

Attachment C

First Amendment to Agreement

**AMENDMENT NO. 1 TO LAC EXTERNAL ENTITY AGREEMENT DATED MAY 15, 2018
BETWEEN
PICTOMETRY INTERNATIONAL CORP. (“PICTOMETRY”) AND
COUNTY OF SANTA BARBARA, CA (“CUSTOMER”)**

1. This Amendment No. 1, including all Sections and Appendices referenced herein (collectively, this “Amendment”) is entered into by and between Pictometry and Customer and supplements and modifies the terms of the LAC External Entity Agreement between the parties dated May 15, 2018 as, to the extent applicable, previously modified by addenda or amendments thereto (collectively, the “Agreement”). Any purchase order or similar document issued by Customer in connection with this Amendment is issued solely for Customer’s internal administrative purposes and the terms and conditions set forth on such purchase order shall be of no force or effect as between the parties. To the extent that there is any inconsistency between the terms set forth in this Amendment and those set forth in the Agreement, the terms set forth in this Amendment shall prevail.

Section A: Product Descriptions, Prices and Payment Terms

Appendix 1: Photogrammetric Product Specifications

Map(s)

2. MODIFICATIONS TO AGREEMENT:

- a. The First, Second, and Third Projects set forth in Section A of this Amendment shall be added to the Agreement.
- b. The content of Appendix 1: Photogrammetric Product Specifications and the Map appended to this Amendment shall be added to the Agreement.
- c. Term. The term of this Amendment shall commence upon the Effective Date of this Amendment (noted in the Customer signature block of this Amendment), and coincide with the Fees and Payment Term section stated in Section A of the Amendment for a period of nine (9) years following Initial Receipt of Imagery under the First Project (the “Amendment Term”) unless the parties enter into a written agreement extending or changing the Amendment Term or unless the Amendment is earlier terminated. At the end of the Amendment Term, and after all Fees and Payments for the Amendment Term have been paid by the Customer, the license to the products provided under this Amendment shall automatically convert to a royalty-free, perpetual license and Pictometry shall allow the Customer to keep, use, and operate the license in perpetuity, subject to the terms and conditions of the licensing terms and conditions of the LAC Agreement.
- d. Paragraph 8 of Section B shall not apply to this Amendment.
- e. For the purposes of this Amendment, Paragraph 9 of Section B shall be modified to the following:
“Non-Appropriation of Funds: Notwithstanding anything herein to the contrary, in the event that the funds due for subsequent projects and related deliverables under the terms and conditions of this Agreement are not lawfully appropriated, the following provisions shall apply:
 - i. Customer shall provide Pictometry with written documentation of non-appropriation of funds from its funding source prior to commencement of a subsequent project;
 - ii. This Agreement shall remain in full force and effect, however commencement of the subsequent project shall be deemed postponed until such time as funds for the subsequent project have been appropriated and all other sums due under the terms and conditions of this Agreement have been paid by Customer. In the event that the postponement exceeds eighteen months, Pictometry reserves the right to terminate any and all obligations with respect to the postponed project and all subsequent projects included in this Agreement; and
 - iii. If Customer, or any party authorized under the terms and conditions of this Agreement to use the licensed products set forth in Section A, is in possession of licensed products for which Pictometry has not been fully compensated in accordance with the payment terms of this Agreement, Customer or such authorized party shall immediately cease use of those licensed products, purge those licensed products from all Customer and authorized party computers, and return those licensed products to Pictometry.”
- f. Termination for Convenience: Notwithstanding anything herein to the contrary, Customer may, in its sole discretion and without cause, terminate its obligations with respect to the Second or Third Projects under this Amendment by providing Pictometry written notice of any such termination at least 3 months prior to the start of the capture season for the applicable project (September 1 for a Winter capture, December 1 for a Spring capture, March 1 for a Summer capture, and June 1 for a Fall capture), such termination to be effective as of the start of the capture season for the applicable project. In the event Customer exercises any such termination right: 1) Customer shall pay Pictometry for all work performed by Pictometry with respect to the terminated project prior to the effective date of such termination; and 2) Customer, all Authorized Subdivisions, Authorized Users, and Project Participants in possession of Delivered Content or Proprietary Materials for which Pictometry has not been fully compensated in accordance with the payment terms of this Amendment, shall immediately cease use of such Delivered Content and Proprietary Materials, purge such Delivered Content and Proprietary Materials from all computers, and return such Delivered Content and Proprietary Materials to Pictometry. In the event Customer terminates its obligations with respect to the Second Project, all rights and obligations with respect to the Third Project shall also be terminated. The provisions of this Amendment and the Agreement that by their nature would survive its termination shall

survive indefinitely.

g. All other terms and conditions set forth in the Agreement shall remain in full force and effect.

3. All notices under this Agreement shall be in writing and shall be sent to the following respective addresses:

CUSTOMER NOTICE ADDRESS
105 E Anapamu Ste. 204
Santa Barbara, CA 93101
Attn: Michael Daly, Division Manager
Phone: (805) 568-2878 Fax: (805) 568-3247

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

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

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

By: *Sheila MacGuerra*
Deputy Clerk

By: *Bob Miller*
Chair, Board of Supervisors

Date: 8-17-2021

RECOMMENDED FOR APPROVAL:

County Clerk – Recorder, Assessor

CONTRACTOR:

Pictometry International Corp.

By: *Joseph E. Holland*
Department Head

By: *Brian Brockmann*
Authorized Representative

Name: Brian Brockmann

Title: Corporate Vice President

APPROVED AS TO FORM:

Rachel Van Mullem
County Counsel

**APPROVED AS TO ACCOUNTING
FORM:**

Betsy Schaffer, CPA , CPFO
Auditor-Controller

By: *Anne Kierson*
Deputy County Counsel

By: *Robert Guis*
Deputy

APPROVED AS TO FORM:

Risk Management

By: *Ray Aromataria*
Risk Management

SECTION A

PRODUCT DESCRIPTIONS, PRICES AND PAYMENT TERMS

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

ORDER #

C23916344

BILL TO

County of Santa Barbara, CA
Dylan Tekautz, Fiscal Manager
105 E Anapamu Ste. 204
Santa Barbara, CA 93101
(805) 568-2214
dteka@co.santabarbara.ca.us

SHIP TO

County of Santa Barbara, CA
Michael Daly, Division Manager
105 E Anapamu Ste. 204
Santa Barbara, CA 93101
(805) 568-2878
mdaly@co.santa-barbara.ca.us

CUSTOMER ID	SALES REP	FREQUENCY OF PROJECT
A118379	bgarcia	Triennial

FIRST PROJECT

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
819	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 On: Foliage on trees and shrubs will likely be present	\$ 400.00	\$ 180.00 (55%)	\$ 147,420.00
819	Reveal Certified Ortho Property	Certified Ortho upgrades an Essentials orthomosaic to an authoritative orthomosaic produced in accordance with state and local requirements Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf On: Foliage on trees and shrubs will likely be present	\$ 50.00		\$ 40,950.00
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
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 w/Three (3)Yrs of EFS Maint & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, fifteen (15) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of three years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
SUBTOTAL					\$188,370.00

SECOND PROJECT

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
819	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 On: Foliage on trees and shrubs will likely be present	\$ 400.00	\$ 180.00 (55%)	\$ 147,420.00
819	Reveal Certified Ortho Property	Certified Ortho upgrades an Essentials orthomosaic to an authoritative orthomosaic produced in accordance with state and local requirements Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf On: Foliage on trees and shrubs will likely be present	\$ 50.00		\$ 40,950.00
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
1	Oblique Imagery Bundle w/Three (3)Yrs of EFS Maint & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, fifteen (15) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions	\$ 0.00		\$ 0.00

		of the EFS Licensed Software for a period of three years from the initial date of shipment of the EFS software, along with a copy of the updated documentation.			
		Applicable Terms and Conditions: Software License Agreement			
SUBTOTAL					\$188,370.00

THIRD PROJECT					
QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
819	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 On: Foliage on trees and shrubs will likely be present	\$ 400.00	\$ 180.00 (55%)	\$ 147,420.00
819	Reveal Certified Ortho Property	Certified Ortho upgrades an Essentials orthomosaic to an authoritative orthomosaic produced in accordance with state and local requirements Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf On: Foliage on trees and shrubs will likely be present	\$ 50.00		\$ 40,950.00
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
1	Oblique Imagery Bundle w/Three (3)Yrs of EFS Maint & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, fifteen (15) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of three years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00

SUBTOTAL	\$188,370.00
----------	--------------

Thank you for choosing Pictometry as your service provider.	TOTAL - THIS AMENDMENT	\$ 565,110.00
---	------------------------	---------------

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

STANDARD ORTHO MOSAIC PRODUCTS

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

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

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

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.

Michael Daly, Division Manager, is Customer’s designated representative under this Agreement. Upon timely delivery of all Imagery, Pictometry shall submit to the Customer’s designated representative an invoice for the initial payment of \$62,790.00. The invoice must cite the assigned Board Contract Number. The Customer’s designated representative shall evaluate the quality of the service performed and/or item(s) delivered within 30 days of receipt and if found to be satisfactory shall initiate payment processing. Customer shall pay invoices for satisfactory work or items within 30 days of receipt of correct and complete invoices from Pictometry. Customer’s failure to discover or object to any unsatisfactory work, items, or billings prior to payment will not constitute a waiver of Customer’s right to require Pictometry to correct such work, items, or billings or seek any other legal remedy.

FIRST PROJECT

Due at Initial Receipt of Imagery	\$62,790.00
Due at First Anniversary of Receipt of Imagery	\$62,790.00
Due at Second Anniversary of Receipt of Imagery	\$62,790.00
Total Payments	\$188,370.00

SECOND PROJECT

Due at Initial Receipt of Imagery	\$62,790.00
Due at First Anniversary of Receipt of Imagery	\$62,790.00
Due at Second Anniversary of Receipt of Imagery	\$62,790.00
Total Payments	\$188,370.00

THIRD PROJECT

Due at Initial Receipt of Imagery	\$62,790.00
Due at First Anniversary of Receipt of Imagery	\$62,790.00
Due at Second Anniversary of Receipt of Imagery	\$62,790.00
Total Payments	\$188,370.00

Essentials+ Property deliverables

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

Essentials Add-on - Certified Ortho

Products Related to	Essentials Essentials+ Advanced
Product Description	<i>Certified Ortho</i> upgrades an Essentials orthomosaic to an authoritative orthomosaic produced in accordance with state and local requirements
Product Eligibility	<ul style="list-style-type: none"> • Reveal Certified Ortho can only be purchased in conjunction with a related product type • Reveal Certified Ortho is only applicable to Reveal orthomosaic imagery
Orthomosaic Accuracy	<u>Absolute Horizontal Accuracy:</u> <ul style="list-style-type: none"> • Produced to meet ASPRS Horizontal Accuracy Standards of ≤ 3 px RMSE_{x,y} • Optional 2 px RMSE_{x,y} (where available)
ASPRS Accuracy Standards	https://www.asprs.org/a/society/committees/standards/Positional_Accuracy_Standards.pdf
Metadata and Reporting	<u>Reporting</u> <ul style="list-style-type: none"> • FGDC Compliant metadata • Project report in accordance with state and local requirements
Optional Reporting*	<ul style="list-style-type: none"> • Signed & Sealed Produced to Accuracy Statement • Signed & Sealed Tested to Accuracy Statement <ul style="list-style-type: none"> ○ Requires Independent Accuracy Assessment to ASPRS Standards Product
Delivery Timeline	Best efforts to ensure orthomosaic and related reports will be made available online and/or ready for physical delivery within 60 – 90 days of data collected, depending on size

* Available upon request. May require purchase of additional products

$\text{MAP}(\mathbf{S})$ 