



INFORMATION SESSION

9:00 AM - August 17, 2021

Montgomery County Courthouse, Annex III

Page

CALL TO ORDER AND WELCOME AT 9:00 A.M.

PRAYER

SCHEDULED ATTENDEES

1. Report from City/County Emergency Management Agency
2. Vice President of Engineering Max Vaughn with Goodwyn Mills and Cawood, LLC
3. County Engineer George Speake
4. Chief Appraiser Clay Henley
5. GIS & Cadastral Mapping Manager Todd Grant
6. Manager of Public Affairs Hannah Hawk
7. Executive Director Maggie Brooks with Girls on the Run
8. Director of Development Felecia Pettway and Director of Advocacy Michael Forton with Legal Services Alabama, Coordinator John Pollock with the National Coalition for a Civil Right to Counsel, and Director Kelly McTear with Montgomery County Volunteer Lawyers

BRIEFING OF AGENDA BY ADMINISTRATOR CAUTHEN

WAIVED RULES ITEMS

1. Consider Agreement for Engineering Services with Goodwyn Mills and Cawood, LLC, regarding Potable Water and Sanitary Sewer Improvements at the Montgomery Industrial Park to Benefit Premier Tech, Inc., County Commission
Presenter: Max Vaughn
[Contract for Montg Ind Park - Potable Water and SS](#) 4 - 15
2. Consider Agreement for Engineering Services with Goodwyn Mills and Cawood, LLC, regarding the Industrial Park Boulevard Extension in the Montgomery Industrial Park to Serve Premier Tech, Inc., County Commission
Presenter: Max Vaughn
[Contract for Montg Ind Park - Road Extension](#) 16 - 25

FUTURE AGENDA ITEMS

3. Consider Amendment No. 2 to Foley Products Company for Concrete Pipe, Engineering
Presenter: George Speake
[Agenda Item Memo - 21-201 - Pdf](#) 26 - 27
4. 28 - 29

Consider Renewal Amendment to IncomeWorks Software License Agreement with Assessment Advisors, LLC, for Web Based Software, Appraisal Department

Presenter: Clay Henley

[Agenda Item Memo - 21-203 - Pdf](#)

5. Consider Contract for GAMAwEB with Keet Consulting Services, LLC, regarding GIS Software, Training and Support, Appraisal Department 30 - 35

Presenter: Clay Henley

[Agenda Item Memo - 21-204 - Pdf](#)

6. Consider Renewal of Software Maintenance Agreement with Environmental Systems Research Institute, Inc., (ESRI) for GIS & Cadastral Mapping, Appraisal Department 36 - 41

Presenter: Todd Grant

[Agenda Item Memo - 21-207 - Pdf](#)

7. Consider Agreement with Pictometry International Corp., regarding Aerial Photography, Appraisal Department 42 - 65

Presenter: Todd Grant

[Agenda Item Memo - 21-209 - Pdf](#)

8. Consider Renewal of Pictometry Connect Custom Access License Agreement with Pictometry International Corp., for GIS & Cadastral Mapping, Appraisal Department 66 - 75

Presenter: Todd Grant

[Agenda Item Memo - 21-208 - Pdf](#)

9. Consider Amendment No. 1 to Contract with The Bridge, Inc. to Manage and Operate Davis Transitions, Youth Facility Juvenile Court 76 - 77

[Agenda Item Memo - 21-206 - Pdf](#)

10. Consider Amendment No. 2 to Contract with Borden Dairy of Alabama for Milk and Juice Products, Youth Facility/Detention 78 - 79

[Agenda Item Memo - 21-194 - Pdf](#)

11. Consider to Recognize and Deny a Claim regarding Crystal Mendoza, County Commission 80 - 86

[Notice of Claim-Crystal Mendoza 8-10-21](#)

12. Consider Alcohol License Application for Special Events Retail to Rancho El Paraiso, LLC for Festival Latino located at 7625 Jessie Reid Lane for the September 18 & 19, 2021 Events, Montgomery, AL 36105, County Commission

GENERAL INFORMATION ITEMS

13. Funding information regarding Girls on the Run

- 02/11/2020 - \$3,000 Vice Chairman Singleton
- 10/21/2019 - \$5,000 Commissioner Walker
- 08/19/2018 - \$1,200 Commissioner Harris
- 08/06/2018 - \$15,000 Joint Designated Revenue
- 08/07/2017 - \$15,000 Budget Change from County Commission Appropriations
- 08/15/2016 - \$15,000 Budget Change from County Commission Appropriations

Presenter: Maggie Brooks

14. Email from Executive Director Johnny Williams with Central Alabama Sports Commission requesting \$150,000 for the 2021 Montgomery Kickoff, Red Tails Classic and Camellia Bowl College Football Games and Proposed Budget Change Request Number 6 87 - 88
[Email from Central Alabama Sports Commission](#)
[BCR Co Com Approp 6](#)
15. Invitation regarding the Montgomery County Extension Office Luncheon and Annual Report to the County Commission will be held on Tuesday, August 17, 2021, at 12:00 Noon, at the Agriculture & Performance Arts Rec. Center, 6281 Trotman Road 89
[CC Invitation 8-17-21](#)

RECESS TO FORMAL SESSION

**AGREEMENT FOR ENGINEERING SERVICES
GMC PROJECT NO.**

THIS AGREEMENT, made and entered into this ____ day of _____, 2021, by and between Montgomery County Commission, Montgomery, AL, hereinafter referred to as the OWNER, and **GOODWYN MILLS CAWOOD, LLC**, hereinafter referred to as the ENGINEER.

WHEREAS, the OWNER desires to have professional engineering services and consultation performed relative to the preparation of plans and specifications for Potable Water and Sanitary Sewer Improvements at Montgomery Industrial Park for PTC hereinafter referred to as the Project.

WHEREAS, not having engaged any other engineers for the Project, OWNER desires to retain the ENGINEER as its sole and exclusive engineering and consulting firm for the Project;

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the OWNER and ENGINEER do agree, each with the other, as follows:

ARTICLE 1. Basic Services.

Preliminary Design Phase

- 1.1 The ENGINEER will consult with the OWNER to determine the OWNER's requirements for the project.
- 1.2 The ENGINEER will conduct preliminary studies and investigations of the proposed work, prepare preliminary cost estimates, and make recommendations as to the general type and quantities of work that appear to be required.
- 1.3 Furnish the preliminary design documents to the OWNER.
- 1.4 Omitted.

Final Design Phase

- 1.5 On the basis of the accepted preliminary design documents and the opinion of probable Project Cost, prepare for incorporation in the Contract Documents final drawings that show the character and extent of the Project (hereinafter called "Drawings") and Specifications.
- 1.6 Provide technical criteria, written descriptions, and design data for OWNER's use in filing applications for permits and approvals typically required by law for similar projects.
- 1.7 Omitted.
- 1.8 Advise OWNER of any adjustments to the latest opinion of probable Project Cost caused by changes in extent or design requirements of the Project or Construction Costs and furnish a revised opinion of probable Project Cost based on the Drawings and Specifications. ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Project Cost prepared by ENGINEER.
- 1.9 Establishing base lines for locating the work with a suitable number of bench marks located adjacent to the work as shown in the project plans.
- 1.10 Reproduction of reports, drawings, specifications, bidding documents and similar project related items as needed.



- 1.11 Prepare for review and approval by OWNER, its legal counsel and other advisors, contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents.
- 1.12 Prepare and furnish to the OWNER three copies of a map that shows the general location of any needed construction and permanent easements and any land to be acquired. Property surveys, plats and descriptions, abstracting and negotiations for land or rights shall be accomplished by the OWNER, unless the OWNER requests the ENGINEER to provide these services, for which the ENGINEER shall be compensated as an additional service.
- 1.13 Furnish copies of the above documents and present and review this in person with OWNER.

Bidding Phase

- 1.14 After the OWNER's acceptance of the plans and specifications as well as ENGINEER's most recent estimate of probable Project cost, and upon OWNER's authorization to proceed, ENGINEER shall proceed with performance of the services called for in the Bidding Phase. This phase shall terminate and the services to be rendered thereunder shall be considered complete upon commencement of the Construction Phase.
- 1.15 The ENGINEER will assist the OWNER in preparing the Contract Documents, the bid and any pre-qualification packages, and any necessary advertisements, in receiving bids and any pre-qualification applications for the Project, in conducting any pre-bid conferences and bid openings, and in making recommendations for qualifying contractors and awarding contracts for construction. For projects subject to the competitive bid law, the OWNER is responsible for the final determination of the lowest responsible and responsive bidder to whom a construction contract is awarded, shall obtain such legal counsel as necessary to make that determination, and shall hold ENGINEER harmless therefrom.
- 1.16 Issue addenda as appropriate to clarify, correct or change the bidding documents.
- 1.17 Consult with and advise OWNER as to the acceptability of subcontractors and other persons and organizations proposed by the prime contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the bidding documents.
- 1.18 Consult with and advise OWNER as the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the bidding documents.
- 1.19 Attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and assembling and awarding contracts for construction, materials, equipment and services.

Construction Phase

- 1.20 The ENGINEER will participate in a Pre-Construction Conference prior to commencement of Construction of the Project.
- 1.21 The ENGINEER will make recommendations to the OWNER as to the relative merits of materials and equipment.
- 1.22 The ENGINEER will check and approve any necessary shop and working drawings furnished by contractors.



- 1.23 The ENGINEER will interpret the plans and specifications to protect the original intent of the design as approved by the OWNER, and advise the contractor(s) accordingly. The ENGINEER will not, however, guarantee the performance of any contractor.
- 1.24 The ENGINEER will provide part-time engineering observation of the work of the Contractor as construction progresses, including site visits at intervals appropriate to the various stages of construction as are necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of contractor's work and to determine, in general, if such work is proceeding in accordance with the Contract Documents. The ENGINEER does not guarantee the performance of the Contractor by the ENGINEER's performance of such construction observation. The ENGINEER's undertaking hereunder shall not relieve the Contractor of his obligation to perform the work in conformity with the Contract Documents, including plans and specifications, and in a workmanlike manner; shall not make the ENGINEER an insurer of the contractor's performance; and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner.
- 1.25 The ENGINEER shall have no responsibility for any Contractors' means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs or safety practices, nor shall ENGINEER have any authority or responsibility to stop or direct the work of any Contractor. However, ENGINEER shall have the authority to reject work which does not conform to the Contract Documents.
- 1.26 The ENGINEER will review and approve estimates for progress and final payments. Such recommendations of payments will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated, that, to the best of ENGINEER's knowledge, information and belief, the quality of such work is in accordance with the Contract Documents (subject to an evaluation of such work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any qualifications stated in its recommendation), and that payment of the amount recommended is due Contractor(s), but by recommending any payment, ENGINEER will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by ENGINEER to check the quality or quantity of the work or to review the means, methods, sequences, techniques or procedures of construction or safety precautions or programs incident thereto or that ENGINEER has made an examination to ascertain how or for what purposes any Contractor has used the monies paid on account of the Contract Price, or that title to any of the work, materials or equipment has passed to OWNER free and clear of any lien, claims, security interests or encumbrances, or that Contractor(s) have completed their work exactly in accordance with the Contract Documents.
- 1.27 The ENGINEER will make a final review of the completed improvements to assess compliance with the Contract Documents, including plans and specifications, and will make necessary recommendations to the OWNER.
- 1.28 The Construction Phase will commence with the execution of the first Construction Agreement for the Project or any part thereof and will terminate upon written recommendation by ENGINEER for final payment to Contractor(s). If the Project involves more than one prime contract, Construction Phase services may be rendered at different times with respect to the separate contracts. Time extensions or time overruns on the construction contract will require an extension of the engineering services for this phase along with an equitable adjustment to compensate ENGINEER for such additional services.
- 1.29 ENGINEER shall not be responsible for the acts or omissions of any Contractor or subcontractor, or any of the Contractor(s)' or subcontractors' agents or employees, or any other persons (except ENGINEER's own employees and agents) at the site or otherwise performing any of the Contractor(s)' work. ENGINEER shall not be responsible for the adequacy of the Contractor's safety program, safety supervision, or any safety measure which the Contractor takes or fails to



take in, on, or near the project site.

- 1.30 Prepare and furnish to OWNER Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.
- 1.31 Coordination of submission to the Grantee the following items at the final inspection: all final pay requests, the ENGINEER's statement that the project has been completed in accordance with the plans and specifications, the contractor's "proof of publication" of the advertisement of completion and request for claims, and any permit releases such as those from a road or highway department permitting the work.
- 1.32 If requested by OWNER verbally or in writing, assist the OWNER in performing a review of project during the warranty period after the date of substantial completion in order to identify any readily apparent items to be included under the Contractor's one (1) year warranty.

ARTICLE 2. Additional Services

The following scope of services shall be considered additional work from the Basic Services outlined in Article 1. Unless the Additional Services are authorized in Article 4, Compensation, in this Agreement, then the OWNER and ENGINEER shall agree through a written amendment hereto, for the ENGINEER to furnish, or obtain from others, additional services of the types listed below. These services will be paid for by the OWNER as indicated in the Agreement.

- 2.1 Geotechnical Investigations and Report including but not limited to soil borings and physical testing of materials and equipment to be incorporated in the work and other such analysis or testing when necessary or deemed advisable by the ENGINEER for the design of the Project.
- 2.2 Geotechnical Materials testing services during construction, including but not limited to collection and testing of concrete cylinders, density testing of compacted soils, asphalt testing, laboratory tests of soils and materials.
- 2.3 Once the regulatory permits, including those outlined in Article 1, are submitted to the regulatory agencies, the ENGINEER will monitor the permitting process and all such time for tracking and monitoring and for re-submittal to an Agency who had lost the application, shall be considered as an Additional Service. Tracking and monitoring will consist of telephone calls, meeting with Agency personnel, and courier services.
- 2.4 Performing Stormwater Permitting Services including preparation of ADEM permits and BMP Plans and performing Stormwater Inspection Services during Construction if required.
- 2.5 Performing survey work for preparation of topographic surveys, easements and deeds, courthouse research, easement preparation and acquisition, property preparation and acquisition (including right of way), research of legal documents, boundary surveys, and post construction services.
- 2.6 Performing survey work for engineering controls and construction staking costs, which include alignment, grade and benchmark control staking.
- 2.7 Preparation, submittal and tracking of permits required from the following agencies or any other regulatory agency, other than those specific permits listed in Article 1, Final Design Phase: US Fish & Wildlife Service, Alabama Historical Commission, Soil Conservation Service, EPA, Corps of Engineers, ADEM, and County Health Department. Performing environmental permitting and investigation work including but not limited to wetlands delineation, wetlands mitigation, and field and office work associated with assisting the OWNER in obtaining agency approvals.
- 2.8 Preparation of applications and supporting documents (in addition to those furnished under Article 1, if applicable) for private or governmental grants, loans or advances in connection with the Project;



preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

- 2.9 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.
- 2.10 Services resulting from significant changes in the scope, extent, or character of the portions of the Services designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond ENGINEER's control.
- 2.11 Providing renderings or models not defined as part of construction plans for OWNER's use.
- 2.12 Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for a Project; evaluating processes available for licensing, and assisting OWNER in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.
- 2.13 Services during out-of-town travel required of ENGINEER other than for visits to the Site or OWNER's office.
- 2.14 Additional survey, drafting and field work to prepare Record Drawings showing appropriate record information should the annotated record documents received from Contractor be insufficient for the preparation of the Record Drawings.
- 2.15 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other dispute resolution process related to the Project.
- 2.16 Assisting OWNER in consultations and discussions with Contractor concerning issues of warranty work required of the Contractor during the specified warranty period.
- 2.17 Preparation of Operations and maintenance manuals.
- 2.18 Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) the presence at the Site of any Constituent of Concern, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
- 2.19 Other services performed or furnished by ENGINEER not otherwise provided for in this Agreement.

ARTICLE 3. Responsibilities of the OWNER

OWNER agrees to provide ENGINEER with complete information concerning the requirements of the project and to perform the following services:

- 3.1 The OWNER shall provide all criteria and complete information as to the OWNER's requirements for the Project and shall furnish all design and construction standards which the OWNER will require to be included in the engineering plans, specifications, and operational narrative.



- 3.2 The OWNER will assist the ENGINEER by placing at the ENGINEER's disposal all available information pertinent to the Project.
- 3.3 Hold promptly all required meetings, serve all required notices, fulfill all requirements necessary in the development of the project, and pay all costs incidental thereto.
- 3.4 The OWNER shall arrange for access to and make all provisions for the ENGINEER to enter upon public and private property to perform surveying, testing and other data collection as required for ENGINEER to perform services under this Agreement. OWNER shall appoint and designate in writing a person to act as OWNER's site access representative for such purpose, and shall include contact information for the individual so designated. OWNER agrees to hold the ENGINEER harmless from any and all claims, actions, damages and costs, including but not limited to attorneys fees, arising from OWNER's arrangements and provisions for access to property.
- 3.5 Furnish ENGINEER with a copy of any design and construction standards he shall require ENGINEER to follow for the project.
- 3.6 Furnish ENGINEER with copies of all deeds, plats, property maps and other information necessary to the description and location of all easements and deeds needed for the project.
- 3.7 Designate, in writing, a single person to act as OWNER's Representative with respect to the work to be performed under this agreement. The person designated as Representative shall have complete authority to transmit instructions and to receive information with respect to the work covered by this agreement.
- 3.8 The OWNER shall provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project. The OWNER shall also provide such legal services as the OWNER may require or the ENGINEER may reasonably request with regard to legal issues pertaining to the Project that must be resolved in order for the ENGINEER to carry out its obligations under this Agreement. It is expressly understood and agreed that the ENGINEER itself shall not furnish or render any legal opinions or legal interpretations as to matters of law or application of law.
- 3.9 The OWNER agrees to pay ENGINEER the Additional Services as may be required for the Project, as outlined in this agreement.
- 3.10 Be the Applicant for all permits and environmental clearances necessary to construct the Project and pay for any and all regulatory permitting and application fees.
- 3.11 Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings and Substantial Completion and final payment inspections. Routinely perform site visits to observe the progress and quality of the various aspects of contractor's work and to determine, in general, if such work is proceeding in accordance with the OWNER's requirements of the Project.

ARTICLE 4. Compensation

- 4.1 The OWNER agrees to pay to the ENGINEER a total fee **\$31,000.00** for the Preliminary Design Phase, the Final Design Phase, the Bidding Phase and the Construction Phase which shall be paid as outlined in paragraphs 4.2, 4.3 and 4.4 below (see Attachment 'D' for fee schedule):
- 4.2 For the Design Phase, a fee of **\$16,000.00** shall be paid in monthly installments as work progresses.
- 4.3 For the Construction Phase, a fee of **\$12,000.00** will be paid on a proportionate basis during project construction.



- 4.4 A final payment of **\$3,000.00** of total project engineering costs, will be retained until the final inspection has been made and as-built plans have been submitted to the OWNER.
The OWNER agrees to pay to the ENGINEER the following fees which shall be paid in monthly installments as work progresses:
- 4.5 Omitted.
- 4.6 For Geotechnical Engineering and Materials Testing Services during the Construction Phase, the OWNER will pay ENGINEER a fee based upon the attached Geotechnical Rate & Fee Schedule. A cash allowance may be established in the Construction Contract at the discretion of the OWNER.
- 4.7 Omitted.
- 4.8 For initial topographic surveying, the OWNER will pay the ENGINEER a lump sum fee to be negotiated once the full extent of the Scope of Work is known.
- 4.9 For easement / property acquisition (including right of way) and deed surveys and preparation, if needed, the OWNER will pay ENGINEER a lump sum fee to be negotiated once the full extent of the scope of work is known.
- 4.10 Omitted.
- 4.11 For tracking and monitoring regulatory permit applications in accordance with Article 2, the OWNER will pay ENGINEER a fee based upon the attached GM&C Standard Rate & Fee Schedule (Attachment 'A'). The fees shall be paid in monthly installments as work progresses.
- 4.12 The OWNER may, from time to time, request changes in the scope of the services of the ENGINEER to be performed hereunder. Such changes, including any increase or decrease in the amount of ENGINEER's compensation, that are mutually agreed upon by the OWNER and the ENGINEER, shall be incorporated in written amendments to this Agreement.
- 4.13 If the period of service for construction observation or for engineering services during construction is extended due to time extensions or time overruns to the construction contract, compensation for these additional construction observation and engineering services during the extended Period of Service shall be at the rates shown in the GM&C Standard Rate & Fee Schedule. The OWNER and ENGINEER will mutually agree upon the level of additional construction observation at the time of such occurrence.
- 4.14 OWNER shall reimburse ENGINEER for all costs incurred for the OWNER's direct instruction to rebid the project at the rates shown in the GM&C Standard Rate & Fee Schedule.
- 4.15 Compensation for services performed by ENGINEER's employees as witnesses giving testimony in any litigation, arbitration or administrative proceeding shall be paid by OWNER at a rate of two times the ENGINEER's standard hourly rates. Whenever ENGINEER's bill to OWNER includes charges for ENGINEER's consultants for such services, those charges shall be the amounts billed by ENGINEER's consultant to ENGINEER times a factor of two.
- 4.16 Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefore, the amounts due ENGINEER will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.



ARTICLE 5. Relationship of the Parties

- 5.1 The parties intend that this Agreement create an independent contractor relationship between them. The ENGINEER is a professional corporation and is not an agent or employee of OWNER for any purpose. The ENGINEER cannot and will not represent that he has the authority to bind OWNER in any contractual manner. Nevertheless, with regard to the bidding and construction phases, it is understood that ENGINEER may serve as the OWNER's representative with full authority to participate therein as designated in Article 1, above. Moreover, OWNER agrees to defend and hold ENGINEER, its employees, directors, officers and agents, harmless from any and all claims, suits, damages and expenses, including but not limited to attorneys fees, resulting from or based upon ENGINEER's actions as OWNER's representative.
- 5.2 Neither party is to represent to others that the relationship between them is other than as stated above.
- 5.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the OWNER and the ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the OWNER and the ENGINEER and not for the benefit of any other party.
- 5.4 The OWNER and the ENGINEER each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns (to the extent permitted by Paragraph 6.5 below) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrations, legal representatives and said assigns of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- 5.5 Neither the OWNER nor the ENGINEER shall assign, sublet or transfer any rights under or interest in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent the ENGINEER from employing such independent professional associates, consultants, subcontractors, and vendors as the ENGINEER may deem appropriate to assist in the performance of services hereunder.
- 5.6 ENGINEER may employ such independent professional associates, consultants, subcontractors, and vendors as the ENGINEER may deem appropriate to assist in the performance or furnishing of services under this Agreement. ENGINEER shall not be required to employ any consultant unacceptable to ENGINEER.

ARTICLE 6. Ownership and Use of Project Documents

- 6.1 All documents are instruments of service in respect to the Services, and ENGINEER shall retain an Ownership and proprietary property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Services are completed.
- 6.2 Copies of documents that may be relied on by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.
- 6.3 OWNER may make and retain copies of documents for information and reference in connection with the services by OWNER. Such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the services or on any other project. Any such reuse



or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's consultants. OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's consultants from all claims, damages, and expenses including attorneys' fees arising out of or resulting therefrom.

- 6.4 In the event of a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 6.5 Any verification or adaptation of the documents for extensions of the services or for any other services will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

ARTICLE 7. Liability and Indemnity

- 7.1 The ENGINEER will not be responsible for delays, disruptions or obstacles attributable to acts of God, acts of third parties, weather, intervention of public authorities, work stoppages, changes in the applicable laws or regulations after the date of commencement of performance hereunder and any other acts or omissions or events which are beyond the control of the ENGINEER.
- 7.2 OWNER may not utilize ENGINEER's construction cost estimate after thirty calendar days from the date of delivery to OWNER without ENGINEER's written consent. Estimates of cost are made on the basis of the ENGINEER's experience, qualifications, and professional judgment, but since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee or warrant that proposals, bids or actual construction costs will not vary from estimates of probable costs prepared by ENGINEER. Approvals, recommendations, estimates and decisions by the ENGINEER are made on the basis of the ENGINEER's experience, qualifications, and professional judgment and are not to be construed as warranties or guarantees.
- 7.3 Notwithstanding any other provision of this Agreement, the ENGINEER's total liability to the OWNER for any loss or damages from claims arising out of or in connection with this Agreement from any cause including the ENGINEER's strict liability, breach of contract, or professional negligence, errors and omissions (whether claimed in tort, contract, strict liability, nuisance, by statute or otherwise) shall not exceed the lesser of the total contract price of this Agreement or the proceeds paid under ENGINEER's liability insurance in effect at the time such claims are made. The OWNER hereby releases the ENGINEER from any liability exceeding such amount. In no event shall either party to this Agreement be liable to the other for special, indirect, incidental or consequential damages, whether or not such damages were foreseeable at the time of the commencement of the work under this Agreement.
- 7.4 Any and all liability resulting from conditions not created or caused to be created by the ENGINEER shall be the liability of the OWNER. Any and all liability that may arise from the construction, Ownership and/or operation of the improvements is solely the responsibility of the OWNER, and the OWNER hereby agrees to indemnify and hold the ENGINEER harmless from such liability, claims, actions, loss or damage, including but not limited to attorney's fees, arising therefrom.

ARTICLE 8. Termination

- 8.1 This Agreement shall be subject to termination by either party hereto, with or without cause, upon twenty (20) days advance notice in writing. Payment due ENGINEER at such time shall be computed upon applicable terms of Article 5, the amount of work completed or in progress as of the termination date and ENGINEER's reasonable cost of winding down its services after termination.

ARTICLE 9. Dispute Resolution

- 9.1 If a dispute arises out of or relates to this agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama between the Montgomery County Commission and Goodwyn, Mills and Cawood.

ARTICLE 10. Miscellaneous

- 10.1 This Agreement represents the entire and integrated Agreement between the OWNER and ENGINEER and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement may only be amended, supplemented or modified by written instrument executed by both the OWNER and the ENGINEER.
- 10.2 It is understood and agreed by the parties hereto, that if any part, term or provision of this Agreement is held by any court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining portion or portions of this Agreement shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
- 10.3 It is expressly understood and agreed that the indemnity and insurance obligations of this Agreement, as well as the ENGINEER's proprietary interest in its engineering plans and specifications, shall survive the termination of this Agreement under Article 8 above as well as the completion of services under this Agreement.
- 10.4 This Agreement is to be governed by the laws of the State of Alabama.
- 10.5 **The ENGINEER also agrees to the terms and conditions set forth in Part II – TERMS AND CONDITIONS hereto attached to this agreement outlining Federal Guidelines Applicable to Contracts.**

WHEREFORE, the undersigned, by their signatures, certify that they have carefully read this Agreement, understand the terms and conditions contained herein, have proper authority to execute this Agreement, and do so as their own free act:

OWNER:

MONTGOMERY COUNTY COMMISSION

By: _____
Elton N Dean Sr.

Title: Chairman

Attest:

(name and Title)

ENGINEER:

GOODWYN MILLS CAWOOD, LLC.

By: _____
Max Vaughn, PE

Title: Vice President of Engineering

Attest:

Juan P. Gacha
(name and Title)





2021
Standard Rate and Fee Schedule

Standard Hourly Rates

Principal (Architect/ Engineer/ Interior Designer/ Scientist)	\$ 250.00
Executive VP/ Senior VP	\$ 225.00
Vice President	\$ 200.00
Senior Professional (Architect, Engineer, Interior Design, Scientist, Project Manager)	\$ 200.00
Professional II (Architect, Engineer, Interior Design, Scientist, Project Manager)	\$ 175.00
Professional I (Architect, Engineer, Interior Design, Scientist, Project Manager)	\$ 150.00
Intern II (Architecture, Engineering, Interior Design, Environmental Sciences)	\$ 130.00
Intern I (Architecture, Engineering, Interior Design, Environmental Sciences)	\$ 110.00
Technical III (Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Field Tech., Inspector)	\$ 140.00
Technical II (Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Field Tech., Inspector)	\$ 110.00
Technical I (Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Field Tech., Inspector)	\$ 80.00
Executive Administrative Assistant	\$ 80.00
Administrative Assistant II	\$ 70.00
Administrative Assistant I	\$ 60.00
Surveying:	
Professional Land Surveyor	\$170.00
Field Crew Supervisor	\$150.00
Survey Crew (two-man survey crew)	\$150.00
Survey Crew (three-man survey crew)	\$185.00
Survey Crew (four-man survey crew)	\$215.00

Reimbursable Expenses

Travel Expenses	
Vehicle Transport	\$0.56 per mile
Travel/ Meals/ Lodging	Cost plus twenty percent
Sub-Consultant/ Sub-Contractors	Cost plus twenty percent
Sub-Consultant/Sub-Contractors reimbursable expenses	Cost plus twenty percent
Printing & Shipping	
Out of house reprographic services	Cost plus twenty percent
In-House B&W reprographic services (small format)	\$0.09/ sheet (8.5 x 11)
	\$0.15/ sheet (11 x 17)
In-House Color reprographic services (small format)	\$0.09/ sheet (8.5 x 11)
	\$0.15/ sheet (11 x 17)
In-House B&W reprographic services (large format)	\$0.15/ sf
In-House Color reprographic services (large format)	\$0.20/ sf
GPS equipment	\$250.00 per day



**2021 SCHEDULE OF FEES
GEOTECHNICAL SERVICES**

Drilling Services

Mobilization of Drilling Equipment, per rig, lump sum.....	\$ 500.00
Mileage above 50 miles from office, per mile.....	\$ 3.00
Furnish adverse terrain vehicle (ATV), if required by site conditions, per day.....	\$ 300.00
Soil Test Boring, including Standard Penetration Test	
0-50 ft., per linear foot.....	\$ 15.00
50-100 ft, per liner foot.....	\$ 18.00
Auger Boring without sampling, per foot.....	\$ 10.00
Time rate drilling, drilling through concrete or rubble, difficult moving on site, or delay time, per hour.....	\$ 225.00
Bulk Samples from borings, each.....	\$ 50.00
Undisturbed Samples, each.....	\$ 95.00
Drill crew per diem, per crew day	
2-man crew.....	\$ 250.00
3-man crew.....	\$ 300.00
Observation well installation, 1.5 to 2" diameter PVC, per linear foot.....	\$ 20.00
Water truck, per hour.....	\$ 175.00
Rock coring (NX or NQ), per linear foot.....	\$ 60.00
Set-up charge for rock coring, per boring.....	\$ 150.00
Temporary casing, per linear foot.....	\$ 15.00

Laboratory Testing

Standard Proctor, ASTM D698/AASHTO T99, per test.....	\$ 125.00
Modified Proctor, ASTM D1557/AASHTO T180, per test.....	\$ 150.00
Atterberg Limits Testing, ASTM D4318, per test.....	\$ 90.00
Grain Size Analysis (without Hydrometer), ASTM D422/AASHTO T88, per test.....	\$ 90.00
Grain Size Analysis by Hydrometer, ASTM D422/AASHTO T88, per test.....	\$ 175.00
Percent Finer than No. 200 Sieve, ASTM D1140, per test.....	\$ 75.00
Moisture Content, ASTM D2216, per test.....	\$ 10.00
Permeability Test, ASTM D5084, per test.....	\$ 450.00
Triaxial Shear Test (CU w/ pore pressure), ASTM D4767, per test.....	\$ 950.00
Triaxial Shear Test (UU), ASTM D2850, per test.....	\$ 450.00
Consolidation Test, ASTM D2435, per test.....	\$ 475.00
Resilient Modulus, AASHTO T-307, per test.....	\$ 500.00
California Bearing Ratio, ASTM D1883/AASHTO T93 (2 points, does not include Proctor), per test.....	\$ 400.00
Sample Preparation or Remolding, per sample.....	\$ 75.00

Personnel

Staff Professional, per hour.....	\$ 125.00
Project Manager, per hour.....	\$ 150.00
Project Engineer, P.E., per hour.....	\$ 175.00
Senior Engineer, P.E., per hour.....	\$ 200.00
Special Inspector, per hour.....	\$ 120.00
Laboratory Technician, per hour.....	\$ 75.00
Senior Engineering Technician, per hour*.....	\$ 65.00
Engineering Technician, per hour*.....	\$ 55.00
Structural Steel Inspector, CWI, per hour*.....	\$ 105.00
Word Processing, per hour*.....	\$ 50.00

Other

Mileage, company truck or personal vehicle, per mile.....	\$ 0.55
Per diem, per man, per day.....	\$ 150.00
Subcontractor mark-up, job related.....	Cost+15%

*Overtime Premium (in excess of 8 hours/day or on weekends and holidays)

Monday - Friday and Saturday.....Hourly rate x 1.5

Technician Overtime Premium (for work on Holidays and Sunday).....Hourly rate x 2.0

All Hourly charges and mileage charges are portal-to-portal

Rates effective through December 31, 2021 unless otherwise agreed upon

AGREEMENT FOR ENGINEERING SERVICES

THIS AGREEMENT, made and entered into this _____ day of _____, 2021, by and between the **MONTGOMERY COUNTY COMMISSION**, hereinafter referred to as the OWNER, and **GOODWYN MILLS CAWOOD, LLC.**, hereinafter referred to as the ENGINEER.

WHEREAS, the OWNER desires to have professional Engineering services and consultation performed relative to the preparation of plans and specifications for construction of

**INDUSTRIAL PARK BOULEVARD EXTENSION
IN THE MONTGOMERY INDUSTRIAL PARK TO SERVE PREMIER TECH, INC.
ALDOT CN PROJECT NO. IAR-051-000-015
CPMS NO. 100073474**

hereinafter referred to as the Project.

WHEREAS, not having engaged any other engineers for the Project, OWNER desires to retain the ENGINEER as its sole and exclusive Engineering and consulting firm for the Project;

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the OWNER and ENGINEER do agree, each with the other, as follows:

ARTICLE 1. Basic Services

- 1.1 The ENGINEER shall perform for or furnish to OWNER professional engineering and related services in all phases of the project to which this agreement applies as hereinafter provided. ENGINEER shall serve as owner's prime design professional and engineering representative for the project providing professional engineering consultation and advice with respect thereto. ENGINEER may employ such engineer's consultants as ENGINEER deems necessary to assist in the performance or furnishing of professional engineering and related services hereunder. ENGINEER shall not be required to employ any engineer's consultant unacceptable to ENGINEER. The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar conditions of the same time and the same locality.
- 1.2 The ENGINEER shall perform professional services as hereinafter stated which includes customary civil engineering services as required by this project.

Project Scope of Work

- 1.3 The Scope of the Services shall be limited to the design and development of construction plans and bid documents for the roadway extension of Industrial Park Boulevard in the Montgomery Industrial Park to serve the new Premier Tech industrial facility as defined by the executed agreement between the OWNER and the Alabama Department of Transportation described as Project Number IAR-051-000-015.

Preliminary Design Phase

- 1.4 The preliminary design documents consisting of the preliminary layout and the Opinion of Probable Project Cost have already been established as a part of the grant application and agreement between the OWNER and the Alabama Department of Transportation (ALDOT). The ENGINEER will consult with the OWNER to review and clarify the OWNER's requirements for the project prior to beginning the Final Design Phase.

- 1.5 In consultation with OWNER, the ENGINEER will confirm the full extent of the Project, which includes the limits of the project, curb and/or gutter improvements, drainage improvements, possible utility conflicts and potential environmental issues.

Final Design Phase

- 1.6 On the basis of the accepted grant application and agreement between the OWNER and ALDOT, the ENGINEER shall prepare for incorporation in the Contract Documents final drawings and specifications that show the character and extent of the Project (hereinafter called "Drawings and Specifications").
- 1.7 The ENGINEER shall design the project to conform to all Federal, State and local standards. The Alabama Department of Transportation Standard Specifications for Highway Construction, Latest Edition, will govern in the development of the plans and specifications for this project.
- 1.8 The ENGINEER shall perform all route surveying for the project corridor.
- 1.9 The ENGINEER shall provide sufficient plans, specifications, cost estimates, design analysis, and other contract documents required by ALDOT to authorize the Project for construction.
- 1.10 The ENGINEER will conduct subsurface geotechnical explorations, such as borings and soil tests, as needed to evaluate the subsurface soils beneath the proposed roadway extension. The ENGINEER will prepare a report with recommendations to be included in the Final Design Phase of the construction documents.
- 1.11 The ENGINEER shall advise OWNER of any adjustments to the latest Opinion of Probable Project Cost caused by changes in extent or design requirements of the Project or Construction Costs and furnish a revised Opinion of Probable Project Cost based on the Drawings and Specifications. The ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Project Cost prepared by ENGINEER.
- 1.12 The ENGINEER shall prepare an ADEM Stormwater permit and CBMPP plan (if required) and assist the OWNER with the submittal of the ADEM Stormwater permit prior to the Bidding Phase.
- 1.13 The ENGINEER will identify potential Utility Conflicts with the proposed Project and assist the OWNER with coordinating with Utility Owners regarding potential utility relocations. The ENGINEER will also assist the OWNER to obtain the necessary Utility Agreements if required by ALDOT that are associated with the respective utility conflicts. This Agreement does not include the design of any necessary utility relocations or providing construction drawings for utility relocations. Drawings for utility relocations shall be the responsibility of the owner of the utility to be relocated.
- 1.14 The ENGINEER will assist the OWNER with ALDOT certifications and other standard documents as required to obtain ALDOT approval for the proposed project.
- 1.15 The ENGINEER shall provide sufficient plans, specifications, bid sheets, cost estimates, design analysis, and other contract documents required for the Project.

Bidding Phase

After the OWNER's acceptance of the plans, specifications and the ENGINEER's most recent opinion of probable Project cost, and upon the OWNER's and ALDOT's authorization to proceed, the ENGINEER shall proceed with performance of the services called for in the Bidding Phase.

- 1.16 The ENGINEER shall assist the OWNER in preparing the Contract Documents, assist in preparing any necessary advertisements, assist in receiving bids and any pre-qualification applications for the Project, assist in conducting any pre-bid conferences and bid openings, and assist in making recommendations for qualifying contractors and awarding contracts for construction. For projects subject to the competitive bid law, the OWNER is responsible for the final determination of the lowest responsible and responsive bidder to whom a construction contract is awarded, shall obtain such legal counsel as necessary to make that determination, and shall hold ENGINEER harmless therefrom.
- 1.17 The ENGINEER shall issue addenda as appropriate to clarify, correct or change the bidding documents.
- 1.18 The ENGINEER shall consult with and advise OWNER as to the acceptability of subcontractors and other persons and organizations proposed by the prime contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the bidding documents.
- 1.19 The ENGINEER shall consult with and advise OWNER as the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the bidding documents.
- 1.20 The ENGINEER shall attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and assembling and awarding contracts for construction, materials, equipment and services.

Construction Phase

- 1.21 All construction services (including, but not limited to construction administration, inspection, engineering and management) are not included as a part of this agreement.

ARTICLE 2. Additional Services

The following scope of services shall be considered additional work above and beyond the Basic Services outlined in Article 1. Unless the Additional Services are authorized in Article 4, Compensation, the OWNER and ENGINEER shall agree through a written amendment hereto, for the ENGINEER to furnish, or obtain from others, additional services of the types listed below, prior to such services being performed. Compensation for the Additional Services shall be as negotiated between the OWNER and ENGINEER, the terms of which shall be included in said written amendment to this Agreement.

- 2.1 Performing additional survey work beyond the route surveying as needed for the final plan preparation, additional courthouse research for preparation of right-of-way and/or easement documents, right-of-way and/or easement preparation and acquisition, research of legal documents, boundary surveys, and post construction survey services.
- 2.2 Performing environmental permitting and investigation work such as, wetlands delineation or mitigation, subsurface soil or groundwater contamination, hazardous materials investigation, USACOE permitting, survey of endangered or threatened species (T&E Surveys), Cultural Resource Assessment surveys, etc.
- 2.3 Performing additional subsurface geotechnical investigations should unusual subsurface conditions be discovered during the Design Phase.
- 2.4 Performing traffic counts or other related traffic studies.
- 2.5 Performing right-of-way acquisition services including legal surveys, sketches, legal descriptions, plats, research of legal documents, appraisals, negotiations or any other right-of-way related services.

- 2.6 Performing services resulting from significant changes in the scope, extent, or character of the portions of the Services designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond ENGINEER's control.
- 2.7 Other services performed or furnished by ENGINEER not otherwise provided for in this Agreement.

ARTICLE 3. Responsibilities of the OWNER

OWNER agrees to provide ENGINEER with complete information concerning the requirements of the project and to perform the following services:

- 3.1 Furnish all design and construction standards which the OWNER will require to be included in the Engineering plans and specifications.
- 3.2 Assist the ENGINEER by placing at the ENGINEER's disposal all available information pertinent to the Project.
- 3.3 Hold promptly all required meetings, serve all required notices, fulfill all requirements necessary in the development of the project, and pay all costs incidental thereto.
- 3.4 Arrange for access to and make all provisions for the ENGINEER to enter upon public and private property to perform surveying, testing and other data collection as required for ENGINEER to perform services under this Agreement. OWNER shall appoint and designate in writing a person to act as OWNER's site access representative for such purpose, and shall include contact information for the individual so designated. OWNER agrees to hold the ENGINEER harmless from any and all claims, actions, damages and costs, including but not limited to attorney's fees, arising from OWNER's arrangements and provisions for access to property.
- 3.5 Assist the ENGINEER to obtain copies of all deeds, plats, property maps and other information necessary to the description and location of all existing rights-of-way and easements needed for the project.
- 3.6 Designate, in writing, a single person to act as OWNER's Representative with respect to the work to be performed under this agreement. The person designated as Representative shall have complete authority to transmit instructions and to receive information with respect to the work covered by this agreement.
- 3.7 Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project. The OWNER shall also provide such legal services as the OWNER may require or the ENGINEER may reasonably request with regard to legal issues pertaining to the Project that must be resolved in order for the ENGINEER to carry out its obligations under this Agreement. It is expressly understood and agreed that the ENGINEER itself shall not furnish or render any legal opinions or legal interpretations as to matters of law or application of law.
- 3.8 The OWNER agrees to be the Applicant for all permits and environmental clearances necessary to construct the Project and pay for any and all regulatory permitting and application fees.
- 3.9 If Additional Services are required for the Project, the OWNER agrees to pay ENGINEER the Additional Services as may be required for the Project, as outlined in this agreement or as modified by written amendment hereto.

ARTICLE 4. Compensation

The OWNER agrees to pay to the ENGINEER a lump sum fee of \$ 49,250.00 for the Basic Services as outlined in Article 1 of this Agreement based on the fee schedule shown below. Payment for these Basic Services shall be made in installments (no more than once monthly) based upon percentage complete as work progresses.

- 4.1 For the Route Surveying and Mapping as described in the Final Design Phase as outlined in Article 1 of this Agreement, the OWNER will pay ENGINEER a lump sum fee of \$ 5,500.00.
- 4.2 For the subsurface geotechnical investigations as described in the Final Design Phase outlined in Article 1 of this Agreement, the OWNER will pay ENGINEER a lump sum fee of \$ 4,900.00.
- 4.3 For the Drawings and Specifications as described in the Final Design Phase outlined in Article 1 of this Agreement, the OWNER will pay ENGINEER a lump sum fee of \$ 33,850.00.
- 4.4 For the Certifications and other ALDOT approval requirements as described in the Final Design Phase outlined in Article 1 of this Agreement, the OWNER will pay ENGINEER a lump sum fee of \$ 1,500.00.
- 4.5 For the Contract Documents and other requirements described in the Bidding Phase outlined in Article 1 of this Agreement, the OWNER will pay ENGINEER a lump sum fee of \$ 3,500.00.
- 4.6 For any additional services as described in Article 1 or Article 2 that are determined to be needed or required, the OWNER can either pay the ENGINEER a fee based upon rates shown in the ENGINEER's Standard Rate & Fee Schedule or a fee that is mutually agreed upon by the OWNER and the ENGINEER and incorporated to this Agreement by written amendment.
- 4.7 The OWNER may, from time to time, request changes in the scope of the services of the ENGINEER to be performed hereunder. Such changes, including any increase or decrease in the amount of ENGINEER's compensation, that are mutually agreed upon by the OWNER and the ENGINEER, shall be incorporated in written amendments to this Agreement.
- 4.8 Compensation for services performed by ENGINEER's employees as witnesses giving testimony in any litigation, arbitration or administrative proceeding shall be paid by OWNER at a rate of two times the ENGINEER's standard hourly rates. Whenever ENGINEER's bill to OWNER includes charges for ENGINEER's consultants for such services, those charges shall be the amounts billed by ENGINEER's consultant to ENGINEER times a factor of two.
- 4.9 Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due to the ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice, the amounts due ENGINEER will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

ARTICLE 5. Relationship of the Parties

- 5.1 The parties intend that this Agreement create an independent contractor relationship between them. The ENGINEER is a professional corporation and is not an agent or employee of OWNER for any purpose. The ENGINEER cannot and will not represent that he has the authority to bind OWNER in any contractual manner. Nevertheless, with regard to the bidding and construction phases, it is understood that ENGINEER may serve as the OWNER's representative with full authority to participate therein as designated in Article 1, above.
- 5.2 Neither party is to represent to others that the relationship between them is other than as stated above.

- 5.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the OWNER and the ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the OWNER and the ENGINEER and not for the benefit of any other party.
- 5.4 The OWNER and the ENGINEER each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns (to the extent permitted by Paragraph 5.5 below) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrations, legal representatives and said assigns of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- 5.5 Neither the OWNER nor the ENGINEER shall assign, sublet or transfer any rights under or interest in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent the ENGINEER from employing such independent professional associates, consultants, subcontractors, and vendors as the ENGINEER may deem appropriate to assist in the performance of services hereunder.
- 5.6 ENGINEER may employ such independent professional associates, consultants, subcontractors, and vendors as the ENGINEER may deem appropriate to assist in the performance or furnishing of services under this Agreement. ENGINEER shall not be required to employ any consultant unacceptable to ENGINEER.

ARTICLE 6. Ownership and Use of Project Documents

- 6.1 All documents are instruments of service in respect to the Services, and ENGINEER shall retain an ownership and proprietary property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Services are completed.
- 6.2 Copies of documents that may be relied on by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.
- 6.3 OWNER may make and retain copies of documents for information and reference in connection with the services by OWNER. Such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the services or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's consultants. OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's consultants from all claims, damages, and expenses including attorneys' fees arising out of or resulting therefrom.
- 6.4 In the event of a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 6.5 Any verification or adaptation of the documents for extensions of the services or for any other services will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

ARTICLE 7. Liability and Indemnity

- 7.1 The ENGINEER will not be responsible for delays, disruptions or obstacles attributable to acts of God, acts of third parties, weather, intervention of public authorities, work stoppages, changes in the applicable laws

or regulations after the date of commencement of performance hereunder and any other acts or omissions or events which are beyond the control of the ENGINEER.

- 7.2 OWNER may not utilize ENGINEER's construction cost estimate after thirty calendar days from the date of delivery to OWNER without ENGINEER's written consent. Estimates of cost are made on the basis of the ENGINEER's experience, qualifications, and professional judgment, but since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee or warrant that proposals, bids or actual construction costs will not vary from estimates of probable costs prepared by ENGINEER. Approvals, recommendations, estimates and decisions by the ENGINEER are made on the basis of the ENGINEER's experience, qualifications, and professional judgment and are not to be construed as warranties or guarantees.
- 7.3 ENGINEER shall indemnify, defend, and hold OWNER harmless from any claims, suits, damages, or other losses directly arising from ENGINEER'S negligent and/or willful acts, errors, or omissions arising from ENGINEER'S work on the project. Likewise, OWNER shall indemnify, defend, and hold ENGINEER harmless from any claims, suits, damages, or other losses directly arising from the OWNER's negligent and/or willful acts, errors or omissions arising from the OWNER's actions.

ARTICLE 8. Termination

- 8.1 This Agreement shall be subject to termination by either party hereto, with or without cause, upon twenty (20) days advance notice in writing. Payment due ENGINEER at such time shall be computed upon applicable terms of Article 4, the amount of work completed or in progress as of the termination date and ENGINEER's reasonable cost of winding down its services after termination.

ARTICLE 9. Remedies

- 9.1 If a dispute arises out of or relates to this agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama between the Montgomery County Commission and Goodwyn, Mills Cawood, LLC.

ARTICLE 10. Miscellaneous

- 10.1 This Agreement represents the entire and integrated Agreement between the OWNER and ENGINEER and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement may only be amended, supplemented or modified by written instrument executed by both the OWNER and the ENGINEER.
- 10.2 It is understood and agreed by the parties hereto, that if any part, term or provision of this Agreement is held by any court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining portion or portions of this Agreement shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

10.3 It is expressly understood and agreed that the indemnity and insurance obligations of this Agreement, as well as the ENGINEER's proprietary interest in its Engineering plans and specifications, shall survive the termination of this Agreement under Article 8 above as well as the completion of services under this Agreement.

10.4 This Agreement is to be governed by the laws of the State of Alabama.

WHEREFORE, the undersigned, by their signatures, certify that they have carefully read this Agreement, understand the terms and conditions contained herein, have proper authority to execute this Agreement, and do so as their own free act:

OWNER:

MONTGOMERY COUNTY COMMISSION

By: _____
Elton N. Dean, Sr.

Title: Chairman

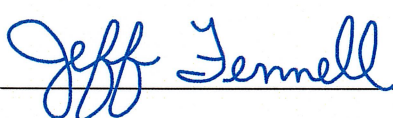
Attest:

ENGINEER:

GOODWYN MILLS CAWOOD, LLC.

By: 
Robert J. Kemp, P.E.

Title: VP Transportation

Attest:




2021
Standard Rate and Fee Schedule

Standard Hourly Rates

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Vice President	\$ 200.00
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In-House Color reprographic services (large format)	\$0.20/ sf
GPS equipment	\$250.00 per day



**2021 SCHEDULE OF FEES
GEOTECHNICAL SERVICES**

Drilling Services

Mobilization of Drilling Equipment, per rig, lump sum.....	\$ 500.00
Mileage above 50 miles from office, per mile	\$ 3.00
Furnish adverse terrain vehicle (ATV), if required by site conditions, per day	\$ 300.00
Soil Test Boring, including Standard Penetration Test	
0-50 ft., per linear foot	\$ 15.00
50-100 ft, per liner foot	\$ 18.00
Auger Boring without sampling, per foot	\$ 10.00
Time rate drilling, drilling through concrete or rubble, difficult moving on site, or delay time, per hour	\$ 225.00
Bulk Samples from borings, each	\$ 50.00
Undisturbed Samples, each	\$ 95.00
Drill crew per diem, per crew day	
2-man crew	\$ 250.00
3-man crew	\$ 300.00
Observation well installation, 1.5 to 2" diameter PVC, per linear foot.....	\$ 20.00
Water truck, per hour	\$ 175.00
Rock coring (NX or NQ), per linear foot.....	\$ 60.00
Set-up charge for rock coring, per boring	\$ 150.00
Temporary casing, per linear foot.....	\$ 15.00

Laboratory Testing

Standard Proctor, ASTM D698/AASHTO T99, per test.....	\$ 125.00
Modified Proctor, ASTM D1557/AASHTO T180, per test	\$ 150.00
Atterberg Limits Testing, ASTM D4318, per test.....	\$ 90.00
Grain Size Analysis (without Hydrometer), ASTM D422/AASHTO T88, per test	\$ 90.00
Grain Size Analysis by Hydrometer, ASTM D422/AASHTO T88, per test	\$ 175.00
Percent Finer than No. 200 Sieve, ASTM D1140, per test.....	\$ 75.00
Moisture Content, ASTM D2216, per test.....	\$ 10.00
Permeability Test, ASTM D5084, per test.....	\$ 450.00
Triaxial Shear Test (CU w/ pore pressure), ASTM D4767, per test.....	\$ 950.00
Triaxial Shear Test (UU), ASTM D2850, per test	\$ 450.00
Consolidation Test, ASTM D2435, per test.....	\$ 475.00
Resilient Modulus, AASHTO T-307, per test.....	\$ 500.00
California Bearing Ratio, ASTM D1883/AASHTO T93 (2 points, does not include Proctor), per test.....	\$ 400.00
Sample Preparation or Remolding, per sample	\$ 75.00

Personnel

Staff Professional, per hour	\$ 125.00
Project Manager, per hour	\$ 150.00
Project Engineer, P.E., per hour	\$ 175.00
Senior Engineer, P.E., per hour	\$ 200.00
Special Inspector, per hour.....	\$ 120.00
Laboratory Technician, per hour	\$ 75.00
Senior Engineering Technician, per hour*.....	\$ 65.00
Engineering Technician, per hour*	\$ 55.00
Structural Steel Inspector, CWI, per hour*	\$ 105.00
Word Processing, per hour*	\$ 50.00

Other

Mileage, company truck or personal vehicle, per mile	\$ 0.55
Per diem, per man, per day	\$ 150.00
Subcontractor mark-up, job related	Cost+15%

*Overtime Premium (in excess of 8 hours/day or on weekends and holidays)

Monday - Friday and Saturday

Hourly rate x 1.5

Technician Overtime Premium (for work on Holidays and Sunday)

Hourly rate x 2.0

All Hourly charges and mileage charges are portal-to-portal

Rates effective through December 31, 2021 unless otherwise agreed upon



Memo

Re: Contract Amendment for Concrete Pipe
Date: County Commission - Information Session - Aug 17 2021
To: Montgomery County Commission
From: Cynthia Hill, Buyer I

BACKGROUND INFORMATION:

Request that attached Amendment No. 2 to Foley Products Company, for concrete pipe be considered for approval on a future agenda.

Amendment No. 2 will allow the contract to be extended for one(1) year, beginning October 7, 2021 and ending October 6, 2022.

Foley Products Company, would like to increase prices by 5% in accordance with the terms of the contract. All provisions of the contract shall remain the same.

This contract extension has been coordinated with George Speake, County Engineer.

ATTACHED:

[Amendment No. 2 Concrete Pipe](#)

**Montgomery County Commission
Purchasing Department
P. O. Box 1667
Montgomery, AL 36102**

Amendment
To
Contract # 53000-19B-027

Amendment No. 2

Contract with Foley Products Company for concrete pipe, Class III and IV for Engineering, is hereby extended for one (1) year, beginning October 7, 2021 and ending October 6, 2022.

Prices will increase by 5%, in accordance with the contract.

All other provisions of the contract remain the same.

WITNESS:

FOLEY PRODUCTS COMPANY

BY: _____

TITLE: _____

WITNESS:

MONTGOMERY COUNTY COMMISSION

BY: _____

TITLE: _____



Memo

Re: Income Works Contract
Date: County Commission - Information Session - Aug 17 2021
To: Montgomery County Commission
From: Clay Henley, Chief Appraiser

BACKGROUND INFORMATION:

This software is used to assist with mass appraisal valuation of income producing properties. The information contained in this software helps us to maintain equity and accuracy of assessments.

FINANCIAL IMPACT:

Yearly contract amount is \$49,000.

ATTACHED:

[IncomeWorks Amendment](#)

RENEWAL AMENDMENT TO INCOMeworks SOFTWARE LICENSE AGREEMENT

Assessment Advisors, LLC and Montgomery County, Alabama, by and through the Montgomery County Commission ("Licensee") hereby agree to amend the IncomeWorks Software License Agreement ("Agreement"), effective October 2016, as follows:

1. Notwithstanding anything contrary in the Agreement, Licensee will renew the Agreement as set forth in this Amendment.
2. This Amendment constitutes renewal of the Agreement for the period of January 1, 2022 to December 31, 2022.
3. Renewal Data Release Year: IncomeWorks 2021, results as-of October 1, 2021.
4. Licensee will pay Assessment Advisors a license fee, for the renewal term set forth above, of Forty-Nine Thousand Dollars [\$49,000] detailed as follows:

Prior Year Base License Fee	\$ 49,000
3% Increase per Agreement	+ 1,470
Courtesy Discount	- 1,470
IncomeWorks 2021 Renewal Fee	\$ 49,000

5. The renewal fee will be invoiced on or after October 1, 2021. Assessment Advisors will commence work upon receipt of payment. Payment received in October 2021 will ensure release prior to expiration.
6. On the release date for IncomeWorks 2021, Assessment Advisors will email notification to Licensee's Authorized Users.
7. No other changes are made to the License Agreement and all other terms and conditions of the License Agreement remain in full force and effect.

ACCEPTED AND AGREED:

Assessment Advisors

Assessment Advisors, LLC
736 N. Western Avenue, #393
Lake Forest, IL 60045

Licensee

Name of Licensee

Street Address

City, ST, zip

By: _____

Linda Pedalino, MAI
President & Co-Founder

By: _____

Print Name: _____

Title: _____

Date: _____

Date: _____



Memo

Re: GAMA GIS proposal with Keet Consulting Services
Date: County Commission - Information Session - Aug 17 2021
To: Montgomery County Commission
From: Clay Henley, Chief Appraiser

BACKGROUND INFORMATION:

Our current GIS contract with Keet Consulting Services. The software is stored on each users PC. This request is for a web based version of this software that can be used from any device or platform. It provides a faster response time when running queries and data analysis.

FINANCIAL IMPACT:

The initial cost of this software is \$17,500 for the first year with a yearly maintenance fee of \$13,500.

ATTACHED:

[GAMA Contract](#)

[GAMA Proposal](#)

Contract for GAMAweb

THIS AGREEMENT ("Agreement") is made this _____ day of _____, 2021, by and between **KEET CONSULTING SERVICES, LLC**, an Alabama limited liability company ("KCS"), and **MONTGOMERY COUNTY**, a body corporate organized under the laws of the State of Alabama, for the benefit of the **Montgomery County Commission**, ("the Commission").

RECITALS

WHEREAS, the Commission, in its desire to make provision for GIS Software, Training & Support, for use of the Montgomery County Commission and departments of Montgomery County, Alabama; and

WHEREAS, the Commission has agreed to allow KCS to perform certain services in connection therewith.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and for good and valuable consideration, receipt of which is hereby acknowledged, the parties, intending to be legally bound hereby, agree as follows for additional services and software to be combined with the current software, support, & services already being provided to the Revenue Commission:

1. GIS/CAMA Integration System

Company & Product Name: GAMAwEB (Geographic Aided Mass Appraisal web based) by KCS

Initial One-Time Cost: \$4,000.00

Annual Services, Support, & Maintenance Renewal Cost: \$13,500.00

2. Term and Termination.

(a) The contract period shall begin on the date this Agreement is formally approved by the Commission and shall continue until the delivery by KCS of the completed application to the Commission, unless otherwise terminated or extended in accordance with the terms of this Agreement.

(b) This Agreement may be terminated: (i) by either party upon thirty (30) days written notice; (ii) by the Commission in the event KCS makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy or for reorganization or arrangement under the bankruptcy laws, if a petition in bankruptcy is filed against KCS, or if a receiver or trustee is appointed for all or any part of the property or assets of KCS; or (iii) by a written agreement executed by the parties.

(c) Upon any termination or expiration of this Agreement, KCS shall immediately deliver to the Commission all copies of confidential information in the possession, custody or control of KCS.

(d) In the event this Agreement is terminated, the Commission shall pay KCS for all services and work undertaken in performance of its obligations hereunder up to the date of termination. Such payment is due and payable upon the submission to the Commission of: (i) a properly payable invoice; (ii) a detailed record that documents the extent to which performance of services was completed through such date of termination; and (iii) written certification of compliance with Section 2(c).

3. Performance of Services. During the term of this Agreement and any extension or renewal thereof, KCS agrees to perform the services set forth herein and in the Proposal in accordance with the provisions thereof.

4. Payment Terms.

(a) The Commission shall pay KCS for the services hereunder the amounts set forth on the Proposal attached hereto, and at such times provided by the payment schedule specified therein.

(b) The amounts stated in the Proposal attached hereto include all taxes, duties and levies of any governmental entity, exclusive of taxes on KCS's net income, and KCS shall be solely responsible for any such taxes, duties or levies.

(c) The Commission agrees that amounts of all properly payable invoices shall be due and payable within thirty (30) days after receipt. In the event the Commission disputes the amount charged, services completed, or whether such invoice is properly payable, the amount of such invoice will not be due and payable until the parties resolve the dispute.

5. Warranties.

(a) KCS Warranty. KCS warrants to the Commission that: (i) KCS has the right and authority to enter into and perform its obligations under this Agreement; (ii) KCS shall perform the services in a workmanlike manner; (iii) the services, throughout the term of this Agreement shall conform substantially to the provisions of this Agreement and as set forth in the Proposal attached hereto; and (iv) the services and materials provided shall not contain any content, data, work, materials, link, advertising or services that actually or potentially violate any applicable law or regulation or infringe or misappropriate any proprietary, intellectual property, contract or tort right of any person.

(b) The Commission represents and warrants to KCS that: (i) the Commission has the power and authority to enter into and perform its obligations under this Agreement; and (ii) the content of the Commission's application does not and shall not contain any content, materials, data, work, trade or service mark, trade name, link, advertising or services that actually or potentially violate any applicable law or regulation or infringe or misappropriate any proprietary, intellectual property, contract or tort right of any person.

6. LIMITATION OF LIABILITY. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFIT OR GOODWILL, FOR ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ITS SUBJECT MATTER, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7. General.

(a) The parties and their respective personnel, are and shall be independent contractors and neither party by virtue of this Agreement shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party.

(b) Neither party may assign any of its rights, duties or obligations under this Agreement to any person or entity, in whole or in part, and any attempt to do so shall be deemed void and/or a material breach of this Agreement.

(c) No waiver of any provision hereof or of any right or remedy hereunder shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No delay in exercising, no course of dealing with respect to, or no partial exercise of any right or remedy hereunder shall constitute a waiver of any other right or remedy, or future exercise thereof.

(d) If any provision of this Agreement is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Agreement shall remain enforceable.

(e) All notices shall be in writing and shall be deemed to be delivered when received by certified mail, postage prepaid, return receipt requested, or when sent by facsimile or e-mail confirmed by call back. All notices shall be directed to the parties at their respective addresses or to such other address as either party may, from time to time, designate by notice to the other party.

(f) No amendment, change, waiver, or discharge hereof shall be valid unless in writing and signed by both parties.

(g) This Agreement shall be governed in all respects by the laws of the State of Alabama without regard to its conflict of laws provisions.

(h) The respective rights and obligations of the parties under Sections 2(c), 2(d), 4(e) and 7 shall survive any termination or expiration hereof.

(i) This Agreement, together with the Proposal which is incorporated by reference, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to the subject matter hereof, superseding all prior or contemporaneous proposals, communications and understandings, oral or written.

8. Dispute Resolution.

If a dispute arises out of or relates to this agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama between the Montgomery County Commission and KCS.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first set forth above.

KEET CONSULTING SERVICES, LLC

By: L. Ethan Southern, Owner

MONTGOMERY COUNTY COMMISSION

By: Elton N. Dean, Sr., as Chairman of the
Montgomery County Commission



A Spatial Solutions Company

Montgomery County

Revenue Commissioner Janet Buskey

Proposal

Software, Services, & Support

GAMAwab (Geographic Aided Mass Appraisal) – This GIS web based application is built on ESRI technology. It has been designed to facilitate the appraisal work of an organization through a spatial environment. This application utilizes geographic and tabular data to produce thematic layers for a variety of appraisal needs. GAMAwab is designed to work with web browsers though a secured username and password; therefore, the user has the ability to make use of powerful functionality anywhere in the world.

Proposal Costs

Description	Units per Month	~ Unit Cost	Monthly Cost	1 st Year Total	Subsequent Years
GAMAwab Software Training, Setup*, & Implementation	1	\$4,000.00	NA	\$4,000.00	\$0.00
GAMAwab Base Application and Hosting	1	\$350.00	\$350.00	\$4,200.00	\$4,200.00
GAMAwab Base 1-5 Monthly Power Users	5	\$75.00	\$375.00	\$4,500.00	\$4,500.00
Power Packs of 5 users	2	\$200.00	\$400.00	\$4,800.00	\$4,800.00
Total				\$17,500.00	\$13,500.00

* 4 Hours

If you have any questions, please do not hesitate to call or email.
Thank you for the opportunity to provide you this proposal.

Phil Nix

pnix@kcsGIS.com Office: 205-620-9843 Mobile: 251-802-7047



Memo

Re: ESRI Software Maintenance Renewal
Date: County Commission - Information Session - Aug 17 2021
To: Montgomery County Commission
From: Todd Grant, GIS & Cadastral Mapping Manager

BACKGROUND INFORMATION:

Attached hereto, please find the Environmental Systems Research Institute, Inc. (ESRI) annual software maintenance renewal agreement for the Office of the Revenue Commissioner's GIS & Cadastral Mapping Department in the amount of \$21,800.00

FINANCIAL IMPACT:

\$21,800.00

RECOMMENDATION:

I request that approval of the ESRI software maintenance renewal agreement be placed on the next agenda.

ATTACHED:

[Esri Renewal Quote # 26026458\(GIS\)](#)



Esri Inc
380 New York Street
Redlands CA 92373

Subject: Renewal Quotation

Date: 07/22/2021
To: Todd Grant
Organization: Montgomery County Alabama
Re GIS & Cadastral Mapping Dept
Fax #: 334-832-2535 **Phone #:** 334-832-1607

From: Berenice Perez
Fax #: **Phone #:** 909-793-2853 Ext. 5085
Email: bperez@esri.com

Number of pages transmitted
(including this cover sheet): 5

Quotation #26026458
Document Date: 07/02/2021

*** REVISED 07/22/21***

Please find the attached quotation for your forthcoming term. Keeping your term current may entitle you to exclusive benefits, and if you choose to discontinue your coverage, you will become ineligible for these valuable benefits and services.

If your quote is regarding software maintenance renewal, visit the following website for details regarding the maintenance program benefits at your licensing level
<http://www.esri.com/apps/products/maintenance/qualifying.cfm>

All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your coverage at a later date.

Please note: Certain programs and license types may have varying benefits. Complimentary User Conference registrations, software support, and software and data updates are not included in all programs.

Customers who have multiple copies of certain Esri licenses may have the option of supporting some of their licenses with secondary maintenance.

For information about the terms of use for Esri products as well as purchase order terms and conditions, please visit
<http://www.esri.com/legal/licensing/software-license.html>

If you have any questions or need additional information, please contact Customer Service at 888-377-4575 option 5.



esri[®] 380 New York Street
Redlands, CA 92373
Phone: 909-793-28535085

Quotation

Date: 07/02/2021

Quotation Number: 26026458

Montgomery County Alabama
Re GIS & Cadastral Mapping Dept
101 S Lawrence St
Montgomery AL 36104-4268
Attn: Todd Grant

Send Purchase Orders To:

Environmental Systems Research Institute, Inc.
380 New York Street
Redlands, CA 92373-8100
Attn: Berenice Perez

Please include the following remittance address on your Purchase Order:

Environmental Systems Research Institute, Inc.
P.O. Box 741076
Los Angeles, CA 90074-1076

Customer Number: 159286

For questions regarding this document, please contact Customer Service at 888-377-4575.

Item	Qty	Material#	Unit Price	Extended Price
10	1	52384 ArcGIS Desktop Advanced Concurrent Use Primary Maintenance Start Date: 10/01/2021 End Date: 09/30/2022	3,000.00	3,000.00
1010	4	52385 ArcGIS Desktop Advanced Concurrent Use Secondary Maintenance Start Date: 10/01/2021 End Date: 09/30/2022	1,200.00	4,800.00
2010	1	87198 ArcGIS 3D Analyst for Desktop Concurrent Use Primary Maintenance Start Date: 10/01/2021 End Date: 09/30/2022	500.00	500.00
3010	2	87192 ArcGIS Desktop Basic Single Use Primary Maintenance Start Date: 10/01/2021 End Date: 09/30/2022	400.00	800.00
4010	9	87193	300.00	2,700.00

Quotation is valid for 90 days from document date.

Any estimated sales and/or use tax has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state taxes directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

Issued By: Berenice Perez **Ext:** 5085

[CSBATCHDOM]

To expedite your order, please reference your customer number and this quotation number on your purchase order.



esri[®]

380 New York Street
Redlands, CA 92373
Phone: 909-793-28535085

Quotation

Page 2

Date: 07/02/2021

Quotation Number: 26026458

Item	Qty	Material#	Unit Price	Extended Price
ArcGIS Desktop Basic Single Use Secondary Maintenance				
Start Date: 10/01/2021				
End Date: 09/30/2022				
5010	1	161326	10,000.00	10,000.00
ArcGIS Enterprise Advanced Up to Four Cores Maintenance				
Start Date: 10/01/2021				
End Date: 09/30/2022				
Item Subtotal				21,800.00
Estimated Tax				0.00
Total				USD 21,800.00

DUNS/CEC: 06-313-4175 **CAGE:** 0AMS3

[CSBATCHDOM]



esri[®]

380 New York Street
Redlands, CA 92373
Phone: 909-793-28535085

Quotation

Page 3

Date: 07/02/2021

Quotation Number: 26026458

Item	Qty	Material#	Unit Price	Extended Price
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Renewal Options:

- Online: Renew through My Esri site at <https://my.esri.com>
 - Credit Card
 - Purchase Order
 - Email Authorization
- Email or Fax: Email Authorization, Purchase Order or signed quote to:
 - Fax: 909-307-3083
 - Email: service@esri.com

Requests via email or signed quote indicate that you are authorized to obligate funds for your organization and your organization does not require a purchase order.

If there are any changes required to your quotation please respond to this email and indicate any changes in your invoice authorization.

If you choose to discontinue your support, you will become ineligible for support benefits and services. All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your support coverage at a later date.

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at <http://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf>, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at <http://assets.esri.com/content/dam/esrisites/media/legal/ma-full/ma-full.pdf> apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at <http://www.esri.com/en-us/legal/terms/state-supplemental> apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy GSA, BPA) on your ordering document.

[CSBATCHDOM]



esri[®]

380 New York Street
Redlands, CA 92373
Phone: 909-793-28535085

Quotation

Page 4

Date: 07/02/2021

Quotation No: 26026458

Customer No: 159286

Item	Qty	Material#	Unit Price	Extended Price
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US FEDERAL CUSTOMERS: If you are a federal customer or a contractor purchasing on behalf of a federal customer a purchase order is required to receive an invoice. Please email the purchase order to service@esri.com

By signing below , you are authorizing Esri to issue a software support invoice in the amount of USD _____ plus sales tax, if applicable.

Please check one of the following:

☐ I agree to pay any applicable sales tax.

☐ I am tax exempt. Please contact me if Esri does not have my current exempt information on file.

Signature of Authorized Representative

Date

Name (Please Print)

Title

[CSBATCHDOM]



Memo

Re: Pictometry Aerial Photography Agreement
Date: County Commission - Information Session - Aug 17 2021
To: Montgomery County Commission
From: Todd Grant, GIS & Cadastral Mapping Manager

BACKGROUND INFORMATION:

Attached hereto, please find the Agreement Between Pictometry International Corp. and Montgomery County Commission in the amount of \$960,695.48

Funding for the aerial photography project comes from the reappraisal budget which is funded by the State, County, School Board and the City. Funding for aerial photography is an annually budgeted line item. The agreement involves two flights with the cost of each flight being spread out across three years. If necessary to do so, the option to cancel the second flight is contained in section "C" part three of the agreement.

RECOMMENDATION:

I request that approval of the Agreement Between Pictometry International Corp. and Montgomery County Commission be placed on the next agenda.

ATTACHED:

[PictometryAerialPhotographyAgreement 8-10-21 02](#)

**AGREEMENT BETWEEN
PICTOMETRY INTERNATIONAL CORP. (“PICTOMETRY”) AND
MONTGOMERY COUNTY, AL (“CUSTOMER”)**

1. This order form (“Order Form”), in combination with the contract components listed below:

Section A: Product Descriptions, Prices and Payment Terms

Section B: License Terms:

- Delivered Content Terms and Conditions of Use
- Online Services General Terms and Conditions
- Web Visualization Offering Terms and Conditions
- Software License Agreement

Section C: Non-Standard Terms and Conditions

Appendix 1: Photogrammetric Product Specifications

Map(s)

(all of which, collectively, constitute this “Agreement”) set forth the entire understanding between Pictometry and Customer with respect to the subject matter hereof and supersedes all prior representations, agreements and arrangements, whether oral or written, relating to the subject matter hereof. Any modifications to this Agreement must be made in writing and be signed by duly authorized officers of each party. Any purchase order or similar document issued by Customer in connection with this Agreement is issued solely for Customer’s internal administrative purposes and the terms and conditions set forth on any such purchase order shall be of no force or effect as between the parties.

2. In the event of any conflict among any contract components comprising this Agreement, order of precedence for resolving such conflict shall be, from highest (i.e., supersedes all others) to lowest (i.e., subordinate to all others): Section C: Non-Standard Terms and Conditions; Appendix 1: Photogrammetric Product Specifications; Section A: Product Descriptions, Prices and Payment Terms; License Terms in order as listed above under the heading ‘Section B: License Terms’; and Order Form.
3. All notices under this Agreement shall be in writing and shall be sent to the following respective addresses:

CUSTOMER NOTICE ADDRESS
101 South Lawrence Street
Montgomery, AL 36104
Attn: Todd Grant, GIS Manager
Phone: (334) 832-1607 Fax: (334)241-4431

PICTOMETRY NOTICE ADDRESS
25 Methodist Hill Drive
Rochester, New York 14623
Attn: General Counsel
Phone: (585) 486-0093 Fax: (585) 486-0098

Either party may change their respective notice address by giving written notice of such change to the other party at the other party’s then-current notice address. Notices shall be given by any of the following methods: personal delivery; reputable express courier providing written receipt; or postage-paid certified or registered United States mail, return receipt requested. Notice shall be deemed given when actually received or when delivery is refused.

4. This Agreement, including all licenses granted pursuant to it, shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not be assignable by either party except that (i) Pictometry shall have the right to assign its right to receive Fees under this Agreement, provided no such assignment shall affect Pictometry’s obligations hereunder, and (ii) Pictometry shall have the right to assign all its rights under this Agreement to any person or entity, provided the assignee has assumed all of Pictometry’s obligations under this Agreement.
5. IN NO EVENT SHALL EITHER PARTY BE LIABLE, UNDER ANY CAUSE OF ACTION OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING UNDER THEORIES INVOLVING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR BREACH OF WARRANTY), FOR ANY LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY OR OTHERS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. With respect to any claims that Customer may have or assert against Pictometry on any matter relating to this Agreement, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry pursuant to this Agreement.
7. The waiver by either party of any default by the other shall not waive subsequent defaults of the same or different kind.

8. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.
9. Except with respect to Customer's payment obligations for services delivered, reports delivered or any ongoing subscription payment obligation, each party will be excused from performance under this Agreement, will not be deemed to be in breach hereof, and will have no liability to the other party whatsoever if either party is prevented from performing any of its obligations hereunder, in whole or in part, as a result of a Force Majeure Event. A "Force Majeure Event" means an event or occurrence beyond the control of the nonperforming party, such as an act of God or of the public enemy, embargo or other act of government in either its sovereign or contractual capacity, government regulation, travel ban or request, court order, civil disturbance, terrorism, war, quarantine restriction, epidemic, virus, fire, weather, flood, accident, strike, slowdown, delay in transportation, electrical power outage, interruption or degradation in electronic communications systems, inability to obtain necessary labor, materials or manufacturing facilities, and other similar events. In the event of any delay resulting from a Force Majeure Event, any date of delivery hereunder will be extended for a period equal to the time lost because of the delay.
10. In consideration of, and subject to, payment by Customer of the Fees specified in Section A of this Agreement, Pictometry agrees to provide Customer with access to and use of the products specified in Section A of this Agreement, subject to the terms and conditions set forth in this Agreement. Customer hereby agrees to pay the Fees specified in Section A of this Agreement in accordance with the stated payment terms and accepts and agrees to abide by the terms of this Agreement.

This Agreement shall become effective upon execution by duly authorized officers of Customer and Pictometry and receipt by Pictometry of such fully executed document, such date of receipt by Pictometry being the "Effective Date."

PARTIES:

CUSTOMER	PICTOMETRY
MONTGOMERY COUNTY, AL	PICTOMETRY INTERNATIONAL CORP.
	a Delaware corporation
SIGNATURE:	SIGNATURE:
NAME:	NAME:
TITLE:	TITLE:
DATE:	EXECUTION DATE:
	DATE OF RECEIPT (EFFECTIVE DATE):

SECTION A

PRODUCT DESCRIPTIONS, PRICES AND PAYMENT TERMS

Pictometry International Corp.
25 Methodist Hill Drive
Rochester, New York 14623

ORDER #

C24314994

BILL TO

Montgomery County, AL
Todd Grant, GIS Manager
101 South Lawrence Street
Montgomery, AL 36104
(334) 832-1607
toddgrant@mc-ala.org

SHIP TO

Montgomery County, AL
Todd Grant, GIS Manager
101 South Lawrence Street
Montgomery, AL 36104
(334) 832-1607
toddgrant@mc-ala.org

CUSTOMER ID

A116960

SALES REP

KLamo

FREQUENCY OF PROJECT

Triennial

FIRST PROJECT

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
854	Reveal Advanced Property	Provides measurable high resolution ortho and oblique imagery at the Property resolution as well as Reveal Four Band Color Infrared, Reveal Certified Ortho and Reveal TrueTouch add-on features. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: Coverage Area Format: Shapefile Leaf: Leaf Off: Less than 30% leaf cover	\$ 600.00	\$ 510.00 (15% - Long Term Incentive Discount)	\$ 435,540.00
102,678	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats. Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: Data Source – Base: Pictometry Imagery Data Source Year – Base: 2022 Data Source – Comparison: N/A Data Source Year – Comparison: N/A Deck Identification: Marked with a Point Regional Status Report Requested: Modified Technical Specifications: Parameter Changes	\$ 0.33		\$ 33,883.74

		Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).			
3	Pictometry Connect - CA - 50	Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term. Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement Product Parameters: <i>Admin User Name:</i> Todd Grant <i>Admin User Email:</i> toddgrant@mc-ala.org	\$ 2,200.00	\$ 1,100.00 (50%)	\$ 3,300.00
3	CONNECT ImageService CA	Connect Image Service - CA (Custom Access) provides access via a secure web mapping service to existing orthomosaics available within Customer's Connect account. This service allows use by Customer each calendar month of a total number of image request transactions equal to the product resulting from multiplying (a) the number of concurrent users authorized to use the Connect Image Service pursuant to this Agreement, by (b) 1500 (such product being the "Monthly Image Request Limit"). To the extent use of the Connect Image Service pursuant to this Agreement results in a total number of image request transactions in excess of the Monthly Image Request Limit, Pictometry may review the usage with Customer, increase the price for Customer's Connect Image Service with Customer's consent or, in Pictometry's discretion, suspend further access by Customer to the Connect Image Service. This offering is provided solely for internal use within Customer's organization. Customer must maintain an active paid Pictometry Connect account in order to utilize the Connect Image Service. Applicable Terms and Conditions: Online Services General Terms and Conditions	\$ 2,000.00	\$ 1,000.00 (50%)	\$ 3,000.00
1	FutureView Adv Training	Full conference registration to advanced training designed to maximize deployment. Includes hotel room for up to three nights, event registration, and round-trip airfare up to \$500. Customer will be provided with discount code to complete FutureView registration. (Air Travel Restrictions - 30 day advance purchase for airfare, per person round trip airfare at standard coach class rates through Pictometry's travel provider only.) Must be redeemed within three years of agreement execution date. Applicable Terms and Conditions: Order Form	\$ 2,499.00		\$ 2,499.00
3	Pictometry Connect View - CA	Pictometry Connect View - CA (Custom Access) provides visualization-only access to the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web application or server based integration. Requires a customer-provided web application or server based application. With respect to imagery available through this product to third parties or the Public, Pictometry reserves the right to reduce the resolution of the imagery available. Term commences on date of activation. The quantity represents the number of years in the Connect term. Applicable Terms and Conditions: Web Visualization Offering Terms and Conditions Product Parameters:	\$ 750.00	\$ 375.00 (50%)	\$ 1,125.00

		<i>Admin User Name:</i> Todd Grant <i>Admin User Email:</i> toddgrant@mc-ala.org			
1	ChangeFinder - Project Fee	This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order. Applicable Terms and Conditions: Order Form	\$ 1,000.00		\$ 1,000.00
1	AccuPlus Imagery Bundle w/Three(3)Yrs of EFS Maint & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, fifteen (15) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of three years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program. Applicable Terms and Conditions: Order Form	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available through other means. This offering requires an active Pictometry CONNECT account and the current purchase of access to an imagery product. Applicable Terms and Conditions: Online Services General Terms and Conditions	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00
SUBTOTAL					\$480,347.74

SECOND PROJECT

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
854	Reveal Advanced Property	Provides measurable high resolution ortho and oblique imagery at the Property resolution as well as Reveal Four Band Color Infrared, Reveal Certified Ortho and Reveal TrueTouch add-on features. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Coverage Area Format:</i> Shapefile <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 600.00	\$ 510.00 (15% - Long Term Incentive Discount)	\$ 435,540.00
102,678	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats.	\$ 0.33		\$ 33,883.74

		Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Data Source – Base:</i> Pictometry Imagery <i>Data Source Year – Base:</i> 2025 <i>Data Source – Comparison:</i> N/A <i>Data Source Year – Comparison:</i> N/A <i>Deck Identification:</i> Marked with a Point <i>Regional Status Report Requested:</i> <i>Modified Technical Specifications:</i> <i>Parameter Changes</i> Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).			
3	Pictometry Connect - CA - 50	Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term. Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement Product Parameters: <i>Admin User Name:</i> Todd Grant <i>Admin User Email:</i> toddgrant@mc-ala.org	\$ 2,200.00	\$ 1,100.00 (50%)	\$ 3,300.00
3	CONNECT ImageService CA	Connect Image Service - CA (Custom Access) provides access via a secure web mapping service to existing orthomosaics available within Customer's Connect account. This service allows use by Customer each calendar month of a total number of image request transactions equal to the product resulting from multiplying (a) the number of concurrent users authorized to use the Connect Image Service pursuant to this Agreement, by (b) 1500 (such product being the "Monthly Image Request Limit"). To the extent use of the Connect Image Service pursuant to this Agreement results in a total number of image request transactions in excess of the Monthly Image Request Limit, Pictometry may review the usage with Customer, increase the price for Customer's Connect Image Service with Customer's consent or, in Pictometry's discretion, suspend further access by Customer to the Connect Image Service. This offering is provided solely for internal use within Customer's organization. Customer must maintain an active paid Pictometry Connect account in order to utilize the Connect Image Service. Applicable Terms and Conditions: Online Services General Terms and Conditions	\$ 2,000.00	\$ 1,000.00 (50%)	\$ 3,000.00

1	FutureView Adv Training	Full conference registration to advanced training designed to maximize deployment. Includes hotel room for up to three nights, event registration, and round-trip airfare up to \$500. Customer will be provided with discount code to complete FutureView registration. (Air Travel Restrictions - 30 day advance purchase for airfare, per person round trip airfare at standard coach class rates through Pictometry's travel provider only.) Must be redeemed within three years of agreement execution date. Applicable Terms and Conditions: Order Form	\$ 2,499.00		\$ 2,499.00
3	Pictometry Connect View - CA	Pictometry Connect View - CA (Custom Access) provides visualization-only access to the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web application or server based integration. Requires a customer-provided web application or server based application. With respect to imagery available through this product to third parties or the Public, Pictometry reserves the right to reduce the resolution of the imagery available. Term commences on date of activation. The quantity represents the number of years in the Connect term. Applicable Terms and Conditions: Web Visualization Offering Terms and Conditions Product Parameters: <i>Admin User Name:</i> Todd Grant <i>Admin User Email:</i> toddgrant@mc-ala.org	\$ 750.00	\$ 375.00 (50%)	\$ 1,125.00
1	ChangeFinder - Project Fee	This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order. Applicable Terms and Conditions: Order Form	\$ 1,000.00		\$ 1,000.00
1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program. Applicable Terms and Conditions: Order Form	\$ 0.00		\$ 0.00
1	AccuPlus Imagery Bundle w/Three(3)Yrs of EFS Maint & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, fifteen (15) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of three years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available through other means. This offering requires an active Pictometry CONNECT account and the current purchase of access to an imagery product. Applicable Terms and Conditions: Online Services General Terms and Conditions	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00

	SUBTOTAL	\$480,347.74
Thank you for choosing Pictometry as your service provider.	TOTAL	\$ 960,695.48

¹Amount per product = ((1-Discount %) * Qty * List Price)

STANDARD ORTHO MOSAIC PRODUCTS

Pictometry standard ortho mosaic products are produced through automated mosaicking processes that incorporate digital elevation data with individual Pictometry ortho frames to create large-area mosaics on an extremely cost-effective basis. Because these products are produced through automated processes, rather than more expensive manual review and hand-touched corrective processes, there may be inherent artifacts in some of the resulting mosaics. While Pictometry works to minimize such artifacts, the Pictometry standard ortho mosaic products are provided on an 'AS IS' basis with respect to visible cutlines along mosaic seams resulting from the following types of artifacts:

- i. Disconnects in non-elevated surfaces generally caused by inaccurate elevation data;
- ii. Disconnects in elevated surfaces (e.g., roadways, bridges, etc.) generally caused by elevated surfaces not being represented in the elevation data;
- iii. Building intersect and clipping generally caused by buildings not being represented in the elevation data;
- iv. Seasonal variations caused by images taken at different times during a season, or during different seasons;
- v. Ground illumination variations caused by images taken under different illumination (e.g., sunny, high overcast, morning light, afternoon light, etc.) within one flight day or during different flight days;
- vi. Single GSD color variations caused by illumination differences or multiple-aircraft/camera captures;
- vii. Mixed GSD color variations caused by adjacent areas being flown at different ground sample distances (GSDs); and
- viii. Water body color variations caused by multiple individual frames being used to create a mosaic across a body of water (e.g., lakes, ponds, rivers, etc.).

Other Pictometry products may be available that are less prone to such artifacts than the Pictometry standard ortho mosaic products.

Geofences:

FIRST PROJECT

For the Pictometry Connect - CA - 50, Pictometry Connect View - CA, CONNECT ImageService CA product(s) in this project, the following geofences apply:

AL Montgomery (Primary), AL Montgomery Metro

SECOND PROJECT

For the Pictometry Connect - CA - 50, Pictometry Connect View - CA, CONNECT ImageService CA product(s) in this project, the following geofences apply:

AL Montgomery (Primary), AL Montgomery Metro

RapidAccess—Disaster Response Program (“DRP”)

Customer is eligible for DRP described below from the Effective Date through the second anniversary of the initial Project delivery. Following payment to Pictometry of amounts due with respect to each subsequent Project, Customer will be eligible for the then-current DRP for a period of two years from delivery of such subsequent Project. Customer must be in good-standing with Pictometry to maintain eligibility for DRP.

- A. Disaster Coverage Imagery at No Additional Charge** – Pictometry will, upon request of Customer and at no additional charge, provide standard quality imagery of up to 200 square miles of affected areas (as determined by Pictometry) upon the occurrence of any of the following events during any period Customer is eligible for DRP:
- ☐ **Hurricane:** areas affected by hurricanes of Category 2 and higher.
 - ☐ **Tornado:** areas affected by tornados rated EF4 and higher.
 - ☐ **Terrorist:** areas affected by damage from terrorist attack.
 - ☐ **Earthquake:** areas affected by damage to critical infrastructure resulting from earthquakes measured at 6.0 or higher on the Richter scale.
 - ☐ **Tsunami:** areas affected by damage to critical infrastructure resulting from tsunamis.
- B. Discounted Rate** – Coverage for areas affected by the events set forth above exceeding 200 square miles will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates. Also, coverage for areas affected by hurricanes below Category II, tornadoes below EF4 or earthquakes rated below 6.0 on the Richter scale will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates.
- C. Online Services – Use of Pictometry Connect Explorer™** – Pictometry’s DRP includes the use of Connect Explorer for a term of ninety days from the date of delivery of the DRP imagery. Customer shall have access to the DRP imagery for as long as they maintain an active Connect account.

FEES; PAYMENT TERMS

All amounts due to Pictometry pursuant to this Agreement (“Fees”) are expressed in United States dollars and do not include any duties, taxes (including, without limitation, any sales, use, ad valorem or withholding, value added or other taxes) or handling fees, all of which are in addition to

the amounts shown above and, to the extent applicable to purchases by Customer, shall be paid by Customer to Pictometry without reducing any amount owed to Pictometry unless documents satisfactory to Pictometry evidencing exemption from such taxes is provided to Pictometry prior to billing. To the extent any amounts properly invoiced pursuant to this Agreement are not paid within thirty (30) days following the invoice due date, such unpaid amounts shall accrue, and Customer shall pay, interest at the rate of 1.5% per month (or at the maximum rate allowed by law, if less). In addition, Customer shall pay Pictometry all costs Pictometry incurs in collecting past due amounts due under this Agreement including, but not limited to, attorneys' fees and court costs.

FIRST PROJECT

Due at Signing	\$40,028.98
Due at initial delivery	\$120,086.94
Due at First Anniversary of Shipment of Imagery	\$160,115.91
Due at Second Anniversary of Shipment of Imagery	\$160,115.91
Total Payments	\$480,347.74

SECOND PROJECT

Due at initial delivery	\$160,115.92
Due at First Anniversary of Shipment of Imagery	\$160,115.91
Due at Second Anniversary of Shipment of Imagery	\$160,115.91
Total Payments	\$480,347.74

**PICTOMETRY DELIVERED CONTENT
TERMS AND CONDITIONS OF USE**

These Pictometry Delivered Content Terms and Conditions of Use (the “Delivered Content Terms and Conditions”), in combination with the corresponding Agreement into which these terms are incorporated, collectively set forth the terms and conditions that govern use of Delivered Content (as hereinafter defined) for use within computing environments operated by parties other than Pictometry. As used in the Delivered Content Terms and Conditions the terms “you” and “your” in uppercase or lowercase shall mean the Customer that entered into the Agreement into which the Delivered Content Terms and Conditions are incorporated.

1. DEFINITIONS

- 1.1 “Authorized Subdivision” means, if you are a county or a non-state consortium of counties, any political unit or subdivision located totally or substantially within your boundaries that you authorize to have access to Delivered Content pursuant to the Delivered Content Terms and Conditions.
- 1.2 “Authorized System” means a workstation or server that meets each of the following criteria (i) it is owned or leased by you or an Authorized Subdivision, (ii) it is located within and only accessible from facilities that are owned or leased by you or an Authorized Subdivision, and (iii) it is under the control of and may only be used by you or Authorized Subdivisions.
- 1.3 “Authorized User” means any employee of you or Authorized Subdivisions that is authorized by you to have access to the Delivered Content through an Authorized System.
- 1.4 “Delivered Content” means the images, metadata, data layers, models, reports and other geographic or structural visualizations or embodiments included in, provided with, or derived from the information delivered to you by or on behalf of Pictometry pursuant to the Agreement.
- 1.5 “Project Participant” means any employee or contractor of persons or entities performing services for compensation for you or an Authorized Subdivision that has been identified by written notice to Pictometry prior to being granted access to Delivered Content and, unless Pictometry expressly waives such requirement for any individual, has entered into a written agreement with Pictometry authorizing such access.

2. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP

- 2.1 Subject to the terms and conditions of the Agreement, you are granted nonexclusive, nontransferable, limited rights to:
 - (a) install the Delivered Content on Authorized Systems;
 - (b) permit access and use of the Delivered Content through Authorized Systems by:
 - (i) Authorized Users for performance of public responsibilities of you or Authorized Subdivisions that are to be performed entirely within facilities of you or Authorized Subdivisions;
 - (ii) Project Participants under the supervision of Authorized Users for performance of tasks or preparation of materials using only hard copies (or jpg copies) of Delivered Content solely for fulfilling public responsibilities of you or Authorized Subdivisions to be performed entirely within facilities of you or Authorized Subdivisions; and
 - (iii) individual members of the public, but only through Authorized Users and solely for the purpose of making hard copies or jpg copies of images of individual properties or structures (but not bulk orders of multiple properties or structures) to the individual members of the public requesting them.
- 2.2 You may not reproduce, distribute or make derivative works based upon the Delivered Content in any medium, except as expressly permitted in the Delivered Content Terms and Conditions.
- 2.3 You may not offer any part of the Delivered Content for commercial resale or commercial redistribution in any medium.
- 2.4 You may not distribute or otherwise make available any Delivered Content to Google or its affiliates, either directly or indirectly.
- 2.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 2.6 You may not remove, alter or obscure copyright notices or other notices contained in the Delivered Content.
- 2.7 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in Delivered Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Delivered Content acquire any proprietary interest in the Delivered Content, or any copies thereof, except the limited use rights granted herein.

3. OBLIGATIONS OF CUSTOMER

- 3.1 **Geographic Data.** If available, you agree to provide to Pictometry geographic data in industry standard format (e.g., shape, DBF) including, but not limited to, digital elevation models, street centerline maps, tax parcel maps and centroids, which data, to the extent practicable, shall be incorporated into the Delivered Content. You agree that any of this data that is owned by you may be distributed and modified by Pictometry as part of its products and services, provided that at no time shall Pictometry claim ownership of that data.
- 3.2 **Notification.** You shall (a) notify Pictometry in writing of any claims or proceedings involving any of the Delivered Content within ten (10) days after you learn of the claim or proceeding, and (b) report promptly to Pictometry all claimed or suspected defects in Delivered Content.
- 3.3 **Authorized User Compliance.** You shall at all times be responsible for compliance by each Authorized User with the Delivered Content Terms and Conditions.
- 3.4 **Authorized Subdivision Compliance.** You shall at all times be responsible for compliance by each Authorized Subdivision with the Delivered Content Terms and Conditions.
- 3.5 **Project Participants.** Each notice to Pictometry identifying a potential Project Participant shall include a detailed description of the scope and nature of the Project Participants’ planned work and the intended use of the Delivered Content in such work. Pictometry retains the right to restrict or revoke access to Delivered Content by any Project Participant who does not comply with the terms of the Delivered Content Terms and Conditions.

4. LICENSE DURATION; EFFECT OF TERMINATION

- 4.1 **Term.** The license granted to you in the Delivered Content Terms and Conditions is perpetual, subject to Pictometry’s right to terminate the license in the event you do not pay in full the Fees specified elsewhere in the Agreement, the Agreement is terminated for any reason other than a breach of the Agreement by Pictometry, or as otherwise provided in the Agreement.
- 4.2 **Effect of Termination.** Upon termination of the license granted to you in the Delivered Content Terms and Conditions, you shall immediately cease all use of the Delivered Content, promptly purge all copies of the Delivered Content from all workstations and servers on which any of it may be stored or available at the time, and return hard drive/media containing Delivered Content to Pictometry.

5. TRADEMARKS; CONFIDENTIALITY

- 5.1 **Use of Pictometry’s Marks.** You agree not to attach any additional trademarks, trade names, logos or designations to any Delivered Content or to any copies

of any Delivered Content without prior written approval from Pictometry. You may, however, include an appropriate government seal and your contact information so long as the seal and contact information in no way obscure or deface the Pictometry marks. You further agree that you will not use any Pictometry trademark, trade name, logo, or designation in connection with any product or service other than the Delivered Content. Your nonexclusive right to use Pictometry's trademarks, trade name, logos, and designations are coterminous with the license granted to you in the Delivered Content Terms.

- 5.2 Confidentiality of Delivered Content.** The Delivered Content consists of commercially valuable, proprietary products owned by Pictometry, the design and development of which reflect an investment of considerable time, effort, and money. The Delivered Content is treated by Pictometry as confidential and contains substantial trade secrets of Pictometry. You agree that you will not disclose, provide a copy of, or disseminate the Delivered Content (other than as expressly permitted in the Delivered Content Terms and Conditions) or any part thereof to any person in any manner or for any purpose inconsistent with the license granted to you in the Delivered Content Terms and Conditions. You agree to use your best efforts to assure that your personnel, and any others afforded access to the Delivered Content, protect the Delivered Content against unauthorized use, disclosure, copying, and dissemination, and that access to the Delivered Content and each part thereof will be strictly limited.

6. LIMITED WARRANTY; DISCLAIMER OF WARRANTIES

- 6.1 Limited Warranties; Exclusive Remedy.** Pictometry warrants that the Delivered Content will contain true and usable copies of the designated imagery as of the date of capture. As the sole and exclusive remedy for any breach of the foregoing warranty, Pictometry shall use reasonable efforts to correct any deficiency that precludes use of the Delivered Content in the manner intended.
- 6.2 Disclaimer of Other Warranties.** Except as provided in Section 6.1, above, THE DELIVERED CONTENT IS PROVIDED TO YOU "AS IS" AND "WITH ALL FAULTS." PICTOMETRY MAKES NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY. ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ACCURACY, ARE HEREBY DISCLAIMED AND EXCLUDED BY PICTOMETRY.
- 6.3 Limitation of Liability.** With respect to any other claims that you may have or assert against Pictometry on any matter relating to the Delivered Content, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry in payment for Delivered Content during the immediately preceding twenty-four (24) month period.

7. MISCELLANEOUS PROVISIONS

- 7.1 Restricted Rights.** Delivered Content acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable.
- 7.2 Governing Law.** This License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles.

[END OF DELIVERED CONTENT TERMS AND CONDITIONS]

SECTION B

LICENSE TERMS

PICTOMETRY ONLINE SERVICES GENERAL TERMS AND CONDITIONS

These Pictometry Online Services General Terms and Conditions (the “General Terms and Conditions”), in combination with the corresponding Pictometry order form, if any, collectively constitute the license agreement (the “License Agreement”) that governs your use of the Pictometry online services (the “Online Services”), the images available in the Online Services, and all associated metadata and data layers included in, provided with, or derived from those images (the “Licensed Content”) provided by Pictometry International Corp. and its affiliated companies (collectively, “Pictometry”). The terms “you” and “your” in uppercase or lowercase shall mean the individual, entity (e.g., corporation, limited liability company, partnership, sole proprietor, etc.) or government agency entering into the License Agreement.

1. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP

- 1.1 You are granted a nonexclusive, nontransferable, limited right to access and use the Online Services and the Licensed Content obtained or derived from the Online Services solely for your internal business purposes and not for resale or redistribution. The rights granted to you include, subject to the restrictions set forth below and on the Order Form, the right to copy limited portions of the Licensed Content onto your computer to facilitate preparation of hardcopies and work product records, and the right to make hardcopies of the Licensed Content, provided that the Licensed Content and the permitted copies thereof may not be sold, leased, loaned, distributed, or copied for use by anyone other than you.
- 1.2 You may not make the Online Services available to any other party.
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- 1.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 1.6 You may not remove, alter or obscure copyright notices or other notices contained in the Licensed Content.
- 1.7 You may not offer any part of the Online Services or the Licensed Content for commercial resale or commercial redistribution in any medium.
- 1.8 You may not use the Online Services or the Licensed Content to compete with any businesses of Pictometry.
- 1.9 You may not use information included in the Online Services or the Licensed Content to determine an individual consumer's eligibility for (a) credit or insurance for personal, family, or household purposes; (b) employment; or (c) a government license or benefit. The term “consumer” is defined in the United States Fair Credit Reporting Act at 15 USC §1681.
- 1.10 You may not access the Online Services via mechanical, programmatic, robotic, scripted or any other automated means. Unless otherwise agreed by Pictometry in writing, use of the Online Services is permitted only via manually conducted, discrete, human-initiated individual search and retrieval activities.
- 1.11 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in the Online Services and the Licensed Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Online Services or the Licensed Content acquire any proprietary interest in the Online Services, the Licensed Content, or any copies thereof, except the limited use rights granted herein.

2. ACCESS TO SERVICES

- 2.1 Only you, your employees, and temporary or contract employees dedicated to performing work exclusively for you (each, an “Eligible User” and collectively, the “Eligible Users”) are eligible to access and use the Online Services and the Licensed Content pursuant to the License Agreement. Each Eligible User to be provided access to the Online Service shall be assigned a unique login/password (“Pictometry Credential”) for purposes of accessing the Online Services. You agree that each Pictometry Credential shall only be used by the Eligible User to whom it was originally assigned and that Pictometry Credentials may not be shared with, or used by, any other person, including other Eligible Users. You will promptly deactivate an Eligible User's Pictometry Credential in the event the Eligible User no longer meets the eligibility requirements or you otherwise wish to terminate the Eligible User's access to the Online Services. You are responsible for all use of the Online Services accessed with Pictometry Credentials issued to your Eligible Users, including associated charges, whether by Eligible Users or others. You will use reasonable commercial efforts to prevent unauthorized use of Pictometry Credentials assigned to your Eligible Users and will promptly deactivate any Pictometry Credentials you suspect are lost, stolen, compromised, or misused.
- 2.2 The Online Services, the Licensed Content, and features and functionality within the Online Services may be enhanced, added to, withdrawn, or otherwise changed by Pictometry without notice.
- 2.3 You are aware and understand that any user data collected or stored by the Online Services may be accessed by US law enforcement agencies under the US PATRIOT Act. You hereby release, and agree to hold Pictometry harmless from, all claims against Pictometry with respect to such access.

3. DISCLAIMERS

- 3.1 The Online Services and the Licensed Content are provided for visualization purposes only, are not authoritative or definitive, and do not constitute professional engineering or surveying services.
- 3.2 The Online Services and the Licensed Content are not to be relied upon to precisely locate or determine property boundaries and should not be used in lieu of a professional survey where the accuracy of measurements, distance, height, angle, area and volume, may have significant consequences.
- 3.3 All measurements and reports generated by the Online Services or from the Licensed Content are based upon second order visualization and measurement data that do not provide authoritative or definitive measurement results suitable for professional engineering or surveying purposes.
- 3.4 Contour information obtained from the Online Services or contained in the Licensed Content is generated from undersampled elevation data, is provided for informational purposes only, and is not suitable for use as the basis for hydrographic computations, estimations or analyses.
- 3.5 While the Online Services and the Licensed Content may be considered useful supplements for life critical applications, they are not designed or maintained to support such applications and Pictometry and its third party suppliers of the Online Services and the Licensed Content hereby disclaim all liability for damages claims and expenses arising from such use.
- 3.6 Your reliance on the Online Services and the Licensed Content should only be undertaken after an independent review of their accuracy, completeness, efficacy, timeliness and adequacy for your intended purpose.
- 3.7 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content assume no responsibility for any consequences resulting from the use of the Online Services or the Licensed Content.
- 3.8 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content hereby disclaim all liability for damages, claims and expenses arising from or in any way related to the accuracy or availability of the Online Services and the Licensed Content.
- 3.9 By accepting these General Terms and Conditions or by using the Online Services or the Licensed Content, you waive any and all rights you may have against Pictometry, each third party supplier of any portion of the Online Services or the Licensed Content, and each of their directors, officers, members and employees, arising out of use of or reliance upon the Online Services or the Licensed Content.

4. LIMITED WARRANTY

- 4.1 Pictometry represents and warrants that it has the right and authority to make the Online Services and the Licensed Content available to you and your Eligible Users as authorized expressly by this License Agreement.
- 4.2 EXCEPT AS OTHERWISE PROVIDED IN SECTION 4.1, THE ONLINE SERVICES AND LICENSED CONTENT ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND PICTOMETRY AND EACH THIRD PARTY SUPPLIER OF LICENSED CONTENT EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. LIMITATION OF LIABILITY

- 5.1 No Covered Party (as defined below) shall be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from (a) any errors in or omissions from the Online Services or the Licensed Content, (b) the unavailability or interruption of the Online Services or any features thereof or the Licensed Content, (c) your or an Eligible User's use of the Online Services or the Licensed Content, (d) the loss or corruption of any data or equipment in connection with the Online Services or the Licensed Content, (e) the content, accuracy, or completeness of the Licensed Content, all regardless of whether you received assistance in the use of the Online Service from a Covered Party, (f) any delay or failure in performance beyond the reasonable control of a Covered Party, or (g) any content retrieved from the Internet even if retrieved or linked to from within the Online Services.
- 5.2 "Covered Party" means (a) Pictometry and any officer, director, employee, subcontractor, agent, successor, or assign of Pictometry; and (b) each third party supplier of any Licensed Content, third party alliance entity, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of any Licensed Content or third party alliance entity and their affiliates.
- 5.3 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF THE COVERED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THE ONLINE SERVICES OR THE LICENSED CONTENT OR THIS LICENSE AGREEMENT EXCEED THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR THE AMOUNT YOU PAID FOR THE ONLINE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. YOUR RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH YOU MAY HAVE AGAINST ANY COVERED PARTY.
- 5.4 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, NEITHER YOU NOR THE COVERED PARTIES WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE ONLINE SERVICES, THE LICENSED CONTENT, OR THE FAILURE OF ANY COVERED PARTY TO PERFORM ITS OBLIGATIONS. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO A PARTY'S INDEMNITY OBLIGATIONS OR YOUR (AND YOUR ELIGIBLE USERS') INFRINGEMENT OF INTELLECTUAL PROPERTY OR MISAPPROPRIATION OF PROPRIETARY DATA BELONGING TO PICTOMETRY OR ITS THIRD PARTY SUPPLIERS.
- 5.5 Notwithstanding anything to the contrary in this Section 5:
- (a) If there is a breach of the warranty in Section 4.1 above, then Pictometry, at its option and expense, shall either defend or settle any action and hold you harmless against proceedings or damages of any kind or description based on a third party's claim of patent, trademark, service mark, copyright or trade secret infringement related to use of the Online Services or the Licensed Content, asserted against you by such third party provided: (i) all use of the Online Services and the Licensed Content was in accordance with this License Agreement; (ii) the claim, cause of action or infringement was not caused by you modifying or combining the Online Services or the Licensed Content with or into other products, applications, images or data not approved by Pictometry; (iii) you give Pictometry prompt notice of such claim; and (iv) you give Pictometry the right to control and direct the investigation, defense and settlement of such claim. You, at Pictometry's expense, shall reasonably cooperate with Pictometry in connection with the foregoing.
- (b) In addition to Section 5.5(a), if the Online Services, the operation thereof or the Licensed Content become, or in the opinion of Pictometry are likely to become, the subject of a claim of infringement, Pictometry may, at its option and expense, either: (i) procure for you the right to continue using the Online Services or the Licensed Content, (ii) replace or modify the Online Services or the Licensed Content so that they become non-infringing; or (iii) terminate the License Agreement on notice to you and grant you a pro-rata refund or credit (whichever is applicable) for any pre-paid fees or fixed charges.
- (c) The provisions of Sections 5.5(a) and (b) shall constitute your sole and exclusive remedy for the respective matters specified therein.

6. MISCELLANEOUS

- 6.1 The terms and conditions of this License Agreement may be changed from time to time immediately upon notice to you. If any changes are made to this License Agreement, such changes will: (a) only be applied prospectively; and (b) not be specifically directed against you or your Eligible Users but will apply to all similarly situated Pictometry customers using the Online Services. You may terminate this License Agreement upon written notice to Pictometry if any change to the terms and conditions of this License Agreement is unacceptable to you. For termination to be effective under this Section 6.1, written notice of termination must be provided to Pictometry within 90 days of the effective date of the change. Continued use of the Online Services following the effective date of any change constitutes acceptance of the change, but does not affect the foregoing termination right. Except as provided above, this License Agreement may not be supplemented, modified or otherwise revised unless signed by duly authorized representatives of both parties. Furthermore, this License Agreement may not be supplemented, modified or otherwise revised by email exchange, even if the email contains a printed name or signature line bearing signature-like font. The foregoing does not prohibit the execution of electronic contracts bearing electronic signatures of authorized representatives of both parties, provided such signatures include digital certifications or are otherwise authenticated.
- 6.2 In the event of a breach of this License Agreement by you, any Eligible User or someone using the Pictometry Credential of an Eligible User, Pictometry may temporarily suspend or discontinue providing access to the Online Services to any or all Eligible Users without notice and Pictometry may pursue any other legal remedies available to it.
- 6.3 All notices and other communications hereunder shall be in writing or displayed electronically in the Online Services by Pictometry. Notices shall be deemed to have been properly given on the date deposited in the mail, if mailed; on the date first made available, if displayed in the Online Services; or on the date received, if delivered in any other manner. Legal notices to Pictometry should be sent to Pictometry, Attn: General Counsel, 25 Methodist Hill Drive, Rochester, New York 14623.
- 6.4 The failure of you, Pictometry, or any third party supplier of the Online Services or any Licensed Content to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- 6.5 Neither you nor any Eligible User may assign or otherwise transfer your rights or delegate your duties under this License Agreement without the prior written consent of Pictometry. Any attempt by you or any Eligible User to assign, transfer or delegate your rights or obligations under this License Agreement without Pictometry's consent shall be void, and shall also void the limited license granted to you by this License Agreement. This License Agreement and any amendment thereto shall be binding on, and will inure to the benefit of the parties and their respective successors and permitted assigns.
- 6.6 This License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles. Unless you are a government entity, in the event that any legal proceedings are commenced with respect to any matter arising under this License Agreement, the parties specifically consent and agree that the courts of the State of New York or, in the alternative, the Federal Courts located in the State of New York

shall have exclusive jurisdiction over each of the parties and over the subject matter of any such proceedings, and that the venue of any such action shall be in Monroe County, New York or the U.S. District Court for the Western District of New York, as applicable.

- 6.7 This License Agreement will be enforced to the fullest extent permitted by applicable law. If any provision of this License Agreement is held to be invalid or unenforceable to any extent, then (a) such provision will be interpreted, construed and reformed to the extent reasonably required to render it valid, enforceable and consistent with its original intent and (b) such invalidity or unenforceability will not affect any other provision of this License Agreement.
- 6.8 Where applicable, each affiliated company of Pictometry and each third party supplier of the Online Services or any Licensed Content has the right to assert and enforce the provisions of this License Agreement directly on its own behalf as a third party beneficiary.
- 6.9 In the event of a breach of your obligations under this License Agreement or your payment obligations with respect to access to the Online Services or the Licensed Content, you agree to pay all of Pictometry's costs of enforcement and collection, including court costs and reasonable attorneys' fees.
- 6.10 This License Agreement constitutes the entire agreement of the parties with respect to its subject matter and replaces and supersedes any prior written or verbal communications, representations, proposals or quotations relating to that subject matter.

[END OF ONLINE SERVICES GENERAL TERMS AND CONDITIONS]

**PICTOMETRY WEB VISUALIZATION OFFERING
TERMS AND CONDITIONS**

These Pictometry Web Visualization Offering Terms and Conditions (the "WVO Terms and Conditions"), in combination with the corresponding Pictometry order form, if any, collectively constitute the license agreement (the "WVO License Agreement") that governs your use of Pictometry web visualization offerings (the "WVO Services"), the images available in the WVO Services, and all associated metadata and data layers included in, provided with, or derived from those images (the "WVO Licensed Content") provided by Pictometry International Corp. and its affiliated companies (collectively, "Pictometry"). The terms "you" and "your" in uppercase or lowercase shall mean the individual, entity (e.g., corporation, limited liability company, partnership, sole proprietor, etc.) or government agency entering into the WVO License Agreement.

1. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP

- 1.1 You are granted a nonexclusive, nontransferable, limited right to use and to provide public access to, and use of, the WVO Services solely for purposes of providing access to WVO Licensed Content in response to human-initiated, discrete location-specific requests through a single web site operated exclusively by or for you to serve you and your public constituencies and not for resale or redistribution or commercial use of any nature.
- 1.2 You may not copy or retain copies of the WVO Licensed Content obtained through the WVO Services or portions thereof onto any computer or storage device or media for the purpose of creating or maintaining one or more databases of that content for use in substitution for subsequent access to the content through the WVO Services or any other Pictometry Services, nor will you authorize or permit any user of the WVO Services to do so.
- 1.3 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos without the express written consent of Pictometry.
- 1.4 You may not remove, alter or obscure copyright notices or other notices contained in the WVO Licensed Content.
- 1.5 You may not offer any part of the WVO Services or the WVO Licensed Content for commercial resale or commercial redistribution in any medium.
- 1.6 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in the WVO Services and the WVO Licensed Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the WVO Services or the WVO Licensed Content acquire any proprietary interest in the WVO Services, the WVO Licensed Content, or any copies thereof, except the limited use rights granted herein.

2. TERMS OF ACCESS TO WVO SERVICES

- 2.1 You shall provide to all end-users of the WVO Services on the page through which they access such services conspicuous notice of the following terms of access: (a) WVO Licensed Content available through the WVO is copyrighted material, (b) end-users of the WVO Services are granted the right to access and view the WVO Licensed Content through the WVO Services for personal use only and not for commercial purposes of any type, (c) end-users of the WVO Services are prohibited from reproducing, reselling, transferring, redistributing or creating derivative works from WVO Licensed Content, (d) all right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in the WVO Services and the WVO Licensed Content in all media belong to Pictometry or its third party suppliers, and (e) THE WVO SERVICES AND WVO LICENSED CONTENT ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND PICTOMETRY AND EACH THIRD PARTY SUPPLIER OF WVO LICENSED CONTENT EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 2.2 The WVO Services, the WVO Licensed Content, and features and functionality within the WVO Services may be enhanced, added to, withdrawn, or otherwise changed by Pictometry without notice.
- 2.3 You are aware and understand that any user data collected or stored by the WVO Services may be accessed by US law enforcement agencies under the US PATRIOT Act. You hereby release, and agree to hold Pictometry harmless from, all claims against Pictometry with respect to such access.

3. DISCLAIMERS

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- 3.4 Contour information obtained from the WVO Services or contained in the WVO Licensed Content is generated from undersampled elevation data, is provided for informational purposes only, and is not suitable for use as the basis for hydrographic computations, estimations or analyses.
- 3.5 While the WVO Services and the WVO Licensed Content may be considered useful supplements for life critical applications, they are not designed or maintained to support such applications and Pictometry and its third party suppliers of the WVO Services and the WVO Licensed Content hereby disclaim all liability for damages, claims and expenses arising from such use.
- 3.6 Your reliance on the WVO Services and the WVO Licensed Content should only be undertaken after an independent review of their accuracy, completeness, efficacy, timeliness and adequacy for your intended purpose.
- 3.7 Pictometry and each third party supplier of any portion of the WVO Services or the WVO Licensed Content assume no responsibility for any consequences resulting from the use of the WVO Services or the WVO Licensed Content.
- 3.8 Pictometry and each third party supplier of any portion of the WVO Services or the WVO Licensed Content hereby disclaim all liability for damages, claims and expenses arising from or in any way related to the accuracy or availability of the WVO Services and the WVO Licensed Content.
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4. LIMITED WARRANTY

- 4.1 Pictometry represents and warrants that it has the right and authority to make the WVO Services and the WVO Licensed Content available to you as authorized expressly by this WVO License Agreement.
- 4.2 EXCEPT AS OTHERWISE PROVIDED IN SECTION 4.1, THE WVO SERVICES AND WVO LICENSED CONTENT ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND PICTOMETRY AND EACH THIRD PARTY SUPPLIER OF WVO LICENSED CONTENT EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. LIMITATION OF LIABILITY

- 5.1 No Covered Party (as defined below) shall be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from (a) any errors in or omissions from the WVO Services or the WVO Licensed Content, (b) the unavailability or interruption of the WVO Services or any features thereof or the WVO Licensed Content, (c) your or any other party's use of the WVO Services or the WVO Licensed Content, (d) the loss or corruption of any data or equipment in connection with the WVO Services or the WVO Licensed Content, (e) the content, accuracy, or completeness of the WVO Licensed Content,

all regardless of any assistance received in the use of the WVO Service from a Covered Party, (f) any delay or failure in performance beyond the reasonable control of a Covered Party, or (g) any content retrieved from the Internet even if retrieved or linked to from within the WVO Services.

- 5.2 "Covered Party" means (a) Pictometry, its affiliates and any officer, director, employee, subcontractor, agent, successor, or assign of Pictometry or its affiliates; and (b) each third party supplier of any WVO Licensed Content, third party alliance entity, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of any WVO Licensed Content or third party alliance entity and their affiliates.
- 5.3 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF THE COVERED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THE WVO SERVICES OR THE WVO LICENSED CONTENT OR THIS WVO LICENSE AGREEMENT EXCEED THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR THE AMOUNT YOU PAID FOR THE WVO SERVICES IN THE TWENTY-FOUR MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. YOUR RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH YOU MAY HAVE AGAINST ANY COVERED PARTY.
- 5.4 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, NEITHER YOU NOR THE COVERED PARTIES WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE WVO SERVICES, THE WVO LICENSED CONTENT, OR THE FAILURE OF ANY COVERED PARTY TO PERFORM ITS OBLIGATIONS. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO A PARTY'S INDEMNITY OBLIGATIONS OR YOUR (OR ANY OTHER WVO SERVICES USERS') INFRINGEMENT OF INTELLECTUAL PROPERTY OR MISAPPROPRIATION OF PROPRIETARY DATA BELONGING TO PICTOMETRY OR ITS THIRD PARTY SUPPLIERS.
- 5.5 Notwithstanding anything to the contrary in this Section 5:
- (a) If there is a breach of the warranty in Section 4.1 above, then Pictometry, at its option and expense, shall either defend or settle any action and hold you harmless against proceedings or damages of any kind or description based on a third party's claim of patent, trademark, service mark, copyright or trade secret infringement related to use of the WVO Services or the WVO Licensed Content, asserted against you by such third party provided: (i) all use of the WVO Services and the WVO Licensed Content was in accordance with this WVO License Agreement; (ii) the claim, cause of action or infringement was not caused by you modifying or combining the WVO Services or the WVO Licensed Content with or into other products, applications, images or data not approved by Pictometry; (iii) you give Pictometry prompt notice of such claim; and (iv) you give Pictometry the right to control and direct the investigation, defense and settlement of such claim. You, at Pictometry's expense, shall reasonably cooperate with Pictometry in connection with the foregoing.
- (b) In addition to Section 5.5(a), if the WVO Services, the operation thereof or the WVO Licensed Content become, or in the opinion of Pictometry are likely to become, the subject of a claim of infringement, Pictometry may, at its option and expense, either: (i) procure for you the right to continue using the WVO Services or the WVO Licensed Content, (ii) replace or modify the WVO Services or the WVO Licensed Content so that they become non-infringing; or (iii) terminate the WVO License Agreement on notice to you and grant you a pro-rata refund or credit (whichever is applicable) for any pre-paid fees or fixed charges.
- (c) The provisions of Sections 5.5(a) and (b) shall constitute your sole and exclusive remedy for the respective matters specified therein.

6. MISCELLANEOUS

- 6.1 The terms and conditions of this WVO License Agreement may be changed from time to time immediately upon notice to you. If any changes are made to this WVO License Agreement, such changes will: (a) only be applied prospectively; and (b) not be specifically directed against you but will apply to all similarly situated Pictometry customers using the WVO Services. You may terminate this WVO License Agreement upon written notice to Pictometry if any change to the terms and conditions of this WVO License Agreement is unacceptable to you. For termination to be effective under this Section 6.1, written notice of termination must be provided to Pictometry within 90 days of the effective date of the change. Continued use of the WVO Services following the effective date of any change constitutes acceptance of the change, but does not affect the foregoing termination right. Except as provided above, this WVO License Agreement may not be supplemented, modified or otherwise revised unless signed by duly authorized representatives of both parties. Furthermore, this WVO License Agreement may not be supplemented, modified or otherwise revised by email exchange, even if the email contains a printed name or signature line bearing signature-like font. The foregoing does not prohibit the execution of electronic contracts bearing electronic signatures of authorized representatives of both parties, provided such signatures include digital certifications or are otherwise authenticated.
- 6.2 In the event of a breach of this WVO License Agreement by you or someone using the WVO Services, Pictometry may temporarily suspend or discontinue providing access to the WVO Services without notice and Pictometry may pursue any other legal remedies available to it.
- 6.3 All notices and other communications hereunder shall be in writing. Notices shall be deemed to have been properly given on the date deposited in the mail, if mailed or on the date received, if delivered in any other manner. Legal notices to Pictometry should be sent to Pictometry, Attn: General Counsel, 25 Methodist Hill Drive, Rochester, New York 14623.
- 6.4 The failure of you, Pictometry, or any third party supplier of the WVO Services or any WVO Licensed Content to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- 6.5 You may not assign or otherwise transfer your rights or delegate your duties under this WVO License Agreement without the prior written consent of Pictometry. Any attempt by you to assign, transfer or delegate your rights or obligations under this WVO License Agreement without Pictometry's consent shall be void, and shall also void the limited license granted to you by this WVO License Agreement. This WVO License Agreement and any amendment thereto shall be binding on, and will inure to the benefit of the parties and their respective successors and permitted assigns.
- 6.6 This WVO License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles. Unless you are a government entity, in the event that any legal proceedings are commenced with respect to any matter arising under this WVO License Agreement, the parties specifically consent and agree that the courts of the State of New York or, in the alternative, the Federal Courts located in the State of New York shall have exclusive jurisdiction over each of the parties and over the subject matter of any such proceedings, and that the venue of any such action shall be in Monroe County, New York or the U.S. District Court for the Western District of New York, as applicable.
- 6.7 This WVO License Agreement will be enforced to the fullest extent permitted by applicable law. If any provision of this WVO License Agreement is held to be invalid or unenforceable to any extent, then (a) such provision will be interpreted, construed and reformed to the extent reasonably required to render it valid, enforceable and consistent with its original intent and (b) such invalidity or unenforceability will not affect any other provision of this WVO License Agreement.
- 6.8 Where applicable, each affiliated company of Pictometry and each third party supplier of the WVO Services or any WVO Licensed Content has the right to assert and enforce the provisions of this WVO License Agreement directly on its own behalf as a third party beneficiary.
- 6.9 In the event of a breach of your obligations under this WVO License Agreement or your payment obligations with respect to access to the WVO Services or the WVO Licensed Content, you agree to pay all of Pictometry's costs of enforcement and collection, including court costs and reasonable attorneys' fees.
- 6.10 This WVO License Agreement constitutes the entire agreement of the parties with respect to its subject matter and replaces and supersedes any prior written or verbal communications, representations, proposals or quotations relating to that subject matter.

[END OF WEB VISUALIZATION OFFERING TERMS AND CONDITIONS]

**PICTOMETRY SOFTWARE
LICENSE AGREEMENT**

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3. **TITLE.** The Proprietary Materials are confidential information of, trade secrets of, and are proprietary to Pictometry. Title to the Proprietary Materials is and will remain in Pictometry and its licensors. All applicable rights to patents, copyrights, trademarks, trade secrets, and other intellectual property rights in the Proprietary Materials are and will remain in Pictometry and its licensors. You will not assert any right, title or interest in the Proprietary Materials provided to you under this License, except for the express license granted to you hereunder. You will not remove any copyright or other proprietary notice or legend contained on or included in any Proprietary Materials and you will reproduce all such information on all copies made hereunder. You will keep the Proprietary Materials free of all claims, liens and encumbrances.
4. **DISCLAIMERS OF WARRANTY.** USE OF THE PICTOMETRY SOFTWARE IS AT YOUR SOLE RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PICTOMETRY SOFTWARE IS PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND PICTOMETRY HEREBY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE PICTOMETRY SOFTWARE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. PICTOMETRY DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN OR PROVIDED BY THE PICTOMETRY SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE PICTOMETRY SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE PROPRIETARY MATERIALS WILL BE CORRECTED.
5. **LIMITATION OF LIABILITY.** IN NO EVENT WILL PICTOMETRY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE PICTOMETRY SOFTWARE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE), EVEN IF PICTOMETRY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL PICTOMETRY'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) CAUSED BY, ARISING OUT OF OR IN ANY WAY RELATED TO THE PICTOMETRY SOFTWARE EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
6. **TERMINATION.** This License will terminate automatically without notice from Pictometry if you fail to comply with any term of this License. Upon the termination of this License, you will cease all use of the Pictometry Software and destroy all copies, full or partial, of the Proprietary Materials.
7. **MISCELLANEOUS PROVISIONS.**
 - A. **Restricted Rights.** Pictometry Software acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable. Pictometry must be notified in advance of any license grants to United States federal governmental entities. The Pictometry Software is developed for general use in a variety of applications and is not developed or intended for use in any inherently dangerous applications or applications that could lead to property damage, personal injury or death. If you use the Pictometry Software in such applications, then you will be responsible for taking all appropriate fail-safe, backup, redundancy, and other measures to ensure the safe use of the Pictometry Software in such applications, including but not limited to, in any nuclear, aviation, mass transit, public safety or medical applications.
 - B. **Foreign Trade Restrictions.** The parties acknowledge that certain information, software technology, accompanying documentation and technical information may be subject to United States export control laws. You will not directly or indirectly export or re-export the Pictometry Software in violation of the Export Administration Regulations of the U.S. Department of Commerce.
 - C. **Governing Law.** This License will be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflict of laws principles.
 - D. **Assignment.** You may not assign this License without Pictometry's prior written consent. Any assignment in violation of this License will be null, void and of no force and effect. For all purposes under this License, any merger, consolidation, spin-off, acquisition or change-in-control will be deemed an assignment.
 - E. **Partial Invalidity; Survival.** If any provision of this License is held invalid or unenforceable by competent authority, that provision will be construed so as to be limited or reduced to be enforceable to the maximum extent compatible with the law as it will then appear. The total invalidity or unenforceability of any particular provision of this License will not affect its other provisions and this License will be construed in all respects as if the invalid or unenforceable provision were omitted. The provisions of this License that by their nature would survive its termination will survive indefinitely.

- F. **Force Majeure.** Except with respect to Customer's payment obligations for services delivered, reports delivered or any ongoing subscription payment obligation, each party will be excused from performance under this Agreement, will not be deemed to be in breach hereof, and will have no liability to the other party whatsoever if either party is prevented from performing any of its obligations hereunder, in whole or in part, as a result of a Force Majeure Event. A "Force Majeure Event" means an event or occurrence beyond the control of the nonperforming party, such as an act of God or of the public enemy, embargo or other act of government in either its sovereign or contractual capacity, government regulation, travel ban or request, court order, civil disturbance, terrorism, war, quarantine restriction, epidemic, virus, fire, weather, flood, accident, strike, slowdown, delay in transportation, electrical power outage, interruption or degradation in electronic communications systems, inability to obtain necessary labor, materials or manufacturing facilities, and other similar events. In the event of any delay resulting from a Force Majeure Event, any date of delivery hereunder will be extended for a period equal to the time lost because of the delay.
- G. **Waiver.** No waiver of a breach of any term of this License will be effective unless in writing and duly executed by the waiving party. No such waiver will constitute a waiver of any subsequent breach of the same or any other term of this License. No failure on the part of a party to exercise, and no delay in exercising any of its rights hereunder will operate as a waiver thereof, nor will any single or partial exercise by a party of any right preclude any other or future exercise thereof or the exercise of any other right. No course of dealing between the parties will be deemed effective to modify, amend or discharge any part of this License or the rights or obligations of any party hereunder.
- H. **Entire Agreement; Construction.** This License contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous understandings regarding that subject matter. No amendment to or modification of this License will be binding unless in writing and signed by Pictometry. There are no representations, warranties, or obligations of any party not expressly contained herein. The headings in this License are for convenience only. They do not constitute a portion of this License and will not be used in any construction of it.

[END OF SOFTWARE LICENSE AGREEMENT]

SECTION C

NON-STANDARD TERMS AND CONDITIONS

1. **Online Services Eligible Users:** Notwithstanding anything in the Online Services General Terms and Conditions incorporated in this Agreement to the contrary, the terms 'Eligible User' and 'Eligible Users' as defined in those Online Services General Terms and Conditions shall, for the purposes of this Agreement, also include each 'Authorized User' as that term is defined in the Delivered Content Terms and Conditions of Use incorporated in this Agreement.

2. **Applicable Law:** Notwithstanding anything to the contrary set forth elsewhere in this Agreement, this Agreement and any modifications, amendments or alterations shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Alabama, excluding its conflicts of law principles. Each party irrevocably consents to the exclusive jurisdiction of the courts of the State of Alabama in connection with any action to enforce the provisions of this Agreement, to recover damages or other relief for breach or default under this Agreement, or otherwise arising under or by reason of this Agreement.

3. **Non-appropriation of Funds.** Notwithstanding anything herein to the contrary, in the event that the funds due for subsequent projects and related deliverables under the terms and conditions of this Agreement are not lawfully appropriated, the following provisions shall apply:

a. Customer shall provide Pictometry with written documentation of non-appropriation of funds from its funding source prior to commencement of a subsequent project;

b. This Agreement shall remain in full force and effect, however commencement of the subsequent project shall be deemed postponed until such time as funds for the subsequent project have been appropriated and all other sums due under the terms and conditions of this Agreement have been paid by Customer. In the event that the postponement exceeds eighteen months, Pictometry reserves the right to terminate any and all obligations with respect to the postponed project and all subsequent projects included in this Agreement; and

c. If Customer, or any party authorized under the terms and conditions of this Agreement to use the licensed products set forth in Section A, is in possession of licensed products for which Pictometry has not been fully compensated in accordance with the payment terms of this Agreement, Customer or such authorized party shall immediately cease use of those licensed products, purge those licensed products from all Customer and authorized party computers, and return those licensed products to Pictometry.

4. Customer shall own the copy of the orthogonal imagery delivered to it by Pictometry pursuant to this Agreement. Customer is free to use, reproduce and redistribute copies of the orthogonal imagery so delivered in any manner without any accounting to Pictometry. Pictometry shall own those copies of the orthogonal imagery delivered pursuant to this Agreement that are in Pictometry's possession. Pictometry is free to use, reproduce and redistribute copies of the orthogonal imagery delivered pursuant to this Agreement in any manner without any accounting to Customer.

5. **Payment Terms:** The following shall be deleted from the provision entitled Section A "Fees;Payment Terms":

"To the extent any amounts properly invoiced pursuant to this Agreement are not paid within thirty (30) days following the invoice due date, such unpaid amounts shall accrue, and Customer shall pay, interest at the rate of 1.5% per month (or at the maximum rate allowed by law, if less)."

6. **Dispute Resolution:** If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama between the Montgomery County Commission and Pictometry International Corp.

[END OF NON-STANDARD TERMS AND CONDITIONS]

Advanced Property deliverables

Product	Advanced Property
Product Description	Provides measurable high resolution ortho and oblique imagery at the Property level as well as Reveal Four Band Color Infrared, Reveal Certified Ortho and Reveal TrueTouch add-on features. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.
Ortho frame imagery	Nominal 2in GSD ortho imagery, Imagery as good as 1.2in and no worse than 3in
Orthomosaic Specifications	Reveal Property Orthomosaic enhanced with the following Reveal add-ons: Certified Ortho TrueTouch Four Band Color Infrared
Oblique Imagery	Nominal 2.6in GSD oblique imagery ranging from 1.7in to 3.5in GSD: Where available fully automated photogrammetric mosaiced imagery. Imagery may contain seamlines
Metadata and Reporting	Metadata and reporting: Certified Ortho metadata and reporting - Shapefile(s) with discrete deliverable boundaries and directional metadata
Orthomosaic Deliverable Format (Online) - RGB Only	Resolution: - Nominal 2in GSD, no worse than 3in (Best Available Provided) Access Methods: - Available via web-based viewer (Connect) - Contracted separately - Also available via WMS/WMTS (Image Service) - Contracted separately
Orthomosaic Deliverable Format (Physical)	Resolution: - Nominal 2in GSD, no worse than 3in (Best Available Provided) Projection/Coordinate System: - Customer Selectable Datum: - Customer Selectable File Format: - Mosaic Tiles - Available as JPEG, GeoTIFF, JPEG2000, PNG, ECW, MrSID (All versions) with world file - Includes separate Pictometry Map Image (PMI) trailer file - Project-Wide Mosaic - Available in ECW, MrSID (All versions) format
Oblique Imagery & Frame Imagery Deliverable Format	Access methods: Available via web-based viewer (Connect) - Contracted separately
Delivery Timeline	- Best efforts to make frame imagery available online within 20 days of capture complete - Best efforts to make oblique imagery available online and/or ready for physical delivery within 30 days of capture completion - Best efforts to make ortho imagery available online and/or ready for physical delivery within 200 days of final data collection.

Essentials Add-on - Certified Ortho

Products Related to	Essentials Essentials+ Advanced
Product Description	<i>Certified Ortho</i> upgrades an Essentials orthomosaic to an authoritative orthomosaic produced in accordance with state and local requirements
Product Eligibility	• Reveal Certified Ortho can only be purchased in conjunction with a related product type • Reveal Certified Ortho is only applicable to Reveal orthomosaic imagery
Orthomosaic Accuracy	<u>Absolute Horizontal Accuracy:</u> • Produced to meet ASPRS Horizontal Accuracy Standards of ≤ 3 px RMSE_{x,y} • Optional 2 px RMSE_{x,y} (where available)
ASPRS Accuracy Standards	https://www.asprs.org/a/society/committees/standards/Positional_Accuracy_Standards.pdf
Metadata and Reporting	<u>Reporting</u> • FGDC Compliant metadata • Project report in accordance with state and local requirements
Optional Reporting*	• Signed & Sealed Produced to Accuracy Statement • Signed & Sealed Tested to Accuracy Statement ○ Requires Independent Accuracy Assessment to ASPRS Standards Product

* Available upon request. May require purchase of additional products

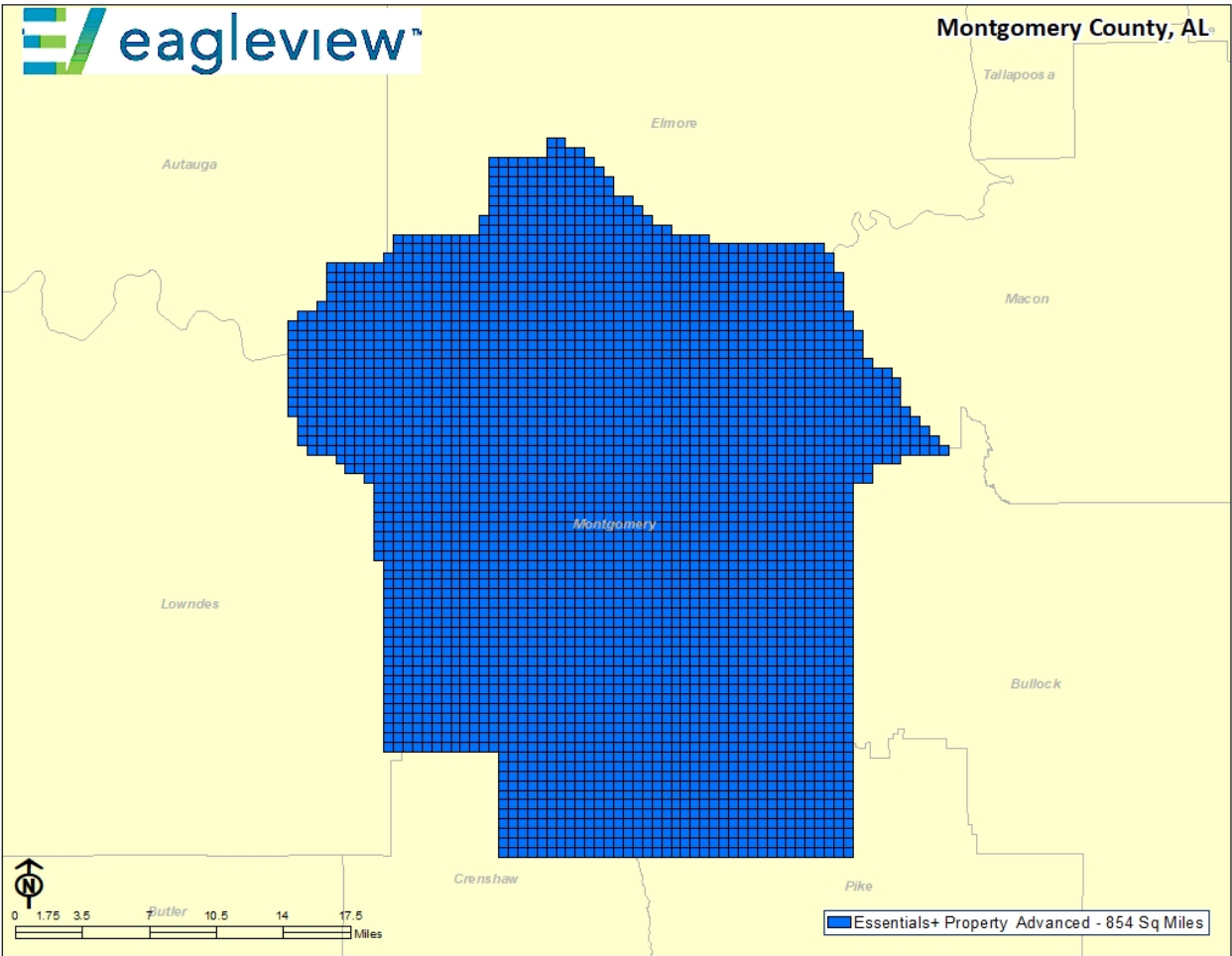
Essentials Add-on - TrueTouch

Products Related to	Essentials Essentials+ Advanced
Product Description	TrueTouch is the application of visual improvements to customers' orthomosaic imagery
Product Eligibility	Can only be purchased with appropriate Reveal product TrueTouch is only applicable to customer RGB and CIR orthomosaic imagery
Content Specifications	Seam Artifacts • There will be no obvious seam edges between two adjacent orthophotos • Orthomosaic will have edits to eliminate feature misalignment caused by seamlines which pass through features above the elevation surface including roads. Feature alignment across seamlines will be 3px or better. ○ Exceptions may include residential buildings and industrial complexes Building and Bridge Lean • Correction of bridges • Correction of major buildings obstructing roadways ○ Exceptions may include residential buildings and industrial complexes

Essentials Add-on – Four Band Color Infrared

Products Related to	Essentials Essentials+ Advanced
Product Name	Reveal Four Band Color Infrared
Product Description	<i>Four Band Color Infrared</i> provides an automatically generated 3-Band color infrared orthomosaic with respective tiles. Imagery may contain seamlines.
Product Eligibility	• Reveal Four Band Color Infrared can only be purchased in conjunction with a related product type • Reveal Four Band Color Infrared is only applicable to Reveal orthomosaic imagery
Content Specifications	Mosaics: • 3-Band false color infrared orthomosaic • 4-Band orthomosaic (Available upon request) Mosaic Tiles: • 4-Band orthomosaic tiles • 3-Band false color infrared orthomosaic tiles (Available upon request)
Orthomosaic Deliverable Format (Online)	Currently Unavailable

MAP(S)





Memo

Re: Pictometry Connect Explorer License Renewal
Date: County Commission - Information Session - Aug 17 2021
To: Montgomery County Commission
From: Todd Grant, GIS & Cadastral Mapping Manager

BACKGROUND INFORMATION:

Attached hereto, please find the Pictometry Connect Custom Access annual license renewal agreement for the Office of the Revenue Commissioner's GIS & Cadastral Mapping Department in the amount of \$2,200.00

FINANCIAL IMPACT:

\$2,200.00

RECOMMENDATION:

I request that approval of the Pictometry Connect Custom Access software license renewal agreement be placed on the next agenda.

ATTACHED:

[PictometryConnectExplorerAgeement 08-11-2021](#)

**AGREEMENT BETWEEN
PICTOMETRY INTERNATIONAL CORP. (“PICTOMETRY”) AND
MONTGOMERY COUNTY, AL (“CUSTOMER”)**

1. This order form (“Order Form”), in combination with the contract components listed below:

Section A: Product Descriptions, Prices and Payment Terms

Section B: License Terms:

- Online Services General Terms and Conditions
- Software License Agreement

Section C: Non-Standard Terms and Conditions

(all of which, collectively, constitute this “Agreement”) set forth the entire understanding between Pictometry and Customer with respect to the subject matter hereof and supersedes all prior representations, agreements and arrangements, whether oral or written, relating to the subject matter hereof. Any modifications to this Agreement must be made in writing and be signed by duly authorized officers of each party. Any purchase order or similar document issued by Customer in connection with this Agreement is issued solely for Customer’s internal administrative purposes and the terms and conditions set forth on any such purchase order shall be of no force or effect as between the parties.

2. In the event of any conflict among any contract components comprising this Agreement, order of precedence for resolving such conflict shall be, from highest (i.e., supersedes all others) to lowest (i.e., subordinate to all others): Section C: Non-Standard Terms and Conditions; Section A: Product Descriptions, Prices and Payment Terms; License Terms in order as listed above under the heading 'Section B: License Terms'; and Order Form.
3. All notices under this Agreement shall be in writing and shall be sent to the following respective addresses:

CUSTOMER NOTICE ADDRESS	
101 South Lawrence Street	
Montgomery, AL 36104	
Attn: Todd Grant, GIS Manager	
Phone: (334) 832-1607	Fax: (334)241-4431

PICTOMETRY NOTICE ADDRESS	
25 Methodist Hill Drive	
Rochester, New York 14623	
Attn: General Counsel	
Phone: (585) 486-0093	Fax: (585) 486-0098

Either party may change their respective notice address by giving written notice of such change to the other party at the other party’s then-current notice address. Notices shall be given by any of the following methods: personal delivery; reputable express courier providing written receipt; or postage-paid certified or registered United States mail, return receipt requested. Notice shall be deemed given when actually received or when delivery is refused.

4. This Agreement, including all licenses granted pursuant to it, shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not be assignable by either party except that (i) Pictometry shall have the right to assign its right to receive Fees under this Agreement, provided no such assignment shall affect Pictometry's obligations hereunder, and (ii) Pictometry shall have the right to assign all its rights under this Agreement to any person or entity, provided the assignee has assumed all of Pictometry's obligations under this Agreement.
5. IN NO EVENT SHALL EITHER PARTY BE LIABLE, UNDER ANY CAUSE OF ACTION OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING UNDER THEORIES INVOLVING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR BREACH OF WARRANTY), FOR ANY LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY OR OTHERS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. With respect to any claims that Customer may have or assert against Pictometry on any matter relating to this Agreement, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry pursuant to this Agreement.
7. The waiver by either party of any default by the other shall not waive subsequent defaults of the same or different kind.
8. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.

9. Except with respect to Customer's payment obligations for services delivered, reports delivered or any ongoing subscription payment obligation, each party will be excused from performance under this Agreement, will not be deemed to be in breach hereof, and will have no liability to the other party whatsoever if either party is prevented from performing any of its obligations hereunder, in whole or in part, as a result of a Force Majeure Event. A "Force Majeure Event" means an event or occurrence beyond the control of the nonperforming party, such as an act of God or of the public enemy, embargo or other act of government in either its sovereign or contractual capacity, government regulation, travel ban or request, court order, civil disturbance, terrorism, war, quarantine restriction, epidemic, virus, fire, weather, flood, accident, strike, slowdown, delay in transportation, electrical power outage, interruption or degradation in electronic communications systems, inability to obtain necessary labor, materials or manufacturing facilities, and other similar events. In the event of any delay resulting from a Force Majeure Event, any date of delivery hereunder will be extended for a period equal to the time lost because of the delay.
10. In consideration of, and subject to, payment by Customer of the Fees specified in Section A of this Agreement, Pictometry agrees to provide Customer with access to and use of the products specified in Section A of this Agreement, subject to the terms and conditions set forth in this Agreement. Customer hereby agrees to pay the Fees specified in Section A of this Agreement in accordance with the stated payment terms and accepts and agrees to abide by the terms of this Agreement.

This Agreement shall become effective upon execution by duly authorized officers of Customer and Pictometry and receipt by Pictometry of such fully executed document, such date of receipt by Pictometry being the "Effective Date."

PARTIES:

CUSTOMER	PICTOMETRY
MONTGOMERY COUNTY, AL	PICTOMETRY INTERNATIONAL CORP.
	a Delaware corporation
SIGNATURE:	SIGNATURE:
NAME:	NAME:
TITLE:	TITLE:
DATE:	EXECUTION DATE:
	DATE OF RECEIPT (EFFECTIVE DATE):

SECTION A**PRODUCT DESCRIPTIONS, PRICES AND PAYMENT TERMS**

Pictometry International Corp.
25 Methodist Hill Drive
Rochester, New York 14623

ORDER #

C25816542

BILL TO

Montgomery County, AL
Todd Grant, GIS Manager
101 South Lawrence Street
Montgomery, AL 36104
(334) 832-1607
toddgrant@mc-ala.org

SHIP TO

Montgomery County, AL
Todd Grant, GIS Manager
101 South Lawrence Street
Montgomery, AL 36104
(334) 832-1607
toddgrant@mc-ala.org

CUSTOMER ID

A116960

SALES REP

KLamo

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
1	Pictometry Connect - CA - 50	Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term. Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement Product Parameters: <i>Admin User Name:</i> Todd Grant <i>Admin User Email:</i> toddgrant@mc-ala.org	\$ 2,200.00		\$ 2,200.00
SUBTOTAL					\$2,200.00
Thank you for choosing Pictometry as your service provider.			TOTAL		\$ 2,200.00

¹Amount per product = ((1-Discount %) * Qty * List Price)**Geofences:**

For the Pictometry Connect - CA - 50 product(s) in this project, the following geofences apply:

AL Montgomery (Primary), AL Montgomery Metro

FEES; PAYMENT TERMS

All amounts due to Pictometry pursuant to this Agreement ("Fees") are expressed in United States dollars and do not include any duties, taxes (including, without limitation, any sales, use, ad valorem or withholding, value added or other taxes) or handling fees, all of which are in addition to the amounts shown above and, to the extent applicable to purchases by Customer, shall be paid by Customer to Pictometry without reducing any amount owed to Pictometry unless documents satisfactory to Pictometry evidencing exemption from such taxes is provided to Pictometry prior to billing. To the extent any amounts properly invoiced pursuant to this Agreement are not paid within thirty (30) days following the invoice due date, such unpaid amounts shall accrue, and Customer shall pay, interest at the rate of 1.5% per month (or at the maximum rate allowed by law, if less). In addition, Customer shall pay Pictometry all costs Pictometry incurs in collecting past due amounts due under this Agreement including, but not limited to, attorneys' fees and court costs.

Due at Activation of Online Services

\$2,200.00

Total Payments

\$2,200.00

SECTION B

LICENSE TERMS

PICTOMETRY ONLINE SERVICES GENERAL TERMS AND CONDITIONS

These Pictometry Online Services General Terms and Conditions (the “General Terms and Conditions”), in combination with the corresponding Pictometry order form, if any, collectively constitute the license agreement (the “License Agreement”) that governs your use of the Pictometry online services (the “Online Services”), the images available in the Online Services, and all associated metadata and data layers included in, provided with, or derived from those images (the “Licensed Content”) provided by Pictometry International Corp. and its affiliated companies (collectively, “Pictometry”). The terms “you” and “your” in uppercase or lowercase shall mean the individual, entity (e.g., corporation, limited liability company, partnership, sole proprietor, etc.) or government agency entering into the License Agreement.

1. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP

- 1.1 You are granted a nonexclusive, nontransferable, limited right to access and use the Online Services and the Licensed Content obtained or derived from the Online Services solely for your internal business purposes and not for resale or redistribution. The rights granted to you include, subject to the restrictions set forth below and on the Order Form, the right to copy limited portions of the Licensed Content onto your computer to facilitate preparation of hardcopies and work product records, and the right to make hardcopies of the Licensed Content, provided that the Licensed Content and the permitted copies thereof may not be sold, leased, loaned, distributed, or copied for use by anyone other than you.
- 1.2 You may not make the Online Services available to any other party.
- 1.3 You may not copy the Licensed Content or portions thereof onto any computer or storage device or media for the purpose of creating or maintaining one or more databases of that content for use in substitution for subsequent access to the content through the Online Services.
- 1.4 You may not distribute or otherwise make available any Licensed Content to Google or its affiliates, either directly or indirectly.
- 1.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 1.6 You may not remove, alter or obscure copyright notices or other notices contained in the Licensed Content.
- 1.7 You may not offer any part of the Online Services or the Licensed Content for commercial resale or commercial redistribution in any medium.
- 1.8 You may not use the Online Services or the Licensed Content to compete with any businesses of Pictometry.
- 1.9 You may not use information included in the Online Services or the Licensed Content to determine an individual consumer's eligibility for (a) credit or insurance for personal, family, or household purposes; (b) employment; or (c) a government license or benefit. The term “consumer” is defined in the United States Fair Credit Reporting Act at 15 USC §1681.
- 1.10 You may not access the Online Services via mechanical, programmatic, robotic, scripted or any other automated means. Unless otherwise agreed by Pictometry in writing, use of the Online Services is permitted only via manually conducted, discrete, human-initiated individual search and retrieval activities.
- 1.11 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in the Online Services and the Licensed Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Online Services or the Licensed Content acquire any proprietary interest in the Online Services, the Licensed Content, or any copies thereof, except the limited use rights granted herein.

2. ACCESS TO SERVICES

- 2.1 Only you, your employees, and temporary or contract employees dedicated to performing work exclusively for you (each, an “Eligible User” and collectively, the “Eligible Users”) are eligible to access and use the Online Services and the Licensed Content pursuant to the License Agreement. Each Eligible User to be provided access to the Online Service shall be assigned a unique login/password (“Pictometry Credential”) for purposes of accessing the Online Services. You agree that each Pictometry Credential shall only be used by the Eligible User to whom it was originally assigned and that Pictometry Credentials may not be shared with, or used by, any other person, including other Eligible Users. You will promptly deactivate an Eligible User's Pictometry Credential in the event the Eligible User no longer meets the eligibility requirements or you otherwise wish to terminate the Eligible User's access to the Online Services. You are responsible for all use of the Online Services accessed with Pictometry Credentials issued to your Eligible Users, including associated charges, whether by Eligible Users or others. You will use reasonable commercial efforts to prevent unauthorized use of Pictometry Credentials assigned to your Eligible Users and will promptly deactivate any Pictometry Credentials you suspect are lost, stolen, compromised, or misused.
- 2.2 The Online Services, the Licensed Content, and features and functionality within the Online Services may be enhanced, added to, withdrawn, or otherwise changed by Pictometry without notice.
- 2.3 You are aware and understand that any user data collected or stored by the Online Services may be accessed by US law enforcement agencies under the US PATRIOT Act. You hereby release, and agree to hold Pictometry harmless from, all claims against Pictometry with respect to such access.

3. DISCLAIMERS

- 3.1 The Online Services and the Licensed Content are provided for visualization purposes only, are not authoritative or definitive, and do not constitute professional engineering or surveying services.
- 3.2 The Online Services and the Licensed Content are not to be relied upon to precisely locate or determine property boundaries and should not be used in lieu of a professional survey where the accuracy of measurements, distance, height, angle, area and volume, may have significant consequences.
- 3.3 All measurements and reports generated by the Online Services or from the Licensed Content are based upon second order visualization and measurement data that do not provide authoritative or definitive measurement results suitable for professional engineering or surveying purposes.
- 3.4 Contour information obtained from the Online Services or contained in the Licensed Content is generated from undersampled elevation data, is provided for informational purposes only, and is not suitable for use as the basis for hydrographic computations, estimations or analyses.
- 3.5 While the Online Services and the Licensed Content may be considered useful supplements for life critical applications, they are not designed or maintained to support such applications and Pictometry and its third party suppliers of the Online Services and the Licensed Content hereby disclaim all liability for damages claims and expenses arising from such use.
- 3.6 Your reliance on the Online Services and the Licensed Content should only be undertaken after an independent review of their accuracy, completeness, efficacy, timeliness and adequacy for your intended purpose.
- 3.7 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content assume no responsibility for any consequences resulting from the use of the Online Services or the Licensed Content.
- 3.8 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content hereby disclaim all liability for damages, claims and expenses arising from or in any way related to the accuracy or availability of the Online Services and the Licensed Content.
- 3.9 By accepting these General Terms and Conditions or by using the Online Services or the Licensed Content, you waive any and all rights you may have against Pictometry, each third party supplier of any portion of the Online Services or the Licensed Content, and each of their directors, officers, members and employees, arising out of use of or reliance upon the Online Services or the Licensed Content.

4. LIMITED WARRANTY

- 4.1 Pictometry represents and warrants that it has the right and authority to make the Online Services and the Licensed Content available to you and your Eligible Users as authorized expressly by this License Agreement.
- 4.2 EXCEPT AS OTHERWISE PROVIDED IN SECTION 4.1, THE ONLINE SERVICES AND LICENSED CONTENT ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND PICTOMETRY AND EACH THIRD PARTY SUPPLIER OF LICENSED CONTENT EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. LIMITATION OF LIABILITY

- 5.1 No Covered Party (as defined below) shall be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from (a) any errors in or omissions from the Online Services or the Licensed Content, (b) the unavailability or interruption of the Online Services or any features thereof or the Licensed Content, (c) your or an Eligible User's use of the Online Services or the Licensed Content, (d) the loss or corruption of any data or equipment in connection with the Online Services or the Licensed Content, (e) the content, accuracy, or completeness of the Licensed Content, all regardless of whether you received assistance in the use of the Online Service from a Covered Party, (f) any delay or failure in performance beyond the reasonable control of a Covered Party, or (g) any content retrieved from the Internet even if retrieved or linked to from within the Online Services.
- 5.2 "Covered Party" means (a) Pictometry and any officer, director, employee, subcontractor, agent, successor, or assign of Pictometry; and (b) each third party supplier of any Licensed Content, third party alliance entity, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of any Licensed Content or third party alliance entity and their affiliates.
- 5.3 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF THE COVERED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THE ONLINE SERVICES OR THE LICENSED CONTENT OR THIS LICENSE AGREEMENT EXCEED THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR THE AMOUNT YOU PAID FOR THE ONLINE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. YOUR RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH YOU MAY HAVE AGAINST ANY COVERED PARTY.
- 5.4 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, NEITHER YOU NOR THE COVERED PARTIES WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE ONLINE SERVICES, THE LICENSED CONTENT, OR THE FAILURE OF ANY COVERED PARTY TO PERFORM ITS OBLIGATIONS. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO A PARTY'S INDEMNITY OBLIGATIONS OR YOUR (AND YOUR ELIGIBLE USERS') INFRINGEMENT OF INTELLECTUAL PROPERTY OR MISAPPROPRIATION OF PROPRIETARY DATA BELONGING TO PICTOMETRY OR ITS THIRD PARTY SUPPLIERS.
- 5.5 Notwithstanding anything to the contrary in this Section 5:
- (a) If there is a breach of the warranty in Section 4.1 above, then Pictometry, at its option and expense, shall either defend or settle any action and hold you harmless against proceedings or damages of any kind or description based on a third party's claim of patent, trademark, service mark, copyright or trade secret infringement related to use of the Online Services or the Licensed Content, asserted against you by such third party provided: (i) all use of the Online Services and the Licensed Content was in accordance with this License Agreement; (ii) the claim, cause of action or infringement was not caused by you modifying or combining the Online Services or the Licensed Content with or into other products, applications, images or data not approved by Pictometry; (iii) you give Pictometry prompt notice of such claim; and (iv) you give Pictometry the right to control and direct the investigation, defense and settlement of such claim. You, at Pictometry's expense, shall reasonably cooperate with Pictometry in connection with the foregoing.
- (b) In addition to Section 5.5(a), if the Online Services, the operation thereof or the Licensed Content become, or in the opinion of Pictometry are likely to become, the subject of a claim of infringement, Pictometry may, at its option and expense, either: (i) procure for you the right to continue using the Online Services or the Licensed Content, (ii) replace or modify the Online Services or the Licensed Content so that they become non-infringing; or (iii) terminate the License Agreement on notice to you and grant you a pro-rata refund or credit (whichever is applicable) for any pre-paid fees or fixed charges.
- (c) The provisions of Sections 5.5(a) and (b) shall constitute your sole and exclusive remedy for the respective matters specified therein.

6. MISCELLANEOUS

- 6.1 The terms and conditions of this License Agreement may be changed from time to time immediately upon notice to you. If any changes are made to this License Agreement, such changes will: (a) only be applied prospectively; and (b) not be specifically directed against you or your Eligible Users but will apply to all similarly situated Pictometry customers using the Online Services. You may terminate this License Agreement upon written notice to Pictometry if any change to the terms and conditions of this License Agreement is unacceptable to you. For termination to be effective under this Section 6.1, written notice of termination must be provided to Pictometry within 90 days of the effective date of the change. Continued use of the Online Services following the effective date of any change constitutes acceptance of the change, but does not affect the foregoing termination right. Except as provided above, this License Agreement may not be supplemented, modified or otherwise revised unless signed by duly authorized representatives of both parties. Furthermore, this License Agreement may not be supplemented, modified or otherwise revised by email exchange, even if the email contains a printed name or signature line bearing signature-like font. The foregoing does not prohibit the execution of electronic contracts bearing electronic signatures of authorized representatives of both parties, provided such signatures include digital certifications or are otherwise authenticated.
- 6.2 In the event of a breach of this License Agreement by you, any Eligible User or someone using the Pictometry Credential of an Eligible User, Pictometry may temporarily suspend or discontinue providing access to the Online Services to any or all Eligible Users without notice and Pictometry may pursue any other legal remedies available to it.
- 6.3 All notices and other communications hereunder shall be in writing or displayed electronically in the Online Services by Pictometry. Notices shall be deemed to have been properly given on the date deposited in the mail, if mailed; on the date first made available, if displayed in the Online Services; or on the date received, if delivered in any other manner. Legal notices to Pictometry should be sent to Pictometry, Attn: General Counsel, 25 Methodist Hill Drive, Rochester, New York 14623.
- 6.4 The failure of you, Pictometry, or any third party supplier of the Online Services or any Licensed Content to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- 6.5 Neither you nor any Eligible User may assign or otherwise transfer your rights or delegate your duties under this License Agreement without the prior written consent of Pictometry. Any attempt by you or any Eligible User to assign, transfer or delegate your rights or obligations under this License Agreement without Pictometry's consent shall be void, and shall also void the limited license granted to you by this License Agreement. This License Agreement and any amendment thereto shall be binding on, and will inure to the benefit of the parties and their respective successors and permitted assigns.
- 6.6 This License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles. Unless you are a government entity, in the event that any legal proceedings are commenced with respect to any matter arising under this License Agreement, the parties specifically consent and agree that the courts of the State of New York or, in the alternative, the Federal Courts located in the State of New York

shall have exclusive jurisdiction over each of the parties and over the subject matter of any such proceedings, and that the venue of any such action shall be in Monroe County, New York or the U.S. District Court for the Western District of New York, as applicable.

- 6.7 This License Agreement will be enforced to the fullest extent permitted by applicable law. If any provision of this License Agreement is held to be invalid or unenforceable to any extent, then (a) such provision will be interpreted, construed and reformed to the extent reasonably required to render it valid, enforceable and consistent with its original intent and (b) such invalidity or unenforceability will not affect any other provision of this License Agreement.
- 6.8 Where applicable, each affiliated company of Pictometry and each third party supplier of the Online Services or any Licensed Content has the right to assert and enforce the provisions of this License Agreement directly on its own behalf as a third party beneficiary.
- 6.9 In the event of a breach of your obligations under this License Agreement or your payment obligations with respect to access to the Online Services or the Licensed Content, you agree to pay all of Pictometry's costs of enforcement and collection, including court costs and reasonable attorneys' fees.
- 6.10 This License Agreement constitutes the entire agreement of the parties with respect to its subject matter and replaces and supersedes any prior written or verbal communications, representations, proposals or quotations relating to that subject matter.

[END OF ONLINE SERVICES GENERAL TERMS AND CONDITIONS]

**PICTOMETRY SOFTWARE
LICENSE AGREEMENT**

PLEASE READ THIS SOFTWARE LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE DOWNLOADING, INSTALLING OR USING THE SOFTWARE. BY USING THE SOFTWARE, YOU AGREE TO THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE.

1. **GENERAL.** The software ("Pictometry Software") and any written materials that accompany the software ("Documentation") in any media or form are licensed, not sold, to you by Pictometry International Corp. ("Pictometry") for use only under the terms of this License. Pictometry reserves all rights not expressly granted to you in this License.
2. **LICENSE.** Subject to the terms and conditions of this License, you are granted a limited, non-transferable, terminable, non-sublicenseable, non-exclusive license to install and use the Pictometry Software and the Documentation (collectively, the "Proprietary Materials") solely for internal use. Use of the functionality provided by the Pictometry Software other than for your internal use is prohibited, except with the prior written approval of Pictometry. You may make one copy of the Pictometry Software in machine-readable form for backup purposes only; provided that the backup copy must include all copyright and other proprietary notices contained in the original. You will not and will not enable others to decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, create derivative works of, or tamper with or disable any security or monitoring features within the Pictometry Software. Any attempt to do so is a violation of the rights of Pictometry and its licensors.
3. **TITLE.** The Proprietary Materials are confidential information of, trade secrets of, and are proprietary to Pictometry. Title to the Proprietary Materials is and will remain in Pictometry and its licensors. All applicable rights to patents, copyrights, trademarks, trade secrets, and other intellectual property rights in the Proprietary Materials are and will remain in Pictometry and its licensors. You will not assert any right, title or interest in the Proprietary Materials provided to you under this License, except for the express license granted to you hereunder. You will not remove any copyright or other proprietary notice or legend contained on or included in any Proprietary Materials and you will reproduce all such information on all copies made hereunder. You will keep the Proprietary Materials free of all claims, liens and encumbrances.
4. **DISCLAIMERS OF WARRANTY.** USE OF THE PICTOMETRY SOFTWARE IS AT YOUR SOLE RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PICTOMETRY SOFTWARE IS PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND PICTOMETRY HEREBY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE PICTOMETRY SOFTWARE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. PICTOMETRY DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN OR PROVIDED BY THE PICTOMETRY SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE PICTOMETRY SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE PROPRIETARY MATERIALS WILL BE CORRECTED.
5. **LIMITATION OF LIABILITY.** IN NO EVENT WILL PICTOMETRY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE PICTOMETRY SOFTWARE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE), EVEN IF PICTOMETRY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL PICTOMETRY'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) CAUSED BY, ARISING OUT OF OR IN ANY WAY RELATED TO THE PICTOMETRY SOFTWARE EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
6. **TERMINATION.** This License will terminate automatically without notice from Pictometry if you fail to comply with any term of this License. Upon the termination of this License, you will cease all use of the Pictometry Software and destroy all copies, full or partial, of the Proprietary Materials.
7. **MISCELLANEOUS PROVISIONS.**
 - A. **Restricted Rights.** Pictometry Software acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable. Pictometry must be notified in advance of any license grants to United States federal governmental entities. The Pictometry Software is developed for general use in a variety of applications and is not developed or intended for use in any inherently dangerous applications or applications that could lead to property damage, personal injury or death. If you use the Pictometry Software in such applications, then you will be responsible for taking all appropriate fail-safe, backup, redundancy, and other measures to ensure the safe use of the Pictometry Software in such applications, including but not limited to, in any nuclear, aviation, mass transit, public safety or medical applications.
 - B. **Foreign Trade Restrictions.** The parties acknowledge that certain information, software technology, accompanying documentation and technical information may be subject to United States export control laws. You will not directly or indirectly export or re-export the Pictometry Software in violation of the Export Administration Regulations of the U.S. Department of Commerce.
 - C. **Governing Law.** This License will be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflict of laws principles.
 - D. **Assignment.** You may not assign this License without Pictometry's prior written consent. Any assignment in violation of this License will be null, void and of no force and effect. For all purposes under this License, any merger, consolidation, spin-off, acquisition or change-in-control will be deemed an assignment.
 - E. **Partial Invalidity; Survival.** If any provision of this License is held invalid or unenforceable by competent authority, that provision will be construed so as to be limited or reduced to be enforceable to the maximum extent compatible with the law as it will then appear. The total invalidity or unenforceability of any particular provision of this License will not affect its other provisions and this License will be construed in all respects as if the invalid or unenforceable provision were omitted. The provisions of this License that by their nature would survive its termination will survive indefinitely.

- F. **Force Majeure.** Except with respect to Customer's payment obligations for services delivered, reports delivered or any ongoing subscription payment obligation, each party will be excused from performance under this Agreement, will not be deemed to be in breach hereof, and will have no liability to the other party whatsoever if either party is prevented from performing any of its obligations hereunder, in whole or in part, as a result of a Force Majeure Event. A "Force Majeure Event" means an event or occurrence beyond the control of the nonperforming party, such as an act of God or of the public enemy, embargo or other act of government in either its sovereign or contractual capacity, government regulation, travel ban or request, court order, civil disturbance, terrorism, war, quarantine restriction, epidemic, virus, fire, weather, flood, accident, strike, slowdown, delay in transportation, electrical power outage, interruption or degradation in electronic communications systems, inability to obtain necessary labor, materials or manufacturing facilities, and other similar events. In the event of any delay resulting from a Force Majeure Event, any date of delivery hereunder will be extended for a period equal to the time lost because of the delay.
- G. **Waiver.** No waiver of a breach of any term of this License will be effective unless in writing and duly executed by the waiving party. No such waiver will constitute a waiver of any subsequent breach of the same or any other term of this License. No failure on the part of a party to exercise, and no delay in exercising any of its rights hereunder will operate as a waiver thereof, nor will any single or partial exercise by a party of any right preclude any other or future exercise thereof or the exercise of any other right. No course of dealing between the parties will be deemed effective to modify, amend or discharge any part of this License or the rights or obligations of any party hereunder.
- H. **Entire Agreement; Construction.** This License contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous understandings regarding that subject matter. No amendment to or modification of this License will be binding unless in writing and signed by Pictometry. There are no representations, warranties, or obligations of any party not expressly contained herein. The headings in this License are for convenience only. They do not constitute a portion of this License and will not be used in any construction of it.

[END OF SOFTWARE LICENSE AGREEMENT]

SECTION C

NON-STANDARD TERMS AND CONDITIONS

1. Applicable Law: Notwithstanding anything to the contrary set forth elsewhere in this Agreement, this Agreement and any modifications, amendments or alterations shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Alabama, excluding its conflicts of law principles. Each party irrevocably consents to the exclusive jurisdiction of the courts of the State of Alabama in connection with any action to enforce the provisions of this Agreement, to recover damages or other relief for breach or default under this Agreement, or otherwise arising under or by reason of this Agreement.

2. Payment Terms: The following shall be deleted from the provision entitled Section A "Fees;Payment Terms":

"To the extent any amounts properly invoiced pursuant to this Agreement are not paid within thirty (30) days following the invoice due date, such unpaid amounts shall accrue, and Customer shall pay, interest at the rate of 1.5% per month (or at the maximum rate allowed by law, if less)."

3. Dispute Resolution: If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama between the Montgomery County Commission and Pictometry International Corp.

[END OF NON-STANDARD TERMS AND CONDITIONS]



Memo

Re: Amendment No. 1 The Bridge, Inc.
Date: County Commission - Information Session - Aug 17 2021
To: Montgomery County Commission
From: Khristie Davis, Buyer I

BACKGROUND INFORMATION:

Request approval of the attached Amendment No. 1 to The Bridge, Inc. to Manage and Operate Davis Transitions, a Community based Adolescent Alternative Program, to extend the contract beginning October 1, 2021 and ending September 30, 2022.

There will be no price increase during this period.

This contract extension was coordinated with Ray Williams, Chief Probation Officer, Youth Facility Juvenile Court.

ATTACHED:

[Amendment No. 1 to Contract 52601-20P-023 The Bridge, Inc.](#)

**Montgomery County Commission
Purchasing Department
P. O. Box 1667
Montgomery, AL 36102**

Amendment
To
Contract No. 52601-20P-023
Davis Transitions

Amendment No. 1

Contract with The Bridge, Inc. to Manage and Operate Davis Transitions, a Community based Adolescent Alternative Program, is hereby extended beginning October 1, 2021 and ending September 30, 2022.

There will be no price increase during this period.

All other provisions of the contract shall remain the same.

WITNESS:

THE BRIDGE, INC.

BY: _____

TITLE: _____

WITNESS:

MONTGOMERY COUNTY COMMISSION

BY: _____

TITLE: _____



Memo

Re: Contract Amendment for Milk and Juice Products
Date: County Commission - Information Session - Aug 17 2021
To: Montgomery County Commission
From: Cynthia Hill, Buyer I

BACKGROUND INFORMATION:

Request that attached Amendment No. 2 to Borden Dairy of Alabama, for milk and juice Products be considered for approval on a future agenda.

Amendment No. 2 will allow the contract to be extended for one(1) year, beginning October 6, 2021 and ending October 7, 2022.

Borden Dairy of Alabama, chooses not to increase prices during this contract period. All provisions of the contract shall remain the same.

This contract extension has been coordinated with Brandi Alexander, Juvenile Detention Director.

ATTACHED:

[Amendment No. 2 Milk and Juice Products](#)

**Montgomery County Commission
Purchasing Department
P. O. Box 1667
Montgomery, AL 36102**

Amendment
To
Contract # 52603-19B-030

Amendment No. 2

Contract with Borden Dairy of Alabama for milk and juice products is hereby extended for one (1) year, beginning October 7, 2021 and ending October 6, 2022.

Prices will not increase during this contract period.

All other provisions of the contract remain the same.

WITNESS: BORDEN DAIRY OF ALABAMA

BY: _____
TITLE: _____

WITNESS: MONTGOMERY COUNTY COMMISSION

BY: _____
TITLE: _____



Gallion & Gallion, LLC
7475 Halcyon Pointe Dr.
Montgomery, Alabama 36117
t. 334.265.8573

Mac Donald Gallion (1913-2007)

Thomas T. Gallion, III

Constance C. Walker

* Of Counsel

MEMORANDUM

August 10, 2021

To: Florence Cauthen, County Administrator

From: Thomas T. Gallion, III

Re: Notice of Claim – Crystal Mendoza

A handwritten signature in black ink, appearing to be 'T. Gallion'.

I am in receipt of your August 6, 2021, memorandum regarding a notice of claim filed by Crystal Mendoza and relating documents.

It is my recommendation that this claim be recognized and denied at the next commission meeting.

50051-317

Elton N. Dean, Sr.
CHAIRMAN

Doug Singleton
VICE CHAIRMAN

Daniel Harris, Jr.
Ronda M. Walker
Isaiah Sankey



Florence M. Cauthen
ADMINISTRATOR

August 6, 2021

MEMORANDUM

TO: Thomas T. Gallion, III
County Attorney

FROM: Florence M. Cauthen *FMC*
County Administrator

SUBJECT: Notice of Claim – Crystal Mendoza

Attached is a Notice of Claim from Crystal Mendoza.

Please review and advise by Tuesday, August 10, 2021, as to what action the County needs to take regarding this Claim.

Thank you for your assistance.

FMC/tn

Attachment

cc: Sheriff Derrick Cunningham
Colonel Sonja Pritchett
Risk Manager Holly Leverette

Deny the claim

A COUNTY OLDER THAN THE STATE

NOTICE OF CLAIM

TO: MONTGOMERY COUNTY COMMISSION

**Attn: Commission Clerk
Montgomery County Commission
101 South Lawrence Street
Montgomery, AL 36104**

1. This claim is filed and presented pursuant to §11-47-192, and §11-47-193, et seq., Code of Alabama (1975) by Crystal Mendoza (hereinafter "Claimant"). The Claimant resides in Elmore, AL.
2. Claimant herein has personal knowledge of the facts contained in this claim. The facts contained herein are true and correct to the best of her knowledge, information, and belief. The items of claim presented herein are just.
3. On or about August 9, 2020, the Claimant, Crystal Mendoza, was brought into custody of the Montgomery County Jail. While under the watch of Montgomery County Jail, Claimant was not given required medical attention. As a result, the Claimant was injured.
4. On or about August 10, 2020, the Claimant, Crystal Mendoza, was detained or otherwise in the custody of the Montgomery County Jail. Due to an incident that occurred on or about August 10, 2020, Ms. Mendoza was hospitalized and suffered an injury.
5. Claimant therefore claims damages against the County of Montgomery for \$1,000,000.00. This claim is subject to change as discovery progresses.

Respectfully submitted:

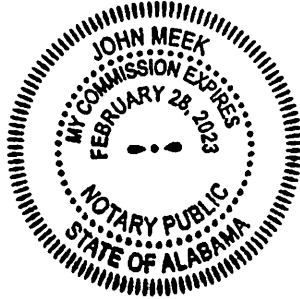

Crystal Mendoza

Claimant's Address:

c/o Kenneth E. Riley, Esq.
Farris, Riley & Pitt, LLP
505 20th Street N, Suite 1700
Birmingham, AL 35203

MONTGOMERY CO. COMMISSION
AUG 4 21 PM 12:13

SWORN AND SUBSCRIBED before me on this the 4th day of August, 2021



[Signature]
NOTARY PUBLIC
My Commission Expires: 2-28-23

Original and copy of the foregoing received on this the 4th of August, 2021 by the undersigned representative of the County of Montgomery.

[Signature]
Representative's Signature

County Administrator
Representative's Official Title

Please forward all correspondence and direct all communication concerning this claim to the attorney listed below:

Kenneth E. Riley, Esq.
Farris, Riley & Pitt, LLP
505 20th Street North, Suite 1700
Birmingham AL 35203
Phone: 205-324-1212
Facsimile: 205-324-1255
kriley@frplegal.com

WARRANT OF ARREST (Felonies, Misdemeanors, or Violations)		State of Alabama Unified Judicial System Report #: 11-0001 Form CR-65 (front) Rev. 8/98
Warrant Number 2020F001168	Case Number 2020F001168	

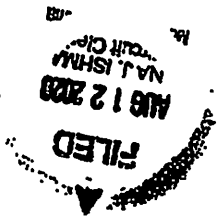
IN THE DISTRICT COURT OF MONTGOMERY, ALABAMA		(Circuit, District, or Municipality) _____ (Name of Municipality or County) _____
STATE OF ALABAMA ☒	MUNICIPALITY OF _____	v. CRYSTAL JO MENDOZA Defendant

TO ANY LAWFUL OFFICER OF THE STATE OF ALABAMA:

Probable cause has been found on Complaint filed in this Court against **CRYSTAL JO MENDOZA** charging **Unlawful Possession of Controlled Substance** Section 13A-12-212(a)(1), Paragraph, Code of Alabama 1975.

DEFENDANT: **CRYSTAL JO MENDOZA**
CHARGE: **Unlawful Possession of Controlled Substance**
STATUTE: **13A-12-212(a)(1)**
PARAGRAPH: **(a)(1)**

YOU ARE THEREFORE ORDERED to arrest the person named or described above. You may release the accused person without taking the accused person before a judge or magistrate if the accused person enters into a bond in the amount of \$7,500.00 with two good sureties approved by an authorized officer or by depositing cash or negotiable bonds in the amount with the court clerk.



Date July 22, 2020
 Judge/Magistrate/Clerk Juan S. Hampton

Printed: Wednesday, July 22, 2020 1:03 pm

State of Alabama Unified Judicial System Form CR-6 Rev. 8/98	COMPLAINT (Felonies, Misdemeanors, or Violations District Court or Municipal Court)	Warrant Number 2020F001188 Case Number 2020F001188
---	--	---

IN THE	<u>DISTRICT</u> (Circuit, District, or Municipal)	COURT OF	<u>MONTGOMERY, ALABAMA</u> (Name of Municipality or County)
--------	---	----------	---

☒ STATE OF ALABAMA	☐ MUNICIPALITY OF	MONTGOMERY
--	--	-------------------

v. CRYSTAL JO MENDOZA , Defendant

Before me, the undersigned authority, personally appeared this day the undersigned complainant who, upon first being duly sworn, states on oath the he/she has probable cause for believing and does believe that **CRYSTAL JO MENDOZA**, Defendant, whose name is otherwise unknown to the complainant, did, prior to the commencement of this action, commit the offense of **Unlawful Possession of Controlled Substance** within the County of **MONTGOMERY**, or in the police jurisdiction thereof in that he/she did:

Unlawfully possess a controlled substance as named or described in the attached Affidavit.

Section Paragraph 13A-12-212(a)(1) Code of Alabama 1975, previously adopted, effective and in force at the time the offense was committed.

NOTE: Is there a companion charge(s) with this Felony/Misdemeanor? YES ☒ NO

If so, please specify companion charge(s):

WITNESSES

ARRESTING OFFICER:	
COMPLAINANT:	CHRISTOPHER BROWN
WITNESS:	A D BRANTLEY



Sworn to and Subscribed before 22ND day of July, 2020

<u>Kusha S. Hampton</u> Judge/Magistrate/Warrant Clerk	<u>C.C. Brown 2804</u> Complainant
---	---------------------------------------

Printed: Wednesday, July 22, 2020 1:03 pm

Case # 20-151106**AFFIDAVIT
DISTRICT COURT OF MONTGOMERY ALABAMA**2020F001168**INSTRUCTIONS: Complete the following information on OFFENSE/OFFENDER**Offense: Unlawful Possession of a Controlled Substance 13A-12-212(a)(1)Defendant's Name: Crystal Mendoza D.O.B. 2/19/1984Defendant's SSN: ██████-8859 Height: 5'9 Weight: 180Defendant's Address: 130 Renee Way Elmore, AL 36025Date & Time of Offense: 07/21/2020 @ 1645 HoursPlace of Occurance: Cammichael Road @ Eastern BLVDPerson or Property Attacked: n/aHow Attacked: n/aDamage Done or Property Attacked: n/aValue of Property: n/a**Details of Offense:**

On Tuesday, July 21st, 2020, at approximately 1645 hours WF Crystal Mendoza (D.O.B. 02/19/1984) was found in possession of approximately 7.2 grams of a white crystalline substance believed to be Methamphetamine. This is in direct violation of Alabama State Code 13A-12-212(a)(1).



I make this affidavit for the purpose of securing a warrant against the said Crystal Mendoza. I understand that I am instituting a criminal proceeding and cannot drop this case. I further understand that if any of the foregoing facts are untrue, I may, in addition to any other punishment provided by law, be taxed with court costs in this proceeding.

Sworn to and subscribed before me
this 21st day of July 2020C.C. Brown 2800
ComplainantKesha Hampton
Judge - Clerk - Magistrate

FILED

AUG 12 2020

J.A. ISHAM
Circuit Clerk**WITNESSES: (Name, Address, Telephone Number)**

- 1) C.C. Brown #2809 320 North Ripley Street Montgomery AL 36104 334-625-2532
- 2) J.M. Ray #2811 320 North Ripley Street Montgomery AL 36104 334-625-2532
- 3) A.D. Brantley #2711 320 North Ripley Street Montgomery AL 36104 334-625-2532

Tammy Nix

Subject: FW: Montgomery County Commission

From: Johnny Williams <jwilliams@camelliabowl.com>
Sent: Thursday, August 12, 2021 10:52 AM
To: Florence Cauthen <FLORENCECAUTHEN@mc-ala.org>
Cc: odung.singleton@berney.com
Subject: Montgomery County Commission

WARNING: The sender of this email could not be validated and may not match the person in the ""From"" field.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Ms. Cauthen,

I hope you are doing well! First of all, I want to formally thank you and the Montgomery County Commissioners for the support over the last seven years with the Camellia Bowl.

This year, ESPN Events will be hosting three games at the historic Cramton Bowl.

First, Wednesday, September 1st, Jacksonville State and UAB will open the college football season at the 2021 Montgomery Kickoff. This game will be televised on ESPN and kickoff is set for 6:30 pm CT.

Secondly, Sunday, September 5th, inaugural Red Tails Classic will be played by Tuskegee University and Fort Valley State University. This game will honor the Tuskegee Airmen who fought in WWII and will showcase historically black colleges and universities. This game will be launched on ESPNU and kickoff is set for 6:00 pm CT.

Thirdly, Saturday, December 25th, the Camellia Bowl will return to Christmas Day for its eighth annual kickoff. Teams will be later released on selection Sunday as kickoff is set for 1:30 pm CT. This game will be broadcasted on ESPN.

We would like to make a formal request from the Montgomery County Commission for a \$150,000 sponsorship. With your generous contribution for these three games, we will provide you with the following elements: tv commercial, full page game program ad, tickets, tv visible signage, credentials, parking passes, and invitation to all official game sponsored activities.

Again, thanks for your generous support and partnership and if you have any questions please do not hesitate to contact me at any time.

Thanks,
Johnny

Johnny Williams | Executive Director
166 Commerce Street | Montgomery, AL 36104
p 334.239.0546 | ESPNEvents.com

Request Number: _____

COUNTY COMMISSION APPROVAL: _____

Administrator Date

JUSTIFICATION:



*you're
invited*

We are looking forward to having you come to the
Agriculture & Performance Arts Rec. Center
6281 Trotman Road, Pike Road, AL 36040
on Tuesday, August 17th at 12:00pm
for our

Annual Report to the County Commission

This year we will be highlighting *Montgomery County
Extension's Successes*. Also, as in the past we will
highlight many of our other Extension Activities in the
report.

The Henry's will be serving their outstanding steaks
again this year.

Looking forward to seeing you on Tuesday, August 17,
2021