

## **E. NEW BUSINESS**

### **E7 Resolution 2022-020:**

**A resolution approving memoranda of understanding for sharing geographic data and imagery with the cities of the borough.**

# Kenai Peninsula Borough

## Planning Department – Geographic Information Systems Division

---

### MEMORANDUM

**TO:** Brent Johnson, Assembly President  
Members, Kenai Peninsula Borough Assembly

**THRU:** Charlie Pierce, Mayor *CP*  
Melanie Aeschliman, Planning Director *MA*

**FROM:** Marcus Mueller, Geographic Information Systems Manager *MM*

**DATE:** March 24, 2022

**RE:** Resolution 2022-\_\_\_\_, Approving Memoranda of Understanding for Sharing Geographic Data and Imagery with the Cities of the Borough (Mayor)

---

The Kenai Peninsula Borough contracted with Pictometry International Corp to acquire new imagery and building footprint data across the Kenai Peninsula Borough. Under the terms of the contract the borough is allowed to share the geographic information with the cities within the borough.

Memoranda of Understanding (MOU's) have been drafted to facilitate data sharing with each city, and to ensure compliance with the terms of the contract.

The new imagery and building footprint data can be useful to each city for public safety, ports and harbors, infrastructure management, street addressing, planning, project development, and other matters of general interest to the residents of the borough.

This resolution would approve the MOU's and authorize the Mayor to sign them on behalf of the borough.

Your review and consideration of this resolution is appreciated.

Introduced by: Mayor  
Date: 4/5/21  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
RESOLUTION 2022 - \_\_\_\_**

**A RESOLUTION APPROVING MEMORANDA OF UNDERSTANDING FOR  
SHARING GEOGRAPHIC DATA AND IMAGERY WITH THE  
CITIES OF THE BOROUGH**

**WHEREAS,** the Kenai Peninsula Borough (“borough”) contracted with Pictometry International Corp (“Pictometry”) to acquire new imagery and building footprint data (“data”) across the borough; and

**WHEREAS,** the Pictometry contract allows for the borough to share the data with the cities within the borough, subject to the terms of the contract; and

**WHEREAS,** a Memorandum of Understanding has been drafted for the cities of Kenai, Homer, Seldovia, Seward, and Soldotna to facilitate data sharing and to ensure compliance with contact terms; and

**WHEREAS,** the assembly finds it in the best interest of the borough to share data which provides benefits to each city in their operations, and consequently to the residents of the borough;

**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** that the Memoranda of Understanding with the cities of Kenai, Homer, Seldovia, Seward, and Soldotna to share data under the terms of the Pictometry contract are approved.

**SECTION 2.** That the mayor is authorized to execute a Memorandum of Understanding with each of the cities of Kenai, Homer, Seldovia, Seward and Soldotna to facilitate data and imagery sharing pursuant to the terms of borough’s contract with Pictometry .

**SECTION 3.** That this resolution takes effect immediately upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \_\_\_\_  
DAY OF \_\_\_\_\_, 2022.**

---

Brent Johnson, Assembly President

ATTEST:

---

Johni Blankenship, MMC, Borough Clerk

## Memorandum of Understanding

Between Kenai Peninsula Borough and the City of \_\_\_\_\_  
Regarding Access to Pictometry Data

This Memorandum of Understanding (hereinafter the “MOU”) is by and between the Kenai Peninsula Borough, whose address is 144 North Binkley Street, Soldotna, AK 99669, (hereinafter “Borough”) and the City of \_\_\_\_\_, whose address is \_\_\_\_\_, \_\_\_\_\_, AK 99\_\_\_\_, (hereinafter “City”) for the purpose of outlining the City and the Borough’s responsibilities and obligations to grant the City access to certain content and products owned by Pictometry International Corp. and licensed to the Borough as part of a contract between the Borough and Pictometry.

WHEREAS, KPB entered into a contractual agreement with Pictometry International Corp. (“Pictometry”), effective April 7, 2021, for the purpose of Pictometry providing the KPB with access to and use of certain products and services as specified in Section A of the Agreement related to mapping data and imagery, software, and licensed access for other government agency access (the “Pictometry Agreement”)] ; and

WHEREAS, Pursuant to Section B of the Pictometry Agreement, the City of is considered an Authorized Subdivision and therefore may be considered an Authorized User under the Pictometry Agreement so long as the City agrees to abide by and comply with the Delivered Content Terms and Conditions provisions of the Pictometry Agreement; and

WHEREAS, pursuant to this MOU the City agrees to work cooperatively with KPB with respect to the benefits and responsibilities of such products and services; and

THE PARTIES THEREFORE AGREE, in consideration of the mutual promises contained in this MOU and the services and fees provided, as set forth below:

### 1. PURPOSE AND INTENT

This MOU is to provide for City access to Delivered Content as an Authorized User under, and upholding, the terms and conditions of the Pictometry Agreement held by KPB. This MOU is to provide specific terms between KPB and the City to share in the cost of imagery products.

### 2. BOROUGH’S OBLIGATIONS

- a. To deliver to the City the content described in Section 3(B) within 30 days of order.
- b. To deliver an invoice to the City for such costs identified in Section 3(B) at time of delivery.
- c. To notify the City of the availability of new content applicable to this MOU.
- d. To serve as point of contact with respect to the Pictometry Agreement and the servicing of Delivered Content.

### 3. CITY’S OBLIGATIONS

- a. Comply with all terms, conditions and covenants contained in Section B of the Pictometry Agreement, which is hereby incorporated by reference and attached to this MOU.

- b. To order the content to be delivered to the City, from the menu below. Order may be submitted to rlay@kpb.us

<u>Service</u>	<u>Cost</u>	<u>Description</u>
Ortho Imagery Mosaic inside City	N/A	Georeferenced .jpg or web service
Ortho Imagery Mosaic areawide	N/A	Georeferenced .jpg or web service
Building Footprints	N/A	Feature Class Dataset or web service
Connect Explorer	\$ 150/ Individual Account/ Year, subject to license availability	User Account & Software for Proprietary Oblique Image Services

- c. To obtain approval from Pictometry via KPB prior to sharing content with any contractor or third party per the terms of the Pictometry Agreement.

#### **4. WITHDRAWAL**

If the Borough or City wants to withdraw from agreement, they must provide 60 days written notice.

#### **5. TERM OF AGREEMENT**

This MOU shall be in effect year-to-year beginning February 11, 2022 for as long as the Delivered Content is being used by the City and the Delivered Content Terms and Conditions are in effect, whichever ends first.

Notwithstanding this Section or Section 4 (Withdrawal), the parties understand that should the Pictometry Agreement terminate for any reason, the MOU is automatically terminated.

#### **6. CITY AND KPB CODE AND STATE LAW**

This MOU does not supersede City or KPB code or state law. If a provision of this MOU conflicts with KPB or City code or state law, the respective code and state law controls.

#### **7. DEFAULT**

Failure of either party to fully perform its obligations under the terms of this MOU will constitute a default. If default is not cured, within 30 days, by full performance under this MOU, then the non-defaulting party may immediately terminate the MOU by delivering written notice to the defaulting party.

#### **8. AMENDMENT OF AGREEMENT**

This MOU may only be modified or amended by written agreement of the parties.

#### **9. COUNTERPARTS; ELECTRONIC SIGNATURE**

This MOU may be executed in counterparts and may be executed by way of facsimile or electronic signature in compliance with AS 09.80, each of which when so executed shall constitute an original and all of which together shall constitute one and the same instrument.

**10. ENTIRE AGREEMENT**

This MOU constitutes the entire agreement between the parties. There are no other understandings or agreements between the parties, either oral or memorialized in writing regarding the matters addressed in this MOU. The parties may not amend this MOU unless agreed to in writing with both parties signing through their authorized representatives.

**11. SAVINGS CLAUSE**

If any provision of this MOU shall be invalidated on any ground by any court of competent jurisdiction, then the invalidated provision shall remain in force and effect only to the extent not invalidated and the remainder of this MOU shall not be affected thereby and shall remain in full force and effect.

**12. OBLIGATIONS**

All of the Borough’s and the Cities obligations as specified in Sections 2 and 3 are subject to lawful appropriations, if necessary, for the specific purpose of carrying out the Borough and City’s obligations.

**KENAI PENINSULA BOROUGH**

\_\_\_\_\_  
Charlie Pierce, Mayor

\_\_\_\_\_  
Date

ATTEST:

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
Johni Blankenship, Borough Clerk

\_\_\_\_\_  
A. Walker Steinhage  
Deputy Borough Attorney

**CITY OF \_\_\_\_\_**

\_\_\_\_\_  
\_\_\_\_\_, City Manager

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

**AGREEMENT BETWEEN  
PICTOMETRY INTERNATIONAL CORP. (“PICTOMETRY”) AND  
KENAI PENINSULA BOROUGH, AK (“CUSTOMER”)**

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

Section A: Product Descriptions, Prices and Payment Terms

Section B: License Terms:

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

Section C: Non-Standard Terms and Conditions

Appendix 1: Photogrammetric Product Specifications

Map(s)

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

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

<b>CUSTOMER NOTICE ADDRESS</b>	
144 North Binkley Street	
Soldotna, AK 99669	
Attn: Marcus Mueller, Land Management Officer	
Phone: 907-262-4441	Fax:

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

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


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




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

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

**PARTIES:**

CUSTOMER	PICTOMETRY
KENAI PENINSULA BOROUGH, AK	PICTOMETRY INTERNATIONAL CORP.
	a Delaware corporation
SIGNATURE:	SIGNATURE:  919C59280FF1419...
NAME: Charlie Pierce	NAME: Brian Brockmann
TITLE: Kenai Peninsula Borough Mayor	TITLE: Corporate Vice President and Assistant Secretary
DATE:	EXECUTION DATE: 4/7/2021

PICTOMETRY INTERNATIONAL CORP.
a Delaware corporation
SIGNATURE:  8CB3B6804B2D413...
NAME: Jay Martin
TITLE: Treasurer, Secretary and Corporate Vice President
EXECUTION DATE: 4/7/2021
DATE OF RECEIPT (EFFECTIVE DATE):

ATTEST:

AGREEMENT AND ATTACHMENTS  
TO ORIGINAL APPROVED AS TO  
FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Johni Blankenship, Borough Clerk

*Patty Burley*  
\_\_\_\_\_  
Patty Burley, Deputy Borough Attorney

(Borough Seal)

**ACKNOWLEDGMENTS**

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

Notary Public for State of Alaska  
My Commission Expires:

(Notary Seal)

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

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

**ORDER #**

C8479897

**BILL TO**

Kenai Peninsula Borough, AK  
Marcus Mueller, Land Management Officer  
144 North Binkley Street  
Soldotna, AK 99669  
907-262-4441  
mmueller@kpb.us

**SHIP TO**

Kenai Peninsula Borough, AK  
Marcus Mueller, Land Management Officer  
144 North Binkley Street  
Soldotna, AK 99669  
907-262-4441  
mmueller@kpb.us

CUSTOMER ID	SALES REP	FREQUENCY OF PROJECT
A118141	dwalt	Annual

**FIRST PROJECT**

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT <sup>1</sup>
3,082	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community 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  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 215,740.00
251	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  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 380.00 (5% - Long Term Incentive Discount)	\$ 95,380.00
55,639	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats. Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Data Source – Base:</i> Pictometry Imagery <i>Data Source Year – Base:</i> 2021	\$ 0.35		\$ 19,473.65

		<p><i>Data Source – Comparison:</i> N/A</p> <p><i>Data Source Year – Comparison:</i> N/A</p> <p><i>Deck Identification:</i> Marked with a Point</p> <p><i>Regional Status Report Requested:</i></p> <p><i>Modified Technical Specifications:</i></p> <p><i>Parameter Changes</i> Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).</p>			
2	FutureView Adv Training	<p>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.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 2,499.00		\$ 4,998.00
1	Pictometry Connect - CA - 50	<p>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.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement</p> <p>Product Parameters: <i>Admin User Name:</i> Bobbi Lay <i>Admin User Email:</i> rlay@kpb.us</p>	\$ 2,200.00		\$ 2,200.00
1	ChangeFinder - Project Fee	<p>This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 1,000.00		\$ 1,000.00
1	Reveal Orthomosaic - Combined	<p>This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover</p>	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	<p>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</p>	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00

		Pictometry CONNECT account and the current purchase of access to an imagery product.  Applicable Terms and Conditions: Online Services General Terms and Conditions			
1	Oblique Imagery Bundle with One (1) Year of Maint & Support	Includes two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, and five (5) hours of telephone support.  Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.  Applicable Terms and Conditions: Order Form	\$ 0.00		\$ 0.00
<b>SUBTOTAL</b>					<b>\$338,791.65</b>

**SECOND PROJECT**

<b>QTY</b>	<b>PRODUCT NAME</b>	<b>PRODUCT DESCRIPTION</b>	<b>LIST PRICE</b>	<b>DISCOUNT PRICE (%)</b>	<b>AMOUNT<sup>1</sup></b>
1,229	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community 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  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 86,030.00
76	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  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 380.00 (5% - Long Term Incentive Discount)	\$ 28,880.00
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		\$ 4,998.00
11,775	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats. Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned	\$ 0.39		\$ 4,592.25

		<p>by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production.</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters:  <i>Data Source – Base:</i>  Pictometry Imagery  <i>Data Source Year – Base:</i>  2022  <i>Data Source – Comparison:</i>  N/A  <i>Data Source Year – Comparison:</i>  N/A  <i>Deck Identification:</i>  Marked with a Point  <i>Regional Status Report Requested:</i></p> <p><i>Modified Technical Specifications:</i></p> <p><i>Parameter Changes</i>  Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).</p>			
1	Pictometry Connect - CA - 50	<p>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.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement</p> <p>Product Parameters:  <i>Admin User Name:</i>  Bobbi Lay  <i>Admin User Email:</i>  rly@kpb.us</p>	\$ 2,200.00		\$ 2,200.00
1	ChangeFinder - Project Fee	<p>This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 1,000.00		\$ 1,000.00
1	Reveal Orthomosaic - Combined	<p>This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters:  <i>Leaf:</i>  Leaf Off: Less than 30% leaf cover</p>	\$ 0.00		\$ 0.00
1	Oblique Imagery Bundle with One (1) Year of Maint & Support	<p>Includes two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, and five (5) hours of telephone support.</p> <p>Applicable Terms and Conditions: Software License Agreement</p>	\$ 0.00		\$ 0.00

1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.  Applicable Terms and Conditions: Order Form	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available through other means. This offering requires an active Pictometry CONNECT account and the current purchase of access to an imagery product.  Applicable Terms and Conditions: Online Services General Terms and Conditions	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00
<b>SUBTOTAL</b>					<b>\$127,700.25</b>

<b>THIRD PROJECT</b>					
<b>QTY</b>	<b>PRODUCT NAME</b>	<b>PRODUCT DESCRIPTION</b>	<b>LIST PRICE</b>	<b>DISCOUNT PRICE (%)</b>	<b>AMOUNT<sup>1</sup></b>
1,173	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community 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  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 82,110.00
52	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  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 380.00 (5% - Long Term Incentive Discount)	\$ 19,760.00
15,438	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats. Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Data Source – Base:</i> Pictometry Imagery <i>Data Source Year – Base:</i>	\$ 0.39		\$ 6,020.82

		<p>2023  <i>Data Source – Comparison:</i>  N/A  <i>Data Source Year – Comparison:</i>  N/A  <i>Deck Identification:</i>  Marked with a Point  <i>Regional Status Report Requested:</i></p> <p><i>Modified Technical Specifications:</i></p> <p><i>Parameter Changes</i>  Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).</p>			
2	FutureView Adv Training	<p>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.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 2,499.00		\$ 4,998.00
1	Pictometry Connect - CA - 50	<p>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.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement</p> <p>Product Parameters:  <i>Admin User Name:</i>  Bobbi Lay  <i>Admin User Email:</i>  rly@kpb.us</p>	\$ 2,200.00		\$ 2,200.00
1	ChangeFinder - Project Fee	<p>This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 1,000.00		\$ 1,000.00
1	RapidAccess - Disaster Response Program	<p>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.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	<p>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.</p>	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00



		Applicable Terms and Conditions: Online Services General Terms and Conditions			
1	Reveal Orthomosaic - Combined	This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 0.00		\$ 0.00
1	Oblique Imagery Bundle with One (1) Year of Maint & Support	Includes two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, and five (5) hours of telephone support.  Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
<b>SUBTOTAL</b>					<b>\$116,088.82</b>

<b>FOURTH PROJECT</b>					
<b>QTY</b>	<b>PRODUCT NAME</b>	<b>PRODUCT DESCRIPTION</b>	<b>LIST PRICE</b>	<b>DISCOUNT PRICE (%)</b>	<b>AMOUNT<sup>1</sup></b>
110	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  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 380.00 (5% - Long Term Incentive Discount)	\$ 41,800.00
110	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community 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  Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 7,700.00
16,133	Building Outline Creation; Digital Parcel File Provided	Building outlines are created from the most-nadir single-frame orthogonal image in a specified, Pictometry imagery source. Pictometry delivers digital building outlines and their attributes in shapefile and geodatabase formats. Coverage includes only locations specified in a single, customer-provided digital parcel shapefile. Parcels in the specified locations must be generally contiguous. All Pictometry imagery to be used must be licensed or owned by the customer. Final invoiced amount will be adjusted for the actual quantity of records in the parcel file used for production.  Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use  Product Parameters: <i>Data Source – Base:</i> Pictometry Imagery	\$ 0.39		\$ 6,291.87

		<p><i>Data Source Year – Base:</i> 2024</p> <p><i>Data Source – Comparison:</i> N/A</p> <p><i>Data Source Year – Comparison:</i> N/A</p> <p><i>Deck Identification:</i> Marked with a Point</p> <p><i>Regional Status Report Requested:</i></p> <p><i>Modified Technical Specifications:</i></p> <p><i>Parameter Changes</i> Prior to commencement of production, Customer may make changes to these product parameters by providing Pictometry with written authorization (email being acceptable).</p>			
2	FutureView Adv Training	<p>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.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 2,499.00		\$ 4,998.00
1	Pictometry Connect - CA - 50	<p>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.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement</p> <p>Product Parameters: <i>Admin User Name:</i> Bobbi Lay <i>Admin User Email:</i> rlay@kpb.us</p>	\$ 2,200.00		\$ 2,200.00
1	ChangeFinder - Project Fee	<p>This is a flat fee per project. One project set-up fee is required for each Change Detection, Change Detection and Building Outlines, or Building Outline line item in the order.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 1,000.00		\$ 1,000.00
1	Reveal Orthomosaic - Combined	<p>This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover</p>	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	<p>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</p>	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00

		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			
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 One (1) Year of Maint & Support	Includes two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, and five (5) hours of telephone support.  Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
<b>SUBTOTAL</b>					<b>\$63,989.87</b>

Thank you for choosing Pictometry as your service provider.	<b>TOTAL</b>	<b>\$ 646,570.59</b>
---	--------------	----------------------

<sup>1</sup>Amount per product = ((1-Discount %) \* Qty \* List Price)

#### STANDARD ORTHO MOSAIC PRODUCTS

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

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

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

#### Geofences:

##### FIRST PROJECT

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

AK Kenai Peninsula (Primary)

##### SECOND PROJECT

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

AK Kenai Peninsula (Primary)

##### THIRD PROJECT

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

AK Kenai Peninsula (Primary)

##### FOURTH PROJECT

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

AK Kenai Peninsula (Primary)

#### RapidAccess—Disaster Response Program (“DRP”)

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

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

### FEES; PAYMENT TERMS

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

#### FIRST PROJECT

Due upon activation of Early Access	\$271,033.32
Due upon shipment of imagery	\$67,758.33
<b>Total Payments</b>	<b>\$338,791.65</b>

#### SECOND PROJECT

Due upon activation of Early Access	\$102,160.20
Due upon shipment of imagery	\$25,540.05
<b>Total Payments</b>	<b>\$127,700.25</b>

#### THIRD PROJECT

Due upon activation of Early Access	\$92,871.06
Due upon shipment of imagery	\$23,217.76
<b>Total Payments</b>	<b>\$116,088.82</b>

#### FOURTH PROJECT

Due upon activation of Early Access	\$51,191.90
Due upon shipment of imagery	\$12,797.97
<b>Total Payments</b>	<b>\$63,989.87</b>

**SECTION B****LICENSE TERMS****PICTOMETRY DELIVERED CONTENT  
TERMS AND CONDITIONS OF USE**

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

**1. DEFINITIONS**

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

**2. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP**

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

**3. OBLIGATIONS OF CUSTOMER**

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

**4. LICENSE DURATION; EFFECT OF TERMINATION**

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

**5. TRADEMARKS; CONFIDENTIALITY**

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

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

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

## 6. LIMITED WARRANTY; DISCLAIMER OF WARRANTIES

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

## 7. MISCELLANEOUS PROVISIONS

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

---

[END OF DELIVERED CONTENT TERMS AND CONDITIONS]



**SECTION B****LICENSE TERMS****PICTOMETRY ONLINE SERVICES  
GENERAL TERMS AND CONDITIONS**

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

**1. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP**

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

**2. ACCESS TO SERVICES**

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

**3. DISCLAIMERS**

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

**4. LIMITED WARRANTY**

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

## 5. LIMITATION OF LIABILITY

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

## 6. MISCELLANEOUS

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



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

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

---

**[END OF ONLINE SERVICES GENERAL TERMS AND CONDITIONS]**

**SECTION B****LICENSE TERMS****PICTOMETRY SOFTWARE  
LICENSE AGREEMENT**

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

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

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

---

[END OF SOFTWARE LICENSE AGREEMENT]

**SECTION C****NON-STANDARD TERMS AND CONDITIONS**

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

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

3. The following shall be added to the Pictometry Delivered Content Terms and Conditions of Use:

"2.2.1 For the term of this license, as may be renewed or extended from time to time, Customer may reproduce and distribute hard copies of Delivered Content for Customer's internal business purposes including board of equalization hearings and visual presentations of the Delivered Content used during governmental meetings."

4. Pictometry hereby agrees to indemnify and hold harmless Customer, its officers, and its employees from any and all claims arising from the acts or negligence of Pictometry that directly result in bodily injury, death or real property damage or loss of property while in the performance of the Agreement.

5. **Insurance:** Pictometry, including any subcontractors, will acquire insurance policies including commercial general liability insurance and commercial automobile liability insurance with minimum aggregate amounts of one million dollars (\$1,000,000.00) insuring against the commission of any negligent act or acts or omissions by the Pictometry. Pictometry will provide the Customer thirty (30) calendar days' notice of cancellation, non-renewal or material change of conditions concerning those insurance policies. Pictometry shall list the Customer as a Certificate Holder and Pictometry's insurance coverage shall cover customer as an additional insured in respects to liability arising out of work or operations performed by or on behalf of Pictometry or automobiles owned, leased, hired, or borrowed by Pictometry. Pictometry hereby agrees to waive subrogation and agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation. Pictometry shall also provide and maintain workers' compensation insurance for all of its employees engaged in work under this contract as required by AS 23.30.045 and, where applicable, any other statutory obligations.

Pictometry shall also maintain aviation liability insurance with limits of five million dollars (\$5,000,000.00) per occurrence combined single limit for bodily injury and property damage liability. This coverage shall include all owned, hired and non-owned aircraft. This policy shall name the Customer as an additional insured.

6. Pictometry shall use commercially reasonable efforts to activate Pictometry Connect - EarlyAccess by June 1st following an imagery capture project referenced herein and deliver the remaining imagery after July 1st. These are target dates only because the image capture process and the delivery dates may be affected by numerous conditions outside of Pictometry's control including weather, aircraft availability, and airspace permissions.

---

[END OF NON-STANDARD TERMS AND CONDITIONS]

## APPENDIX 1

## PHOTOGRAMMETRIC PRODUCT SPECIFICATIONS

## Essentials+ Property deliverables

Product	Essentials+ Property
<b>Ortho frame imagery</b>	<ul style="list-style-type: none"> <li>Nominal 2in GSD ortho imagery, Imagery as good as 1.2in and no worse than 3in</li> </ul>
<b>Orthomosaic Specifications</b>	<ul style="list-style-type: none"> <li>Orthomosaic Resolution 2in or 3in GSD (Best Available provided)</li> <li>Typical Positional Horizontal Accuracy: 1m at a 95% confidence level</li> <li>Fully automated photogrammetric orthomosaic. Imagery may contain seamlines</li> <li>Project-wide color and contrast balancing</li> </ul>
<b>Oblique Imagery</b>	<p>Nominal 2.6in GSD oblique imagery ranging from 1.7in to 3.5in GSD:</p> <ul style="list-style-type: none"> <li>Where available fully automated photogrammetric mosaiced imagery. Imagery may contain seamlines</li> </ul>
<b>Metadata and Reporting</b>	<p>Metadata:</p> <ul style="list-style-type: none"> <li>Metadata generated that meets FGDC Standards upon request</li> <li>Shapefile(s) with discrete deliverable boundaries and directional metadata</li> </ul>
<b>Orthomosaic Deliverable Format (Online)</b>	<p>Resolution:</p> <ul style="list-style-type: none"> <li>2in or 3in GSD (Best Available Provided)</li> </ul> <p>Access Methods:</p> <ul style="list-style-type: none"> <li>Available via web-based viewer (Connect) - Contracted separately</li> <li>Also available via WMS/WMTS (Image Service) - Contracted separately</li> </ul>
<b>Orthomosaic Deliverable Format (Physical)</b>	<p>Resolution:</p> <ul style="list-style-type: none"> <li>2in or 3in GSD (Best Available Provided)</li> </ul> <p>Projection/Coordinate System:</p> <ul style="list-style-type: none"> <li>Customer Selectable</li> </ul> <p>Datum:</p> <ul style="list-style-type: none"> <li>Customer Selectable</li> </ul> <p>File Format:</p> <ul style="list-style-type: none"> <li>Mosaic Tiles <ul style="list-style-type: none"> <li>Available as JPEG, GeoTIFF, JPEG2000, PNG, ECW, MrSID (All versions) with world file</li> <li>Includes separate Pictometry Map Image (PMI) trailer file</li> </ul> </li> <li>Project-Wide Mosaic <ul style="list-style-type: none"> <li>Available in ECW, MrSID (All versions) format</li> </ul> </li> </ul>
<b>Oblique Imagery &amp; Frame Imagery Deliverable Format</b>	<p>Access methods:</p> <ul style="list-style-type: none"> <li>Available via web-based viewer (Connect) - Contracted separately</li> </ul>
<b>Delivery Timeline</b>	<ul style="list-style-type: none"> <li>Best efforts to make frame imagery available online within 20 days of capture complete</li> <li>Best efforts to make ortho and oblique imagery available online and/or ready for physical delivery within 30 days of capture completion</li> </ul>

## Essentials+ Community deliverables

<b>Product</b>	Essentials+ Community
<b>Orthomosaic Specifications</b>	<ul style="list-style-type: none"> <li>Resolution at 9in GSD</li> <li>Typical Positional Horizontal Accuracy: 1m at a 95% confidence level</li> <li>Fully automated photogrammetric orthomosaic. Imagery may contain seamlines</li> <li>Project-wide color and contrast balancing</li> </ul>
<b>Oblique Imagery</b>	Nominal 9in GSD oblique imagery or better: <ul style="list-style-type: none"> <li>Where available fully automated photogrammetric mosaiced imagery. Imagery may contain seamlines</li> </ul>
<b>Metadata and Reporting</b>	Metadata: <ul style="list-style-type: none"> <li>Metadata generated that meets FGDC Standards upon request</li> <li>Shapefile(s) with discrete deliverable boundaries and directional metadata</li> </ul>
<b>Orthomosaic Deliverable Format (Online)</b>	Resolution: <ul style="list-style-type: none"> <li>Resolution at 9in GSD</li> </ul> Access Methods: <ul style="list-style-type: none"> <li>Available via web-based viewer (Connect) - Contracted separately</li> <li>Also available via WMS/WMTS (Image Service) - Contracted separately</li> </ul>
<b>Orthomosaic Deliverable Format (Physical)</b>	Resolution: <ul style="list-style-type: none"> <li>Resolution at 9in GSD</li> </ul> Projection/Coordinate System: <ul style="list-style-type: none"> <li>Customer Selectable</li> </ul> Datum: <ul style="list-style-type: none"> <li>Customer Selectable</li> </ul> File Format: <ul style="list-style-type: none"> <li>Mosaic Tiles <ul style="list-style-type: none"> <li>Available as JPEG, GeoTIFF, JPEG2000, PNG, ECW, MrSID (All versions) with world file</li> <li>Includes separate Pictometry Map Image (PMI) trailer file</li> </ul> </li> <li>Project-Wide Mosaic <ul style="list-style-type: none"> <li>Available in ECW, MrSID (All versions) format</li> </ul> </li> </ul>
<b>Oblique Imagery Deliverable Format</b>	Access methods: <ul style="list-style-type: none"> <li>Available via web-based viewer (Connect) - Contracted separately</li> </ul>
<b>Delivery Timeline</b>	<ul style="list-style-type: none"> <li>Best efforts to make ortho and oblique imagery available online and/or ready for physical delivery within 30 days of capture completion</li> </ul>

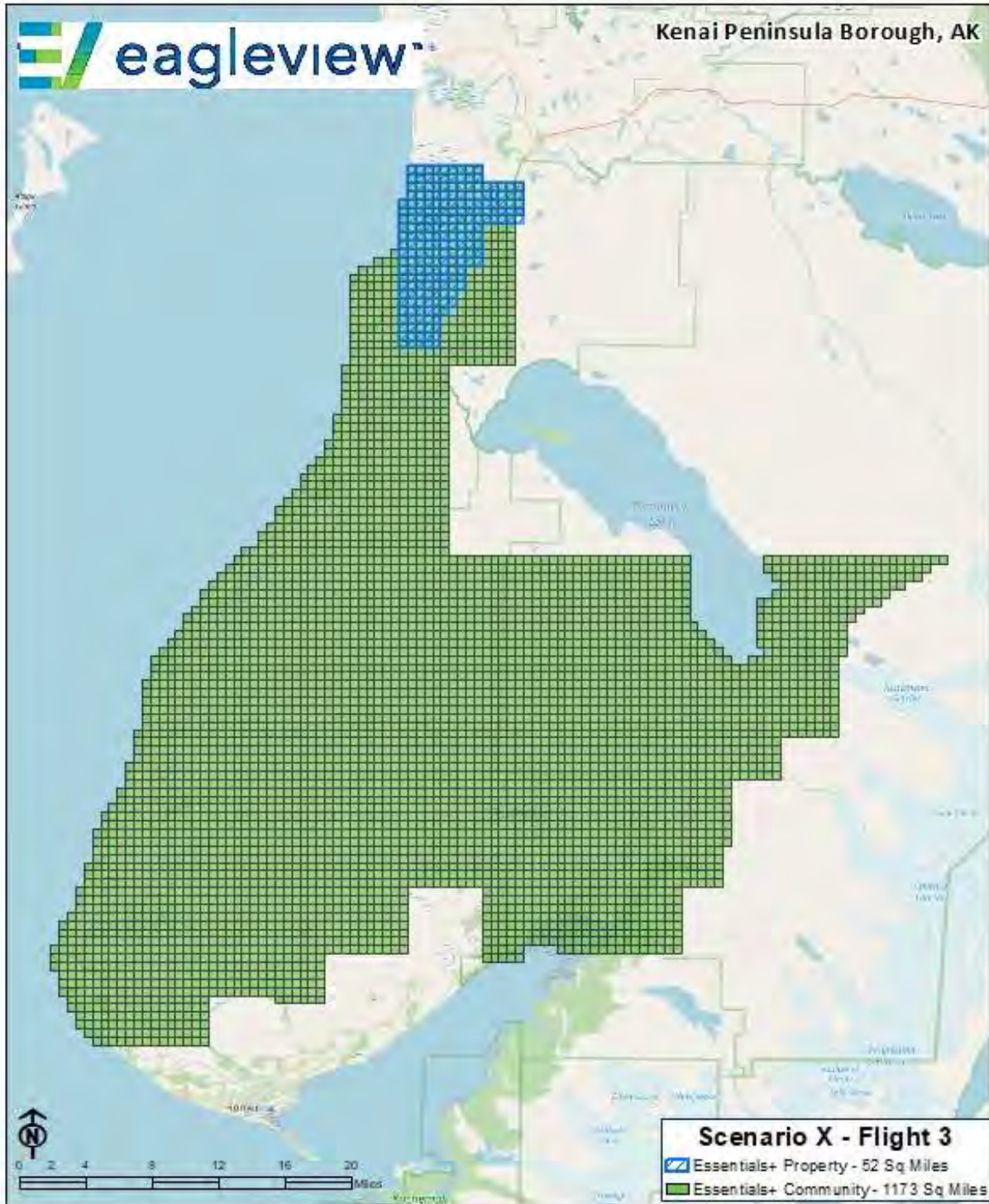


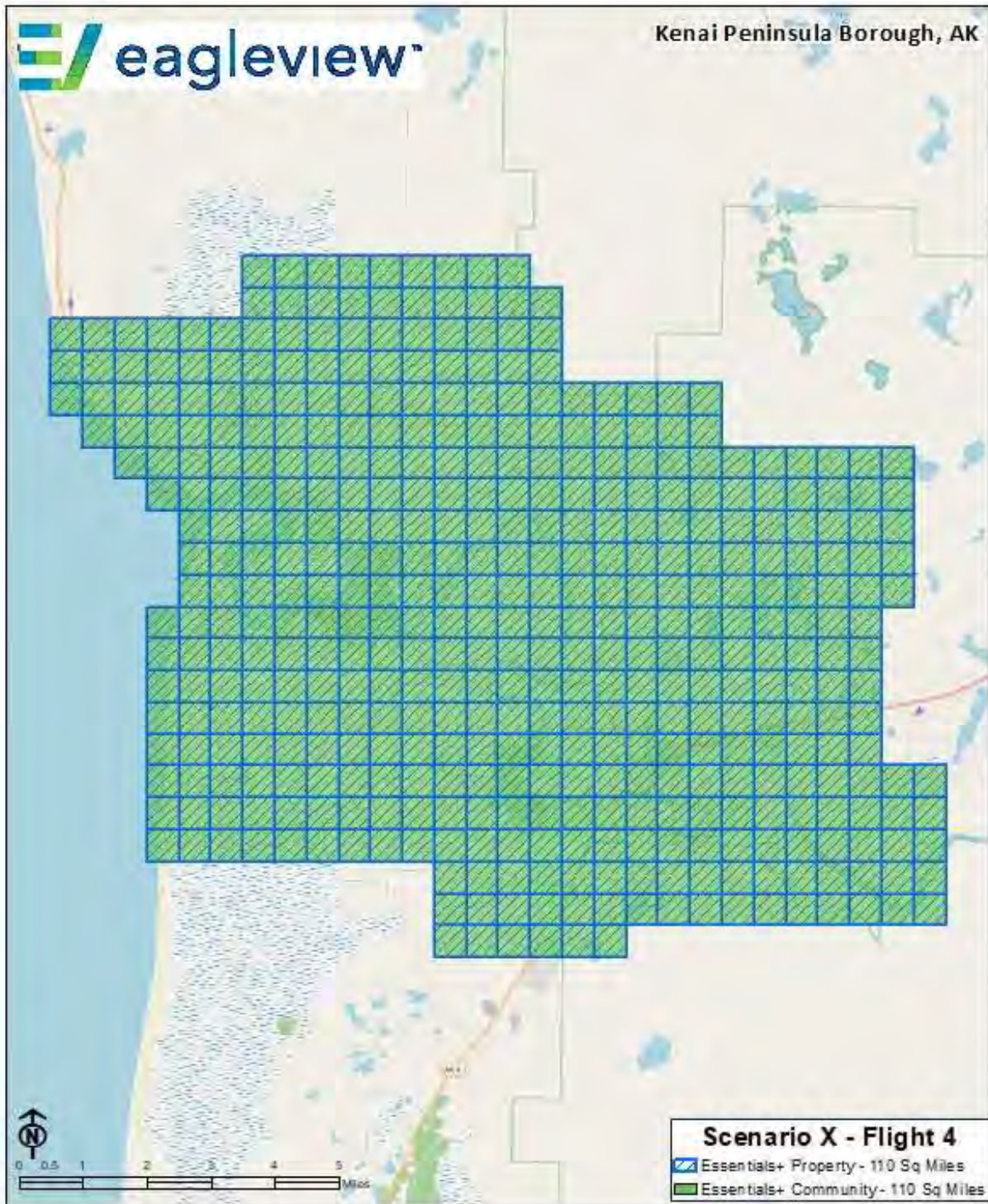
MAP(S)













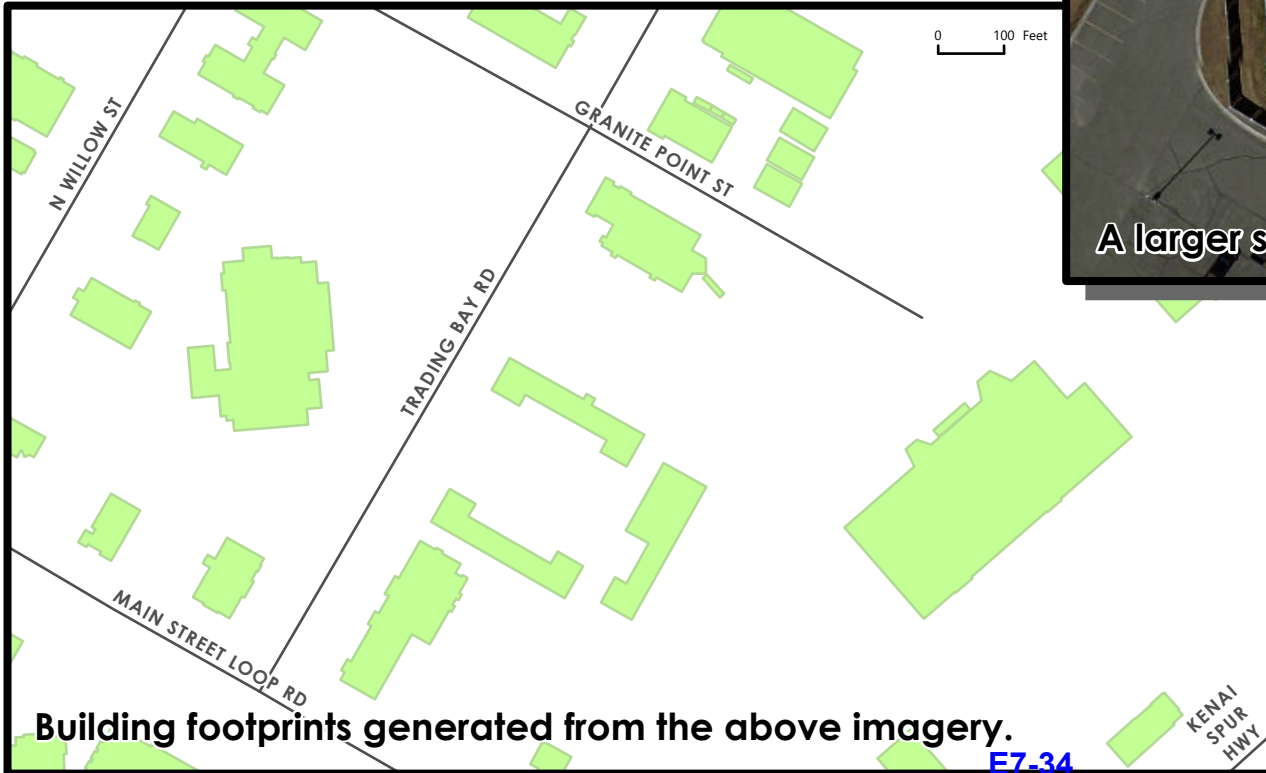
# Imagery and Building Footprint Examples



A subset of the imagery in the City of Kenai.



A larger scale view of the high-resolution imagery.



Building footprints generated from the above imagery.

E7-34

Shown here are examples of the data referenced in the Memoranda of Understanding developed to share data with the incorporated cities of the Kenai Peninsula borough.



Geographic Information Systems

144 North Binkley Street, Soldotna, Alaska 99669