation, a copy of which is attached, and any other related documents, the same being approved by the Board.

The above resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 12th day of July, 2016.
MEMO

To: Sarpy County Board of Commissioners

From: Beth Garber

Re: Shredding Services Agreement

For several years, the County has used the State contract with DataShield for shredding services. This arrangement has worked out well. However, the State pricing has recently increased ($0.25/lb.) and it was determined the County could obtain better pricing by contracting separately. State pricing took into account rural areas of the State, but Sarpy County is more closely associated with the metro Omaha area. Therefore, rates were reduced to reflect a more accurate travel and freight charge. The attached agreement is for $96 for 7 carts to be shredded every 2 weeks with the additional carts being shredded at $13.71. This averages about $0.08/lb. The total contract value is estimated to be under $5,000 for a 2 year period.

Please feel free to contact me with any questions.

July 6, 2016

Beth Garber

cc: Deb Houghtaling
    Mark Wayne
    Scott Bovick
    Brian Hanson
    Ross Richards
    Eva Haywood
DataShield Corporation Confidential Document Destruction Agreement

This Confidential Document Destruction Agreement ("Agreement") is entered into as of this 27 June 2016 ("Effective Date") by and between DataShield Corporation having a place of business 11320 Davenport St, NE 68154 ("DataShield Corporation") and Sarpy County, having a place of business at 1210 Golden Gate Drive Papillion, NE 68046 ("Customer").

1. SERVICES & EQUIPMENT

1.1 Services to be Furnished. DataShield Corporation will provide the services limited to the secure destruction of records ("Services") as described on Exhibit A attached hereto and made a part hereof. DataShield Corporation will furnish a Certificate of Destruction to Customer, upon request by Customer. The Services may, at Customer's option and as indicated on Exhibit A, be performed as part of a regular schedule or pursuant to specific directions which Customer shall give DataShield Corporation from time to time. Customer may also request custom Services not set forth on Exhibit A, in which case DataShield Corporation will consult with Customer as to the terms and conditions of the Services requested.

1.2 Security carts and consoles. DataShield Corporation will provide the Customer with equipment to be used for the secure collection of documents. This equipment is the property of DataShield Corporation and shall be kept in good working order outside of normal wear and tear. Equipment that is lost, stolen or damaged while at the Customer's location will carry a $100 per container replacement fee.

1.3 Services to Affiliates and Subsidiaries. Upon written approval of the County, Customer's related, affiliated and subsidiary companies (including subsidiaries of affiliates) may acquire Services pursuant to this Agreement. Any such acquisition of Services will be evidenced by an order executed by an authorized representative of the applicable affiliate or subsidiary in its own corporate name and referencing this Agreement. Invoices for such Services shall be directed to and payable by such affiliate or subsidiary.

1.4 Services by Third Parties. Upon written approval of the County, DataShield Corporation may procure the services of any responsible third party to perform all or part of the Services, insofar as said third party complies with all security standards and procedures required of DataShield Corporation by Customer, and further that said third party shall accept in writing the fiduciary responsibility requisite of the transfer of custody. DataShield Corporation will remain liable for all Services performed for Customer. DataShield Corporation will record all custody transfers and/or the use of any subcontractor to render contracted services to the Customer, and make Customer aware of any use of any subcontractor, including their identity. However, by entering in this agreement, County and DataShield Corporation in no way create rights or benefits for anyone other than County and DataShield Corporation nor do they create any third-party beneficiaries.

2. RESPONSIBILITIES

2.1 Right to Rely on Instructions. DataShield Corporation may act in reliance upon the direction for the Sarpy County Facilities Management Foreman in regards to specifics of when and what documents to destroy.

2.2 Changes to Agreement. This Agreement contains the entire agreement between the Parties, and there are no other written or oral promises, contracts, or warrants which may affect it, except as contained herein. This Agreement cannot be amended except by written agreement by the authorized agents of both parties as identified below. Notice to the parties shall be given in writing to the agents for each party named below:

County: Deb Houghtaling
Sarpy County Clerk
1210 Golden Gate Drive
Papillion, NE 68046

DataShield Corporation: Brian Gubbels
(402) 699-1616
11320 Davenport ST
Omaha, NE 68154

2.2 Compliance with Contracts, Laws and Regulations. Customer shall be responsible for, and warrant compliance with, all contractual restrictions and all applicable local, state, and federal laws, rules and regulations, including but not limited to environmental laws and contractual restrictions and laws governing the confidentiality, retention and disposition of information contained in any materials delivered to DataShield Corporation. DataShield Corporation shall be responsible for, and warrant compliance with, all contractual restrictions and comply with all applicable local, state, and federal laws, statutes, regulations and ordinances, as they relate to the Services provided hereunder.

2.3 Cooperation and Assistance. Customer shall cooperate with DataShield Corporation with regard to the performance of the Services, subject to normal security requirements and in a manner that is not unnecessarily disruptive to Customer's business operations, by providing to DataShield Corporation such information, data, access to premises, and direction by the Facilities Management Foreman as may be reasonable to permit DataShield Corporation to perform the Services hereunder.

Initials: DS Corp B Customer DHC

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2.4 **Hazardous Substances.** Customer shall not deliver to DataShield Corporation any material considered toxic or dangerous or which is regulated under any federal or state law or regulation relating to hazardous materials. In the event of the accidental or negligent custodial transfer of hazardous or regulated waste, including but not limited to bio-hazard, Customer agrees to arrange to appropriately, safely and legally assume custody of such hazardous materials at their expense. Customer further agrees to indemnify DataShield Corporation from any property damage or personal injury resulting from such transfer of said hazardous or regulated waste material that are not a result of the intentional or negligent actions of DataShield Corporation.

2.5 **Performance of Services.** All Services performed by DataShield Corporation will be in a professional manner in accordance with NAID standards and practices. (Or as are described in the policies and procedure described in Exhibit A)

2.6 **Material Descriptions.** Itemized lists or descriptions of contents of materials submitted by the Customer to the DataShield Corporation shall be generally considered for recordkeeping, reconciliation, and reference purposes only, and are not to be considered proof that said documents contained on such lists and descriptions are in fact contained in the materials accepted. DataShield Corporation will make provision for validation of such document contents in advance and under special terms and fees at the request of the Customer.

2.7 **Negotiable Items.** Customer agrees to make DataShield Corporation aware in writing and in advance of any instance in which negotiable instruments, including but not limited to checks, bearer bonds, travels checks, or coupons will be sent to a single facility in a single Service where the total combined amount of said instruments will be in excess of $1,000.

3. **FEES AND PAYMENTS** - All standard charges for Services under this Agreement shall be as specified on Exhibit A. The prices set forth in Exhibit A shall remain in effect for the twenty-four (24) months of this Agreement. Thereafter, price adjustments shall be made only after forty-five (45) days' prior written notice. For any service requested by Customer that is not listed on Exhibit A, the charges will be as agreed to in writing by Customer and DataShield Corporation prior to the rendering of such Service. Invoices shall be due and payable within thirty (30) days from receipt of the applicable invoice.

4. **CONFIDENTIALITY** - "Confidential Information" means any information relating to Customer's property, business and affairs. Unless such Confidential Information: (i) was previously known to DataShield Corporation free of any obligation to keep it confidential; (ii) is subsequently made public by Customer or by a third party having a legal right to make such disclosure; or (iii) was known to DataShield Corporation prior to receipt of same from Customer, the Confidential Information shall be held in confidence by DataShield Corporation and shall be used only for the purposes provided in this Agreement. DataShield Corporation shall use the same degree of care to safeguard Customer's Confidential Information as it uses to safeguard its own. However, DataShield Corporation may comply with any subpoena or similar order related to materials delivered to DataShield Corporation provided that it shall, unless prohibited by law, notify Customer promptly of any such subpoena or notice.

5. **TERM AND TERMINATION**

5.1 **Term.** This Agreement shall commence on the Effective Date set forth above and, unless otherwise terminated in accordance with Section 5.2, shall continue for successive two-year terms unless written notice of nonrenewal is delivered by either party to the other not less than thirty (30) days prior to the date of expiration of such term.

5.2 **Termination.** Either party may terminate this Agreement if the other is in material or repeated breach of any of its obligations hereunder and the breaching party has not cured the breach within thirty (30) days after written notice from the non-breaching party. In the event of any such termination, all amounts due for Services rendered up to the effective date of termination shall become due and payable. Upon termination, Customer shall return (or permit DataShield Corporation to retrieve) all DataShield Corporation bins and other property kept at Customer’s site, and DataShield Corporation shall have no obligation to provide further Services to Customer. Customer may terminate this agreement at any time upon a 30 day notice.

6. **LIABILITY AND WARRANTY**

6.1 **Limitation of Liability.** DataShield Corporation shall not be responsible or liable in any manner whatsoever for the release or loss of any materials deposited in bins or otherwise delivered to it for secure destruction unless the release or loss is due to DataShield Corporation’s gross negligence or willful misconduct. In no event shall DataShield Corporation be liable for any consequential, incidental, special or punitive damages, regardless of whether the action is brought in tort, contract or any other theory.

6.2 **Ownership Warranty.** Customer warrants that it is the owner, legal custodian or otherwise has the right to deliver for confidential destruction any and all materials Customer provides DataShield Corporation hereunder. Customer shall reimburse DataShield Corporation for any expenses reasonably incurred by DataShield Corporation (including reasonable legal fees) by reason of DataShield Corporation complying with its obligations under this Agreement to destroy such materials in the event of a dispute concerning the destruction of the materials provided by Customer to DataShield Corporation.

6.3 **Indemnification.** Customer and DataShield shall indemnify each other and hold each other harmless from and against and in respect to any and all losses, liabilities, claims, costs (including, without limitation, court costs and reasonable attorneys’ fees), damages, expenses or deficiencies arising out of or due to (i) any breach of any representation, warranty or any agreement, covenant or obligation on the part of
Customer made in this Agreement and/or (ii) any Services performed by DataShield Corporation in good faith and in accordance with the terms and conditions of this Agreement.

7. MISCELLANEOUS

7.1 Notices. All notices hereunder shall be in writing and addressed to either party at its address set forth above (or to such other address as either party may specify by notice given in accordance with this Section). Notices to DataShield Corporation shall be sent to the attention of Brian Gubbel at 11320 Davenport Street, Omaha, NE 68154.

7.2 Binding Nature and Assignment. This Agreement shall be binding on the parties and their respective successors and assigns. Except as permitted by Section 1.3 above, neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

7.3 Force Majeure. Each party shall be excused from any delay or failure in performance under this Agreement for any period if and to the extent that such delay or failure is caused by acts of God, governmental actions, labor unrest, riots, unusual traffic delays or other causes beyond its control.

7.4 Relationship of Parties. DataShield Corporation is acting as an independent contractor hereunder and has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all work to be performed by DataShield Corporation under this Agreement. It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the parties. Any and all acts that either party or their personnel, employees, agents, contractors, or servants, perform pursuant to the terms of this Agreement shall be undertaken as independent contractors and not as employees of the other. The parties shall, except as provided herein, act in their individual capacities and not as agents, employees, partners, joint ventures or associates of the other. An employee or agent of one shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. Neither party nor its personnel, employees, agents, contractors, or servants shall be entitled to any benefits of the other. The parties shall not provide any insurance coverage to the other or their employees including, but not limited to, workers’ compensation insurance. Each party shall pay all wages, salaries and other amounts due its employees and shall be responsible for all reports, obligations, and payments pertaining to social security taxation, income tax withholding, workers’ compensation, unemployment compensation, group insurance coverage, collective bargaining agreements or any other such similar matters. Neither party shall have any authority to bind the other by or with any contract or agreement, nor to impose any liability upon the other. All acts and contracts of each shall be in its own name and not in the name of the other, unless otherwise provided herein.

7.5 Entire Agreement. This Agreement constitutes the entire agreement between DataShield Corporation and Customer with respect to the subject matter of this Agreement. No change, waiver, or discharge of this Agreement shall be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be enforced. Except as provided in Section 3, this Agreement may be amended only by an amendment in writing signed by the authorized agents of the Customer and DataShield Corporation.

7.6 Invalidity. If any provision of this Agreement is declared invalid by any tribunal of competent jurisdiction, then such provision shall automatically be adjusted to the minimum extent necessary to the requirements for validity as declared at such time and as so adjusted shall be deemed a provision of this Agreement as though originally included herein. In the event that the provision invalidated is of such a nature that it cannot be so adjusted, the provision shall be deemed deleted from this Agreement as though such provision had never been included herein. In either case, the remaining provisions of this Agreement shall remain in effect.

7.7 Choice of Laws. This Agreement shall be interpreted, construed, and enforced under the laws of the State of Nebraska.

7.8 Exclusivity. Customer agrees to retain DataShield Corporation on an exclusive basis to Sarpy County Facilities Management for the term of this Agreement.

7.8. Nondiscrimination Clause. Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A. § 1985, et seq.), and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this Agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

7.9. DataShield Corporation agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. DataShield Corporation is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
IN WITNESS WHEREOF, each of the parties have caused this Agreement to be executed by its duly authorized representative as of the Effective Date first set forth above.

(SIGNATURE)

County Clerk

[SIGNATURE]

Don Kelly

Print Name: Don Kelly

Title: Chairman, Board of Commissioners

Date: 7/12/16

DataShield Corporation

[SIGNATURE]

Print Name: Brian Gubbels

Title: President

Date: 7-18-16

Approved as to form:

Deputy Sarpy County Attorney

INITIALS: DS Corp Customer
Exhibit A
Service Specifications and Fees: Date: June 27, 2016

On-Site Document Destruction

<table>
<thead>
<tr>
<th>Location</th>
<th>Container Type</th>
<th>Quantity</th>
<th>Frequency</th>
<th>Total Per service visit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1210 Golden Gate Drive</td>
<td>65 Gallon Secure Cart</td>
<td>7</td>
<td>Every 2 Weeks</td>
<td>$96.00</td>
</tr>
<tr>
<td>1210 Golden Gate Drive</td>
<td>65 Gallon Secure Cart (Additional)</td>
<td>TBD</td>
<td>Every 2 Weeks</td>
<td>$13.71</td>
</tr>
</tbody>
</table>

Prices above are all-inclusive; there are no mileage fees, admin fees, etc.

A Certificate of Destruction is issued for each pick up confirming that all documents have been destroyed in accordance with the National Association for Information Destruction (NAID).

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For Routing Purposes to be filled out by DataShield:

<table>
<thead>
<tr>
<th>Customer Name</th>
<th>Sarpy County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Address</td>
<td>1210 Golden Gate Drive Papillion, NE 68046</td>
</tr>
<tr>
<td>Acct. Mgr.:</td>
<td>Matthew Reager</td>
</tr>
<tr>
<td>Phone:</td>
<td>402-593-2332</td>
</tr>
</tbody>
</table>

Contact: Eva Haywood

Email Address: ehaywood@sarpy.com

Billing Email: On file, do not change

Notes/Information: Customer already has carts.

Hours of Operation: 8-5 p.m. Monday through Friday

For Office Use Only

<table>
<thead>
<tr>
<th>Customer #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Install Date</td>
</tr>
<tr>
<td>First Service Date</td>
</tr>
<tr>
<td>Route Assigned</td>
</tr>
</tbody>
</table>

Initials: DS Corp. Customer