



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 2/17/2021

Department: Information Technology

Agenda Planning Date: 2/10/21

Time required: 5 min

☐ Audio/Visual aids

Contact: Scott Emry

Phone: 503-584-7782

Department Head Signature:

TITLE

Consider Contract Approval for aerial Imagery for Geographical Information System Mapping with Pictometry International Corporation for use by Assessors, Public Works and other departments.

Issue, Description & Background

Description: This contract will provide orthogonal and oblique aerial imagery of the county, to be captured in Spring/2021 during leaf-off. The imagery will be captured at a mixed resolution, with 380 sq. mi. of high-resolution imagery in urban centers and along state highway corridors, and 494 sq. mi. of medium-resolution imagery in rural and farm areas. Private, State, Federal timber lands will be excluded from the capture area.

Background: Marion County entered into a Contract on December 31, 2015 with Pictometry International (Vendor) under Contract # PW-268-15. PW-268-15 was executed under State of Oregon Price Agreement # 53035. Contract PW-268-15 contained terms that indicated three flights would occur. Only two of the three flights have occurred. The original Price Agreement #53035 has expired. With the expiration of the original Price Agreement, any resulting contracts executed against that agreement have also expired.

Issue and need for contract: The State of Oregon has replaced agreement 53035 with a new Price Agreement numbering 7539. To continue the services for the third and final flight, the County is executing this new contract under the current State of Oregon Price Agreement # 7539.

Financial Impacts:

One-time Costs: The maximum, not-to-exceed compensation payable to the Vendor under the proposed contract is \$217,865.00.

Impacts to Department & External Agencies

Department Impacts: Aerial imagery is widely used internally. Access to current, up-to-date imagery is critical for operations in the Assessor's and Public Works departments. Below is a partial list of programs that are enhanced by access to current imagery:

- Property tax assessment
- Emergency response planning and operations
- Land use planning and analysis
- Public works operations and permitting
- Transportation engineering and capital projects planning
- Building and septic inspections

Other internal departments that regularly utilize aerial imagery include the Sheriff's, Community Services, Health and Human Services, Elections, Juvenile, Board of Commissioners and Information



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	Technology. External Agency Impacts: Aerial imagery is included in the county's public-facing mapping applications used by external agencies and the general public. Access to current imagery promotes situational awareness and understanding for the communities of Marion County.
Options for Consideration:	Approving executing contract IT-3846-20 for \$217,865.00 Not approving executing contract IT-3846-20 for \$217,865.00
Recommendation:	Approve executing Contract IT-3846-20
List of attachments:	Contract Review Sheet Contract IT-3846-20 State of Oregon MSA 7539
Presenter:	Scott Emry

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to:

Tim Hay, thay@co.marion.or.us



Contract #: IT-3846-20

Department: **Information Technology**

Date Sent: 2/4/2021

Title: Aerial pictometry data for GIS

Term - Date From: **Upon Signature** Expires: **12/31/2022**

Contract Total: \$217,865.00	Amendment Amount:	New Contract Total:
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Source Selection Method: Cooperative Procurement (attach number) # Oregon 7539

☐ Board Order#☐ Incoming Funds

☐ Independent Contractor (LECS) approval date:

☐ Insurance Waiver (attach)

☒ CIP# **21-021** (required for all goods /software greater than \$5,000)

☐ Feasibility Determination (attach approved form)☐ Federal Funds (attach sub-recipient / contractor analysis)☐ Reinstatement (attach written justification)☐ Retroactive (attach written justification)

Third mission for the collection of imagery data for GIS

FOR FINANCE USE

Date Legal Received:

Comments:

REQUIRED APPROVALS:

Date _____

Date _____

Date ☐ To be filed ☐ Added to Finance Table

☐ Date _____ Returned to department for signature _____

**MARION COUNTY
CONTRACT FOR SERVICES
IT-3846-20**

This contract is between Marion County (a political subdivision of the State of Oregon) hereinafter called County, and Pictometry International Corporation (a Corporation), hereinafter called Contractor. This contract is executed under the State of Oregon Master Services Agreement Number 7539 and is hereby incorporated into this Contract. If a conflict, inconsistency or ambiguity arises in document interpretation, the terms and conditions of the Marion County Contract for Services supersede all additional or conflicting terms and conditions, expressed or implied. This Contract replaces the previous Marion County Contract PW-268-15 as it pertains to the Third Project.

For the purposes of this Contract, Project means the associated terms, work and deliverables as described in Exhibit A - Statement of Work in this Contract

BACKGROUND: Marion County entered into a Contract on December 31, 2015 with Pictometry International under Contract # PW-268-15. #PW-268-15 was executed under State of Oregon Master Services Agreement # 53035. Contract #PW-268-15 contained terms that indicated three Projects would occur. Only 2 of the 3 Projects have occurred. The original Master Services Agreement #53035 has expired. The State of Oregon has replaced Master Services Agreement 53035 with a new Master Services Agreement numbering 7539. To continue the services for the 3rd and final Project, the County is executing this new contract under the current State of Oregon Master Services Agreement # 7539.

Contractor agrees to perform, and County agrees to pay for, the services and deliverables described in Exhibit A (the "Work").

TERM. This Contract is effective on the date it has been signed by all parties and all required County approvals have been obtained. This Contract expires on *12/31/2022*.

2. CONSIDERATION.

A. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is \$ 217,865.00. County will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract for completing the Work, and will not pay for Work performed before the date this Contract becomes effective or after the termination of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

B. Interim payments to Contractor shall be made in accordance with the payment schedule and requirements in Exhibit A.

3. COMPLIANCE WITH STATUTES AND RULES.

A. County and the Contractor agree to comply with the provisions of this contract and all applicable federal, state, and local statutes and rules.

Unless otherwise specified, responsibility for all taxes, assessment, and any other charges imposed by law upon employers shall be the sole responsibility of the Contractor. Failure of the Contractor or the County to comply with the provisions of this contract and all applicable federal, state, and local statutes and rules shall be cause for termination of this contract as specified in sections concerning recovery of funds and termination.

County's performance under this Contract is conditioned upon Contractor's compliance with the obligations intended for contractors under ORS 279B.220, 279B.225 (if applicable to this Contract),

279B.230, 279B.235 (if applicable to this Contract) and ORS 652, which are incorporated by reference herein.

B. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes all the provisions described in subsection 27. C. (i) through (iv) of this Contract.

i. Any violation of subsection B of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty, in subsection 27.3 of this Contract, that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle the County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- a. Termination of this Contract, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State's setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing [replacement Services/replacement Goods/ a replacement contractor].

C. These remedies are cumulative to the extent the remedies are not inconsistent, and the County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

4. CIVIL RIGHTS, REHABILITATION ACT, AMERICANS WITH DISABILITIES ACT and TITLE VI OF THE CIVIL RIGHTS ACT. Contractor agrees to comply with the Civil Rights Act of 1964, and 1991, Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, and Title VI as implemented by 45 CFR 80 and 84 which states in part, No qualified person shall on the basis of disability, race, color, or national origin be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which received or benefits from federal financial assistance.

5. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence in the performance of this Contract.

6. FORCE MAJEURE. Neither County nor Contractor shall be responsible for any failure to perform or for any delay in the performance of any obligation under this Contract caused by fire, riot, acts of God, terrorism, war, or any other cause which is beyond a party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate the cause of Contractor's delay or breach and shall, upon the cessation of the cause, continue performing under this Contract. County may terminate this Contract upon written notice to Contractor after reasonably determining that the delay will likely prevent successful performance of this Contract.

7. FUNDING MODIFICATION.

A. County may reduce or terminate this contract when state or federal funds are reduced or eliminated by providing written notice to the respective parties.

B. In the event the Board of Commissioners of the County reduces, changes, eliminates, or otherwise

modifies the funding for any of the services identified, the Contractor agrees to abide by any such decision including termination of service.

8. RECOVERY OF FUNDS. Expenditures of the Contractor may be charged to this contract only if they (1) are in payment of services performed under this contract, (2) conform to applicable state and federal regulations and statutes, and (3) are in payment of an obligation incurred during the contract period.

Any County funds spent for purposes not authorized by this contract and payments by the County in excess of authorized expenditures shall be deducted from future payments or refunded to the County no later than thirty (30) days after notice of unauthorized expenditure or notice of excess payment.

Contractor shall be responsible to repay for prior contract period excess payments and un-recovered advanced payments provided by the County. Repayment of prior period obligations shall be made to the County in a manner agreed on.

9. ACCESS TO RECORDS.

A. Contractor shall permit authorized representatives of the County, State of Oregon, or the applicable audit agencies of the U.S. Government to review the records of the Contractor as they relate to the contract services in order to satisfy audit or program evaluation purposes deemed necessary by the County and permitted by law.

B. Contractor agrees to establish and maintain financial records, which indicate the number of hours of work provided, and other appropriate records pertinent to this contract shall be retained for a minimum of three (3) years after the end of the contract period. If there are unresolved audit questions at the end of the three-year period, the records must be maintained until the questions are resolved.

10. REPORTING REQUIREMENTS. Contractor shall provide County with periodic reports at the frequency and with the information prescribed by County. Further, at any time, County has the right to demand adequate assurances that the services provided by Contractor shall be in accordance with the Contract. Such assurances provided by the Contractor shall be supported by documentation in Contractor's possession from third parties.

11. CONFIDENTIALITY OF RECORDS. See State of Oregon Master Services Agreement #7539 Part 2 Section 7.

12. INDEMNIFICATION AND INSURANCE.

A. Contractor shall defend, save, indemnify, and hold harmless the County, its officers, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney fees, resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, subcontractors, or agents under this Contract. Contractor shall have control of the defense and settlement of any claim that is subject to this section. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of either County or any department of County, nor purport to act as legal representative of either County or any of its departments, without first receiving from County Legal Counsel authority to act as legal counsel for the County, nor shall Contractor settle any claim on behalf of County without the approval of County Legal Counsel. County may, at its election and expense, assume its own defense and settlement.

B. Contractor shall obtain the insurance required under section 23 prior to performing under this Contract and shall maintain the required insurance throughout the duration of this Contract and all warranty periods.

C. County, pursuant to applicable provisions of ORS 30.260 to 30.300, maintains a self-insurance program that provides property damage and personal injury coverage.

13. EARLY TERMINATION. This Contract may be terminated as follows:

A. County and Contractor, by mutual written agreement, may terminate this Contract at any time.

B. County in its sole discretion may terminate this Contract for any reason on 30 days written notice to Contractor.

C. Either County or Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within 15 days of the date of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

D. Notwithstanding section 13C, County may terminate this Contract immediately by written notice to Contractor upon denial, suspension, revocation or non-renewal of any license, permit or certificate that Contractor must hold to provide services under this Contract.

14. PAYMENT ON EARLY TERMINATION. Upon termination pursuant to section 13, payment shall be made as follows:

A. If terminated under 13A or 13B for the convenience of the County, the County shall pay Contractor for Work performed prior to the termination date if such Work was performed in accordance with the Contract. County shall not be liable for direct, indirect or consequential damages. Termination shall not result in a waiver of any other claim County may have against Contractor.

B. If terminated under 13C by the Contractor due to a breach by the County, then the County shall pay the Contractor for Work performed prior to the termination date if such Work was performed in accordance with the Contract.

C. If terminated under 13C or 13D by the County due to a breach by the Contractor, then the County shall pay the Contractor for Work performed prior to the termination date provided such Work was performed in accordance with the Contract less any setoff to which the County is entitled.

15. INDEPENDENT CONTRACTOR.

A. The Contractor is a separate and independently established business, retains sole and absolute discretion over the manner and means of carrying out the Contractor's activities and responsibilities for the purpose of implementing the provisions of this contract, and maintains the appropriate license/certifications, if required under Oregon Law. This contract shall not be construed as creating an agency, partnership, joint venture, employment relationship or any other relationship between the parties other than that of independent parties. The Contractor is acting as an "independent contractor" and is not an employee of County, and accepts full responsibility for taxes or other obligations associated with payment for services under this contract. As an "independent contractor", Contractor will not receive any benefits normally accruing to County employees unless required by applicable law. Furthermore, Contractor is free to contract with other parties for the duration of the contract.

B. **SUBCONTRACTING/NONASSIGNMENT.** No portion of the Contract may be contracted or assigned to any other individual, firm or entity without the express and prior approval of the County.

16. GOVERNING LAW AND VENUE. This Contract shall be governed by the laws of the State of Oregon. Any action commenced in connection with this Contract shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of the County according to law.

17. OWNERSHIP AND USE OF DOCUMENTS. See State of Oregon Master Services Agreement #7539 Exhibit D.

18. NO THIRD PARTY BENEFICIARIES.

A. County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms.

B. Nothing in this contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.

19. SUCCESSORS IN INTEREST. The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their successors and approved assigns.

20. MERGER CLAUSE. This Contract and the attached exhibits constitute the entire agreement between the parties.

A. All understandings and agreements between the parties and representations by either party concerning this Contract are contained in this Contract.

B. No waiver, consent, modification or change in the terms of this Contract shall bind either party unless in writing signed by both parties.

C. Any written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

21. WAIVER. The failure of any Party to enforce any provision of this Contract shall not constitute a waiver by that Party or any other provision. Waiver of any default under this Contract by any Party shall not be deemed to be a waiver of any subsequent default or a modification of the provisions of this Contract.

22. REMEDIES. In the event of breach of this Contract, the Parties shall have the following remedies:

A. If terminated under 13C by County due to a breach by the Contractor, the County may complete the Work either itself, by agreement with another Contractor, or by a combination thereof. If the cost of completing the Work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then the Contractor shall pay to the County the amount of the reasonable excess.

B. In addition to the remedies in sections 13 and 14 for a breach by the Contractor, County also shall be entitled to any other equitable and legal remedies that are available.

C. If County breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments to which Contractor is entitled.

23. INSURANCE.

A. **REQUIRED INSURANCE.** Contractor shall obtain at Contractor's expense the insurance specified in this section prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in Oregon and that are acceptable to County:

i. **WORKERS COMPENSATION.** All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an

exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

ii. PROFESSIONAL LIABILITY. Covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract. Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

☐ Required by County ☒ Not required by County.

- ☐ \$1,000,000 Per occurrence limit for any single claimant; and
- ☐ \$2,000,000 Per occurrence limit for multiple claimants
- ☐ Exclusion Approved by Risk Manager

iii. CYBER LIABILITY. Covering network security, breach of data, and coverage for regulatory fines and fees imposed against County due to failures in products and services provided under this Contract. Cyber Liability coverage must include errors, omissions, negligent acts, denial of service, media liability (including software copyright), dishonesty, fraudulent or criminal acts by a person or persons whether identified or not, intellectual property infringement, computer system attacks, unauthorized access and use of computer system, regulatory actions, and contractual liability.

☐ Required by County ☒ Not required by County.

- ☐ \$2,000,000 Per occurrence limit for any single claimant; and
- ☐ \$5,000,000 Per occurrence limit for multiple claimants
- ☐ Exclusion Approved by Information Technology Director and Risk Manager

iv. COMMERCIAL GENERAL LIABILITY. Covering bodily injury, death and property damage in a form and with coverages that are satisfactory to the County. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

☒ Required by County ☐ Not required by County.

Minimum Limits:

- ☒ \$1,000,000 Per occurrence limit for any single claimant; and
- ☒ \$2,000,000 Per occurrence limit for multiple claimants
- ☐ Exclusion Approved by Risk Manager
- ☐ \$500,000 Per occurrence limit for any single claimant
- ☐ \$1,000,000 Per occurrence limit for multiple claimant

v. AUTOMOBILE LIABILITY INSURANCE. Covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

☒ Required by County ☐ Not required by County.

Minimum Limits:

- ☐ Oregon Financial Responsibility Law, ORS 806.060 (\$25,000 property damage/\$50,000 bodily injury \$5,000 personal injury).
- ☒ \$500,000 Per occurrence limit for any single claimant; and

- ☒ \$1,000,000 Per occurrence limit for multiple claimants
☐ Exclusion Approved by Risk Manager

B. **ADDITIONAL INSURED.** The Commercial General Liability insurance required under this Contract shall include Marion County, its officers, employees and agents as Additional Insureds but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

C. **NOTICE OF CANCELLATION OR CHANGE.** There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without 30 days written notice from this Contractor or its insurer(s) to County. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by County.

D. **CERTIFICATE(S) OF INSURANCE.** Contractor shall provide to County Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

24. NOTICE. Except as otherwise expressly provided in this contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing, to Contractor or County at the address or number set forth below or to such other addresses or numbers as either party may hereafter indicate in writing. Delivery may be by personal delivery, or mailing the same, postage prepaid.

A. Any communication or notice by personal delivery shall be deemed delivered when actually given to the designated person or representative.

B. Any communication or notice mailed shall be deemed delivered five (5) days after mailing. Any notice under this Contract shall be mailed by first class postage delivered to:

To Contractor:

Pictometry International Corporation
Attn: Contract Administration
25 Methodist Hill Drive
Rochester, NY 14623

To County:

Procurement & Contracts Manager
555 Court Street NE, Suite 5232
P.O. Box 14500
Salem, Oregon 97309
Fax No. 503-588-5237

25. SURVIVAL. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in sections 2, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25 and 26.

26. SEVERABILITY. If any term or provision of this Contract is declared illegal or in conflict with any law by a court of competent jurisdiction, the validity of the remaining terms and provisions that shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

27. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES. Contractor represents and warrants to the County that:

A. Contractor has the power and authority to enter into and perform this Contract.

B. This Contract, when executed and delivered, is a valid and binding obligation of Contractor, enforceable in accordance with its terms.

C. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the effective date of this Contract, faithfully has complied with:

- i. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- ii. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
- iii. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
- iv. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

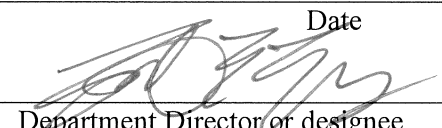
28. CERTIFICATIONS AND SIGNATURE. THIS CONTRACT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF Contractor. The undersigned certifies under penalty of perjury both individually and on behalf of Contractor is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract and to execute this Contract on behalf of Contractor.

**MARION COUNTY SIGNATURE
BOARD OF COMMISSIONERS:**

Chair Date

Commissioner Date

Commissioner Date

Authorized Signature:  2/5/2021
Department Director or designee Date

Authorized Signature: _____
Chief Administrative Officer Date

Reviewed by Signature: _____
Marion County Legal Counsel Date

Reviewed by Signature: _____
Marion County Contracts & Procurement Date

CONTRACTOR SIGNATURE

Authorized Signature: _____
Date

Title: _____

EXHIBIT A STATEMENT OF WORK

1. STATEMENT OF SERVICES.

A. The County GIS Steering Committee will coordinate with the Contractor on the scheduling of the flight, which is targeted for Contractor's spring 2021 capture season. The scheduling and commencement of such flight may be affected by conditions outside of Contractor's control, including weather and air traffic control. Multiple flights may occur to ensure entire coverage area is captured. The capture area is defined in the Map, Exhibit 1 shown below.

B. REQUIRED SERVICES, DELIVERABLES AND DELIVERY SCHEDULE

PRODUCT PARAMETERS

PRODUCT DESCRIPTION AND PRICING (Customer has the same meaning as County)

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT
380	Reveal Essentials+ Property	Provides high resolution ortho and oblique imagery at a Property level. Deliverables include measurable oblique and ortho imagery at a property resolutions. 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	\$400.00	\$360.00 (10%)	\$136,800.00
494	Reveal Essentials+ Neighborhood	Provides ortho and oblique imagery at a Neighborhood level. Deliverables include measurable oblique and ortho imagery at a neighborhood resolutions. 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	\$160.00	\$144.00 (10%)	\$71,136.00
2	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	\$2,200.00		\$4,400.00
2	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	\$2,165.00 (13.365%)	\$4,330.00
2	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.	\$750.00	\$500.00 (33.333%)	\$1,000.00

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT
		Applicable Terms and Conditions: Web Visualization Offering Terms and Conditions			
1	Media Drive Capacity 931G - Drive Model 1T - EXTPOWER *	External USB 2.0 / eSATA Externally Powered. Delivery media prices include copying a complete image library onto media. Sub-warehousing sold separately. Applicable Terms and Conditions: Order Form	\$199.00		\$199.00
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	Oblique Imagery Bundle with Two (2) Years of Maint & Support	Includes two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, and ten (10) hours of telephone support. 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

* Products and services listed above that are designated with this symbol ("Non-MSA Products and Services") are not included in the Description of Products and Services set forth in Exhibit A to the State of Oregon MSA #7539 ("MSA"). Nonetheless, Pictometry will make such Non-MSA Products and Services available to Customer pursuant to this Contract at the respective prices shown above subject to the following: By executing this Contract, both Customer and Pictometry agree to that (i) the Contract Specific Terms set forth in Part 2 of the MSA, (ii) the product-specific terms, conditions and licenses set forth in Exhibits D-1 through D-4 to the MSA that are listed in the respective product descriptions set forth above as applicable to the Non-MSA Products and Services, and (iii) this Contract shall all apply to those Non-MSA Products and Services listed above as if those Non-MSA Products and Services were included in the Description of Products and Services set forth in Exhibit A to the MSA.

PRODUCT PARAMETERS

IMAGERY

Product:

Leaf:

Reveal Essentials+ Property

Leaf Off: Less than 30% leaf cover

Product:

Leaf:

Reveal Essentials+ Neighborhood

Leaf Off: Less than 30% leaf cover

CONNECT

Product:

Admin User Name:

Admin User Email:

Geofence:

Pictometry Connect – CA - 50

Adam Crateau

acrateau@co.marion.or.us

OR Marion

MARION COUNTY GIS STEERING COMMITTEE:

Tom Rohlfing, Assessor (Account Administrator for Pictometry)
trohlfing@co.marion.or.us

Brian Nicholas, Public Works

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.

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.

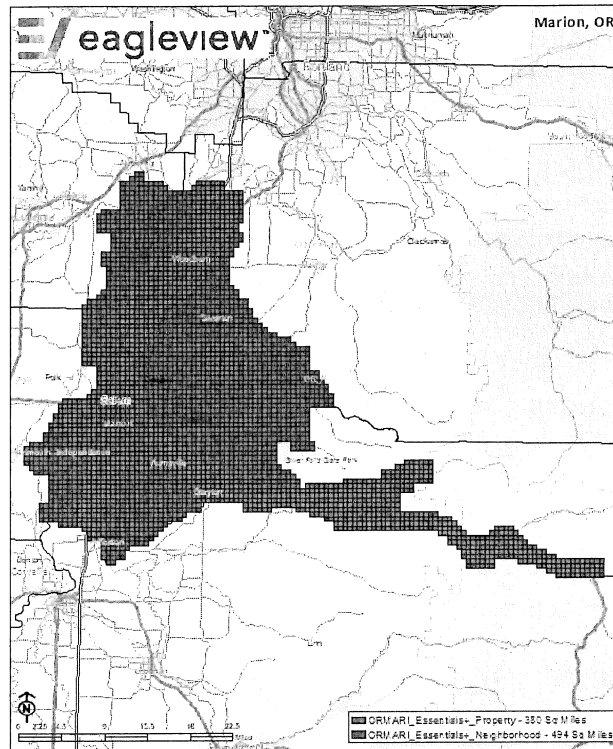
- c. **Online Services – Use of Pictometry Connect Explorer™** – Pictometry’s DRP includes the use of Connect Explorer for a term of ninety days from the date of delivery of the DRP imagery. Customer shall have access to the DRP imagery for as long as they maintain an active Connect account.

IMAGERY DELIVERABLES AND DELIVERY SCHEDULE

Essentials+ Property Deliverables	
Product	Description
Ortho frame imagery	Nominal 2in GSD ortho imagery, Imagery as good as 1.2in and no worse than 3in
Orthomosaic Specifications	- Orthomosaic Resolution 2in or 3in GSD (Best Available provided) - Typical Positional Horizontal Accuracy: 1m at a 95% confidence level - Fully automated photogrammetric orthomosaic. Imagery may contain seamlines - Project-wide color and contrast balancing
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: - Metadata generated that meets FGDC Standards upon request - Shapefile(s) with discrete deliverable boundaries and directional metadata
Orthomosaic Deliverable Format (Online)	Resolution: 2in or 3in GSD (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: 2in or 3in GSD (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 ortho and oblique imagery available online and/or ready for physical delivery within 30 days of capture completion

Essentials+ Neighborhood Deliverables	
Product	Description
Orthomosaic Specifications	· Resolution at 6in GSD · Typical Positional Horizontal Accuracy: 1m at a 95% confidence level · Fully automated photogrammetric orthomosaic. Imagery may contain seamlines · Project-wide color and contrast balancing
Oblique Imagery	Nominal 6in GSD oblique imagery or better: · Where available fully automated photogrammetric mosaiced imagery. Imagery may contain seamlines
Metadata and Reporting	Metadata: · Metadata generated that meets FGDC Standards upon request · Shapefile(s) with discrete deliverable boundaries and directional metadata
Orthomosaic Deliverable Format (Online)	Resolution: · Resolution at 6in GSD Access Methods: · Available via web-based viewer (Connect) - Contracted separately · Also available via WMS/WMTS (Image Service) - Contracted separately
Orthomosaic Deliverable Format (Physical)	Resolution: · Resolution at 6in GSD 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 ortho and oblique imagery available online and/or ready for physical delivery within 30 days of capture completion

MAP – Exhibit 1 Capture Area



C. SPECIAL REQUIREMENTS. Contractor shall be solely responsible for and shall have control over the means, methods, techniques, sequences and procedures of performing the work, subject to the plans and specifications under this Contract and shall be solely responsible for the errors and omissions of its employees, subcontractors and agents.

Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence and perform Services in a timely, professional and workmanlike manner in accordance with standards applicable to Contractor's industry, trade or profession.

D. ONLINE FLIGHT SERVICES ELIGIBLE USERS: Notwithstanding anything in the Online Services General Terms and Conditions incorporated in this Contract 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 Contract, also include each "Authorized User" as that term is defined in the Delivered Contact Terms and Conditions of Use incorporated in this Contract.

E. DELIVERABLES: County GIS Steering Committee shall receive and approve the final deliverables as defined in Image Deliverables above within 14 days of delivery. If any deviations from the specifications set forth above are identified, County GIS Steering Committee shall notify Contractor of any corrections needed. Pictometry shall use commercially reasonable efforts to correct any deviations from the specifications identified by County GIS Steering Committee and re-deliver the products in compliance with the Product Parameters.

F. SURVIABILITY OF CONTRACT: In the event of the cancellation or expiration of the Oregon Master Services Agreement # 7539, this Marion County Contract shall survive until the expiration date of this

contract. Any cancellation or expiration shall not affect the rights and obligations attending outstanding orders at the time of cancellation or expiration, including any right of the County to indemnification by the Contractor, rights of payment for products and services delivered and accepted, right attending any warranty or default in performance in association with any order, and requirements for records administration and audit.

2. COMPENSATION. The total amount available for payment to Contractor under Exhibit A, section 2.A and for authorized reimbursement to Contractor under Exhibit A, section 2.C is \$ 217,865.00.

A. METHOD OF PAYMENT FOR SERVICES. County shall pay Contractor \$ 217,865.00 for completing all Services and delivering all Goods required under this Contract. Payment will be made in accordance with milestone payments as outlined below.

B. BASIS OF PAYMENT FOR SERVICES.

Milestone progress payments for completed Services. County shall pay Contractor all amounts due for Services completed and accepted by County and for Goods delivered and accepted by County at the following milestones after County's approval of Contractor's invoice to County for those Services and Goods:

Due at Initial Shipment of Imagery	\$ 108,932.50
Due at First Anniversary of Shipment of Imagery	\$ 103,932.50
Due at Activation of Online Services	\$ 5,000.00
Total	\$ 217,865.00

FEES; PAYMENT TERMS: All Amounts due to Contractor pursuant to this Contract 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 this amounts shown above, and to the extent applicable to purchases by County, shall be paid by County to Contractor without reducing any amount owed to Contractor unless documents satisfactory to Contractor evidencing exemption from such taxes is provided to Contractor prior to billing.

C. EXPENSE REIMBURSEMENT. County will not reimburse Contractor for any expenses under this Contract.

D. GENERAL PAYMENT PROVISIONS. Notwithstanding any other payment provision of this contract, failure of the Contractor to submit required reports when due, or failure to perform or document the performance of contracted services, may result in withholding of payments under this contract. Such withholding of payment for cause shall begin thirty (30) days after written notice is given by the County to the Contractor, and shall continue until the Contractor submits required reports, performs required services or establishes, to the County's satisfaction, that such failure arose out of causes beyond the control, and without the fault or negligence of the Contractor.

E. INVOICES. Contractor shall send all invoices to County's Contract Administrator at the address specified below or to any other address as County may indicate in writing to Contractor.

**Marion County
Attn: Cynthia Klein
Information Technology Department
PO Box 14500
Salem, OR 97309**

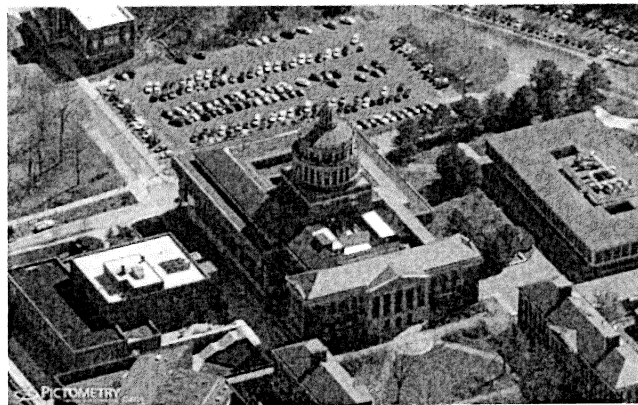


Budget Proposal

Proposal for: Marion County, OR
Project Name: ORMARION_Flight 3_E+P_E+N
Quote Number: Q-60750
Contract Term: 2 Year(s)

EagleView Rep: Dustin Walters
Phone Number:
Email: dustin.walters@eagleview.com
Expiration Date: 2/28/2021
Targeted Capture: 2021-b-Spring

Total: \$217,865.00



This quote is non-binding, creates no legal rights, duties or obligations, expressed or implied, on either party, and shall become binding only in the event that Pictometry and Customer enter into a definitive agreement incorporating it. The pricing quoted above does not reflect applicable taxes, which will be reflected in any resulting definitive agreement with Customer. This quote is valid until the date shown above, after which it expires. All Discounts are approximate.



Budget Proposal

Proposal for: Marion County, OR
Project Name: ORMARION_Flight 3_E+P_E+N
Contract Term: 2 Year(s)

EagleView Rep: Dustin Walters
Expiration Date: 1/29/2021
Targeted Capture: 2021-b-Spring

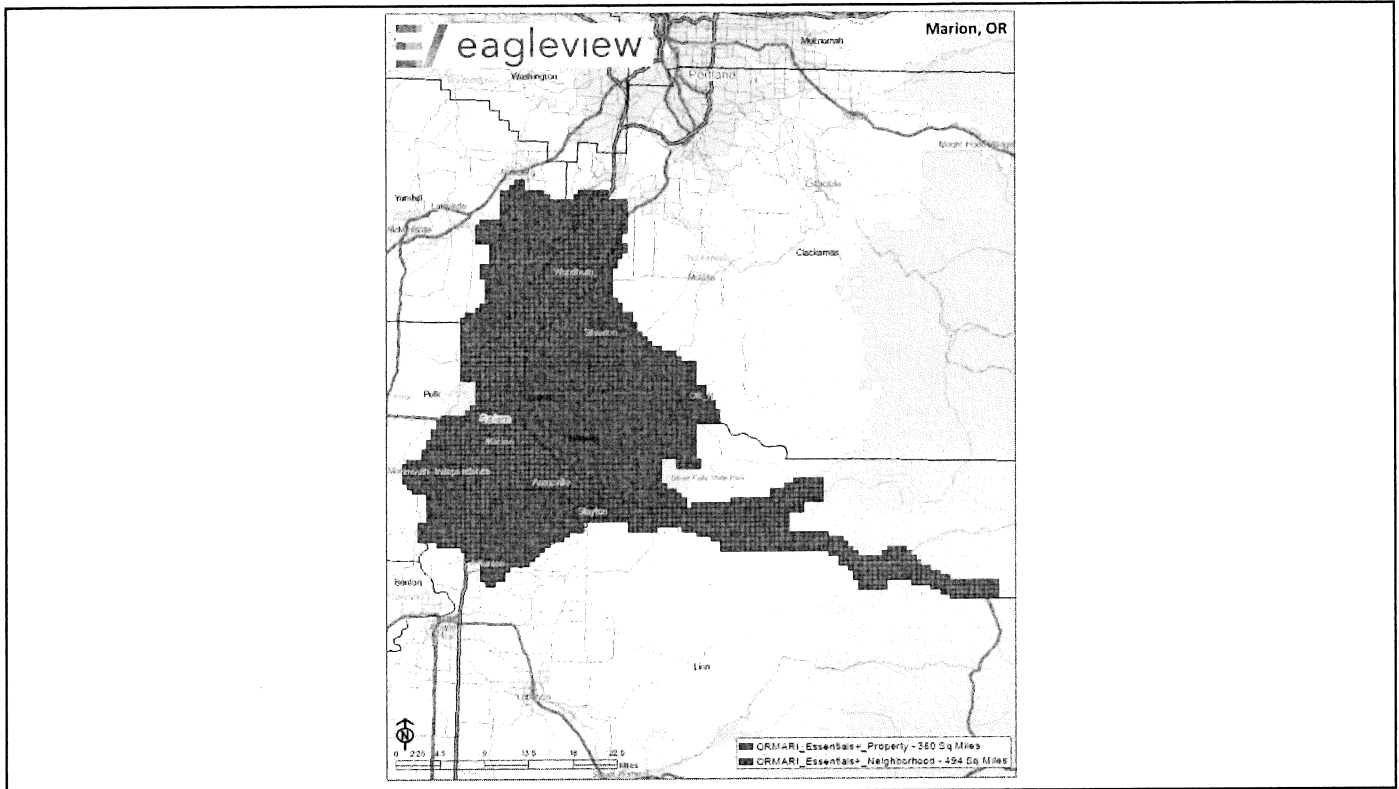
Qty	Product	List Price	Discount (%)	Subtotal
380	Reveal Essentials+ Property	\$400.00	10	\$136,800.00
494	Reveal Essentials+ Neighborhood	\$160.00	10	\$71,136.00
1	Pictometry Connect - EarlyAccess	\$10,000.00	100	\$0.00
2	FutureView Adv Training	\$2,499.00	13.365	\$4,330.00
2	Pictometry Connect - CA - 50	\$2,200.00		\$4,400.00
2	Pictometry Connect View - CA	\$750.00	33.333	\$1,000.00
1	RapidAccess - Disaster Response Program	\$0.00		\$0.00
1	Oblique Imagery Bundle with Two (2) Years of Maint & Support	\$0.00		\$0.00
1	Media Drive Capacity 931G - Drive Model 1T - EXTPOWER	\$199.00		\$199.00
TOTAL:				\$217,865.00

TOTAL: \$217,865.00

This quote is non-binding, creates no legal rights, duties or obligations, expressed or implied, on either party, and shall become binding only in the event that Pictometry and Customer enter into a definitive agreement incorporating it. The pricing quoted above does not reflect applicable taxes, which will be reflected in any resulting definitive agreement with Customer. This quote is valid until the date shown above, after which it expires. All Discounts are approximate.

Proposal for: Marion County, OR
 Project Name: ORMARION_Flight 3_E+P_E+N
 Contract Term: 2 Year(s)

EagleView Rep: Dustin Walters
 Expiration Date: 1/29/2021
 Targeted Capture: 2021-b-Spring



This quote is non-binding, creates no legal rights, duties or obligations, expressed or implied, on either party, and shall become binding only in the event that Pictometry and Customer enter into a definitive agreement incorporating it. The pricing quoted above does not reflect applicable taxes, which will be reflected in any resulting definitive agreement with Customer. This quote is valid until the date shown above, after which it expires. All Discounts are approximate.

☐ Add to 'Contract List'☐ Close☐ Print (HTML)☐ View PDF☐ Refresh☒ Help Desk

Maintain

Additional

Actions

View Data

Award Summary**Agreement to Agree****Oblique Aerial Imagery, Licensing and Services**

(Prod)

ORPIN
Oregon Procurement Information Network**Supplier Address**Pictometry International
Corporation
25 Methodist Hill Drive
Rochester, New York
14623**Contact** Dustin Walters**Phone** 1 (541) 325-3781**Fax****Email** dustin.walters@eagleview
.com**Contract #**
7539

Amendment # 5

Revision # 1

Revision Date
10/08/2020**Contract Start Date**
06/30/2017**Expiration Date**
11/30/2021**Supplier Number**
25605

All dates are mm/dd/yyyy

Attachments Exist

Amendment/Revision Comments Exist

Secondary Suppliers Do Not Exist

User Comments Do Not Exist

Contract AdministratorDAS Procurement Services
1225 Ferry St., SE
Salem, Oregon
97301**Receiving Address**

See purchase order

Contract Filed At

DAS PS

Contact Kimberly Mainwaring**Phone** 1 (503) 373-0763**Fax****Email** Kimberly.Mainwaring@or
egon.gov**Header Comments**

AUTHORIZED USERS FOR MASTER AGREEMENT #7539:

- All State Agencies
- Oregon Cooperative Purchasing Program members

*****BUYERS GUIDE IS LOCATED IN LEFT COLUMN UNDER THE "ADDITIONAL" LINK > "PRIVILEGED ATTACHMENTS" LINK > BUYERS GUIDE*****

Delivery Requirements

See MSA Part 2: 5. Performance, Delivery & Acceptance

Payment Terms

Net 30

FOB

(Not Applicable)

Item #	Quantity / Unit	Description	Unit Cost
1	1 EACH	Commodity No. 905-10 Aerial Surveys and Mapping Services (See 962-52 for Standard Survey and Mapping Services)	\$0.00
Mandatory or Convenience Convenience		Current Amendment Value \$0.00	
Minimum Order No Minimum Order required		Previous Contract Value \$0.00	
Return Policy No Return Policy in MSA		Current Amended Value \$0.00	
Warranty See MSA Part 2: 9. Representations & Warranties			
Best Value Analysis			

Freight/Surcharge \$0	
Renewal Option See MSA Part 2: 2. Effective Date & Term	

CONTROL NUMBER: 2152775

Master File: ORPIN-93190-7

Master Services Agreement #7539

This Master Services Agreement ("MSA") is between the State of Oregon ("State") acting by and through its Department of Administrative Services ("DAS") on behalf of the Office of the Chief Information Officer, Geospatial Enterprise Office ("GEO"), other state agencies and members of the Oregon Cooperative Purchasing Program ("Authorized Purchasers") and Pictometry International Corp. ("Contractor") for oblique aerial imagery products and services.

Recitals

A. DAS desires to engage Contractor through this MSA to make available to DAS, GEO and other Authorized Purchasers certain oblique aerial imagery products and services, as described on Exhibit A ("Products" and "Services").

B. On or about May 8, 2017, DAS issued Special Procurement Notice # DASPS-2767-17 to provide authority to directly award contracts to Contractor and other providers of the Products and Services.

C. Contractor desires to provide the Products and perform the Services for DAS, agencies of the State of Oregon that are subject to DAS procurement authority according to ORS 279A.050 and 279A.140 and that are authorized to use this MSA through a delegation of authority according to OAR 125-246-0170 ("Authorized Agencies"), and any non-Authorized Agency participant in the Oregon Cooperative Purchasing Program operated by DAS ("ORCPP Member"), pursuant to the terms of this MSA. DAS, Authorized Agencies and ORCPP Members are collectively referred to as "Authorized Purchasers."

Agreement

DAS and Contractor agree as follows:

Part 1: MSA Specific Terms

1. Purpose of MSA. This MSA establishes terms and conditions applicable to Contractor and DAS in connection with the Products and Services, including but not limited to:

- 1.1.** the form of the purchase order ("PO") to be used by Authorized Agencies and Contractor to enter into contracts for Products, Services or both (such contracts being hereinafter "Contracts");
- 1.2.** the terms and conditions applicable to Contracts;
- 1.3.** the process through which Contracts will be created; and
- 1.4.** the pricing applicable to Contracts.

Authorized Agencies and Contractor will enter into binding and enforceable contracts for Products or Services or both by issuing POs, substantially in the form attached hereto as Exhibit B. Other Authorized Purchasers may enter into Contracts using POs substantially

in the form of Exhibit B, but are not required to do so and may use forms or other ordering instruments as agreed upon by the Authorized Purchaser and Contractor.

Each Contract will specify the Products or Services to be provided.

GEO may access and use all or any portion of imagery made available to any other Authorized Purchaser pursuant to this MSA.

2. Effective Date and Term. This MSA is effective on the date the MSA has been executed by DAS and Contractor, and has been approved as required by applicable law ("Effective Date"). Unless terminated or extended, this MSA expires on June 30, 2019 ("Initial Term"). DAS and Contractor may extend this MSA by written agreement (Initial Term and extensions are collectively referred to as "MSA term"). MSA expiration or termination does not extinguish or prejudice any right to enforce this MSA with respect to any breach or any default under the MSA or any Contract prior to its respective expiration or termination.

3. MSA Documents. This MSA includes the MSA and its exhibits which are attached and incorporated by reference. If a conflict, inconsistency or ambiguity exists among any portion of this MSA and any other documents, then the issue must be interpreted in the following order of precedence:

3.1. This MSA less all exhibits;

3.2. Exhibit A, Description of Products and Services; Pricing;

3.3. Exhibit C, DAS Volume Sales Report Template - Data Requirement, Format and Layout;

3.4. Exhibit B, Purchase Order Form; and

3.5. Exhibits D-1 (Pictometry Delivered Content Terms and Conditions of Use), D-2 (Pictometry Online Services General Terms and Conditions), D-3 (Pictometry Software License Agreement) and D-4 (Pictometry Web Visualization Offering Terms and Conditions) or any other Contractor terms and conditions.

4. Pricing Changes. Contractor shall keep pricing specified in Exhibit A fixed for the Initial Term. Thereafter, DAS and Contractor may adjust pricing no more than once annually by MSA amendment. Contractor shall submit all pricing increase requests to DAS in writing and provide substantiating evidence that each request is based on demonstrable market changes impacting the cost of the Services. Pricing changes will apply to Contracts and amendments to Contracts entered on and after the effective date of the pricing change.

5. Non-exclusive MSA; Contractor Selection. This MSA is not exclusive. Each Authorized Purchaser retains the right to contract for Products or Services or both through any selection process authorized by law, or to perform the Services itself. Neither DAS

nor any other Authorized Purchaser guarantees that any specific number of Contracts will be entered or that any specific amount of Products or Services will be required.

In the event DAS awards more than one Master Services Agreement, Authorized Purchaser must conduct a best value comparison process to select the contractor for award based upon various factors, including: cost, Product or Services availability, time of performance, or other factors. Authorized Purchaser shall issue a request for quote to all Master Services Agreement holders detailing the Product or Service need and evaluation criteria, including: Product or Service availability, time for delivery or performance, costs, and any other factors. Authorized Purchaser shall award the Contract to the contractor with the offer that is in the best interest of Authorized Purchaser. Authorized Purchaser's determination is final.

6. Signed Contract Required for Products or Services.

6.1 Contract. DAS and Authorized Agencies must use a PO in a form substantially similar to the form attached as Exhibit B. ORCPP Members may use their own form as agreed upon with Contractor. Each Contract shall include by reference the Contract Specific Terms and Conditions set forth in Part 2 of this MSA.

6.2. Contract Rejection. Contractor shall reject Contracts that do not comply with this section 6. Contractor also shall reject Contracts that are not from Authorized Purchasers. Contractor may verify ORCPP Members at:
<http://www.oregon.gov/das/Procurement/Pages/Orcppmember.aspx>

6.3. Contract Creation. Each fully executed Contract creates a separate contract between Authorized Purchaser and Contractor that is enforceable according to its terms and is independent of all other executed Contracts. Each Contract consists only of the terms specified for Contracts in this MSA and no other terms, regardless of source. DAS and GEO are intended beneficiaries under each Contract between Authorized Purchasers and Contractor. DAS is not obligated or liable to Contractor under any Contract unless DAS is purchasing the Products or Services as the Authorized Purchaser.

6.4. Authorized Purchasers' Liability under Contracts. Contractor shall look solely to the Authorized Purchaser for any rights and remedies Contractor may have at law or in equity arising under any Contract between Contractor and the Authorized Purchaser. Contractor acknowledges and agrees that DAS is not liable to Contractor under any Contract entered into between Contractor and an Authorized Agency or an ORCPP Member unless DAS is purchasing the Services as the Authorized Purchaser.

7. Products and Services; Descriptions and Pricing.

7.1. Products and Services. Attached hereto as Exhibit A are the descriptions of the Products and Services available to Authorized Purchasers pursuant to this MSA, including the corresponding prices at which they are available and references to the corresponding license terms and conditions applicable to specific Products or

Services. All pricing of the Products and Services listed on Exhibit A applicable to a Contract will be determined in accordance with Exhibit A.

7.2. License Terms. Attached hereto as Exhibits D-1, D-2, D-3 and D-4 are the individual license terms that apply to the specific Products and Services available to Authorized Purchasers pursuant to this MSA (collectively, the "License Terms"). References in the Product Descriptions set forth on Exhibit A indicate which specific License Terms apply to which Products and Services. Provisions in the License Terms dealing with choice of law and forum for dispute resolution do not apply to Contracts entered into pursuant to this MSA.

7.3. Ongoing Services, Maintenance and Support. Additionally and as applicable, Contractor shall, at no additional charge to DAS, GEO or Authorized Purchaser (i) maintain software provided to each Authorized Purchaser for the respective period specified in the relevant Description of Products and Services or one year from the date of the applicable Contract, whichever is longer, (ii) maintain the online services provided pursuant to any Contract (including upgrades made generally available by Contractor to Contractor's customers) without additional charge) for the period for which the Authorized Purchaser has purchased and paid the required fee for such online services pursuant to the Contract. Contractor also shall inform Authorized Purchaser of the availability of enhancements of the Products or Services for which a separate license fee and license agreement are required. If an enhancement is licensed by Authorized Purchaser under an amendment to this Contract, this Contract will apply to such enhancement and additional fees may apply for such licensed Enhancement.

7.4. Product and Service Specifications. In its provision of the Products and Services, Contractor shall meet the specifications set forth in this MSA, including those set forth in Exhibits D-1 (Pictometry Delivered Content Terms and Conditions of Use), D-2 (Pictometry Online Services General Terms and Conditions), D-3 (Pictometry Software License Agreement) or D-4 (Pictometry Web Visualization Offering Terms and Conditions).

8. Volume Sales Report and Vendor Collected Administrative Fee.

8.1. Volume Sales Report ("VSR").

8.1.1. Contractor shall submit a VSR to DAS no later than thirty (30) Calendar days following the end of each calendar quarter through the MSA term ("Calendar Quarter"). The first Calendar Quarter begins on the Effective Date, and each subsequent Calendar Quarter begins the day following the end of the immediately preceding Calendar Quarter. Each Calendar Quarter ends on the earliest date of the following to occur after the beginning of the Calendar Quarter: March 31, June 30, September 30, or December 31.

Contractor shall include the following information in each VSR:

- Complete and accurate details of all payments received from Authorized Purchasers pursuant to Contracts, less any credits given or refunds issued, during the Calendar Quarter;
- All information requested in Exhibit C, DAS Volume Sales Report Template - Data Requirement, Format and Layout; and
- All other information that DAS may reasonably request.

If Contractor did not receive any payments from Authorized Purchasers pursuant to Contracts during the Calendar Quarter Contractor shall deliver a VSR to DAS within the timeframe specified in this subsection 8.1.1 that specifies no payments were received from Authorized Purchasers pursuant to Contracts during the Calendar Quarter covered by the report.

8.1.2. Data Medium and Delivery Medium. Contractor shall deliver VSRs in MS Excel (.xls) format to DAS by e-mail. DAS will not accept hard copies of VSRs. DAS will accept VSRs on CDs, jump drives or other mutually acceptable portable data storage media only if the size of the electronic VSR file prohibits transmission of the VSR to DAS by e-mail. DAS, through its MSA Administrator, may waive some or all of these requirements in writing.

8.1.3. Receipt/Acceptance. Contractor shall deliver the first VSR required under this MSA to the DAS Contract Administrator for review and approval. Upon approval, Contractor shall deliver this first VSR and all subsequent VSRs to VCAF.REPORTING@oregon.gov. DAS may challenge or dispute the validity of any VSR at any time during the term of this MSA.

DAS may terminate this MSA pursuant to section 12.3 if Contractor fails to deliver a VSR according to this section 8.1.

8.2. Vendor Collected Administrative Fee ("VCAF").

8.2.1. Contractor shall remit to DAS a VCAF in the amount of one percent (1%) of all payments received from Authorized Purchasers pursuant to Contracts, less any credits given or refunds issued, during each Calendar Quarter. Contractor shall not reflect the VCAF as a separate line item charge to Authorized Purchasers.

8.2.2. DAS will deliver an invoice the Contractor for the VCAF based on the information in each VSR.

8.2.3. Contractor shall remit each VCAF payment to DAS by check within sixty (60) Calendar Days following the end of each Calendar Quarter to:

State of Oregon
Department of Administrative Services
Attn: Shared Financial Services/PS
155 Cottage Street NE
Salem, Oregon 97301

DAS will not accept any other form of payment unless specifically approved by the DAS MSA Administrator.

8.2.4. Any VCAF payments Contractor makes or causes to be made to DAS after the payment due date shall accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until Contractor pays the overdue amount in full. DAS' right to interest on late payments does not preclude DAS from exercising any of its other rights or remedies pursuant to this MSA or otherwise with regards to Contractor's failure to make timely payment.

8.2.5. Contractor shall maintain all financial records under this MSA in accordance with generally accepted accounting principles, and all other records in such a manner as to clearly document Contractor's performance. Upon reasonable notice and during Contractor's customary business hours, Contractor shall permit DAS and any person authorized by DAS, to perform examinations and audits and make excerpts and transcripts of Contractor's records related to this MSA and Contracts to determine and verify the figures reported in any VSR. If any audit reveals VCAF underpayment, Contractor shall immediately pay the amount of underpayment, together with all applicable interest at the rate specified in section 8.2.5. At DAS' request, Contractor shall pay the reasonable cost of any audit that reveals a VCAF underpayment exists, as determined by DAS.

Contractor shall retain and keep accessible all such records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this MSA, or until the conclusion of any audit, controversy, or litigation arising out of or related to this MSA, whichever date is later

9. Representations and Warranties: Contractor represents and warrants to DAS that:

9.1. Contractor is not an "officer," "employee," or "agent" of DAS, as those terms are used in ORS 30.265;

9.2. Contractor fully understands and will perform its obligations under this MSA;

9.3. Contractor is qualified to do business in the State of Oregon and will remain qualified throughout the MSA term;

9.4. Contractor is not in arrears in the payment of any monies due and owing the State of Oregon, or any department or agency thereof, including but not limited to the payment of taxes and employee benefits, and will not become so during the MSA;

9.5. Contractor will comply with all federal, state, and local laws, ordinances, rules, and regulations applicable to its performance under this MSA;

9.6. Contractor is not in violation of, charged with nor, to the best of Contractor's knowledge, under any investigation with respect to violation of, any provision of any federal, state or local law, ordinance or regulation or any other requirement or order of any governmental or regulatory body or court or arbitrator applicable to provision of the Services, and Contractor's provision of the Services shall not violate any such law, ordinance, regulation or order;

9.7. Contractor's performance under this Contract to the best of Contractor's knowledge creates no potential or actual conflict of interest, as defined by ORS 244, for either Contractor or any Contractor personnel that will perform the Services under this Contract;

9.8. Contractor represents and warrants that with respect to Contractor employees providing services under this Contract, Contractor withholds applicable income taxes from the pay of such employees; Contractor pays workers' compensation insurance premiums arising from the employment of such employees; Contractor makes all other applicable tax and related payments arising from that employment (including without limitation social security tax payments); and that Contractor provides employee benefits to its employees, including without limitation health insurance benefits, vacation benefits, and retirement benefits;

9.9. Contractor possesses and will maintain at its own expense all required licenses, certifications and permits necessary to deliver Services under this MSA and all Contracts;

9.10. Contractor has the power and authority to enter into and perform this MSA and each Contract;

9.11. This MSA, when executed and delivered, is a valid and binding obligation of Contractor enforceable according to its terms;

9.12. Contractor has the skill and knowledge possessed by well-informed members of its trade or profession and Contractor will apply that skill and knowledge with care and diligence so Contractor and Contractor's employees and any authorized subcontractors provide the Products and perform the Services described in this MSA in accordance with the highest standards prevalent in the industry or business most closely involved in providing the Products and Services and Contractor shall, at all times during the term of this MSA and any Contract, be qualified, professionally competent, and duly licensed to provide the Products and perform the Services;

9.13. The Products and Services are free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the software, collect unlawful personally identifiable information on users, or prevent the software from performing as required under the terms and conditions of this MSA or a Contract. Notwithstanding the foregoing, this representation and warranty does not include a disabling device that limits, suspends or ends use of the Products or Services expressly permitted by the terms and conditions by the license under which it was provided: and

9.14. When used as authorized by this MSA and the applicable Contract, no Products or Services infringe, nor will Authorized Purchaser's use, of such Products or Services in accordance with this MSA, applicable Contract or the License Terms, infringe any copyright, patent, trade secret or other proprietary right of any third party.

The warranties set forth in this section 9 are in addition to, and not in lieu of, any other warranties provided in this MSA or in the applicable Contract.

10. MSA Default. Contractor is in default of this MSA if:

10.1. Contractor fails to honor pricing at or lower than the pricing specified in Exhibit A; or

10.2. Contractor violates or fails to perform any covenant, representation, warranty, obligation or certification under this MSA.

Before Contractor can be found in default of this MSA, DAS shall first deliver a notice of default to Contractor. The notice must describe the specific nature of the default, cite the specific provisions of this MSA that have been violated, indicate whether the default can be cured, and specify the time period in which the default must be cured, if cure is permitted.

11. Remedies for Default. If Contractor is in default under section 10, DAS may, at its option, pursue any or all remedies available to it under this MSA and at law or in equity, including without limitation, termination of this MSA pursuant to section 12 or pursuing a claim for damages, or both.

12. Termination.

12.1. Mutual Termination. The parties may terminate this MSA upon the date specified in written agreement.

12.2. DAS' Right to Terminate. DAS may, at its sole discretion, terminate this MSA as follows:

12.2.1. DAS may terminate this MSA upon thirty (30) calendar days' prior written notice to Contractor or any later date as specified in the written notice; or

12.2.2. DAS may terminate this MSA immediately if federal or state laws, regulations or guidelines are modified in such a way that would prohibit any party's performance under this MSA.

12.3. DAS' Right to Terminate for Cause. In addition to any other rights and remedies DAS may have under this MSA, DAS may terminate this MSA, in whole or in part, immediately upon Contractor being found in default under section 10.

12.4. Effect of MSA Termination or Expiration. Upon termination or expiration of this MSA, Contractor shall continue to provide the Products or Services and meet its obligations under all effective Contracts issued prior to MSA termination or expiration, unless such Contract is otherwise terminated pursuant to its terms. The termination or expiration of this MSA will be without prejudice to the rights of the parties accrued up to the date of such termination or expiration.

13. Indemnity and Insurance.

13.1 Contractor shall defend, save, hold harmless, and indemnify the State of Oregon and DAS, and their officers and employees from and against all third party claims, suits, actions, losses, damages, liabilities, statutory penalties, costs and expenses of any nature whatsoever, including personal injury, death, damage to real property and damage to tangible or intangible personal property resulting from, arising out of, or relating to the intentional, reckless or negligent acts or omissions of Contractor or its officers, employees, subcontractors, or agents under this MSA or any Contract including:

13.1.1. Any claim that Contractor, a subcontractor, or Contractor's staff or a subcontractor's staff are employees of the State or Authorized Purchaser for any reason; and

13.1.2. Any claim that the Products or Services provided to an Authorized Purchaser pursuant to this MSA or use thereof infringe or violate any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; and

13.1.3 Any claim against the State or Authorized Purchaser, which, if true, would constitute a breach by Contractor of any of the representations, warranties, or covenants set forth in this MSA.

Without limiting the generality of the foregoing, Contractor will have no obligation to indemnify the State of Oregon or DAS from and against any claims, suits, actions, losses, damages, liabilities, costs and expenses attributable solely to the acts or omissions of DAS, Authorized Purchasers or its or their officers, employees or agents.

13.2. DAS or GEO Indemnity. DAS' or GEO's liabilities or obligations to indemnify Contractor, if any, are subject to the provisions of Article XI, Section 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 to 30.300).

13.3 Insurance. Contractor, at its sole cost, shall obtain and maintain the following minimum insurance coverages.

13.3.1. Workers' Compensation & Employers' Liability. All employers, including Contractor, shall provide workers' compensation insurance as required by applicable workers' compensation laws for persons performing work under this Contract, including Employers' Liability Insurance with limits not less than

\$500,000 each accident. Contractor shall require and ensure that each of its subcontractors complies with these requirements.

13.3.2. Professional Liability. Contractor shall provide Professional Liability insurance including the following:

A combined single limit of no less than \$1,000,000 per occurrence covering:

- Technology Errors and Omissions related to the professional services and products provided under this MSA;
- Network Security/Privacy Breach of Authorized Purchaser data;
- Coverage for regulatory fines and fees imposed against Agency due to failures in products and Services provided under this MSA, including defense cost.

Coverage must include errors, omissions, negligent acts, denial of service, media liability (including software copyright), dishonesty, fraudulent or criminal acts by a person or persons whether identified or not, intellectual property infringement, computer system attacks, unauthorized access and use of computer system, regulatory actions, and contractual liability. Coverage must extend to business associates and independent contractors providing professional services on behalf of or at the direction of Contractor. A primary policy or combination of a primary policy and excess policy is acceptable in order to meet the limits requirement.

13.3.3. Commercial General Liability. Contractor shall provide Commercial General Liability Insurance covering bodily injury, death and property damage in a form and with coverage that are satisfactory to the State. This insurance must include personal injury liability, products and completed operations, and contractual liability coverage, in each case arising out of Contractor's negligence. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

13.3.4. Automobile Liability Insurance. Contractor shall provide Automobile Liability Insurance covering all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage.

13.3.5. Additional Insured. The Professional Liability insurance and Commercial General Liability insurance required under this MSA must include the State of Oregon, its officers and employees as Additional Insureds but only with respect to Contractor's activities to be performed under this MSA.

13.3.6. Tail Coverage. If any of the required insurance is on a claims-made basis and does not include an extended reporting period of at least twenty-four (24) months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the Effective Date of this MSA, for a minimum of twenty-four (24) months following the later of (i) Contractor's completion and

Authorized Purchaser's acceptance of all Services required under this MSA and any Contract, or, (ii) the expiration of all Warranty Periods provided under this MSA and any Contract.

13.3.7. Certificates and Proof of Insurance. Contractor shall provide to DAS Certificates of Insurance for all required insurance before performing any Services required under this MSA. The Certificates must list the State of Oregon and its officers and employees as a Certificate holder and as Additional Insured, specify that Contractor will pay for all deductibles, self-insured retention and self-insurance, if any, that all coverage will be primary and non-contributory with any other insurance and self-insurance, and confirm that either an extended reporting period of at least twenty-four (24) months is provided on all claims made policies or that tail coverage is provided. As proof of insurance DAS has the right to request copies of insurance policies relating to the insurance requirements in this MSA.

13.3.8. Notice of Change or Cancellation. Contractor or its insurer must endeavor to provide at least thirty (30) Calendar Days' written notice to DAS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverages.

13.3.9. Insurance Requirement Review. Contractor agrees to periodic review of insurance requirements by DAS or GEO under this MSA and to meet updated requirements as mutually agreed upon by Contractor and DAS.

14. Governing Law. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this MSA, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

15. Venue and Consent to Jurisdiction. Any claim, action, suit, or proceeding (collectively, "Claim") between DAS and Contractor that arises from or relates to this MSA must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it must be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR BY EXECUTION OF THIS MSA HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN THIS SECTION 15. In no event may this section be construed as (i) a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any claim, or (ii) consent by the State of Oregon to the jurisdiction of any court.

16. MSA Contract Administrators. The MSA Contract Administrators for DAS and for Contractor are the individuals identified in this section 16 or any other individual identified in writing as the MSA Administrator to the other party.

DAS MSA Contract Administrator:	Contractor MSA Contract Administrator:
Kimberly Mainwaring	Pictometry International Corp.
1225 Ferry St. SE	Attn: Contract Administration – OR MSA
Salem, OR 97301	25 Methodist Hill Drive
(503) 373-0763	Rochester, NY 14623
Kimberly.Mainwaring@oregon.gov	
GEO Contract Manager:	
Cy Smith	
155 Cottage St. NE	
Salem, OR 97301	
(503)378-6066	
Cy.Smith@oregon.gov	

17. Amendment. This MSA may be amended, modified, or supplemented only by a written amendment signed by DAS and Contractor. Any amendment that provides for additional Products or Services, goods or other services may only provide for Products, Services, goods or services directly related to the scope of Products and Services, goods and services described in the Special Procurement, and no amendment will be effective until all requisite signatures and approvals are obtained. Either DAS or Contractor may request a change to this MSA, including all Exhibits hereto, by submitting a written proposal describing the desired change to the other party.

18. Integration. This MSA and attached Exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or representations, oral or written, not specified herein regarding this MSA.

19. Contractor Data. Contractor shall provide all information requested below. DAS, GEO or Authorized Purchaser may report this information to the Internal Revenue Service ("IRS") under the name and taxpayer identification number provided. (See IRS 1099 for additional instructions regarding taxpayer identification numbers.) Information not matching IRS records could subject Contractor to thirty-one percent (31%) backup withholding.

Name (tax filing): Pictometry International Corp., a Delaware corporation

Address: 25 Methodist Hill Drive, Rochester, NY 14623

Citizenship: Non-resident alien ☐ Yes ☐ No

Business Designation (check one):

☒ Corporation ☐ Partnership ☐ Limited Liability Company

☐ Limited Liability Partnership ☐ Sole Proprietorship ☐ Limited Partnership

Federal Tax ID#: 16-1595473 **or Social Security No.:** _____
(These numbers are requested pursuant to ORS 305.385 and OAR 150-305.100.)

Part 2: CONTRACT SPECIFIC TERMS

The following Contract Specific Terms and Conditions apply to and are incorporated into all POs or substantially similar documents authorized by the MSA ("Contracts") entered into by Contractor and any Authorized Purchaser pursuant to the MSA:

1. Contract Documents and Order of Precedence. Each Contract includes these Contract Specific Terms, including the terms set forth in Exhibits D-1, D-2, D-3, D-4 and the PO to the extent applicable. If a conflict, inconsistency or ambiguity arises in contract interpretation, the Contract must be interpreted in the following order of precedence:

- 1.1. MSA, Part 1, MSA Specific Terms;
- 1.2. MSA Part 2, Contract Specific Terms;
- 1.3. Exhibit D-1 (Pictometry Delivered Content Terms and Conditions of Use), Exhibit D-2 (Pictometry Online Services General Terms and Conditions), Exhibit D-3 (Pictometry Software License Agreement), Exhibit D-4 (Pictometry Web Visualization Offering Terms and Conditions) and other Contractor terms; and
- 1.4. Purchase Order or substantially similar documents authorized by the MSA

2. Definitions. In addition to any other terms defined elsewhere in this MSA, the following defined terms apply to each Contract:

- 2.1. **"Business Day"** means any day Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, excluding State of Oregon holidays and business closure days.
- 2.2. **"Calendar Day"** means any day on the Western calendar.
- 2.3. **"Contract"** means any Purchase Order ("PO") or other agreed upon ordering instrument entered into by Contractor and an Authorized Purchaser pursuant to the MSA in combination with these Contract Specific Terms, including all applicable terms incorporated by reference into these Contract Specific Terms.
- 2.4. **"Intellectual Property"** means any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right.

3. Products and Services; Performance Metrics and Service Level Guarantees.

Contractor shall provide to Authorized Purchaser the Products and Services set forth on the Contract. The Contract includes the delivery and payment schedule for the Products and Services. Contractor shall provide the Products and Services according to the terms and conditions of this Contract, including meeting the performance metrics and service level guarantees set forth in Exhibit D-1 (Pictometry Delivered Content Terms and Conditions of Use), Exhibit D-2 (Pictometry Online Services General Terms and Conditions), Exhibit D-3 (Pictometry Software License Agreement), Exhibit D-4 (Pictometry Web Visualization Offering Terms and Conditions) or specifically in this Contract.

4. Compensation, Invoices and Payment.

4.1 Authorized Purchaser will not pay Contractor any amount in excess of the amount set forth in the Contract and will not pay for any Products or Services provided before the Effective Date or after expiration or termination of the Contract.

4.2. Invoices. Contractor shall submit invoices for Products and Services in accordance with the payment schedule set forth in this Contract. Contractor shall submit invoices to Authorized Purchaser at the address specified in this Contract. Contractor shall include the MSA number and applicable Contract number on all invoices. Contractor also shall include a description of the Products and Services to which the invoice relates, applicable pricing, total amount invoiced and the address to which payment is to be remitted.

4.3. Payment. Authorized Purchaser shall pay all undisputed amounts within thirty (30) days following receipt of each invoice determined to be correct following Authorized Purchaser's review under section 4.4. Contractor may assess late payment charges only to the extent permitted by ORS 293.462.

4.4. Invoice Review / Dispute Process. Authorized Purchaser will review each invoice and will either approve payment of the amount invoiced or notify Contractor of any errors or disputed charges. Authorized Purchaser may withhold payment of any amounts that are disputed.

If an error or dispute arises concerning the amount charged in an invoice, Authorized Purchaser will notify Contractor of the disputed charge. Upon notification of dispute, Contractor shall submit to Authorized Purchaser all documentation Authorized Purchaser reasonably requests to substantiate the amount charged.

Authorized Purchaser, in its sole discretion, will determine if the supporting documentation provides sufficient substantiation for the disputed charges. If Authorized Purchaser determines that the supporting documentation is sufficient, Authorized Purchaser will notify Contractor and pay Contractor the amount charged in the invoice. If Authorized Purchaser determines the supporting documentation supports payment of an amount less than originally invoiced, Authorized Purchaser will notify Contractor of the amount Authorized Purchaser believes is due under the invoice, and Authorized Purchaser will pay the invoice in that lesser amount. Contractor reserves the right to challenge any determination by Authorized Purchaser that any portion of an invoiced amount will not be paid or any failure to pay an amount for which no determination is made within sixty (60) Calendar Days.

4.5. Taxes and Other Charges. To the extent that it is not otherwise exempt, Authorized Purchaser will pay any applicable use, excise, value-added, import/export duties or other tax or governmental charges imposed on the Products or Services. Authorized Purchaser will not pay freight, insurance or installation charges or reimburse any other expenses incurred by Contractor during the completion of the Services except as authorized in this Contract. Any such authorized travel expenses must comply with the Oregon Travel Policy available on the Internet at: <http://www.oregon.gov/das/cfo/sars/policies/oam/40.10.00.pdf>

4.6. Funds Available and Authorized. Contractor will not be compensated for Products or Services pursuant to this Contract by any other agency or department of the State of Oregon other than the Authorized Purchaser entering into this Contract. Authorized Purchaser believes it has sufficient funds currently available and authorized for expenditure to make payments required pursuant to this Contract within Authorized Purchaser's biennial appropriation or limitation. Contractor understands and agrees that Authorized Purchaser's payments under this Contract are contingent on Authorized Purchaser receiving appropriations, limitations, or other expenditure authority sufficient to allow Authorized Purchaser, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract. Nothing in this Contract is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Agency represents that it has sufficient appropriations and limitation for the current biennium to make payments under this Contract.

5. Performance, Delivery and Acceptance.

5.1. Responsibilities of Contractor. Contractor shall provide the Products and Services required to be delivered pursuant to this Contract and meet the specifications set forth in the descriptions on Exhibit A. Contractor shall cooperate with Authorized Purchaser and its designated third parties by providing access to and information regarding the Products and Services and their use.

5.2. Delivery and Review of Deliverables. Unless otherwise agreed in writing, within ten (10) Business Days following Contractor providing Authorized Purchaser with access to Authorized Purchaser's Products and Services required to be delivered pursuant to this Contract, Authorized Purchaser will review the Products and Services to determine whether they meet the Contract requirements. If Authorized Purchaser determines that the Products or Services meet the Contract requirements, Authorized Purchaser will notify Contractor of Authorized Purchaser's acceptance.

If Authorized Purchaser determines that any of Products or the Services, do not meet the Contract requirements, Authorized Purchaser will notify Contractor of Authorized Purchaser's determination and indicate Authorized Purchaser's rejection of such Products or Services. Within ten (10) Business Days following Contractor's receipt of Authorized Purchaser's rejection notice, Contractor shall determine whether such rejection is valid and, if so, indicate a course of action through which Contractor proposes to correct any deficiencies at Contractor's sole expense and the timetable for such corrective action. Authorized Purchaser will thereafter review of the revised Products or Services and notify Contractor of Authorized Purchaser's acceptance or rejection within a ten (10) Business Days following Authorized Purchaser's receipt of Contractor's revised Products or Services. This process is an iterative process. Notwithstanding anything else in this contract to the contrary, until Authorized Purchaser has accepted the Products and Services provided, Authorized Purchaser shall make no use of such Products or Services other than for evaluation to determine acceptance or rejection.

Contractor's failure to deliver Products or Services that meet the specifications set forth in the descriptions on Exhibit A after Authorized Purchaser's second review may constitute a default by Contractor, if Authorized Purchaser chooses not to allow Contractor any further attempts to revise the Products or Services. Upon such default, Contractor shall refund to Authorized Purchaser all amounts previously paid by Authorized Purchaser for the Products or Services.

5.3. Responsibilities of Authorized Purchaser. If this Contract requires Authorized Purchaser to provide any information or resources, and Authorized Purchaser fails to provide the requisite quality or quantity of such resources, or fails to provide such resources in a timely manner for a period that does not exceed ten (10) Calendar Days, Contractor's sole remedy is an extension of the applicable delivery dates resulting from such delay. If Authorized Purchaser's failure to provide such resources exceeds ten (10) Calendar Days, and Contractor can show to the reasonable satisfaction of Authorized Purchaser, that Authorized Purchaser's failure has resulted in an unavoidable delay or increase in the cost of providing the Products or Services in accordance with the original schedule, then Contractor will be entitled to recover from Authorized Purchaser the reasonable amount of such increased costs. Contractor's right to delay applicable delivery dates or recover for increased costs may be exercised only if Contractor provides Authorized Purchaser with reasonable notice of Authorized Purchaser's failure and Contractor uses commercially reasonable efforts to perform notwithstanding Authorized Purchaser's failure to perform.

6. Subcontracts; Successors and Assigns.

6.1. Subcontracts. Contractor shall not enter into any subcontracts for any of the Services required by this Contract without Authorized Purchaser's prior written consent.

6.2. Successors and Assigns. Contractor shall not assign or transfer any of its interest in this Contract without Authorized Purchaser's prior written consent, provided, however, that this provision does not apply to assignments or transfers of Contractor's entire interest in this Contract to any entity owning, owned by, or under common control with Contractor. This Contract is binding upon and shall inure to the benefit of Authorized Purchaser and Contractor, and their respective successors and permitted assigns.

6.3. Cooperation. Contractor understands and agrees that, as part of this Contract, Contractor may be required to work with other Authorized Purchaser contractors who may be working on this or similar projects. Authorized Purchaser and Contractor acknowledge and agree that this cooperation is essential to the mutual goal of both parties for accurate and valuable use by Authorized Purchaser. Contractor shall create and maintain a cooperative working relationship between and among Authorized Purchaser and other entities and their respective representatives involved in representing Authorized Purchaser's priorities at the federal and statewide levels, to further the interests of Authorized Purchaser to result in the

Services begin successfully completed on time and within budget; provided however, that nothing in this obligation of cooperation requires Contractor to disclose or allow disclosure of Contractor's trade secrets to third parties or to grant licenses or otherwise allow third parties to utilize Contractor's Intellectual Property in a manner that Contractor determines, in its sole discretion, to be contrary to Contractor's interests.

In the event of a conflict between contractors who must cooperate, contractors shall notify the Authorized Purchaser's contract administrator to seek a mutually acceptable resolution.

6.4. Authorized Purchaser Facilities and Networks; Access and Security.

Authorized Purchaser shall permit Contractor and Contractor personnel access to Authorized Purchaser facilities and networks, provided Contractor and Contractor personnel comply with all Authorized Purchaser security and access policies, rules, procedures, and regulations for access to Authorized Purchaser's facilities and networks.

7. Confidentiality / Non-Disclosure.

7.1. Confidential Information. Each party acknowledges that it and its employees or agents may, in the course of performing its responsibilities under this Contract, be exposed to or acquire information that is confidential to the other party or the other party's clients. Any and all information of any form obtained by one party or its employees or agents in the performance of this Contract is confidential information of the other party ("Confidential Information"). The parties shall treat any reports or other documents or items (including software) which result from the use of the Confidential Information by the recipient of such information with respect to confidentiality in the same manner as the Confidential Information. Confidential Information does not include information that (i) is or becomes (other than by disclosure by the party acquiring such information) publicly known or is contained in a publicly available document; (ii) is furnished by the party disclosing such information to others without restrictions similar to those imposed by this Contract; (iii) is rightfully in the receiving party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (iv) is obtained from a source other than the discloser without the obligation of confidentiality, (v) is disclosed with the written consent of the disclosing party, or; (vi) is independently developed by employees or agents of the receiving party who can be shown to have had no access to the Confidential Information.

7.2. Duties of Care. The recipient of Confidential Information shall hold Confidential Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own Confidential Information, and the recipient shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than required by law or otherwise as contemplated by this Contract or reasonably related thereto, including without limitation the use by Authorized Purchaser contractors who need to access

or use the Confidential Information for any valid business purpose, and to advise each of its employees and contractors of their obligations to keep Confidential Information confidential.

7.3. Prevention of Unauthorized Use or Disclosure. Each party shall use commercially reasonable efforts to assist the other in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, each party shall advise the other immediately in the event it learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will at its expense cooperate with the other in seeking injunctive or other equitable relief in the name of the other against any such person.

7.4. Non-disclosure. Each party agrees that, except as provided in this Contract or directed by the other, it will not at any time during or after the term of this Contract disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Contract each party will turn over to the other all documents, papers and other matter in its possession which embody Confidential Information.

7.5. Public Records Laws. Authorized Purchaser's obligations of confidentiality, if any, are subject to the Oregon Public Records Laws, ORS 192.410 through ORS 192.505 and the Oregon Custody and Maintenance of Records Laws, ORS 192.005 through 192.170.

7.6. Injunctive Relief and Other Remedies. Each party acknowledges that breach of this section 7, including disclosure of any Confidential Information may give rise to irreparable injury which may be inadequately compensable in damages. Accordingly, each party may seek injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Each party acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the other and are reasonable in scope and content.

7.7. Publicity. Contractor agrees that it will not, without the prior written consent of Authorized Purchaser, disclose the form, content or existence of this Contract or any Deliverable in any advertising, press releases or other materials distributed to prospective customers, or otherwise attempt to obtain publicity from its association with Authorized Purchaser or the State of Oregon, to the extent such action implies an endorsement by Authorized Purchaser or the State of Oregon of Contractor's Products or Services.

8. Independent Contractor; Taxes and Withholding.

8.1. Contractor shall perform all Services as an independent contractor. Although Authorized Purchaser reserves the right to determine the delivery schedule for the Services to be performed and evaluate the quality of the completed performance,

Authorized Purchaser cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Services.

8.2. If Contractor is currently performing services for the State of Oregon or the federal government, Contractor, by signing this Contract, declares and certifies that:

8.2.1. Contractor's delivery of Services creates no potential or actual conflict of interest as defined by ORS 244;

8.2.2. No rules or regulations of Contractor's employing agency (state or federal) would prohibit Contractor's Services under this Contract;

8.2.3. If applicable, Contractor meets the specific independent contractor standards of ORS 670.600; and

8.2.4. Contractor is not an "officer," "employee," or "agent" of Authorized Purchaser as those terms are used in ORS 30.265.

8.3. Contractor is responsible for all federal or state taxes applicable to compensation or payments to Contractor under this Contract and, unless Contractor is subject to backup withholding, Authorized Purchaser will not withhold from such compensation or payments any amounts to cover Contractor's federal or state tax obligations. Contractor is not eligible for any Social Security, unemployment insurance or workers' compensation benefits from compensation or payments to Contractor under this Contract, except as a self-employed individual.

9. Representations and Warranties.

9.1. Contractor's General Representations and Warranties. Contractor represents and warrants to Authorized Purchaser that:

9.1.1. Contractor is not an "officer," "employee," or "agent" of DAS or Authorized Purchaser, as those terms are used in ORS 30.265;

9.1.2. Contractor fully understands and will perform its obligations under this Contract and will not make any claims for, or have any rights to relief based on its claim that it misunderstood the terms of this Contract, or lacked information related to its required performance under this Contract;

9.1.3. Contractor is qualified to do business in the State of Oregon and will remain qualified throughout the Contract term;

9.1.4. Contractor is not in arrears in the payment of any monies due and owing the State of Oregon, or any department or agency thereof, including but not limited to the payment of taxes and employee benefits, and will not become so during the Contract term;

9.1.5. Contractor will comply with all federal, state, and local laws, ordinances, rules, and regulations applicable to its performance under this Contract.

9.1.6. Contractor is not in violation of, charged with nor, to the best of Contractor's knowledge, under any investigation with respect to violation of, any provision of any federal, state or local law, ordinance or regulation or any other requirement or order of any governmental or regulatory body or court or arbitrator applicable to provision of the Services, and Contractor's provision of the Services shall not violate any such law, ordinance, regulation or order;

9.1.7. Contractor's performance under this Contract to the best of Contractor's knowledge creates no potential or actual conflict of interest, as defined by ORS 244, for either Contractor or any Contractor personnel that will perform the Services under this Contract;

9.1.8. Contractor represents and warrants that with respect to Contractor's employees providing services under this Contract, Contractor withholds applicable income taxes from the pay of such employees; Contractor pays workers' compensation insurance premiums arising from the employment of such employees; Contractor makes all other applicable tax and related payments arising from that employment (including without limitation social security tax payments); and that Contractor provides employee benefits to its employees, including without limitation health insurance benefits, vacation benefits, and retirement benefits;

9.1.9. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six (6) calendar years preceding the Effective Date of this Contract, Contractor faithfully has complied with:

- All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
- Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
- Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions;

9.1.10. Contractor possesses and will maintain at its own expense all required licenses, certifications and permits necessary to deliver Services under this Contract;

9.1.11. Contractor has the power and authority to enter into and perform this Contract;

9.1.12. This Contract, when executed and delivered, is a valid and binding obligation of Contractor enforceable in accordance with its terms;

9.1.13. Contractor has the skill and knowledge possessed by well-informed members of its trade or profession and Contractor will apply that skill and knowledge with care and diligence so Contractor and Contractor's employees and any authorized subcontractors perform the Services described in this Contract according to the highest standards prevalent in the industry or business most closely involved in providing the Services that Contractor is providing to Authorized Purchaser pursuant to this Contract;

9.1.14. The Products or Services provided by Contractor to Authorized Purchaser pursuant to this Contract will materially comply with any service descriptions, specifications, standards or requirements set forth in this Contract; and

9.1.15 Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Services.

9.2. Contractor's Representations and Warranties. Contractor represents and warrants to Authorized Purchaser that:

9.2.1. Contractor has the right and authority to grant to Authorized Purchaser the licenses specified in section 10, without violating any rights of any third party.

9.2.2. The Products and Services are free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the software, collect unlawful personally identifiable information on users, or prevent the software from performing as required under the terms and conditions of this MSA or a Contract. Notwithstanding the foregoing, this representation and warranty does not include a disabling device that limits, suspends or ends use of the Products or Services expressly permitted by the terms and conditions by the license under which it was provided; and

9.2.3. When used as authorized by this Contract, no Product or Service infringes, nor will Authorized Purchaser's use of such Product or Service infringe any copyright, patent, trade secret or other proprietary right of any third party.

9.3. Warranties Cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

10. Ownership, Use and License Terms.

10.1. Contractor Intellectual Property. Contractor and its licensors retain ownership of all Intellectual Property rights in the Product and Services made available pursuant to this Contract. Contractor provides Authorized Purchaser the right to use the products in accordance with the applicable respective License Terms.

10.2. No Rights in Intellectual Property or Marks. Except as expressly set forth in this Contract, neither party grants the other any right, title, or interest in any intellectual property that a party now owns or subsequently owns or the right to use its trademarks, trade names, service marks or other designations in any promotion or publication without prior written consent. Each party grants only the licenses and rights specified in this Contract.

11. Indemnity.

11.1. CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS AND INDEMNIFY AUTHORIZED PURCHASER AND THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AND EMPLOYEES FROM AND AGAINST ALL THIRD PARTY CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, STATUTORY PENALTIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTS OR OMISSIONS OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS CONTRACT, INCLUDING (I) ANY CLAIM THAT CONTRACTOR, A SUBCONTRACTOR, OR A CONTRACTOR EMPLOYEE OR A SUBCONTRACTOR'S EMPLOYEE ARE EMPLOYEES OF THE STATE OR AUTHORIZED PURCHASER FOR ANY REASON, AND (II) ANY CLAIM AGAINST THE STATE OR AUTHORIZED PURCHASER WHICH, IF TRUE, WOULD CONSTITUTE A BREACH BY CONTRACTOR OF ANY OF THE REPRESENTATIONS, WARRANTIES, OR COVENANTS SET FORTH IN THIS CONTRACT.

11.2. IN ADDITION, CONTRACTOR, AT ITS OWN EXPENSE, SHALL DEFEND, SAVE, HOLD HARMLESS AND INDEMNIFY AUTHORIZED PURCHASER AND THE STATE OF OREGON, AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY THIRD PARTY CLAIM, DEMAND, CAUSE OF ACTION, DEBT, LIABILITY, STATUTORY PENALTIES, OR EXPENSE, INCLUDING REASONABLE ATTORNEYS' FEES, TO THE EXTENT THAT IT IS:

11.2.1. ARISING OUT OF THE FURNISHING OR PERFORMANCE OF THE CONTRACTOR'S INTELLECTUAL PROPERTY OR THIRD PARTY INTELLECTUAL PROPERTY, OR BOTH; OR

11.2.3. BASED UPON A CLAIM THAT EITHER THE CONTRACTOR'S INTELLECTUAL PROPERTY OR THIRD PARTY INTELLECTUAL PROPERTY, PROVIDED BY CONTRACTOR OR BOTH, USED HEREUNDER INFRINGES OR VIOLATES ANY PATENTS, COPYRIGHTS, TRADE SECRETS, LICENSES OR OTHER PROPERTY RIGHTS OF ANY THIRD PARTY.

11.3. THE OREGON ATTORNEY GENERAL MUST GIVE WRITTEN AUTHORIZATION TO ANY LEGAL COUNSEL PURPORTING TO ACT IN THE NAME OF, OR REPRESENT THE INTEREST OF, THE STATE OR ITS OFFICERS, EMPLOYEES AND AGENTS PRIOR TO SUCH ACTION OR REPRESENTATION.

FURTHER, THE STATE, ACTING BY AND THROUGH ITS DEPARTMENT OF JUSTICE, MAY ASSUME ITS OWN DEFENSE, INCLUDING THAT OF ITS OFFICERS, EMPLOYEES AND AGENTS, AT ANY TIME WHEN IN THE STATE'S SOLE DISCRETION IT DETERMINES THAT:

11.3.1. PROPOSED COUNSEL IS PROHIBITED FROM THE PARTICULAR REPRESENTATION CONTEMPLATED;

11.3.2. COUNSEL IS NOT ADEQUATELY DEFENDING OR ABLE TO DEFEND THE INTERESTS OF THE STATE, ITS OFFICERS, EMPLOYEES AND AGENTS;

11.3.3. IMPORTANT GOVERNMENTAL INTERESTS ARE AT STAKE; OR

11.3.4. THE BEST INTERESTS OF THE STATE ARE SERVED THEREBY.

CONTRACTOR'S OBLIGATION TO PAY FOR ALL COSTS AND EXPENSES INCLUDE THOSE INCURRED BY THE STATE IN ASSUMING ITS OWN DEFENSE AND THAT OF ITS OFFICERS, EMPLOYEES, OR AGENTS.

11.4. Authorized Purchaser Indemnity. Authorized Purchaser's liabilities or obligations to indemnify Contractor, if any, are subject to the provisions of Article XI, Section 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 to 30.300), as applicable.

12. ASSIGNMENT OF ANTITRUST RIGHTS. CONTRACTOR IRREVOCABLY ASSIGNS TO AUTHORIZED PURCHASER ANY CLAIM FOR RELIEF OR CAUSE OF ACTION WHICH THE CONTRACTOR NOW HAS OR WHICH MAY ACCRUE TO THE CONTRACTOR IN THE FUTURE BY REASON OF ANY VIOLATION OF 15 U.S.C. § 1-15 OR ORS 646.725 OR ORS 646.730, IN CONNECTION WITH ANY GOODS OR SERVICES PROVIDED TO THE CONTRACTOR FOR THE PURPOSE OF CARRYING OUT THE CONTRACTOR'S OBLIGATIONS UNDER THIS CONTRACT, INCLUDING, AT AUTHORIZED PURCHASER'S OPTION, THE RIGHT TO CONTROL ANY SUCH LITIGATION ON SUCH CLAIM OR RELIEF OR CAUSE OF ACTION. CONTRACTOR SHALL REQUIRE ANY SUBCONTRACTORS HIRED TO PERFORM ANY OF CONTRACTOR'S DUTIES UNDER THIS AGREEMENT TO IRREVOCABLY ASSIGN TO AUTHORIZED PURCHASER, AS THIRD PARTY BENEFICIARY, ANY RIGHT, TITLE OR INTEREST THAT HAS ACCRUED OR WHICH MAY ACCRUE IN THE FUTURE BY REASON OF ANY VIOLATION OF 15 U.S.C. § 1-15 OR ORS 646.725 OR ORS 646.730, IN CONNECTION WITH ANY GOODS OR SERVICES PROVIDED TO THE SUBCONTRACTOR FOR THE PURPOSE OF CARRYING OUT THE SUBCONTRACTOR'S OBLIGATIONS TO THE CONTRACTOR IN PURSUANCE OF THIS CONTRACT, INCLUDING, AT AUTHORIZED PURCHASER'S OPTION, THE RIGHT TO CONTROL ANY SUCH LITIGATION ON SUCH CLAIM OR RELIEF OR CAUSE OF ACTION.

13. Suspension; Termination.

13.1. Authorized Purchaser's Right to Suspend Performance. Authorized Purchaser may, at its sole discretion, suspend Contractor's Services under this Contract, upon written notice by Authorized Purchaser to Contractor, setting forth the length of the proposed suspension.

13.1.1 Stop-Work Notice. Authorized Purchaser may, at any time, by written notice to Contractor, require Contractor to stop all or any part of the work required by this Contract for a period of up to ninety (90) Calendar Days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, Contractor shall immediately comply with the Stop-Work Notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the Stop Work Notice. Within a period of ninety (90) Calendar Days after issuance of the written notice, or within any extension of that period to which the parties have agreed, Authorized Purchaser will either:

- Cancel or modify the Stop Work Notice by a supplementary written notice; or
- Terminate the work as permitted by either the Default or the Convenience provisions of section 14, Termination.

If the Stop Work Notice is canceled, Authorized Purchaser may, after receiving and evaluating a request from Contractor, make an adjustment in the time required to complete this Contract and the Contract price by a duly executed amendment, inclusive of any ramp-up time required to for Contractor to resume Services.

13.2. Parties' Right to Terminate for Mutual Consent. This Contract may be terminated at any time by mutual written consent of the parties.

13.3. Authorized Purchaser's Right to Terminate for Convenience. Authorized Purchaser may, at its sole discretion, terminate this Contract, in whole or in part, upon thirty (30) Calendar Days written notice to Contractor.

13.4. Authorized Purchaser's Right to Terminate for Cause. Authorized Purchaser may terminate this Contract, immediately upon notice to Contractor, or at such later date as Authorized Purchaser may establish in such notice, upon the occurrence of any of the following events:

13.4.1. If Authorized Purchaser's funding from revenue sources is not obtained and continued at levels sufficient to allow for compensation for the Products or Services or both, in Authorized Purchaser's sole administrative discretion, this Contract may be terminated or modified to accommodate a reduction in funds;

13.4.2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the Services is no longer allowable or appropriate for purchase under this Contract;

13.4.3. If any license or certificate required by law or regulations to be held by the Contractor to provide the Services required by this Contract is for any reason denied, revoked, or not renewed;

13.4.4. If the Authorized Purchaser discovers that Contractor is in default for the payment of taxes or any other amount owed to a government entity; or

13.4.5. Contractor fails to perform the Services under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Services as to endanger Contractor's performance under this Contract according to its terms, and such breach, default or failure is not cured within ten (10) Calendar Days after delivery of Authorized Purchaser's notice, or such longer period as Authorized Purchaser may specify in such notice.

13.5. Contractor's Right to Terminate for Cause. Contractor may terminate this Contract if Authorized Purchaser commits any material breach or default of any covenant, obligation or agreement under this Contract and Authorized Purchaser fails to cure the breach or default within thirty (30) Calendar Days after receipt of Contractor's written notice or such longer period of cure as Contractor may specify in such notice. Contractor shall state in the written notice of breach or default the termination date for Authorized Purchaser's failure to cure, which must not be less than thirty (30) Calendar Days following Authorized Purchaser's failure to cure.

13.6. Contractor's Obligation Upon Termination. Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract unless Authorized Purchaser expressly directs otherwise in the notice of termination.

14. Contract Breach. Before a party can be found in breach of this Contract, the other party shall first deliver a notice of default to the other party. The notice must describe the specific nature of the default, cite the specific provisions of this Contract that have been defaulted, indicate whether the default can be cured, and specify the time period in which the default must be cured, if cure is permitted.

14.1. Default by Contractor. Contractor violates or is in default of this Contract if:

14.1.1. Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;

14.1.2, Contractor no longer holds a license or certificate that is required for Contractor to perform Contractor's obligations under this Contract; or

14.1.3. Contractor defaults any covenant, warranty, obligation or certification under this Contract, provided however that Contractor may cure the defaults within the period specified in Authorized Purchaser's notice of default when Authorized Purchaser determines the default is curable by Contractor.

14.2. Default by Authorized Purchaser. Authorized Purchaser violates or is in default of this Contract if:

14.2.1. Authorized Purchaser fails to pay Contractor any amount as required under this Contract, and Authorized Purchaser does not cure such failure to pay within thirty (30) Calendar Days after delivery of Contractor's notice of default or such longer period as Contractor may specify in such notice; or

14.2.2. Authorized Purchaser defaults any covenant, warranty, or obligation under this Contract and such default is not cured within thirty (30) Calendar Days after delivery of Contractor's notice of breach or such longer period as Contractor may specify in such notice.

15. Remedies for Default.

15.1. If this Contract is terminated pursuant to section 13.2, 13.3, 13.4.1, 13.4.2, 13.4.3 or 13.5, Contractor's sole remedy shall be a claim for the price of Products or Services provided to Authorized Purchaser and for the costs incurred in preparing Products and Services not yet provided to Authorized Purchaser, less previous amounts paid to Contractor for such Products and Services and any claims which Authorized Purchaser has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this Subsection, Contractor shall immediately pay any excess to Authorized Purchaser upon demand.

15.2. If this Contract is terminated pursuant to section 13.4.4 or 13.4.5, Authorized Purchaser shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under section 13.4.4 or 13.4.5, the rights and obligations of the parties shall be the same as if this Contract was terminated pursuant to section 13.3.

16. Compliance with Applicable Law.

16.1. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Contract and the Products and Services provided hereunder.

16.2. Authorized Purchaser's performance under this Contract is conditioned upon Contractor's compliance with the obligations intended for contractors under ORS 279B.220, 279B.225 (if applicable to this Contract), 279B.230 and 279B.235 (if applicable to this Contract), which are incorporated into this Contract by reference. Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

17. Contractor's Compliance with Tax Laws.

17.1. Contractor shall, throughout the term of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this section, "tax laws" includes all the provisions described in subsection 9.1.9 of this Contract.

17.2. Any violation of subsection 17.1 of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty, in subsection 9.1.9 of this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle Authorized Purchaser to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

17.2.1. Termination of this Contract, in whole or in part;

17.2.2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State's setoff right, without penalty; and

17.2.3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. Authorized Purchaser shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Products or Services, a replacement contractor, or any of the above.

These remedies are cumulative to the extent the remedies are not inconsistent, and Authorized Purchaser may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

18. Governing Law. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this MSA, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

19. Claim Venue and Consent to Jurisdiction

19.1. State Agency Venue and Consent to Jurisdiction. Any claim, action, suit or proceeding (collectively, "Claim") between DAS, Authorized Agency or any other agency or department of the State of Oregon that is an ORCPP Member, and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, that if a Claim must be brought in a federal forum, then it shall be brought and adjudicated solely and exclusively within the

United States District Court for the District of Oregon. **CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURT(S).** In no event may this section be construed as (i) a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any claim, or (ii) consent by the State of Oregon to the jurisdiction of any court.

19.2. ORCPP Member Venue and Consent to Jurisdiction. Any Claims between Contractor and an ORCPP Member other than an agency of the State of Oregon that arise from or relate to this Contract order shall be brought and conducted solely and exclusively within the Circuit Court of the county in which such ORCPP Authorized Purchaser resides, or at the ORCPP Authorized Purchaser's option, within such other county as the ORCPP Authorized Purchaser is entitled under the laws of the relevant jurisdiction to bring or defend Claims. If any such Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District in which such ORCPP Authorized Purchaser resides. **CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.** Nothing herein shall be construed as a waiver of ORCPP Authorized Purchaser's sovereign or governmental immunity, if any, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or consent to jurisdiction based thereon.

20. Records Maintenance; Access. Contractor shall maintain all fiscal records relating to this Contract and Contractor's performance hereunder, according to Generally Accepted Accounting Principles. In addition, Contractor shall maintain all other records relating to this Contract in such a manner as to clearly document Contractor's performance of its duties under this Contract. Contractor acknowledges and agrees that Authorized Purchaser and the Oregon Secretary of State's Office, the Oregon Department of Revenue, the Oregon Department of Justice and their duly authorized representatives shall have access to such records and other books, documents, papers, plans and writings of Contractor relating to this Contract to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all fiscal and other records relating to this Contract, including books, documents, papers, plans, and writings, for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination or expiration of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

21. Intended Beneficiaries. Authorized Purchaser and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or will be construed to give or provide, any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third

persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract. DAS and GEO are intended beneficiaries of the terms of this Contract.

22. Foreign Contractor. If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporation Division, all information required by those agencies related to this Contract.

23. Force Majeure. Neither Authorized Purchaser nor Contractor will be responsible for delay or default caused by fire, riot, acts of God, terrorism, war or any other like cause which is beyond the party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract. Authorized Purchaser may terminate this Contract upon written notice to Contractor after it determines that such delay or default will likely prevent successful performance of this Contract.

24. Survival. All Contract terms, which by their context are intended to survive contract termination or expiration, shall survive, as well as the following sections: Part 1: 3, 6, 7, 9, 11, 12, 13, 14, 15, and Part 2: 3, 4.5, 7, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, and 26.

25. Time is of the Essence. Contractor agrees that time is of the essence for delivering Services under this Contract.

26. Notice. Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder must be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or Authorized Purchaser at the email address, postal address or telephone number set forth in this Contract, or to such other addresses or numbers as either party may indicate pursuant to this section 26. Any communication or notice so addressed and mailed is effective five (5) Business Days after mailing. Any communication or notice delivered by facsimile is effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against Authorized Purchaser, any notice transmitted by facsimile must be confirmed by telephone notice to Authorized Purchaser's Contract Administrator. Any communication or notice given by personal delivery is effective when actually delivered. Any notice given by email is effective when the sender receives confirmation of delivery, either by return email, or by demonstrating through other technological means that the email has been delivered to the intended email address.

27. Severability. The parties agree that if any term of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms is not be affected, and the rights and obligations of the parties are

construed and enforced as if this Contract did not contain the particular term held to be invalid.

28. Counterparts. This Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Contract so executed shall constitute an original.

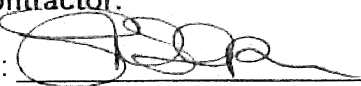
29. Amendment. This Contract may be amended, modified, or supplemented only by a written amendment signed by Authorized Purchaser and Contractor. Any amendment that provides for additional Products or Services, goods or other services may only provide for Products or Services directly related to the scope of Products and Services in the Special Procurement, and no amendment will be effective until all requisite signatures and approvals are obtained.

30. Integration; Waiver. This Contract, including incorporated exhibits, constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification or change to the terms of this Contract shall bind either party unless in writing and signed by all parties and all approvals required by law have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Authorized Purchaser to enforce any provision of this Contract shall not constitute a waiver by Authorized Purchaser of that or any other provision.

31. Reporting. Authorized Purchasers who are state agencies are responsible for reporting this Contract to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing the Contractor's compensation under this Contract or (ii) exercising a right of setoff against Contractor's compensation under this Contract for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

Authorized Signatures:

Contractor:

By: 

Title: CORPORATE VICE PRESIDENT

Date: JUNE 30, 2017

The State of Oregon acting by and through its Department of Administrative Services

By: *Larry Beckett*

Title: *Procurement Services Manager* Date: *6/30/17*

Approved pursuant to ORS 291.047 – see file for email approval

Oregon Department of Justice

By: *Karen Johnson* Date: June 29, 2017
Assistant Attorney General

**EXHIBIT A
to Master Agreement #7539**

Description of Products and Services; Pricing

*****PLEASE SEE ATTACHED PRODUCT DESCRIPTION AND PRICING*****

**Exhibit B
to Master Agreement #7539**

Purchase Order Form

******PLEASE SEE ATTACHED PURCHASE ORDER FORM******

Exhibit C to Master Agreement #7539

DAS Volume Sales Report Template - Data Requirement, Format and Layout

State of Oregon

Volume Sales Report required by State of Oregon
v2.0.0000 6/26/2017

Volume Sales Report Summary Header	
Fields	Data
Price Agreement Number	0000
Vendor Name	PLEASE UPDATE
Reporting Period	(Please Update)
Total Extended Sales	(Please Update)
VCAF Rate or Structure	PLEASE UPDATE PLEASE UPDATE
Total VCAF Due	(Please Update)
Form of Payment	(Please Update)
Type of Report (original, corrective)	Original
Vendor contact E-mail	PLEASE UPDATE
Vendor Contact Phone	PLEASE UPDATE
Comments	Please send this report to VCA@Reporti

Authorized Purchaser	Bill to Street Address	Bill to City	Bill to State	Bill to Zip Code	Customer Provided PO Number	Invoice Number	Order Date	Invoice Date	Service Termination Date	Product/Service Description	Product/Service Category	Vendor Collected Administration Fee	Price Agreement Price	Quantity	Total Price

**Exhibit D
to Master Agreement #7539**

Contractor License/Subscription Agreement

**Exhibit D-1: PICTOMETRY DELIVERED CONTENT
TERMS AND CONDITIONS OF USE**

**Exhibit D-2: PICTOMETRY ONLINE SERVICES
GENERAL TERMS AND CONDITIONS**

Exhibit D-3: PICTOMETRY SOFTWARE LICENSE AGREEMENT

**Exhibit D-4: PICTOMETRY WEB VISUALIZATION OFFERING TERMS AND
CONDITIONS**

The attached Exhibit D-1 (Pictometry Delivered Content Terms and Conditions of Use), Exhibit D-2 (Pictometry Online Services General Terms and Conditions), Exhibit D-3 (Pictometry Software License Agreement) and Exhibit D-4 (Pictometry Web Visualization Offering Terms and Conditions) are incorporated herein by this reference and made a part of this MSA. To the extent there is a conflict in any of the terms and conditions in any of the attached Exhibits D-1, D-2, D-3, D-4 and this MSA, the terms and conditions of the MSA control.