

PIMA ASSOCIATION OF GOVERNMENTS
MASTER CONTRACT FOR PROFESSIONAL SERVICES

This Contract is made and entered into by and between Pima Association of Governments (PAG) referred to as PAG in this Contract, and Digital Mapping, Inc., referred to as Contractor in this Contract.

WITNESSETH:

WHEREAS PAG has been designated a Metropolitan Planning Organization, pursuant to Title 23, Section 134 of the United States Code; Title 23, Section 450.300 of the Code of Federal Regulations, and Executive Order No. 70-2, dated July 8, 1970, by the Governor of the State of Arizona;

WHEREAS PAG receives state and federal funding pursuant to PAG's Grant Agreement with the State of Arizona, through the Arizona Department of Transportation [the "ADOT Agreement"];

WHEREAS the ADOT Agreement can be viewed on PAG's website at pagregion.com and all of its applicable terms are incorporated herein by this reference as if fully set forth herein;

WHEREAS PAG desires to engage the Contractor to perform professional services as specified in this Contract;

WHEREAS the Contractor represents that it is fully able and professionally qualified to perform said services; and

WHEREAS the PAG Regional Council has authorized the negotiation and execution of this Contract by the PAG Executive Director.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter contained, PAG does hereby engage the Contractor and the Contractor does hereby accept engagement in accordance with the terms and conditions of the ADOT Agreement and the additional terms and conditions that follow:

A. SCOPE OF WORK

SEE APPENDIX A, incorporated herein by this reference.

B. SPECIAL TERMS AND CONDITIONS

1) Key Personnel:

PAG Project Manager: Mead Mier-Welborn, a Planning Manager with PAG, will serve as the PAG Project Manager and PAG primary contact.

Principal in Charge and Contractor's Project Manager: Gencaga Aliyazicioglu, an officer of the Contractor, will serve as the Principal in Charge and will have the authority to commit resources necessary to complete the Scope of Work and be ultimately responsible for satisfactory execution of all work tasks.

Mr. Aliyazicioglu will additionally serve as the primary contact with the PAG Project Manager, Mead Mier-Welborn. The Contractor's Project Manager's responsibilities will include coordination and management of day-to-day work, development and production of all deliverables, reviewing and responding to PAG inquiries and comments, and tracking the status of the Contract budget and schedule.

PAG Deputy Executive Director: David Adler, the Deputy Executive Director of PAG, will serve as the PAG Deputy Director as defined in this Contract.

PAG Executive Director: Farhad Moghimi, the Executive Director of PAG, will serve as the PAG Executive Director as defined in this Contract.

- 2) **Compensation: PAG initially intends to acquire only Product 1, described on Appendix A** for the sum total of \$179,000 U.S. dollars, payable based upon the cost sheet provided to PAG by Digital Mapping, Inc., on July 21, 2023, noted herein in Appendix B. PAG, at its sole option, may authorize Contractor, in writing, to provide additional Products under this Contract. In no event shall the amounts paid under this Contract, and any subsequent amendments, exceed \$500,000.
- 3) **Performance Schedule:** The work as described in Appendix A shall be completed in a timely manner, and all deliverables for Product 1 shall be submitted to the PAG Project Manager no later than May 10, 2024 unless extended at PAG's sole option. The Contract term, however, will commence September 28, 2023, and end September 28, 2024, unless otherwise amended at the sole option of PAG. In accordance with PAG's procurement policy, this Contract may be renewed annually for an additional three years.
- 4) **Insurance:** The Contractor shall obtain insurance as specified in the ADOT Agreement, section 21.0., and as described below and keep such coverage in force throughout the

life of the Contract, and until all of Contractor's obligations have been discharged. All policies must contain an endorsement providing that written notice be given to PAG and ADOT at least thirty (30) calendar days prior to suspension, termination, material change or cancellation in coverage in any policy. Except for professional liability and workers' compensation insurance, the liability insurance policy(s) shall include ADOT and PAG as additional insured parties with respect to liability arising from the Contract. The Contractor agrees that its insurance will be primary, and that any insurance carried by ADOT or PAG will be excess and non-contributing.

<u>Coverage Required</u>	<u>Minimum Limits of Liability</u>
Workers' Compensation	\$ Statutory
Employees' Liability	\$ 1,000,000.00
Professional Liability (Errors and Omissions)	\$ 1,000,000.00
General Aggregate Liability	\$ 2,000,000.00
Products – Completed Operations	\$ 1,000,000.00
Personal and Advertising Injury	\$ 1,000,000.00
Vehicles	\$ 1,000,000.00

The Contractor must present to the PAG Procurement Officer written evidence (Certificates of Insurance) of compliance with these insurance requirements prior to the start of work and shall satisfy PAG regarding their adequacy. All coverage for Contractor's subcontractors shall be subject to the minimum insurance requirements identified above. The policies shall contain a waiver of subrogation endorsement in favor of the State of Arizona, PAG, and their departments, agencies, boards, commissions, universities and their officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

- 5) Summary Progress Reporting Requirements:** The Contractor shall prepare and submit summary progress reports to the PAG Project Manager on the 1st of each month or as otherwise requested by the PAG Project Manager.

C. GENERAL TERMS AND CONDITIONS

1) Key Terms and Definitions:

- a. **PAG:** Pima Association of Governments, 1 East Broadway Blvd, Ste. 401, Tucson, AZ 85701
- b. **Contract:** This legal document executed between PAG and the Contractor, which incorporates all applicable provisions of the ADOT Agreement.

- c. **Disadvantaged Business Enterprises (DBE):** DBEs are for-profit small businesses where socially and economically disadvantaged individuals own at least 51% interest and also control management and daily business operations.
 - d. **May:** Indicates an action that is recommended, but not mandatory
 - e. **PAG Project Manager:** The PAG employee who is responsible for overseeing the Contractor's performance under this Contract.
 - f. **Shall, Must and Will:** Indicate an action that is mandatory.
 - g. **Should:** Indicates an action that is recommended, but not mandatory.
- 2) **Termination:** PAG, upon certification of the PAG Executive Director, without prejudice to any other right or remedy of PAG, and after giving the Contractor ten (10) working days written notice, may terminate the Contract with the Contractor. Such termination will apply to all work, or any part thereof, including, but not limited to, the following reasons:
- a. The Contractor should be adjudged bankrupt.
 - b. The Contractor should persistently or repeatedly refuse or fail to perform in accordance with the requirements of the Contract.
 - c. The Contractor abandons the work, or unnecessarily or unreasonably delays the work.
 - d. Funds are not appropriated or are otherwise unavailable to PAG, including matching funds from any source and grant funds.
 - e. The Contractor should be found by PAG to have a conflict of interest as contemplated by Arizona Revised Statutes § 38-511.
 - f. The Contractor refuses to correct, at the Contractor's sole expense, any portion of the work product determined by the PAG Project Manager to be deficient.
 - g. The Contractor fails to comply with any of the applicable terms of the ADOT Agreement.
 - h. PAG determines that termination is in the best interest of PAG.
- 3) **Records:** Internal control over all financial transactions related to the Contract shall be in accordance with the ADOT Agreement and other sound fiscal policies. PAG or ADOT may, at reasonable times and places, audit the books and records of the Contractor, or any and all of a subcontractors' records. Such audit shall be limited to the Contract and the execution of its Scope of Work
- 4) **Arbitration:** It is understood and agreed that no provision of the Contract relating to arbitration or requiring arbitration shall apply or be binding upon PAG except by PAG's express written consent given subsequent to the execution of the Contract. However, at PAG's sole option, or by other means expressly approved by PAG, disputes may be resolved through arbitration. The dispute may be resolved as provided for in Arizona Revised Statutes Section 12-1501 et seq. The Contractor shall continue to render the

services required by the Contract without interruption, notwithstanding the provisions of this section, unless otherwise directed by PAG or ADOT.

- 5) Independent Contractor:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.
- 6) Non-Exclusive Contract:** This Contract is awarded with the understanding and agreement that it is for the sole convenience of PAG. PAG reserves the right to obtain like goods and services from another source at PAG's convenience.
- 7) Patents and Copyrights:** Except as may otherwise be required by the ADOT Agreement or applicable federal law regarding patents [37 CFR 401.14 except for § 401.14(g)], all services, information, computer program elements, reports and other deliverables which may have a potential copyright or patent value, and which are created under the Contract, shall be the property of PAG and shall not be used by the Contractor or any other person except with the prior written permission of PAG.
- 8) Commencement of Work:** The Contractor shall work only after receiving PAG's Notice to Proceed from the PAG Project Manager. The Contractor shall complete all work to the reasonable satisfaction of PAG in accordance with the Scope of Work.
- 9) Confidentiality of Records:** The Contractor shall establish and maintain procedures and controls that are acceptable to PAG for the purpose of assuring that no information contained in its records or obtained from PAG or from others in carrying out functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to PAG. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PAG or as required by law.
- 10) Certification:** By signature on the Contract, the Contractor certifies that:
 - a. The submission of the offer did not involve collusion or anti-competitive practices.
 - b. The Contractor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a PAG officer or employee or to any

public servant in connection with the submitted offer. Signing the Contract with a false statement in connection with this provision shall void the Contract and may result in PAG exercising other remedies under the law and the Contract.

- c. The Contractor hereby certifies that the individual signing the Contract is an authorized agent for the Contractor and has the authority to bind the Contractor to the Contract.
- d. PAG is prohibited from making any award or permitting any award at any tier to any party which has not established and maintained its entity registration on the federal System for Award Management or one that is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs pursuant to 2 CFR 200.213. Neither the Contractor nor any of its subcontractors is debarred, suspended or otherwise ineligible to receive state or federal funds. Contractor will review the Exclusions available at <https://sam.gov/content/entity-information> and assure that it and its subcontractors establish and maintain entity registration on the System for Award Management before entering into any covered contracts.

11) Gratuities: PAG may, by written notice to the Contractor, cancel the Contract if it is found that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of PAG who amended or made any determinations with respect to the performance of the Contract. In the event that the Contract is canceled by PAG pursuant to this provision, PAG shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

12) Conflict of Interest: PAG may cancel the Contract for conflicts of interest as though it were a political subdivision pursuant to ARS § 38-511.

No member of the governing body of PAG, and no other officer, employee or agent of PAG or its member jurisdictions who exercise any function or responsibility in connection with planning or carrying out work or services under this Contract, nor any relative thereof, shall have any substantial interest, direct or indirect, in this Contract or subcontract, or to the proceeds thereof. The Contractor shall take appropriate steps to assure compliance with this provision.

13) Applicable Law: The laws of the State of Arizona and the federal government shall govern this Contract, and suits regarding this Contract shall be brought only in Federal or State courts in the State of Arizona. Venue and jurisdiction for any suit or other dispute resolution proceeding shall be in Pima County, Arizona.

14) Contract Terms and Conditions: The Recitals appearing on the first page of this Contract are incorporated herein as binding Contract terms. PAG reserves the right to clarify any contractual terms or conditions with the concurrence of the Contractor; however, any substantial non-conformity in the Contract, as determined by PAG, shall be deemed non-responsive and the Contract terminated. This Contract, with the incorporated applicable provisions of the ADOT Agreement, contains the entire agreement between PAG and the Contractor relating to the work and services provided hereunder and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

15) Contract Amendments: The Contract shall be modified only by a written Contract amendment signed by PAG's Executive Director and persons duly authorized to enter into contracts on behalf of the Contractor. While amendments are discouraged, they may be considered when PAG adds related work to the original Scope, or when PAG and the Contractor agree that changes to the nature of one or more tasks are sufficient to warrant modification of the Scope. PAG may choose to issue a new RFP for such work, rather than provide a Contract amendment. Amendments may also be required to extend the term of the Contract. Any work performed by the Contractor without an appropriate amendment shall be at the Contractor's sole cost.

16) Assignment – Delegation: No right or interest in the Contract shall be assigned by the Contractor without prior written permission of PAG, and no delegation of any duty of the Contractor shall be made without the prior written permission of the PAG Project Manager. PAG shall not unreasonably withhold approval and shall notify the Contractor of PAG's position within fifteen (15) days of receipt of written notice by the Contractor.

17) Rights and Remedies: No provision in this Contract shall be construed, either expressly or by implication, as a waiver by PAG of any existing or future right and/or remedy available by law in the event of any claim of breach of contract or default. The failure of PAG to insist upon the strict performance of any term or condition of the Contract, or to exercise, or to delay the exercise of, any right or remedy provided in the Contract or by law, shall not be deemed a waiver of the right of PAG to insist upon strict performance of the Contract.

18) Indemnification:

- a. The Contractor shall indemnify, defend and hold PAG harmless from any and all claims, demands, suits, actions, proceedings, loss costs and claims, and damages of every kind and description, including claims for copyright, patent and trademark, and including any reasonable attorney's fees and/or litigation expenses, which may be brought or made against the Contractor, PAG, any of

PAG's officers, directors and employees, or any person, regardless of who makes the claim, to the extent that they result from the negligent or wrongful acts of the Contractor, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance of this Contract. The Contractor's obligation under this section shall not apply to any damages caused by the negligence of PAG or its employees. The indemnification provided in this section shall survive termination of this Contract. The minimum limits and types of insurance provided for in Section B3 shall not limit the scope and extent of indemnity hereunder. The indemnities provided in this Section shall survive termination of this Contract.

- b.** In addition, pursuant to the ADOT Contract, Contractor shall indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising from this Contract, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation, hereinafter referred to as "Claims") for bodily or personal injury including, but not limited to, death, or loss or damage to tangible or intangible property including claims for copyright, patent and trademark, caused, or alleged to be caused, in whole or in part, by the negligent or wrongful acts or omissions of Contractor or any of the directors, officers, agents, employees or subcontractors of Contractor. This indemnity includes any claim or amount arising from or recovered under the Workers' Compensation law or arising from the failure of Contractor to conform to any federal, state or local laws, statutes, ordinances, rules, regulations, or court decrees. It is the specific intention of the Parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. The indemnities provided in this Section shall survive termination of this Contract.

19) Force Majeure: Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and that occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence.

If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall promptly notify the other party in writing of such delay and shall specify the cause(s) of the delay in the notice. The notice shall be hand-delivered or mailed via certified mail with a return receipt, and shall make a specific reference to this section, thereby invoking its provisions. The delayed party shall cause the delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results.

20) Right to Assurance: Whenever PAG has reason to question the Contractor's intent or ability to perform, PAG may demand that the Contractor give written assurance of its intent or ability to perform. In the event that such a demand is made, and no written assurance is given within five (5) business days, PAG may treat this failure as an anticipated breach of contract.

21) Advertising: The Contractor shall not advertise or publish information concerning the Contract without prior written consent of PAG.

22) Right to Inspect: PAG may, at reasonable times and at PAG's expense, inspect the place of business of the Contractor or any subcontractor that is directly or indirectly related to the performance of the Contract as awarded or proposed to be awarded.

23) Quality of Materials, Services and Deliverables; Disclaimer Statement: All materials, services and other deliverables are subject to acceptance by PAG. Materials, services or other deliverables (either interim or final) that fail to conform to the specifications of the Contract or which are deemed to be substantially deficient by the Project Manager shall be returned to the Contractor for remedy. If so returned, all costs to remedy the deficiency or deficiencies shall be the responsibility of the Contractor. Should the Contractor dispute the Project Manager's decision regarding the quality of the work product at issue, the Contractor may appeal the Project Manager's decision, through the PAG Deputy Executive Director, to the PAG Executive Director. The decision of the PAG Executive Director shall be final. In the event the PAG Executive Director should find the work product at issue to be deficient, and the Contractor refuses to correct the work product at the Contractor's sole cost, the PAG Executive Director may invoke the remedies set forth in this Contract for noncompliance.

Any reports and maps completed under this Contract shall contain the following statement: "This report was funded in part through grant(s) from the Federal Highway Administration and/or Federal Transit Administration, U.S. Department of Transportation via the Arizona Department of Transportation. The contents of this document reflect the views and opinions of the author who is responsible for the facts and accuracy of the

data presented herein. The contents do not necessarily reflect the official views or policies of the Pima Association of Governments, U.S. Department of Transportation, the Arizona Department of Transportation, or any other State or Federal Agency. This report does not constitute a standard, specification, or regulation.”

24) Exclusive Possession: All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of PAG and shall not be used or released by the Contractor or any other person except with prior written permission of PAG.

25) Title and Risk of Loss: The title and risk of loss of material or service shall not pass to PAG until PAG actually accepts the material or service at the point of delivery, unless otherwise provided within this Contract.

26) Default in One Installment to Constitute Total Breach: The Contractor shall deliver conforming work or materials in each installment or lot of the Contract and may not substitute non-conforming work or materials. Delivery of non-conforming work or materials, or default of any nature, shall, at the option of PAG, constitute a breach of the Contract as a whole.

27) Liens: All materials, services and other deliverables supplied to PAG under this Contract shall be free from all liens other than the security interest held by the Contractor until payment in full is made by PAG. Upon request of PAG, the Contractor shall provide a formal release of all liens.

28) Licenses and Compliance with Laws: The Contractor, and its subcontractors, shall maintain in current status all Federal, State and local licenses and permits required for the performance of the work hereunder and operation of the business conducted by the Contractor as applicable to the Contract, throughout its duration. The Contractor and any subcontractors shall fully comply with all applicable federal, state and local laws and all grant funding requirements contained in the ADOT Agreement in performing hereunder. Without limiting the generality of the forgoing, sections 30.0 and 31.0 of the ADOT Agreement, listing specific state and federal laws and regulations which may be applicable to this Contract, are specifically incorporated herein.

29) Affirmative Action: The Contractor agrees to abide by the PAG affirmative action policies as they may be amended from time to time.

30) Compliance with Regulations: The Contractor will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, *Federal Highway Administration or the Arizona*

Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract, including all applicable provisions of the ADOT Agreement.

31) Non-Discrimination: The Contractor, with regard to the work performed by it during the Contract, will not discriminate on grounds of race, color, gender or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination expressly prohibited by the Acts and the Regulations, including employment practices when the Contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21. Contractor shall comply with all applicable non-discrimination statutes and authorities provided in Title VI, Appendix E.

32) Solicitations for Subcontracts, including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding or by negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, gender or national origin.

33) Participation in ADOT Local Public Agency DBE Data Collection and Reporting System: Projects using federal funding require that the Contractor, as well as any subcontractor, register as a "vendor" in the ADOT Local Public Agency DBE Data Collection and Reporting System. The Arizona Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964, and the implementing regulations, hereby notifies all contractors that it will affirmatively ensure disadvantaged business enterprises will be afforded full and fair opportunity, and will not be discriminated against on the grounds of race, color, or national origin.

34) DBE Reporting: The federal government and ADOT maintain and mandate participation in a DBE program, which is intended to remedy past and current discrimination against disadvantaged businesses. The DBE program ensures a "level playing field" and fosters equal opportunity in all DOT-assisted contracts.

Federal projects with a DBE goal require that the Contractor and DBE sub-contractor use the ADOT reporting system (<https://arizonalpa.dbesystem.com/>) to show the making/receipt of timely payments.

35) DBE Verification: During the life of the Contract, PAG and/or ADOT may conduct visits as necessary to verify that the DBE Contractor listed on the project are in fact providing

the work indicated. Should a DBE sub-contractor identified in the proposal not perform up to standard, the Contractor shall contact the ADOT Civil Rights Office or the PAG Contract Officer for possible alternatives before terminating the sub- contractor contract. Possible courses of action include, but are not limited to, replacing of the DBE with another DBE or the reduction of the DBE goal, depending on the progress of the project and the availability of qualified DBE contractors. The Contractor shall submit at the completion of the project the "Certification of Payments to DBE Firms" affidavit for each DBE working on the project.

36) Information and Reports: The Contractor will provide all information and reports required by the Acts, Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts and other sources of information, and its facilities, as may be determined by PAG, the *Federal Highway Administration or Arizona Department of Transportation* to be pertinent to ascertaining compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to PAG, the *Federal Highway Administration, or Arizona Department of Transportation*, as appropriate, and will set forth what efforts it has made to obtain the information.

37) Sanctions for Noncompliance: In the event of Contractor's non-compliance with the Non-discrimination provisions of this Contract, PAG will impose such Contract sanctions as it or the *Federal Highway Administration or Arizona Department of Transportation* may determine to be appropriate, including but not limited to:

- a. Withholding payments to the Contractor under the Contract until the Contractor complies; and/or
- b. Cancelling, terminating, or suspending the Contract in whole or in part.

38) Incorporation of Provisions: The Contractor will include the provisions of Sections 28, 30, 31, 32, 33, 37, 38 and 39 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, Regulations and directives issued pursuant hereto. The Contractor will take action with request to any subcontract or procurement as PAG, the *Federal Highway Administration or Arizona Department of Transportation* may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the Contractor may request PAG to enter into any litigation to protect the interests of PAG. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

39) Americans with Disabilities Act: The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, U.S.C. 12101-12213) and applicable Federal regulations under this Act.

40) Method and Schedule of Payment: The method and schedule of payment is subject to the requirements and restrictions of PAG and the funding agencies.

PAG agrees to reimburse the Contractor up to the sum specified in the proposal, and in accordance with the payment schedule listed below, which constitutes full and complete compensation for the Contractor's services.

Payment Schedule

- 25% of contract amount- Progress Payment (After completion of aerial acquisition)
- 25% of contract amount- After completion of initial delivery
- 50% of contract amount - Within 30 days after completion and satisfactory QC acceptance by PAG of final delivery

PAG's normal policy is to process invoices requesting payment for work done within thirty (30) calendar days upon satisfactory delivery of products, services and/or goods, as well as receipt of properly completed invoices and the necessary Project Manager approvals. Written progress reports shall accompany each billing and shall specify the percentage of Contract work completed. Each itemized invoice must bear a written certification by the authorized PAG Project Manager confirming satisfactory progress or completion of services for which payment is requested.

Invoices for payment will be submitted by task and line item as presented with each delivery. Additional documentation may be required from time to time.

Invoices for payment will be submitted by mail to:

PIMA ASSOCIATION OF GOVERNMENTS (PAG)
Attn: Accounts Payable
1 East Broadway Blvd., Suite 401
Tucson, AZ 85701

Costs incurred by the Contractor as a result of any changes by PAG and/or the Contractor outside of the Scope of Work of this Contract will not be allowed for reimbursement under this Contract unless such changes and related costs were approved by PAG in writing prior to the Contractor's incurring such costs.

Payment to the Contractor in advance of the Contractor incurring costs for authorized work to be performed under the Scope of Work of this Contract is prohibited unless PAG makes a written determination prior to the payment that an advance payment is in PAG's best interest.

41) Equipment Maintenance: The Contractor must maintain all equipment, as applicable, in good working order throughout the length of the project and must repair or replace any unsafe or inoperable equipment without delay.

42) Safety: The safety requirements of the Occupational Safety and Health Act (29 U.S.C. Sections 651-678) as promulgated by the Federal government, and as implemented by the State of Arizona, apply to all work performed under the proposed Contract. The Contractor will be solely responsible for implementing and enforcing the safety requirements of this Act at all times.

43) Retention of Records: The Contractor shall retain all work materials and records related to the performance of the Scope of Work of the Contract for a period of not less than five (5) years after the final payment is made under the Contract.

44) Right to Financial Audit: PAG retains the right to audit at reasonable times and places the financial books and records of the Contractor relating to the performance of the Contract for a period of not less than five (5) years after the final payment is made under the Contract.

45) Assignment of Principals: The Contractor shall maintain the assignment of its Principals as shown in B1. Prior written permission shall be obtained from the PAG Project Manager for any change in these assignments. PAG will notify Contractor if PAG changes its Project Manager.

46) Lobbying: If this Contract exceeds \$100,000.00, the Contractor shall complete the Certification for Federal-Aid Contracts (ECS Form 90-1, attached hereto) and, when appropriate, the Disclosure of Lobbying Activities (ECS Form 90-3, attached hereto).

47) Compliance with Immigration Laws: As mandated by Arizona Revised Statutes (ARS) section 41-4401, PAG is prohibited from awarding a contract to any contractor or subcontractor that fails to comply with ARS § 23-214(A). PAG must also ensure that every contractor and subcontractor complies with federal immigration laws and regulations that relate to their employees and ARS § 23-214. Therefore, in signing or performing this Agreement for PAG, the Contractor fully understands that:

- a. It warrants that both it and any subcontractors it may use will comply with all federal immigration laws and regulations that relate to their employees and their compliance with ARS § 23-214(A);
- b. A breach of the warranty described in subsection A of ARS § 23-214 shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract; and
- c. PAG or its designee retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty under subsection A of ARS § 23-214.

48) No Boycott of Israel: Pursuant to ARS section 35-393.01, PAG may not enter into a contract with a contractor, unless the contractor certifies that the contractor is not currently engaged in, and agrees not to engage in, a boycott of goods or services from Israel. Contractor's signature below serves as this certification.

49) End-User License Agreement (EULA):

SEE APPENDIX C, incorporated herein by this reference.

AUTHORIZATION FOR THIS CONTRACT:

The PAG Regional Council duly authorized execution of this Contract on September 28, 2023,

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date signed by the PAG Executive Director.

Pima Association of Governments

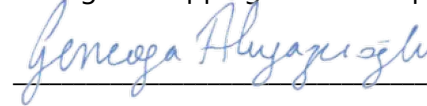
Farhad Moghimi
As PAG Executive Director and Not Personally



Date: 09/28/2023

CONTRACTOR

Digital Mapping, Inc.
Gencaga Aliyazicioglu
As Digital Mapping Inc.'s Principal in Charge



Date: 09/28/2023

Appendix A:

Scope of Work

PROJECT OBJECTIVES

The Scope of Work identifies single data product requested by the Pima Association of Governments for their 2023 Orthoimagery Program. The request is for 15 cm GSD, 4-band orthoimagery over a region covering the full extent of Eastern Pima County, including the Tohono O'odham Nation's San Xavier District and a small area of urban area north of the county line including all of the Town of Marana and community of Catalina. The full extent of this product covers approximately 4,000 square miles. The bidder shall be responsible for all material, labor, and services and any other associated services and materials necessary to completely provide the required data for acceptable to the Pima Association of Governments (hereafter referred to as PAG). Prices quoted will be all-inclusive.

PRODUCT OWNERSHIP AND LICENSING

All deliverable products and all information or data gathered as a part of this project shall be delivered to PAG prior to final close-out of the contract and shall be solely owned by PAG.

ACQUISITION DATES

Imagery for 2023 should be taken between September 28, 2023, and December 30, 2023.

- In the event that weather conditions are such as to prohibit quality aerial imagery acquisition, upon written request, extensions may be granted by PAG if flying conditions are adverse to aerial imagery acquisition and prevent the completion of final product on the scheduled dates. All planning efforts should attempt to complete it as early as possible so that it is completed within 2023 with the understanding that the region experiences winter rain in the basin and snow in the mountains.
- All aerial images which do not meet the quality of accuracy of the specifications shall be returned to the contractor at which time the contractor shall have thirty (30) days to provide PAG with a satisfactory replacement.

PAG may amend the contract to include additional products shown in the exhibits below.

SCHEDULE FOR DELIVERY AND LIQUIDATED DAMAGES

- All work for the 2023 acquisition shall be completed by May 10, 2024. The calendar days count from the date of the notice to proceed.
- Liquidated damages for missing the schedule will be assessed as follows:

- 2% of the contracted amount for up to 1 week late
 - 5% of the contracted amount for up to 2 weeks late
 - 7% of the contracted amount for up to 3 weeks late
 - 10% of the contracted amount for up to 4 weeks late or more
- This Scope of Work is for a one-year contract with three annual options to extend using the same per unit costs. Overall cost is not to exceed \$500K.

PRODUCT DELIVERABLES

1. Quality Assurance and Quality Control (QAQC) with a Process Report

All QAQC will be conducted by the contractor prior to product delivery and documented in the Process Report. A narrative report shall be prepared describing equipment, procedures, and programs used for the aerial triangulation. Root-mean-square error summaries will be given for bundle adjustment photographic measurement residuals or strip tie point residuals and misclosures at control/check points. In addition, significant misfits encountered at control points, and steps taken to analyze such misfits and to rectify the discrepancies, will be described. All QAQC will be conducted by the contractor prior to product delivery and documented in the Process Report. The Process Report must be completed as part of the product delivery.

A complete GIS Metadata file shall be included with the datafiles including a summary of the above, source, dates, accuracy, area covered, acquisition requirements, documentation about registered or private benchmarks utilized, coordinate reference system, and other standard components.

2. Orthophotography

- Acquisition and Imagery Requirements
 - i. Cloud cover: less than 5% per square mile image
 - ii. Smoke/fire: less than 5% per square mile image
 - iii. Maximum allowable image shear: less than 3 pixels
 - iv. Sidelap: 20% or greater
 - v. Acceptable image blemishes and artifacts: Imagery should be blemish and artifact free.
 - vi. Occlusions: Smearing from DEM inaccuracies or occlusions that exceed 3% of a 3-by-3-mile area are not acceptable.
 - vii. Contrast and color balance: should be consistent across the block.
 - viii. Bridge smear: bridge or roadway warp is not acceptable.
- Accuracy
 - i. 15 cm imagery should be of sufficient quality and horizontal accuracy to support the potential future development of ASPRS Class 1 planimetric products.

- Coordinate Reference System
 - i. Obtained orthophoto imagery must be provided in State Plane, Arizona Central Zone (FIPS Zone 0202), NAD83 (2011) International Feet (EPSG #2868) and include ancillary vector file of photo-points with date and time stamps.
- Labeling and Tiling
 - i. Data shall be delivered on hard drives or appropriate media as agreed to with PAG.
 - ii. The delivery media will become property of PAG after completion of the project.
 - iii. Format shall be TIFF uncompressed with world files (.tfw). All imagery data sets will be tiled in the Arizona PLSS with also a 300-foot buffer on all sides.
 - iv. TIFF files shall be named as follows: xxSyyEzz_C06Y23.tif where xx is the PLSS Township number, S is South, yy is the PLSS Range number, E is East, zz is the PLSS section number, and the last six characters represent Color, 6 inch resolution and year.

3. Photopoints

- A vector dataset containing photopoints with date and time stamps for each imagery tile. Dataset can be delivered in an Esri GeoDatabase feature class, Shapefile, or GeoPackage format.
- Clearly-labeled TRS index in shapefile format.

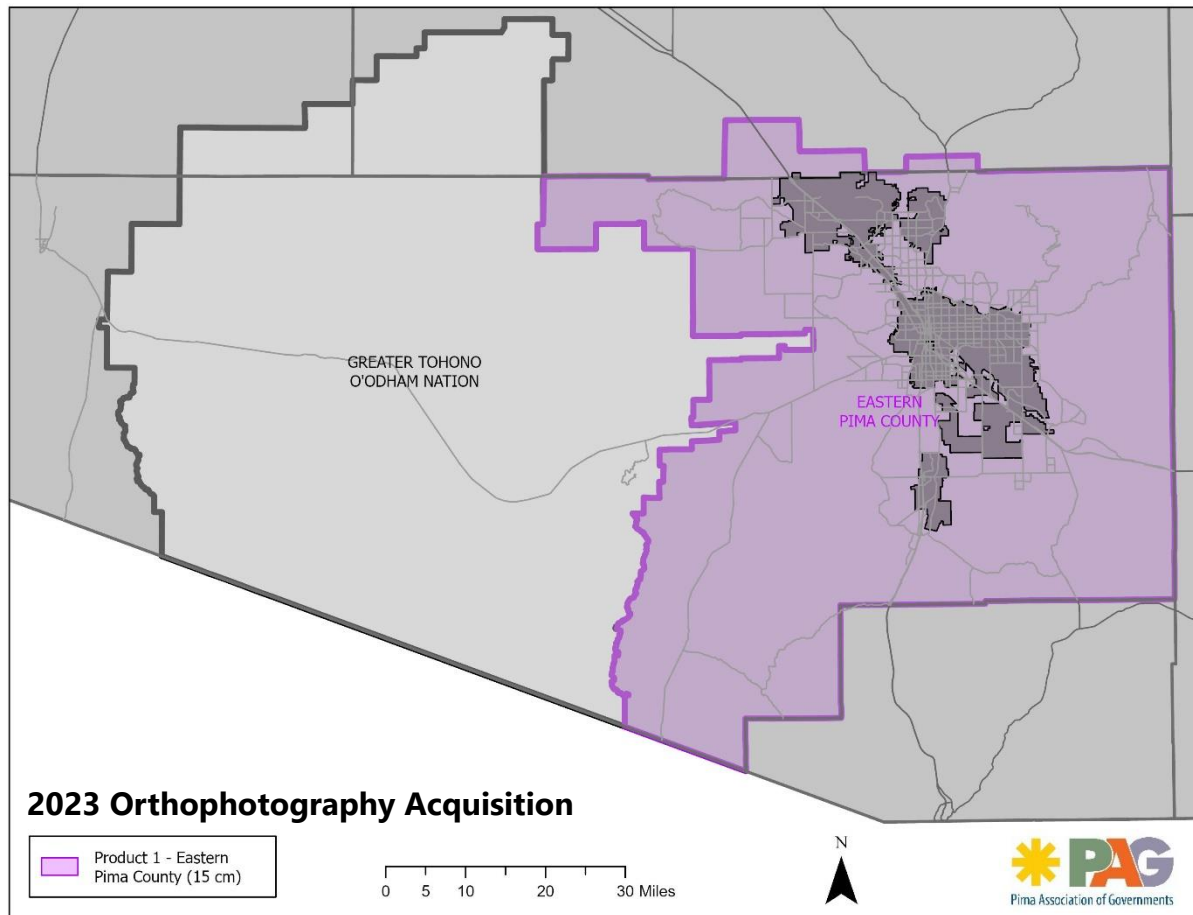
4. Stereopair Imagery

- Deliverables must include stereopair imagery and the related autocorrelated point cloud as part of the dataset with right to ownership by PAG and partners.

PROJECT EXTENT

The requested extent will be provided by Pima Association of Governments as GIS shapefiles:

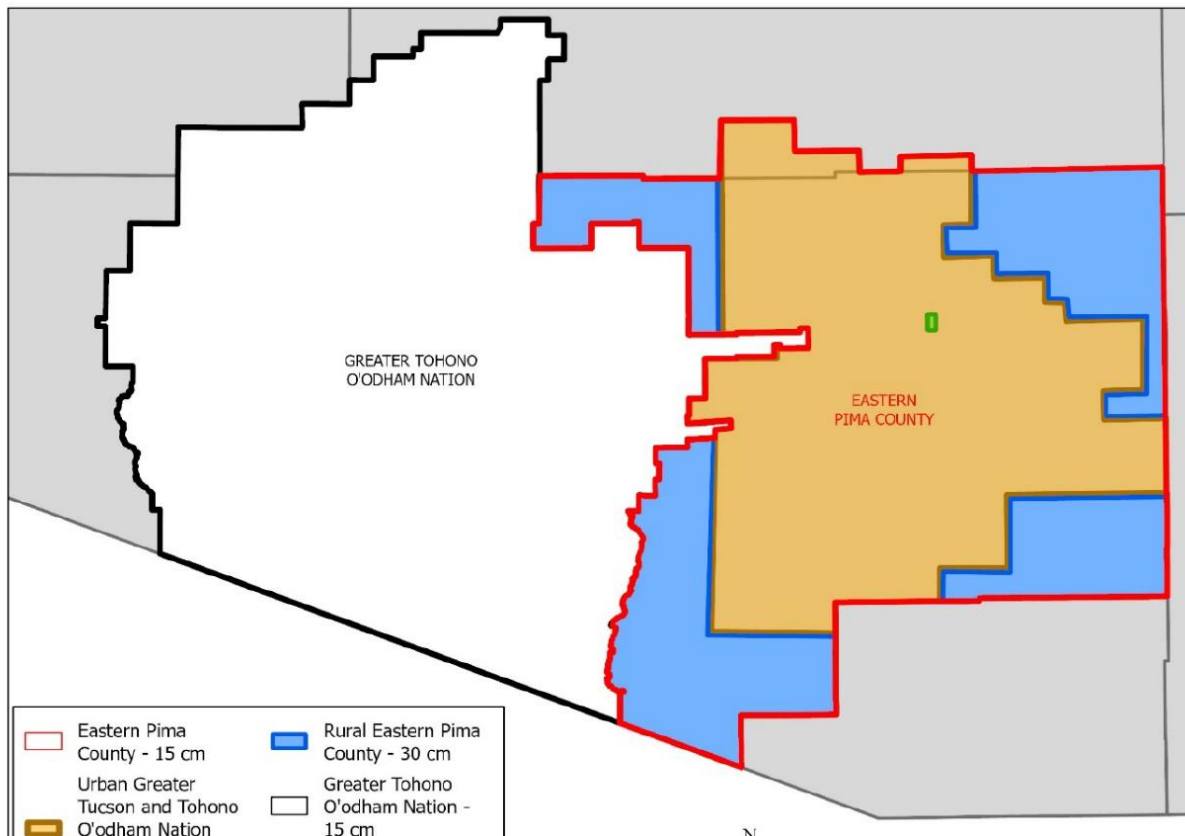
Exhibit A: 2023 Ortho Acquisition- Product 1



Draft: 8/22/2023 1:00 PM

Product 1: Approximately 4,000 square miles of 15cm (6 inch), 4-band ortho-imagery of Eastern Pima County as outlined in **purple in Exhibit A**, which includes in grey the entirety of the cities of Tucson and South Tucson; includes the entirety of the towns of Sahuarita and Oro Valley; excludes the Tohono O’odham Nation by their request for privacy; plus includes the entirety of the towns of Marana and community of Catalina including areas north of the Pima County line.

Exhibit B- Potential Future Acquisitions



Product 2 – Urban eastern Pima County: 4-band (RGB & NIR), minimum 15 cm GSD 2023 orthophotography covering Urban Greater Tucson and the Tohono O’odham Nation’s San Xavier District (combined appx. 2,500 square miles), as outlined in brown in the exhibit above. The urban area includes a small area north of the Pima County line included in the square miles listed.

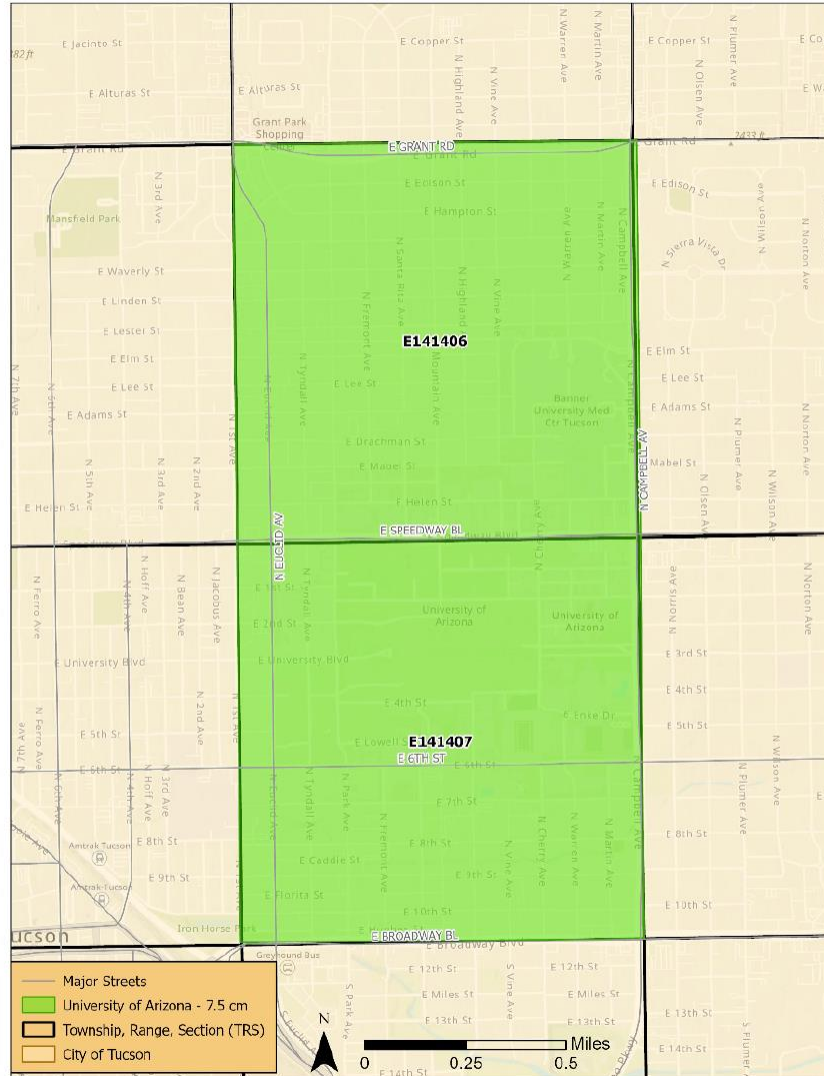
Product 3 – Rural eastern Pima County: 4-band (RGB & NIR), 30 cm GSD 2023 orthophotography covering just the rural areas in Pima County excluding the Tohono O’odham Nation, San Xavier District, and Urban Greater Tucson (appx. 1,500square miles), as outlined in blue in the exhibit above.

Product 4 – Entire Tohono O’odham Nation: 4-band (RGB & NIR), 15 cm GSD 2023 orthophotography covering the Greater Tohono O’odham Nation (appx. 4,200 square miles), as outlined in black with white fill in the exhibit above.

*Note: All areas shown for Products 1 – 4 are approximate and rounded.

**Product areas overlap or vary by resolution level and therefore would not all be ordered.

Exhibit C:



Product 5 – University of Arizona: Aerial imagery for Township 14, Range 14, Section 06E (E141406) and Township 14, Range 14, Section 07E (E141407) which encompass the University of Arizona Main Campus (appx. 2 square miles), as outlined in green in the map above. Except as noted below, all other PAG standards and conventional orthophoto collection practices (4-band RGB & NIR, 2023) will be followed. Priced individually for each of the following:

- o 5A: 3-inch (7.5 cm) resolution orthoimagery
- o 5B: The above orthoimagery corrected using UArizona control to achieve accuracy for 40 scale, 1-foot contour mapping, maintaining a 1-foot horizontal accuracy standard. (Control documentation including shapefile to be provided)
- o 5C: 3D Photo Mesh of The University of Arizona Main Campus processed in 3D product format that can be consumed within ESRI products (Esri .js api 4.x, ArcGIS Online applications).

Appendix B

Product Cost Sheet

2023 Acquisition:

Product #	General 2023 Ortho. Description*	Approx. Square Miles	Cost per mi ²	Total Product Cost
Product 1	Product 1: Approximately 4,000 square miles of 15cm (6 inch), 4-band ortho-imagery of Eastern Pima County as outlined in purple , including the San Xavier District and the entirety the towns of Marana and unincorporated Catalina north of the county boundary	4,000	\$44.75	\$179,000

Future acquisitions subject to annual contract negotiations:

<i>Product #</i>	<i>Approx. Square Miles</i>	<i>Digital Mapping</i>	<i>Cost per Mi2</i>
1	4,000	\$179,000.00	\$44.75
2	2,500	\$114,375.00	\$45.75
3	1,500	\$49,125.00	\$32.75
4	4,200	\$187,950.00	\$44.75
5A	2	\$7,000.00	\$3,500.00
5B	2	\$3,000.00	\$1,500.00
5C		\$40,000.00	

Appendix C

End-User License Agreement (EULA)

1) Definitions

- a. **"Product"** refers to deliverable products including standardized metadata, the vector and raster datasets containing photo points with date and time stamps for each imagery tile, information about registered benchmarks utilized, 15 cm imagery that is of sufficient quality and horizontal accuracy to support the potential future development of ASPRS Class 1 planimetric products if our partners so desire, stereopair imagery, and autocorrelated point cloud as part of the dataset."
- b. **"Licensor"** refers to Digital Mapping, Inc. (heretofore referred to as the Contractor) and its subcontractors who are providing the Product.
- c. **"Licensee"** refers to PAG and its partners.

2) Grant of License

- a. Upon submittal of all deliverables, Licensee will retain full ownership of all data products. Full copyrights to the data will be assigned to Licensee, meaning that Licensee shall be free to redistribute the data to its member jurisdictions, other agencies, the private sector, and the general public. This includes the display and distribution of the data through web services.
- b. Licensor gives Licensee rights to own, store on their premises, display and share the Product, including all data and derivatives, publicly in perpetuity.

3) Confidential Information:

- a. "Confidential Information" refers to any company or trade secret/private information passed between the Parties to further develop collaborations.
- b. Confidential Information does not include any part of the Product including Data, Datasets, or any production derived from Data including, but not limited to, publications, studies, reports, data products, or value-add products.

- c. The Parties agree to maintain the confidentiality of any Confidential Information disclosed during their collaboration and to use it solely for the purposes of the collaboration.
 - d. The obligations of confidentiality shall survive the termination of this EULA.
- 4) Binding Terms and Conditions:** By installing, accessing, or using the Product, Licensee acknowledges that they have read, understood, and agreed to be bound by the terms and conditions of this EULA.