



Contract Number

SAP Number
N/A

Department of Innovation and Technology

Department Contract Representative	<u>Lea Rademaker</u>
Telephone Number	<u>909-388-0672</u>
Customer	<u>Southern California Association of Governments (19-066-C05)</u>
Customer Representative	<u>Javier Aguilar</u>
Telephone Number	<u>(213) 236-1845</u>
Contract Term	<u>2/9/21-12/31/21</u>
Original Contract Amount	<u>\$300,000</u>
Amendment Amount	<u>-</u>
Total Contract Amount	<u>\$300,000</u>
Cost Center	<u>1200101000</u>

Information Technology Contract

This Contract is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and Southern California Association of Government, hereinafter called Customer.

IT IS HEREBY AGREED AS FOLLOWS:

A. SERVICES

This Contract is for the provision of aerial imagery services by the County to Customer ("Services"). Services will be provided as set forth in the Scope of Work attached hereto as Exhibit A prior to December 31, 2021.

B. CUSTOMER RESPONSIBILITIES

- B.1.** Promptly provide written confirmation of receipt of aerial imagery.
- B.2.** Submit reimbursement or inform County, in writing, of any disputed charges within 30 days of date of County invoice.

C. GENERAL CONTRACT REQUIREMENTS

C.1. Contract Amendments

Customer agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Customer and County.

C.2. Contract Assignability

Without the prior written consent of the County, the Contract is not assignable by Customer either in whole or in part.

C.3. Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.4. Change of Address

Customer shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

C.5. Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

C.6. Confidentiality

Customer shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Customer shall not use or disclose any identifying information in this Contract for any other purpose other than carrying out the Customer's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

C.7. Primary Point of Contact

Customer will designate an individual to serve as the primary point of contact for the Contract. Customer shall not change the primary contact without written acknowledgement to the County. Customer will also designate a back-up point of contact in the event the primary contact is not available.

C.8. County Representative

The *Chief Information Officer* or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Scope of Work by County. If this Contract was initially approved by the San Bernardino County Board of Supervisors (Board), then the Board must approve all amendments to this Contract.

C.9. Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.10. Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.11. Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.12. Nondisclosure

Customer shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Customer or an agent of Customer or otherwise made available to Customer or Customer's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Customer or an agent of Customer regarding this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

C.13. Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

C.14. Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C.15. Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Customer's relationship with County may be made or used without prior written approval of the County.

C.16. Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C.17. Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Customer or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Customer and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Customer for County and vice versa.

C.18. Termination for Convenience

The County and the Customer each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the County for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice County shall promptly discontinue services unless the notice directs otherwise.

C.19. Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

D. TERM OF CONTRACT

This Contract is effective as of February 9, 2021 and remains in effect through December 31, 2021. This Contract may be terminated earlier in accordance with provisions of this Contract.

E. COUNTY RESPONSIBILITIES

County will provide the aerial imagery images to SCAG within ten (10) days after each flyover has been completed.

F. FISCAL PROVISIONS

Customer will reimburse County in the total contract amount of Three Hundred Thousand Dollars (US \$300,000) within thirty (30) days from receipt of deliverables.

G. DEFAULT

If the Customer does not make timely payment of amounts due under this Contract or breaches any term or condition of this Contract, County may declare immediately due and payable the entire unpaid amount, plus all other amounts due hereunder, less any payments made by Customer. County may also exercise all rights and remedies of a secure party under the Uniform Commercial Code (or other similar law) of the State of California and pursue any other remedies existing in law or in equity.

H. INDEMNIFICATION AND INSURANCE REQUIREMENTS

H.1. Indemnification

To the extent not prohibited or limited by law, each party agrees to defend and indemnify the other party and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising solely out of the party's acts, errors or omissions in the performance of this Contract. At its sole discretion, the indemnified party may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve the indemnifying party of any obligation imposed by this Contract. The party entitled to indemnification under this Contract shall notify the indemnifying party promptly of any claim, action or proceeding and cooperate fully in the defense. If County and/or Customer are determined to be comparatively at fault for any claim, action, loss or damage that results from their respective obligations under this Contract, County and/or Customer shall indemnify the other to the extent of its comparative fault.

H.2. Insurance

Each party represents that it is an authorized self-insured public entity for purposes of General Liability and warrants that through its program of self-insurance, it has adequate coverage or resources as necessary or required to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Contract.

I. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile with confirmation of receipt, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

County of San Bernardino
Department of Innovation & Technology
670 E Gilbert St
San Bernardino, CA 92415

Southern California Association of Governments
Cindy Giraldo, CFO
900 Wilshire Blvd, Suite 1700
Los Angeles, CA 90017-3435

Notice shall be deemed as communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

J. ENTIRE CONTRACT

This Contract, including all Attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will. This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Contract. The parties shall be entitled to sign and transmit an electronic signature of this Contract (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Contract upon request.

IN WITNESS WHEREOF, the County of San Bernardino and the Customer have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

COUNTY OF SAN BERNARDINO

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

►

 Curt Hagman, Chairman, Board of Supervisors

By ► _____
(Authorized signature - sign in blue ink)

Dated: _____
 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Name _____
 CINDY GIALDO

Lynna Monell
 Clerk of the Board of Supervisors
 of the County of San Bernardino

Title _____
 Chief Financial Officer

By _____
 Deputy

Dated: _____

Address 900 Wilshire Blvd., Suite 1700
LA, CA 90017-3435

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► _____ County Counsel	► _____	► _____
Date _____	Date _____	Date _____

**EXHIBIT A
SCOPE OF WORK**

The GSD will be 6” with the flight plan to match, the imagery will be 4-band RGBI instead of RGB only, building footprints will be included, and the delivery schedule is as shown below. The image tiling scheme is flexible.

San Bernardino County 6” Orthoimagery and Building Footprints | Vexcel UltraCam Eagle Mark I

Scope of Services

- Ground control survey of approximately forty (40) points to ensure **proper positional accuracy of the ortho and building footprints**
- **Vexcel UltraCam Eagle M1 RGBI Digital Image Acquisition with 80%/30% fore/side overlap**
- **GNSS/IMU trajectory post-processing and analytical aerotriangulation to densify ground control network**
- **Building footprint digitization and attribution in SHP/GDB format**
 - Heads-up digitization from the 6” stereo imagery used for the ortho
 - Minimum building size 400 square feet within and touching the AOI boundary
 - Buildings obscured by trees or other overhanging obstacles will be modeled to the best extent possible; 80% forward overlap should maximize utility from photogrammetry
 - Collected at drip line
 - Attributed with height above mean sea level at the highest point of the structure (excluding non-structural features such as chimneys, air conditioning units, antennas, and flag poles)
 - Attributed with height above ground, measured from the highest point of the structure (as above) to the ground adjacent to the drip line (sloped ground method TBD)
 - Attributed with parcel number based on County-provided parcel layer
 - Delivery format SHP or GDB
- **Full 4-band RGBI image orthorectification, tiled as needed, delivered in GeoTIFF and other contract-specified formats**
- **Orthorectified imagery and building footprints delivered on USB 3.0 hard drive**

Bid #5184 2021 San Bernardino County - UCE Mark I

Settings/Stats	
Altitude (ft, AGL)	9640
GSD	15.2cm
OL(%) average	80
SL(%) average	30
Lines	270
Images	~18000

Forecasted Delivery Schedule

Building Footprints for Winter Flight	~November 5 2021
Orthorectified Imagery for Winter Flight	~November 15 2021
Building Footprints for Summer Flight	~November 5 2021
Orthorectified Imagery for Summer Flight	~November 15 2021