

**INTERLOCAL AGREEMENT BETWEEN
WILLIAMSON COUNTY, TEXAS AND
THE WILLIAMSON CENTRAL APPRAISAL DISTRICT
REGARDING THE 2008-2009 PICTOMETRY AERIAL PHOTO PROJECT**

This Interlocal Agreement ("Agreement") is made by and between Williamson County, Texas, a Political Subdivision of the State of Texas (the "County") and the Williamson Central Appraisal District, (the "WCAD"), both acting by and through their duly authorized representatives.

WITNESSETH:

WHEREAS, the County and the WCAD are authorized to enter into this Agreement pursuant to the provisions of the Interlocal Cooperation Act, Texas Government Code Section 791.00 et seq;

WHEREAS, the County entered into that certain agreement with Pictometry International, Corp. ("Pictometry") known as the Pictometry International Corp. General License Terms and Conditions wherein the County received a license to use Pictometry's aerial image software and data (the "Pictometry Agreement"). A copy of the form of the Pictometry Agreement is attached hereto and incorporated herein as Exhibit "A";

WHEREAS, the WCAD currently has a need for such services and goods and would like to enter into this Agreement whereby the WCAD would be able to use Pictometry's aerial image software and data strictly in accordance with the terms and conditions of the Pictometry Agreement;

WHEREAS, the County is willing to agree, only to the extent authorized by Pictometry and the Pictometry Agreement, to allow the WCAD to use Pictometry's aerial image software and data in exchange for a payment of contribution to the County;

NOW, THEREFORE, the County and the WCAD agree as follows:

I. OBLIGATIONS AND AGREEMENTS OF THE COUNTY

- A. Only to the extent authorized by Pictometry and only in strict accordance with the terms and conditions set forth in the Pictometry Agreement, the County will allow the WCAD, as a "Subdivision," to use the Licensed Products described in the Pictometry Agreement as an "Authorized User," as the terms "Subdivision" and "Authorized User" are defined in Section 3.3 and 6.1 of the Pictometry Agreement. County represents and warrants to WCAD that it has notified Pictometry of the addition of WCAD as an "Authorized User" pursuant to the requirements of Section 6.3 of the Pictometry Agreement, and that Pictometry has approved such use by WCAD.
- B. The County will be considered as the Licensed Agency for Pictometry's aerial image software and data, and will therefore handle all dealings with Pictometry except as provided

RECEIVED

AUG 01 2008

WILLIAMSON CAD

in Paragraph I. D. below. Updates, bug-fixes and general support issues shall be forwarded to the County so that the County can communicate such issues to Pictometry. Training sessions will be conducted for a maximum of 2 parties from the WCAD.

- C. The County will not be obligated to provide any support or services to the WCAD's end-users or any other services that are not specifically set forth herein.
- D. The County acknowledges and agrees that WCAD reserves the right to contact Pictometry regarding integration of the Pictometry aerial images with WCAD's third party computer assisted mass appraisal (CAMA) software.

II. OBLIGATIONS AND AGREEMENTS OF THE WCAD

- A. The WCAD accepts and approves, as to both form and substance, each term and condition of the Pictometry Agreement, except as provided in Paragraph II.B. below, and hereby acknowledges that it understands that the County may allow the WCAD to use the Licensed Products described in the Pictometry Agreement only to the extent authorized by Pictometry and only in strict accordance with the terms and conditions set forth in the Pictometry Agreement.
- B. The WCAD does hereby agree to be bound by, and to assume and comply with each and all of the terms, covenants and conditions of the Pictometry Agreement (as defined in the Pictometry Agreement) in the same manner and to the same extent as if it were a party thereto, except that the WCAD shall not be bound by, assume, or be required to comply with the County's financial obligations to Pictometry under the Pictometry Agreement. The WCAD's obligation to comply with the confidentiality provisions of the Pictometry Agreement shall be subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
- C. The WCAD acknowledges and agrees that Pictometry and the County may amend all or any portion of the Pictometry Agreement, as set forth therein, and the WCAD hereby agrees to be bound by any such amendment, subject to the WCAD being given prior notice of the amendment and the WCAD's right to terminate this Agreement as provided herein. The County shall give the WCAD reasonable notice prior to the effective date of any such amendment and, if such amendment is adverse to the WCAD, the WCAD may, within thirty (30) days of receiving such notice from the County, terminate its further participation in this Agreement by giving prior written notice to the County. In the event of such termination, the terms set forth under Section III below and the terms of the Pictometry Agreement shall control.

- D. The WCAD shall pay the County \$16,948.00 per year for two years (\$33,896.00 in total) (the "Annual Payment") in exchange for the right to use Pictometry's aerial image software and data and to participate in the Project. The first payment shall be due immediately upon execution of this Agreement and the second payment shall thereafter be due upon the first anniversary of this Agreement. The payment by WCAD shall be from current revenues or other lawful funding sources. In the event of termination of this Agreement, the WCAD shall be reimbursed a pro-rata share of the Annual Payment within thirty days of the date of termination. The pro-rata share of the Annual Payment shall be calculated by multiplying \$46.43 by the number of days between the termination date and the subsequent anniversary of the Agreement.
- E. **THE WCAD AGREES AND ACKNOWLEDGES THAT THE COUNTY SHALL NOT BE LIABLE FOR ANY AND ALL CLAIMS THAT WCAD MAY HAVE NOW OR IN THE FUTURE AGAINST PICTOMETRY ON THE BASIS OF BREACH OF CONTRACT, CONSTRUCTIVE FRAUD, FRAUD, BREACH OF WARRANTY OF ANY KIND, INCIDENTAL AND CONSEQUENTIAL DAMAGES, LOSS OF USE, REPLACEMENT COSTS, REPAIR COSTS, LOSS OF VALUE, LOSS OF REVENUE, LOSS OF DATA OR EQUIPMENT, COST OF RECOVERING SOFTWARE, DATA, OR MATERIALS, THE COST OF SUBSTITUTE SOFTWARE, DATA, OR MATERIALS, CLAIMS BY THIRD PARTIES, ATTORNEY'S FEES AND LEGAL EXPENSES, EXEMPLARY DAMAGES, PRE-JUDGMENT AND POST-JUDGMENT INTEREST, TAXES, AND AGREEMENTS, WARRANTIES, OR REPRESENTATIONS RELATED IN ANY WAY, DIRECTLY OR INDIRECTLY, WITH THE PRODUCTS OR SERVICES PROVIDED BY PICTOMETRY, AND ANY OTHER DAMAGES OF ANY NATURE WHATSOEVER ALLEGEDLY SUSTAINED BY THE WCAD, ITS AGENTS, OFFICERS, EMPLOYEES OR ANYONE HAVING A CLAIM BY, THROUGH OR UNDER THE WCAD.**
- F. **THE WCAD AGREES AND ACKNOWLEDGES THAT THE COUNTY IS ALLOWING THE WCAD TO USE PICTOMETRY'S AERIAL IMAGE SOFTWARE AND DATA, AS WELL AS ANY OTHER GOODS OR SERVICES THAT ARE OFFERED PURSUANT TO THIS AGREEMENT OR THE PICTOMETRY AGREEMENT, ON AN 'AS IS' BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE COUNTY DOES NOT ASSUME ANY RESPONSIBILITY FOR DEFECTS IN PICTOMETRY'S AERIAL IMAGE SOFTWARE AND DATA OR IN ANY OTHER GOODS OR SERVICES THAT ARE OFFERED PURSUANT TO THIS AGREEMENT OR THE PICTOMETRY AGREEMENT, OR IN THE ACCURACY OR APPLICATION OF OR ERRORS OR OMISSIONS IN SAID GOODS AND SERVICES AND DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED THEREIN WILL MEET THE WCAD'S REQUIREMENTS, OR THAT THE OPERATION OF SAID GOODS AND SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY DEFECTS IN SAME WILL BE CORRECTED.**

III. TERM AND TERMINATION

- A. Term. The term of this agreement is for a period of one year beginning on the date of execution by all parties and shall automatically renew thereafter for one additional term of one year, unless sooner terminated pursuant to the terms hereof.

- B. Termination of Pictometry Agreement. In the event that either Pictometry or the County terminate the Pictometry Agreement pursuant to its terms, this Agreement shall thereafter terminate as well. As soon as possibly practical, the County shall provide notice to the WCAD of such termination of the Pictometry Agreement.
- C. Termination for Convenience. Either party may terminate this Agreement for convenience and without cause or further liability upon thirty (30) days written notice to the other party. In the event of termination for convenience, it is understood and agreed that only the amounts due to the County for goods and/or services provided and expenses incurred to and including the date of termination, will be due and payable.
- D. Termination for Cause. If either party defaults in the performance of any of the terms or conditions of this Agreement, the non-defaulting party shall deliver written notice of such default to the defaulting party. Such notice must specify the nature of the default and inform the defaulting party that unless the default is cured within thirty (30) days of receipt of the notice, additional steps may be taken to terminate this Agreement. If the defaulting party begins a good faith attempt to cure the default within thirty (30) days, then and in that instance, the thirty (30) day period may be extended by the non-defaulting party, so long as the defaulting party continues to prosecute a cure diligently to completion and continues to make a good faith attempt to cure the default. If, in the opinion of the non-defaulting party, the defaulting party does not cure the breach within thirty (30) days or otherwise fails to make any diligent attempt to correct the default, the defaulting party shall be deemed to be in default and the non-defaulting party may, in addition to seeking any other remedies available at law or in equity, terminate this Agreement.
- E. Effect of Termination or Expiration. As with other matters pertaining to this Agreement, the WCAD acknowledges that the terms and conditions of the Pictometry Agreement shall control in relation to the actions and conditions that are required following the termination or expiration of this Agreement and/or the Pictometry Agreement.

IV. MISCELLANEOUS

- A. Definitions. For purposes of this Agreement, the terms set forth herein shall have the same meanings and definitions as the terms set forth in the Pictometry Agreement.
- B. Severability. If any section, subsection, sentence, clause or phrase of this Agreement is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of the Agreement shall not be affected thereby. It is the intent of the parties signing this Agreement that no portion of it, or provision or regulations contained in it shall become inoperative or fail by reason of unconstitutionality or invalidity of any other section, subsection, sentence, clause, phrase, provision, or regulation of this Agreement.

- C. Law and Venue. This Agreement shall be governed by the laws of the State of Texas. The obligations under this Agreement are performable in Williamson County, Texas. It is expressly understood that any lawsuit or litigation arising out of or relating to this contract will take place in Williamson County, Texas.
- D. Alteration, Amendment, or Modification. Except as otherwise set forth herein, this Agreement may not be altered, amended, or modified except in writing, approved by all parties hereto.
- E. Notice. Notices to either party shall be in writing, and may be either hand delivered or sent by certified or registered mail, postage paid, return receipt requested. If sent to the parties at the addresses designated herein, notice shall be deemed effective upon receipt in the case of hand delivery and three days after deposit in the U.S. Mail in case of mailing.

The address of WCAD for all purposes shall be:

WCAD Board Chairman
Harry Gibbs
625 FM 1460
Georgetown, Texas 78626

The address for the County for all notices hereunder shall be:

Honorable Dan A. Gattis (or successor)
Williamson County Judge
710 Main Street, Suite 101
Georgetown, Texas 78626

with a copy to: Honorable Jana Duty (or successor)
Williamson County Attorney
405 M.L.K. Street, Box #7
Georgetown, Texas 78626

- F. Independent Relationship. Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.
- G. No Waiver of Immunities. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to the parties hereto, their past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. Neither party waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

- H. Compliance with Laws. The parties hereto shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations.
- I. Force Majeure. If the party obligated to perform is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of said party, the other party shall grant such party relief from the performance of this Agreement. The burden of proof for the need of such relief shall rest upon the party obligated to perform. To obtain release based on force majeure, the party obligated to perform shall file a written request with the other party.
- J. No Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the parties hereto, and nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring upon any other person any rights, remedies or any other type or types of benefits.
- K. Incorporation of Exhibits and Attachments. All of the Exhibits referred to in this Agreement are incorporated by reference as if set forth verbatim herein.
- L. Execution in Counterparts. This Agreement may be executed in counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which together shall constitute one and the same document.
- M. Specific Performance. The parties hereto acknowledge that, in the event that a party defaults on any obligation under this Agreement and such default is not cured as set forth herein above, remedies at law will be inadequate and that, in addition to any other remedy at law or in equity, each party will be entitled to seek specific performance of this Agreement.
- N. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto, and supersedes all their oral and written negotiations, agreements, and understandings of every kind. The parties hereto understand, agree, and declare that no promise, warranty, statement, or representation of any kind whatsoever, which is not expressly stated in this Agreement, has been made by any party hereto or its officer, employees, or other agents to induce execution of this Agreement.
- O. Purpose. The purpose of this Agreement is to provide for the WCAD use of Pictometry's aerial image software and data, for which the County has obtained a license, in connection with the WCAD appraisal of property for ad valorem taxation purposes within the County.

WHEREFORE, premises considered, in this Interlocal Agreement is executed to be effective the date of the last party to sign.

**WILLIAMSON CENTRAL
APPRAISAL DISTRICT**

By: 

Harry Gibbs
WCAD Board Chairman

Date: July 16, 2008

WILLIAMSON COUNTY, TEXAS

By: 

Dan A. Gattis
Williamson County Judge

Date: 8-12-2008

Approved as to Form:

By: 

Hal C. Hawes,
Assistant Williamson
County Attorney

By: 

Jim Gilger,
Williamson County
Contracts Auditor

EXHIBIT "A"

Pictometry Agreement

**PICTOMETRY INTERNATIONAL CORP.
GENERAL LICENSE TERMS AND CONDITIONS**

THIS AGREEMENT is made as of the date set forth below (the "Effective Date") by and between Pictometry International, Corp., a Delaware company with offices at 100 Town Centre Drive, Suite A, Rochester, NY 14623 ("Pictometry"), and Williamson County, Texas, a political subdivision of the state of Texas, with offices located at 301 SE Inner Loop, Suite 105, Georgetown, Texas 78626 (the "Licensee"). Intending to be legally bound, Pictometry and the Licensee (each a "party") hereby agree:

1. ARTICLE - DEFINITIONS

- 1.1 **"Images"** Orthogonal and oblique digital images, captured from airborne platforms using Pictometry's patented and proprietary hardware and software capture system
- 1.2 **"Community Images" ("CI")** A set of views, each covering the entire sector; one from directly overhead, and two from different oblique angles.
- 1.3 **"Neighborhood Images" ("NI")** A set of overlapping, orthogonal and oblique views blanketing the entire sector, providing for a higher degree of detail
- 1.4 **"Image Sector"** A portion of an image collection project defined as approximately one square mile in area.
- 1.5 **"Geographic MetaData" ("Metadata")** Data supplied by Pictometry that is captured from airborne platforms using Pictometry's patented and proprietary hardware and software capture system.
- 1.6 **"Electronic Field Study" ("EFS")** A proprietary software and file structure package that allows for the display, navigation, measurement, annotation and analysis of Pictometric Images.
- 1.7 **"Pictometry Software" ("Software")** Any proprietary software provided by Pictometry. This includes programs such as EFS and Change Analysis or program modules such as 911 or GIS integration / interfaces.
- 1.8 **"Image Warehouse" ("IW")** A hierarchical storage system of Pictometric images, data and elevation models that allows fast, random access by geo-location.
- 1.9 **"Digital Elevation Model" ("DEM")** A general definition for a file containing ground elevation data. This may be a digital elevation model, a digital terrain model or a reflective surface model and is meant to encompass all means of production, including LIDAR and stereo pairs.
- 1.10 **"Documentation"** Written and/or electronic materials containing instructions and other information related to the use of the Images and the Software.

2. ARTICLE - INTELLECTUAL PROPERTY RIGHTS AND RESERVATION OF OWNERSHIP

- 2.1 **Licensed Products.** The parties acknowledge and agree that Pictometry shall have and retain sole and exclusive ownership and all right, title, and interest in and to any Licensed Images Licensed Metadata, Licensed Software, Licensed DEM and Licensed Documentation provided under this Agreement and all copyrights, patents, and other proprietary rights in or associated with each of the Licensed Products, defined below (hereinafter the "Proprietary Rights"). Licensee agrees: (a) that it will never assert or claim any interest in, or do anything that may adversely affect the validity of, or infringe on, any Proprietary Right, (b) that it will use reasonable efforts to protect the Proprietary Rights, including placing or maintaining all copyright notices and other indications of Pictometry's ownership on all Licensed Products and on all copies of Licensed Images and all other property of Pictometry when instructed by Pictometry, and (c) that it will notify Pictometry promptly of any known or suspected breach of any Proprietary Rights.
- 2.2 **Use of Pictometry Marks.** Licensee acknowledges that Pictometry owns and retains all ownership rights in trademarks, trade names, logos, and designations used by Pictometry in connection with the Licensed Products. Licensee agrees not to attach any additional trademarks, trade names, logos or designations to any Pictometry product or to any copies of any of the Licensed Images without written approval from Pictometry. Licensee may, however, include a Licensee seal and contact information so long as these annotations in no way obscure or deface the Pictometry marks. Licensee further agrees that Licensee will not use any Pictometry trademark, trade name, logo, or designation in connection with any product or service other than the Licensed Images and the other Licensed Products. Licensee's nonexclusive right to use Pictometry's trademark is coterminous with this Agreement.
- 2.3 **Electronic and Other Publishing.** Except as provided in Schedule B and Article 4.1 of this Agreement, Licensee is specifically prohibited from publishing in any way (including by making available on the Internet or World Wide Web or any other general access electronic network) any Licensed Product or any Licensed Image, or any portion of any such Product or Licensed Image, whether separately or as part of any other electronic publication.
- 2.4 **Confidentiality of Licensed Software.** The Licensed Products are commercially valuable, proprietary products of Pictometry, the design and development of which reflect an investment of considerable time and money. The Licensed Products are treated by Pictometry as confidential and contain substantial trade secrets of Pictometry. Licensee agrees that it will not disclose, provide a copy of, or disseminate the Licensed Products or any part thereof to any person who does not need to obtain access thereto consistent with Licensee's rights and obligations under this Agreement. Licensee agrees to use its best efforts to assure (a) that all its personnel, and any others afforded access to the Licensed Products, will protect the Products against unauthorized use, disclosure, copying, and dissemination, and (b) that access to the Licensed Products and each part thereof will be strictly limited. Licensee understands that Pictometry does not disclose source code and Licensee agrees that it will take all reasonable actions to



assure that persons who might access the Licensed Software will not "unlock" or "reverse engineer" any part of the Licensed Software so as to find or uncover the source code or other trade secrets included therein.

3. ARTICLE – GENERAL

- 3.1 Licensed Products.** This Agreement pertains to the particular Images described in Schedule A attached to this Agreement (the "Licensed Images"), the particular copies of the Software listed in Schedule A (the "Licensed Software"), the associated Metadata (the "Licensed Metadata"), the DEM described in Schedule A attached to this Agreement (the "Licensed DEM") all of which, along with the Documentation, are together referred to as the "Licensed Products." This Agreement does not apply to any other Licensed Products that may from time to time be owned, used, published, or distributed by Pictometry.
- 3.2 System Installation.** Pictometry shall install a copy of the Licensed Products on storage media either provided by Licensee or purchased from Pictometry as specified in Schedule A. With the assistance of Pictometry, the Licensee will install the Licensed Products from that media onto computers/servers to be designated by the Licensee. The Licensee will be responsible for assuring that the computer system being used for these purposes will satisfy the minimum system requirements set forth on Schedule A.
- 3.3 Licensee May Authorize Subdivisions, and Users.** The Licensee may authorize any department, sub unit or location within the Licensee (hereinafter "Subdivisions") to have the Licensed Products installed on computers owned (or leased) and used by those Subdivisions (the "Authorized Users") and to use and execute the Licensed Software for official purposes only. The installation of the CIW and EFS and the training of the Authorized Users may be performed only by either the Licensee and/or Pictometry. The Subdivisions authorized for such installation, use, and execution (the "Authorized Subdivisions"), will be designated by the Licensee as provided in Article 6.3 below. All Authorized Subdivisions and Authorized Users shall operate under this Agreement as agents of the Licensee and comply with all obligations of Licensee with respect to the use and distribution of the Licensed Products, and Pictometry may look to the Licensee alone for assuring compliance with the terms and conditions of this Agreement. Licensee agrees: (a) that it will not allow any persons other than Authorized Users to use or operate, or to have any other access to, any of the Licensed Products (other than described in Article 4.1 of this Agreement), (b) that it will not allow access to any of the Licensed Software or any Licensed Images except through Licensee workstations, and (c) that it will cause all Authorized Users to comply with all of the terms, conditions, and limitations applicable to the Licensee under this Agreement.

4. ARTICLE - GRANT OF LICENSE

- 4.1 License Grant, Uses and Certain Fees.** In consideration for the payment of the License Fees provided for in Article 5 below, and subject to the other terms and conditions of this Agreement, Pictometry hereby grants to Licensee, and Licensee hereby accepts, a nonexclusive, nontransferable, limited license (the "License") for the following:
- (a) **Installation and Documentation.** To install the Image Warehouse on servers and related Licensed Software on workstations, all of which shall be owned (or leased) by, shall be located on the property of, shall be under the control of, and shall be used by the Licensee or by an Authorized Subdivision (which Authorized Subdivisions will be designated pursuant to Article 6.3 below). None of the Licensed Products shall be accessed except through such designated servers and Licensee workstations. To copy and use the related Documentation included in the Licensed Products in connection with the activities described in this Article 4.1.
- (b) **Uses.** Through Authorized Users only, to use and execute the Licensed Software on those designated servers and workstations in the conduct of the public business of the Licensee or of the Authorized Subdivisions and to use and print copies of the Licensed Images in the following activities (and no others):
- (1) **For Internal Business.** To use and execute the Licensed Products for internal use in pursuit of its or their public responsibilities.
 - (2) **For Persons Doing Business With Licensee** ("Project Participants"). Under the supervision of Authorized Users, allow representatives of persons doing or proposing to do business with the Licensee or an Authorized Subdivision on Licensee Projects (defined below) to use and execute the Licensed Software and to make copies of the Licensed Images with ink or toner on substrate (hereinafter "Hard Copies") at the Licensee or Authorized Subdivisions' facilities only, but not to make any electronic or digital copies (except for a limited number of jpg copies specific to a particular Licensee Project) of the Licensed Images ("Digital Copy"). For these purposes, "Licensee Projects" shall mean any plan or effort, tangible or intangible, such as construction, real estate disposition, facilities management, environmental studies or public information brochures or notices used by the Licensee or an Authorized Subdivision in pursuit of its public responsibilities. The Licensee or Authorized Subdivisions shall cause each Project Participant to agree to use the Hard Copies (or jpg copies) solely in connection with the Licensee's or Authorized Subdivision's Project.
 - (3) **For Public Use.** Through Authorized Users only, to use and execute the Licensed Software solely for the purpose of making Hard and Digital Copies of Licensed Images for persons desiring them (which Hard Copies may contain annotations of information stored in the Licensed Software and related to the property shown). Each Hard Copy or Digital Copy made pursuant to this Article 4.1(b)(3) shall be covered under terms and conditions as more fully provided in the attached Schedule B.

Any Hard or Digital Copy released or delivered by Licensee or any Authorized Subdivision pursuant to any state or Federal Public Records Act or any other similar state law or regulation shall be treated as a Hard or Digital Copy made pursuant to

Article 4.1(b)(3) for purposes of determining fees payable pursuant to this Article, and all Hard Copies and all Digital Copies made pursuant to this Article shall remain subject to all of the provisions of this Agreement.

- 4.2 Limitations on License.** Licensee agrees: (a) that nothing under this Agreement authorizes it to engage in any service bureau work (service bureau work shall be deemed to include, without limitation, use of the Licensed Software to process or to generate output data for the benefit of, or for purposes of, rendering services to any third party over the Internet or other public communications network), to exercise or provide any multiple-user license, or to enter into any time-sharing arrangement, except as expressly authorized with respect to Authorized Subdivisions, (b) that Licensee will not authorize or allow any remote access to the Licensed Products except for licensee workstations, (c) that Pictometry shall not be obligated to revise, improve, or otherwise change the Licensed Software in any way, (d) that the Licensee is responsible for selecting Authorized Users who are qualified to operate the Licensed Software on licensee workstations and are familiar with the Licensed Software, (e) that the Licensee and its Authorized Subdivisions may not copy, download, store, publish, transmit, transfer, sell, or otherwise install or use the Licensed Software or any Images or any portion of the Images in any form or by any means, except (i) as expressly permitted by this Agreement, (ii) with Pictometry's prior written permission, or (iii) to the extent not expressly prohibited by this Agreement, as allowed under the fair use provision of the Copyright Act (17 U.S.C. § 107). Licensee agrees that it will deliver to all recipients of any Hard Copies, and to any other persons who may have access to any of the Images, all such disclaimers and other information that Pictometry may request so as to assist those persons in understanding the limitations on the accuracy of the information developed through the Licensed Products.
- 4.3 Pictometry's Reserved Rights.** Pictometry reserves the right, at its sole discretion and without liability to Licensee, to create new versions of or modules with additional functionality for any part of the Licensed Products, which may be acquired on a nonexclusive basis by Licensee under a separate agreement. Pictometry may, in addition, produce upgrades to enhance operations of the Licensed Products, which will be supplied without additional cost to Licensee.

5. LICENSE FEES

- 5.1 License Fees.** In consideration for the License, and subject to the other terms and conditions of this Agreement, the Licensee hereby agrees to pay to Pictometry the fees described on Schedule A (altogether the "License Fees"). Payment to be made as provided in Schedule A. Any tax, including sales tax, is in addition to the License Fees and is the responsibility of the Licensee unless documentation of tax exemption is provided to Pictometry. All License Fees shall be earned on the Delivery Date. For the convenience of the Licensee, the payment of these fees may be spread over the term of this Agreement as provided on the attached Schedule A.

6. ARTICLE - OBLIGATIONS OF LICENSEE

- 6.1 Geographic Data.** If available, Licensee agrees to provide to Pictometry geographic data in industry standard format, shape, DBF, etc., including digital elevation models, street centerline maps, tax parcel maps, centroids, etc., which data shall be incorporated into the Image Library licensed to the Licensee. For any of this data that is owned by the Licensee, Licensee agrees Pictometry may distribute this data with the Image Library for use in the Pictometry On-Line product and in licensing the Image Library to other licensees. At no time shall Pictometry claim ownership of this data.
- 6.2 Technical Support Contacts.** Licensee agrees to name Licensee personnel to act as Licensee's technical support contacts for Licensee and these contacts will receive technical training as provided in Schedule A. These contacts will coordinate all requests and inquiries from all Licensee Authorized Users and only these named technical support contacts will have access to telephone support from Pictometry.
- 6.3 Designation of Authorized Subdivisions.** Licensee agrees that, within thirty (30) days after receipt of the Licensed Products (and on an as-needed basis to update), it will furnish to Pictometry lists of all Authorized Subdivisions, as provided in Article 3.3 above,
- 6.4 Notification.** Licensee will: (a) notify Pictometry in writing of any claim or proceeding involving any of the Licensed Products within ten (10) days after Licensee learns of the claim or proceeding; and (b) report promptly to Pictometry all claimed or suspected defects in any Licensed Product.

7. ASSIGNMENT

- 7.1 General.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns, but shall not be assignable by either party except as provided in Sections 7.2 and 7.3 below.
- 7.2 Assignment By Licensee.** This Agreement will not be assignable by Licensee, and Licensee may not delegate its duties hereunder without the prior written consent of Pictometry.
- 7.3 Assignment By Pictometry.** Pictometry shall have the right to assign its rights to receive License Fees under this Agreement, but no such assignment shall affect Pictometry's obligations hereunder. In addition, Pictometry shall have the right to assign all its rights to any person or entity, provided the assignee has assumed all of Pictometry's obligations under this Agreement. Except as provided above in this Section 7.3, this Agreement will not be assignable by Pictometry.

8. DURATION AND TERMINATION OF LICENSE

- 8.1 Initial Term.** The initial term of this Agreement shall commence upon the installation of substantially all of the Image Warehouse and shall expire, unless sooner terminated in accordance with Article 8.3, or as indicated on Schedule A, no earlier than the second anniversary thereof.
- 8.2 Renewal.** Effective as of that second anniversary (detailed in Article 8.1) or later anniversary as more fully described in Schedule A, Pictometry will grant an extension of the licensing of Products covered in this Agreement, only in accordance with the following:
- (1) If no later than the 90th day before that second anniversary or later anniversary as more fully described in Schedule A, the Licensee enters into a License Renewal Agreement with Pictometry (for an additional two or more years) for new Licensed Images (with an annual value equal to or greater than that of the existing Licensed Images), then Pictometry will grant Licensee a perpetual License for the existing Products licensed under this Agreement; or
 - (2) If no later than the 90th day before that second anniversary or later anniversary as more fully described in Schedule A, the Licensee enters into a License Renewal Agreement with Pictometry (for an additional two or more years) for new Licensed Images (with an annual value of at least 50% of that of the existing Licensed Images), then Pictometry will grant Licensee a perpetual License for the existing Licensed Products upon the payment of a Perpetual License Conversion Fee. Fee is calculated on the difference between the annual fee payable under this Agreement and the new annual fee;
 - (3) If no later than the 10th day after that second anniversary or later anniversary as more fully described in Schedule A, the Licensee pays Pictometry an additional payment of a Perpetual License Conversion Fee, then Pictometry will grant a Perpetual License to Licensee for the Products licensed under this agreement.
- Any extensions (or Perpetual Licenses) will be subject to the same terms and conditions as are provided in this Agreement except that the annual fee (under Article 5.1 and Schedule A) will be eliminated and the Licensee will no longer be able to add images to the existing Image Library. Nevertheless, Licensee's obligations as provided in Schedule B, shall continue during any such extension under this Article 8.2.
- 8.3 Termination for Cause.** This Agreement may be terminated by either party in the event that the other party has failed to perform a material obligation or has otherwise breached a material term of this Agreement, if that other party has failed to cure that failure or breach within thirty (30) days after receipt of written notice thereof from the other party.
- 8.4 Effect of Termination or Expiration.** Upon termination or expiration of this Agreement, Licensee shall immediately cease any and all further use of the Licensed Products and shall promptly purge all copies of the Licensed Products from all computers and workstations on which any of them may be stored or available at the time. In addition, the Licensee shall destroy all remaining inventory of Hard Copies of Images in its possession or under its control (excluding those images produced in the activities described in Article 4.1(b)(2) above). Within thirty (30) days of the date of termination or expiration of this Agreement, Licensee shall also pay Pictometry all amounts due hereunder. The provisions of Articles 2, 7, 8, 9, and 10 of this Agreement shall survive any termination or expiration of this Agreement.
- 8.5 Access to Records.** During the term of this Agreement and for a period of one (1) year after the date of its termination or expiration, Licensee shall make available to Pictometry for inspection and copying, on reasonable notice and at reasonable hours, all books and records (including electronically retained information) pertaining to Licensee's compliance with the provisions of this Agreement.

9. LIMITED WARRANTY; DISCLAIMER OF WARRANTIES; LIMITED REMEDIES

- 9.1 Limited Warranties.** Pictometry warrants:
- a) that the Licensed Images and the Licensed Software installed by Pictometry on any Authorized Workstation supplied by Licensee pursuant to this Agreement will be true and usable copies as of the date of capture; and
 - b) that the information concerning the accuracy of the Licensed Products set forth on the attached Schedule C is substantially true.
- Upon notice to Pictometry of any breach of the warranty in clause (a) and/or (b) above, Pictometry will use its reasonable efforts to correct the problem so as to allow the Licensed Products to produce Images and related data that are usable for the general purposes intended. The foregoing warranty is the sole and exclusive warranty that Pictometry makes with respect to the Licensed Products, and the remedies set forth above are the sole and exclusive remedies for breach of those warranties.
- 9.2 Disclaimer of Other Warranties.** Except as provided in Section 9.1 above, EACH OF THE LICENSED PRODUCTS IS PROVIDED TO LICENSEE "AS IS" AND "WITH ALL FAULTS" PICTOMETRY MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY. ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND NONINFRINGEMENT, ARE HEREBY DISCLAIMED AND EXCLUDED BY PICTOMETRY.
- 9.3 Limitations and Exclusions of Remedies.** The respective remedies set forth in Section 9.1 are the sole and exclusive remedies provided for breach of the warranties given. With respect to any other claims that Licensee may have at any time against Pictometry on any matter relating to this Agreement, or the installation, operation, design, distribution, or use of the Licensed Products, the total liability of Pictometry shall in the aggregate be limited to the aggregate amounts of money that Licensee has paid to Pictometry under this Agreement. In addition, because of scheduling and other considerations in preparing current Licensed Images, Pictometry cannot assure delivery of the Licensed Products on a specified delivery date, and Pictometry shall not be liable for any such late delivery except in a case of its gross negligence or willful misconduct. IN NO EVENT SHALL



EITHER PARTY BE LIABLE, UNDER ANY CAUSE OF ACTION OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE LICENSED PRODUCTS, OR IMAGES (INCLUDING UNDER THEORIES INVOLVING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR BREACH OF WARRANTY), FOR ANY LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY OR BY ITS CUSTOMERS OR OTHERS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. GENERAL

- 10.1 Entire Agreement.** This Agreement, which includes the attached Schedules, contains the entire agreement between the parties and supersedes all written or oral agreements, descriptions, representations, and understandings with respect to the subject matter hereof. Where differences occur between the main body of the Agreement and the attached Schedules, the Schedules shall supersede the Agreement. Licensee acknowledges that it is not entering into this Agreement on the basis of any representations not expressly contained herein. Any modifications of this Agreement must be in writing and signed by a duly authorized officer of each party.
- 10.2 Rights of Others.** This Agreement is solely intended to provide rights to and be enforceable by Pictometry and Licensee (including its Authorized Subdivisions). No other person shall acquire or enforce any rights or any representations or warranties given under this Agreement.
- 10.3 Waiver.** The waiver by either party of any default by the other shall not waive subsequent defaults of the same or different kind.
- 10.4 Notices.** All notices and demands hereunder shall be in writing and shall be delivered by personal service, mail, or confirmed facsimile transmission at the address of the receiving party set forth below (or at such different address as may be designated by one party by written notice to the other). All notices or demands by mail shall be sent by certified or registered United States mail, return receipt requested, and shall be deemed complete upon receipt.

If to Licensee:

Williamson County Judge
Dan A. Gattis (or successor)
301 S.E. Inner Loop, Ste. 109
Georgetown, Texas 78626
Fax: (512) 943-1662

With a copy to:

Richard Semple
GIS Coordinator
Williamson County
301 SE Inner Loop, Suite 105
Georgetown, TX 78626
Office: 512-943-1489
Fax: 512-943-1488

And a copy to: Williamson County Attorney
Jana Duty (or successor)
405 M.L.K. St., Box #7
Georgetown, Texas 78626
Fax: (512) 943-1431

If to Pictometry:

Pictometry International, Corp.
100 Town Centre Drive, Suite A
Rochester, NY 14623
Attn: Michael J. Neary
Phone: 585-486-0093 Fax: (585) 486-0098
Email: mike.neary@pictometry.com

- 10.5 Export Control.** Licensee agrees to comply fully with the export laws and regulations of the United States Government with

respect to the Licensed Products supplied by Pictometry. Accordingly, Licensee agrees that all technical data, software, or other information or assistance (other than publicly available information) furnished by Pictometry, and any product thereof, shall not be re-exported by Licensee, or its authorized transferees, if any, directly or indirectly from the United States unless explicitly permitted by U.S. export control laws and regulations. These obligations of the Licensee shall survive any satisfaction, expiration, termination, or discharge of this Agreement.

10.6 Severability. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.

10.7 Force Majeure. Pictometry shall not be responsible for any failure to perform due to unforeseen circumstances or to causes beyond Pictometry's reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, failure to obtain export licenses or shortages or delays of transportation, facilities, fuel, energy, supplies, labor, or materials. In the event of any such delay, Pictometry may defer the delivery of Licensed Products for a period equal to the time of the delay.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective on the latest of the signature dates specified below.

PICTOMETRY INTERNATIONAL, Corp.

By: Michael J. Neary

Name: Michael J. Neary

Title: Ex VP Administration

Address: 100 Town Centre Drive, Suite A

Rochester, NY 14623

Date: Feb 11, 2008

Licensee: Williamson County

By: [Signature]

Name: Dan A. Gattis

Title: Williamson County Judge

Address: 710 Main Street, Suite 101, Georgetown, Texas 78626

Date: January 31, 2008

Approved as to Form:

By: [Signature]

Hal C. Hawes
Assistant Williamson County Attorney

By: [Signature]

James Gilger, CPA,
Williamson County Contract
Management Auditor

Attachments:

Schedule A: Description of Licensed Products – **Must be initialed by Licensee**

Schedule B: Intentionally Omitted

Schedule C: Digital Imagery Specifications

Schedule D: Sectorized Map – **Must be initialed by Licensee**

NOTE: “**Notices**” information must be entered in Article 10.4 of this Agreement.

[Signature]

SCHEDULE "A"

1. The following products shall be delivered to Williamson County, TX ("Licensee") by Pictometry International Corp.:

A. Licensed Images procured with a 11 megapixel camera:

- 1) **PREMIER Two Way Community Package (C3)** covering 1254 sectors of the Licensee as indicated on the attached map. Premier Community Images are nominal 12" GSD. Each sector will have approximately:
 - a. 8 Ortho-rectified images. (if purchased below)
 - b. 4 Oblique images. (if purchased below)
 - c. 4 Oblique images taken from the opposite direction to (b) above (if purchased below)

PREMIER Community Images (C3) to be taken when there is **less than 30% leaf cover**.

| | |
|---|---|
| PREMIER Oblique Image Price | \$ 25.00 per sector per year |
| PREMIER Ortho Image Price | \$ 13.00 per sector per year |
| PREMIER TOTAL C3 Community Package Price | \$ 38.00 per sector per year |
| Less 50% Discount | <u>\$ 19.00</u> |
| | \$ 19.00 @ 1254 Sectors = \$23,826 per year |

- 2) **Four Way Neighborhood Images (N5)** covering 322 sectors of the Licensee as indicated on the attached map. Each sector will have:
 - a. Ortho-rectified images.
 - b. Oblique images from four perpendicular directions.
 - c. *One-Meter Mosaics for all sectors*

ELITE Neighborhood Images will be taken when there is less than 30% leaf cover. Each sector will have approximately 52 Ortho-rectified Images and 104 Oblique Images. Elite Neighborhood Images are nominal 4" GSD.

| | |
|---|---|
| ELITE Neighborhood Oblique Image Price | \$ 285.00 per sector |
| Less 50% Discount | <u>\$ 142.50</u> |
| | \$ 142.50 @ 322 Sectors = \$45,885 per year |
| ELITE Ortho-rectified Neighborhood Images | \$ 19.00 per sector per year |
| Less 50% Discount | <u>\$ 9.50</u> |
| | \$ 9.50 @ 322 Sectors = \$3,059 per year |

- 3) Mosaic sector tiles are included for the full County coverage areas, as shown above. Additional tiles will be purchased as follows:

$$322 \text{ 6" Ortho Sector Tiles} \times \$42.50/\text{sector} = \$13,685 = \$6,842.50 \text{ per year}$$

- 4) Images are to be delivered with an image size of approximately 4-6 MB.
- 5) ArcIMS Integration. Includes software, scripts and one (1) additional hour of support for the integration. *Order Form/Deployment Notice must be attached.*

Integration for 1 Servers @ \$595 per server = \$595
- 6) Image Library Compression: Library Compression is priced at \$2500

(1) Library Compression @ \$2,500

B. US Census Bureau TIGER line files of County or a base map supplied by Licensee.

C. DEMS (Digital Elevation Models) –SEE BELOW:

X

U.S.G.S Digital Elevation Models (DEMs) (provided by Pictometry)

DEMs in format (provided by Licensee).

Licensee DEMs must be provided to Pictometry within 30 days of signing this agreement.

2. Documentation: Pictometry International Corp. shall furnish 1 digital copy of the Licensed Documentation for the Licensed Software.
3. Training: Pictometry International Corp. shall conduct two (2) End User orientation sessions of up to 25 people/training session for employees of the Licensee or Authorized Subdivisions thereof at the Licensee's site. In addition there will be one (1) Advanced User technical training for one group of up to 10 people using Licensee computers.
4. Telephone Support: Pictometry shall provide telephone support to the people who have completed the Advanced User technical training and who are individually identified by Licensee.
5. Licensed Software: Pictometry International Corp. shall supply one copy of the Pictometry Electronic Field Study (EFS) software, latest version, on the Storage Media supplied as specified herein. Licensee and Authorized Users may download updated versions of the Licensed Software free of charge for a period of two years from the date of shipping, along with a copy of the updated documentation.
6. Annual License Fee of Seventy Nine Thousand Six Hundred Twelve Dollars and fifty cents (\$ 79,612.50)
 - This is the Annual License Fee for the Licensed Images, Licensed Software, Licensed Documentation and support.
 - The initial duration of the License is two (2) years at the above Annual License Fee.
 - At the end of this two (2) year term, Licensee is granted a Perpetual License for all Licensed Images and Licensed Software at no additional cost.
 - At the end of this License Term, Optional Support and Upgrades for Licensed Software may be continued by:
 - Entering into a new license for new images, or
 - Paying an annual Support and Maintenance Fee of 2.5% of the Total License Fee (up to a cap of \$2,495/year).
 - **Pictometry Economic Alliance Partnership (EAP)** – Licensee shall be eligible for the Pictometry Economic Alliance Partnership as outlined on Schedule E.
 - The annual cost of the Images is fixed for a period of one (1) year from the date of this License Agreement with Pictometry.
7. Storage Media.

Licensee will make available on Licensee Server enough disk storage space to accommodate the Licensed Images and Licensed Software. This is estimated to be 424 GB in a NTFS file system, in other file systems the size may vary. Licensee will also provide a 100 Mb/s network link to the server. On delivery Pictometry shall copy the Licensed Images and Licensed Software from Pictometry's computer to the Licensee server via the network connection.
8. Total Cost: The Total Cost of this License Agreement is One Hundred Sixty Two Thousand Three Hundred Twenty Dollars (\$162,320) broken down as follows:

First Year

| | |
|-------------------------------------|-------------|
| Annual License Fee | \$79,612.50 |
| Compressed Image Library | \$ 2,500 |
| ArcIMS "Active X" Deployment Module | \$ 595 |

First Year Total **\$82,707.50**

Second Year

| | |
|--------------------|-------------|
| Annual License Fee | \$79,612.50 |
|--------------------|-------------|

CONFIDENTIAL

Page 2 of 4

070401a

Pictometry MJD Licensee [Signature]

Second Year Total**\$79,612.50**

9. Taxes: All License Fees or other prices listed in this Agreement are exclusive of Federal, State and Local taxes. Licensee will be responsible for any taxes due under this License Agreement; provided, however, Licensee is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes under Texas Tax Code Ann. § 151.309, as amended, and the services and materials subject hereof are being secured for use by Licensee. Exemption certificates will be provided to Pictometry upon request.
10. Payment: The Licensee shall remit to Pictometry International, Corp. twenty-five percent (25%) of the First Year Total Fee after Jan 31st, 2008 and balance of the First Year Total Fee within 30 days of shipment of all Licensed Software and Images, as specified in this Schedule A. All shipping efforts by Pictometry International Corp. shall be coordinated with the Licensee. Payment of the Second Year Total Fee shall be due on the one-year anniversary of this shipping date. It is understood that the payment schedule is for the convenience of the Licensee. All monies are considered earned upon shipment of the Image Library. Interest charges for any fees past due for 30 days ("late payments") shall be paid by Licensee in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of Licensee's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

Payment Breakdown:

Down payment due at signing = \$20,677

Amount Due on Image Library Shipment= \$62,030.50

Amount due on one-year anniversary of Shipment = \$79,612.50

11. Delivery Schedule: The image capture process and the delivery date may be affected by weather conditions or aircraft availability, but in any event such capture process and delivery shall be completed within no more than one hundred twenty (120) days from the date of the last party's execution hereof. Licensee will accept delivery within thirty (30) days of notification by Pictometry.
12. Recommended Minimum System Requirements for Electronic Field Study. A Pentium III with a 450 MHz processor, 256MB memory minimum 512MB+ recommended, Windows 2000/XP, a video card with 4 MB memory capable of 1024 x 768 resolution, 100MB NIC and 50MB free disk space for software.
13. Training and Support Services: Additional training and support services are available to Licensee at the then prevailing prices.
14. Revision of Article 3.3 of the License Agreement (the "Agreement"): Article 3.3 of the Agreement shall be revised and replaced, in its entirety, with the following provision:

Licensee May Authorize Subdivisions, and Users. The Licensee may authorize any department, sub-unit, location within the Licensee, and/or any other local governmental entity, agency or division within the bounds of Williamson County, Texas (hereinafter "Subdivisions") to have the Licensed Products installed on computers owned (or leased) and used by those Subdivisions (the "Authorized Users") and to use and execute the Licensed Software for official purposes only. The installation of the CIW and EFS and the training of the Authorized Users may be performed only by either the Licensee and/or Pictometry. The Subdivisions authorized for such installation, use and execution (the "Authorized Subdivisions"), will be designated by the Licensee as provided in Article 6.3. All Authorized Subdivisions and Authorized Users shall operate under this Agreement as agents of the Licensee and comply with all obligations of Licensee with respect to the use and distribution of the Licensed Products, and Pictometry may look to the Licensee alone for assuring compliance with the terms and conditions of this Agreement. Licensee agrees: (a) that it will not allow any persons other than Authorized Users to use or operate, or to have any other access to, any of the Licensed Products (other than as described in Article 4.1 of this Agreement), (b) that it will not allow access to any of the Licensed Software or any Licensed Images except through Licensee workstations, and (c) that it will cause all Authorized Users to comply with all of the terms, conditions and limitations applicable to the Licensee under this Agreement. Pictometry hereby acknowledges that, in exchange for allowing the various Authorized Subdivisions and Authorized Users to use and execute the Licensed Software, Licensee may recoup portions of the Total Costs of this Agreement from such various Authorized Subdivisions and Authorized Users.

15. The following provisions shall be incorporated into and become a part of the License Agreement between Licensee and Pictometry:
- a. **Force Majeure.** If Licensee is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of Licensee, Pictometry shall grant Licensee relief from the performance of this Agreement.

CONFIDENTIAL

Page 3 of 4

070401a

Pictometry  Licensee 

- b. **Venue and Governing Law.** Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in either Williamson County, Texas or in the Austin Division of the Western Federal District of Texas, and the parties hereto expressly consent and submit to such jurisdiction. Furthermore, except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.
- c. **No Waiver of Immunities.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to Licensee, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. Licensee does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.
- d. **Licensee's Right to Audit.** Pictometry agrees that Licensee or its duly authorized representatives shall, until the expiration of three (3) years after final payment under the Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Pictometry which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Pictometry agrees that Licensee shall have access during normal working hours to all necessary Pictometry facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. Licensee shall give Pictometry reasonable advance notice of intended audits.
- e. **Appropriation of Funds by Licensee.** Licensee believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Agreement. Pictometry understands and agrees that the Licensee's payment of amounts under this Agreement is contingent on the Licensee receiving appropriations or other expenditure authority sufficient to allow the Licensee, in the exercise of reasonable administrative discretion, to continue to make payments under this Agreement.
- f. **Texas Public Information Act.** To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't Code 552.001 et seq., as amended (the "Public Information Act"), such conflicting provision shall be of no force or effect. Furthermore, it is expressly understood and agreed that Licensee, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to Licensee as to whether or not the same are available to the public. It is further understood that Licensee's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that Licensee, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to Licensee by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

SCHEDULE "C"
Digital Imagery Specifications

Dimensions and Resolution:

All values are approximates based on target height-over-ground. The actual values vary due to elevation changes.

Individual Images:

Community Images

Oblique (Nominal 12 Inch)

Footprint:

Front Line: 3,100 feet (945 meters)
Back Line: 6,200 feet (1,890 meters)
Front to Back: 6,100 feet (1,860 meters)

Ground Sample Distance:

Front Line: 1.0 feet/pixel (0.30 meters/pixel)
Middle Line: 1.4 feet/pixel (0.43 meters/pixel)
Back Line: 1.9 feet/pixel (0.58 meters/pixel)

Orthogonal (Nominal 10 Inch)

Footprint: 2,900 x 2,300 feet (884 x 701 meters)

Ground Sample Distance: 0.88 feet/pixel (0.27 meters/pixel)

Premiere Community Images

Oblique (Nominal 9 Inch)

Footprint:

Front Line: 2,800 feet (850 meters)
Back Line: 4,000 feet (1,220 meters)
Front to Back: 3,500 feet (1,066 meters)

Ground Sample Distance:

Front Line: 0.70 feet/pixel (0.21 meters/pixel)
Middle Line: 0.85 feet/pixel (0.25 meters/pixel)
Back Line: 1.00 feet/pixel (0.30 meters/pixel)

Orthogonal (Nominal 9 Inch)

Footprint: 2,780 x 1,850 feet (848 x 564 meters)

Ground Sample Distance: 0.69 feet/pixel (0.21 meters/pixel)

Neighborhood Images

Oblique (Nominal 5 Inch)

Footprint:

Front Line: 1,600 feet (488 meters)
Back Line: 2,400 feet (732 meters)
Front to Back: 2,200 feet (671 meters)

Ground Sample Distance:

Front Line: 0.4 feet/pixel (0.12 meters/pixel)
Middle Line: 0.5 feet/pixel (0.15 meters/pixel)
Back Line: 0.6 feet/pixel (0.18 meters/pixel)

Orthogonal (Nominal 5 Inch)

Footprint: 1,650 x 1,100 feet (503 x 335 meters)

Ground Sample Distance: 0.42 feet/pixel (0.15 meters/pixel)



Premier Neighborhood Images

Oblique (Nominal 4 Inch)

Footprint:

Front Line: 1,400 feet (427 meters)
Back Line: 2,000 feet (610 meters)
Front to Back: 1,800 feet (549 meters)

Ground Sample Distance:

Front Line: 0.35 feet/pixel (0.11 meters/pixel)
Middle Line: 0.41 feet/pixel (0.12 meters/pixel)
Back Line: 0.49 feet/pixel (0.15 meters/pixel)

Ortho (Nominal 4 Inch)

Footprint: 1,385 x 923 feet (422 x 281 meters)

Ground Sample Distance: 0.35 feet/pixel (0.11 meters/pixel)

Sector Tiles:

One-Meter Sector Tiles

Footprint: 5,280 x 5,280 feet (1,609 x 1,609 meters)

Pixel Size: 3.28 feet/pixel (1.0 meters/pixel)

Source Imagery: Community Orthogonal (12 and 9 inch) and/or Neighborhood Orthogonal (Premier and Standard)

Radiometry: Not radiometrically balanced, may have observable cut lines and could consist of imagery taken over a period of several days.

File Size (Approx.): 8,000 KB (TIFF format)

One-Foot Quarter Sector Tiles

Footprint: 2,640 x 2,640 feet (805 x 805 meters)

Pixel Size: 1.0 feet/pixel (0.3048 meters/pixel)

Source Imagery: Community Orthogonal (12 and 9 inch) and/or Neighborhood Orthogonal (Premier and Standard)

Radiometry: Not radiometrically balanced, may have observable cut lines and could consist of imagery taken over a period of several days.

File Size (Approx.): 20,900 KB (TIFF format)

Six-Inch Quarter Sector Tiles

Footprint: 2,640 x 2,640 feet (805 x 805 meters)

Pixel Size: 0.5 feet/pixel (0.1524 meters/pixel)

Source Imagery: Premier Neighborhood Orthogonal and/or Neighborhood Orthogonal

Radiometry: Not radiometrically balanced, may have observable cut lines and could consist of imagery taken over a period of several days.

File Size (Approx.): 83,500 KB (TIFF format)

Custom Ortho-Mosaics:

Pictometry can create custom ortho-mosaics based on the resolution of the imagery captured. If a custom ortho-mosaic is desired, the full specifications will be spelled out in a separate addendum. It is important to note that while the ortho-mosaic can be created at any pixel resolution, up or down, creating an ortho-mosaic with a pixel size smaller than the ground sample distance of the input imagery will not contain any more information than the resolution of the input imagery. In other words, if you create a six-inch ortho-mosaic from one-foot imagery, even though the pixels will be six-inch, the overall image data resolution will still only be one-foot. For this reason, it is important to ensure the base imagery purchased meets or exceeds the resolution requirements of any ortho-mosaics you need. Under-sampling, for instance creating a one-foot ortho-mosaic from six-inch resolution imagery, is not a problem and generally produces very good results.

Pictometry also has licensed partners who can create an ortho-mosaic product that can be certified to a particular accuracy. In general, ortho-mosaics from Pictometry's neighborhood orthogonal imagery can meet NMAS 1:1200 (1.0-meter RMS error at 95% confidence interval) in relatively flat terrains or areas with good elevation data. For areas with highly variable terrain or areas with poor elevation data, this number generally drops to NMAS 1:2400

(2.0-meter RMS error at 95% confidence interval). Certified ortho-mosaics can be created from Pictometry's community orthogonal imagery, but only under certain capture parameters. As such, it is important to include any custom ortho-mosaic requirement with the image capture requirements such that the community orthogonal imagery can be captured in a way consistent with certification requirements.

General Specifications:

Orthogonal Images

| | |
|------------------------------------|---|
| Sensor Size | Pixels: 4008 x 2672 (or 3208 x 2672 for some Community level imagery) in a Landscape orientation. |
| Image Format | Industry-standard image format with proprietary image trailer, including JFIF (JPEG), TIFF, and BMP. |
| Image Quality | Images will have an unobstructed view of the ground. In controlled airspace around airports, etc., and in areas of rapid elevation changes, the image footprint sizes and resolutions may vary. There may be varying degrees of ground illumination and color variations due to lighting and cloud shadows. |
| Measurement Accuracy | <0.5% measurement error, excluding user pixel selection error |
| Pixel Placement Accuracy | Pictometry provides a visualization system and therefore does not certify image accuracy. However, some Pictometry customers have done their own certification on the Pictometry data after delivery and have shared their results. On average, customers have been seeing better than 1.0-meter RMS error at a 95% confidence level (NMAS 1:1200) for orthogonal imagery over relatively flat terrain or in areas with accurate elevation data, and 2.0-meter RMS error at a 95% confidence level (NMAS 1:2400) for more varied terrain or in areas with poor elevation data. However, Pictometry does not guarantee these accuracies and your results may vary. |
| Sensor Orientation | Pictometry utilizes an IMU (Inertial Measurement Unit), ground station post-corrected differential GPS, and Kalman filtering to achieve a high degree of positional and directional accuracy. |
| Sensor Positional Accuracy | mean 15cm absolute |
| Sensor Directional Accuracy | 0.015 degrees absolute (roll/pitch) 0.035 degrees absolute (heading) |
| Ortho-Rectification | The images are ortho-rectified to back out the optical deviations of the capture system and the variations due to elevation changes (utilizing the best DEM data available, including customer provided DEM data), resulting in geographically square pixels aligned to a rectilinear grid. This grid can be one of any number of coordinate systems, including Latitude/Longitude, State Plane, UTM, and more. The desired coordinate system should be specified in the contract, or a default coordinate system will be used. |
| Image Export | JFIF (JPEG), TIFF, BMP EFS software can be utilized to export the images into any of the above industry-standard formats. The orthogonal images can optionally be re-projected during this export process, and an associated geography file can be created as well for use in importing the images into GIS mapping software. |
| Image Tiling | Individual orthogonal images are edge-feathered and mosaiced to produce orthogonal image tiles with tile sizes selected to balance single image coverage as well as manageability of open images. These orthogonal tiles provide continuous coverage across the area of interest. While some color balancing is done, these orthogonal tiles are not fully radiometrically balanced or edge-matched. |



Oblique Images

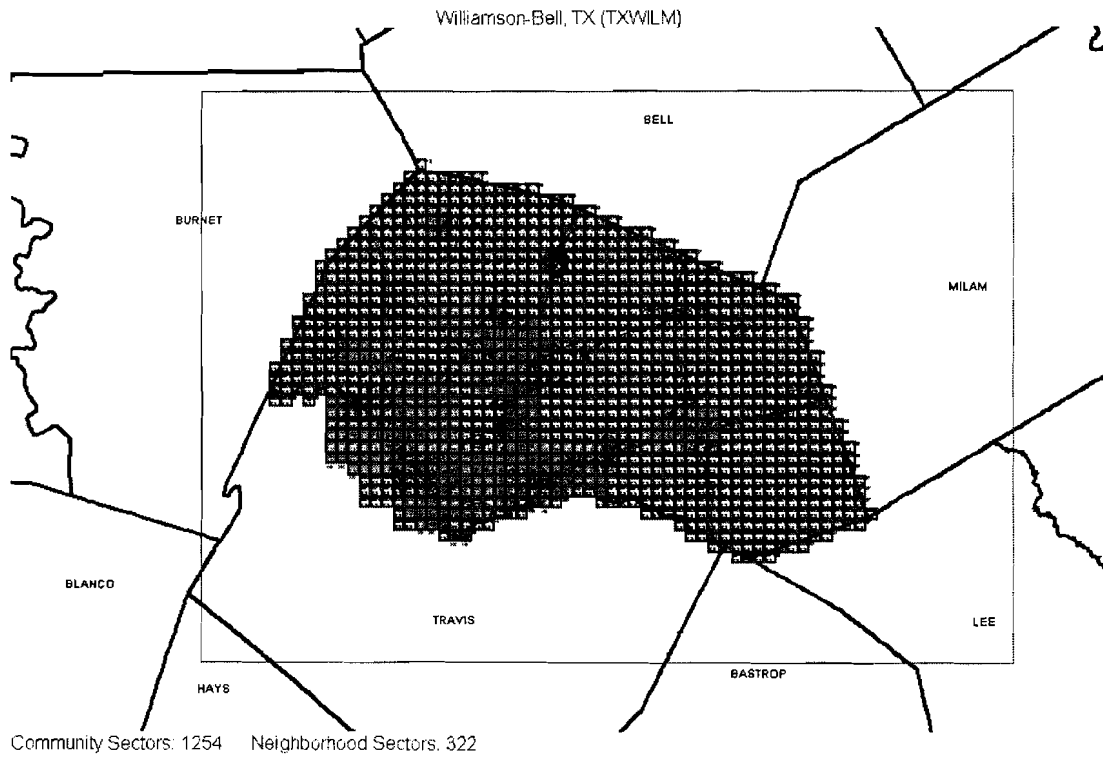
| | |
|------------------------------------|--|
| Sensor Size | Pixels: 4008 x 2672 (or 3208 x 2672 for some Community level imagery) in a Landscape orientation. |
| Image Format | Industry-standard image format with proprietary image trailer, including JFIF (JPEG), TIFF, and BMP. |
| Image Quality | Images will have an unobstructed view of the ground. In controlled airspace around airports, etc., and in areas of rapid elevation changes, the image footprint sizes and resolutions may vary. There may be varying degrees of ground illumination and color variations due to lighting and cloud shadows. Due to the nature of oblique aerial photography, there may also be artifacts such as haze and glint and glare caused by reflected sunlight. |
| Measurement Accuracy | <0.75% measurement error, excluding user pixel selection error |
| Pixel Placement Accuracy | Pictometry provides a visualization system and therefore does not certify image accuracy. However, some Pictometry customers have done their own certification on the Pictometry data after delivery and have shared their results. On average, customers have been seeing better than 2.0-meter RMS error at a 95% confidence level (NMAS 1:2400) for oblique imagery over relatively flat terrain or in areas with accurate elevation data, and 4.0-meter RMS error at a 95% confidence level (NMAS 1:4800) for more varied terrain or in areas with poor elevation data. However, Pictometry does not guarantee these accuracies and your results may vary. |
| Sensor Orientation | Pictometry utilizes an IMU (Inertial Measurement Unit), ground station post-corrected differential GPS, and Kalman filtering to achieve a high degree of positional and directional accuracy. |
| Sensor Positional Accuracy | mean 15cm absolute |
| Sensor Directional Accuracy | 0.015 degrees absolute (roll/pitch) 0.035 degrees absolute (heading) |
| Image Export | JFIF (JPEG), TIFF, BMP EFS software can be utilized to export the images into any of the above industry-standard formats. |

Notes

1. The existing National Map Accuracy Standards focus on conventional analog aerial photography products. When used for digital mapping products, it is necessary to specify the approximate image scale (e.g. 1:1200) when stating NMAS requirements.
2. Pictometry's orthogonal images provide the coordinate accuracy fulfilling most planimetric requirements, however, Pictometry data is not intended for authoritative definitive mapping or surveying replacement. If there is a need for authoritative mapping products, additional work is required by licensed individuals in order to certify Pictometry's orthogonal imagery. Alternatively, a separate, authoritative orthogonal image capture can be done and those orthogonal images used inside of Pictometry. Our oblique images are unique to Pictometry and are intended to provide data not available elsewhere and lateral views with more visual information, such as building stock analysis. In Pictometry the orthogonal and oblique images are linked for your convenience and additional study. With a few clicks you can find the revealing lateral views, height measurements, and other information afforded by the oblique images while using the coordinate accuracy afforded by the orthogonal images.



SCHEDULE "D"
Sector Map



060601

[Handwritten signature]

SCHEDULE "E"

Pictometry Economic Alliance Partnership

1. Benefits

Imagery – with Pictometry's EAP program the Licensee shall keep its imagery forever and Pictometry shall continue to provide the benefits listed below.

A Revenue Share Opportunities for Licensee (all revenue to be applied as credits toward Licensee's renewal):

- a. If Pictometry sells the Licensee's Library to the Federal government, Licensee will receive a License Renewal Credit equaling 10% of that sale.
- b. Pictometry shall market Licensee's imagery on the internet to consumers and rebate Licensee on a 50/50 basis in the form of credits toward future License Renewals.

B Hurricane Damage Coverage – Pictometry shall image and quickly deliver imagery of Licensee's coverage area that has been affected by level II-V Hurricanes at no additional cost to Licensee.

C Earthquake Damage Coverage – Pictometry shall image and quickly deliver imagery of up to 200 square miles of Licensee's coverage area that has been declared a national disaster by the Federal Government at no additional cost to Licensee.

D Tornado Damage Coverage – Pictometry shall image and quickly deliver imagery of Licensee's coverage area that has been affected by level F4 and above Tornados at no additional cost to Licensee.

E Terrorist Damage Coverage– Pictometry shall image damage due to terrorism up to 200 sq miles at no additional cost to Licensee.

F Software Installation and Maintenance Costs - During the term of this License Agreement, Pictometry shall provide Licensed Software to Licensee at no charge for software and no charge for maintenance.

G Marketing – Pictometry shall (only at Licensee's written direction) market Licensee's GIS layers and share the revenue with Licensee on a 50/50 basis.