

## 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