



**Association of Monterey Bay Area Governments**

**Request for Proposals**

**for**

**Digital Orthoimagery Quality Assurance/Quality Checking**

*Contract period of November 19, 2015- June 30, 2016*

**Issued:** October 8, 2015

**Questions Due:** October 15, 2015

**Deadline (received by AMBAG):** October 28, 2015

**Submit all questions and proposals to:**

Gina Schmidt | AMBAG | Attn: RFP for Ortho QA/QC | mail: P.O Box 809, Marina, CA 93933 | courier: 445 Reservation Rd. Suite G, Marina, CA 93933 | [gschmidt@ambag.org](mailto:gschmidt@ambag.org) | fax 831.883.3755

**Planning Excellence!**

**Contents**

Introduction ..... 1

Schedule ..... 2

Qualifications..... 2

Scope of Work..... 2

Cost..... 4

Proposal Submittal ..... 4

Submittal Questions and Addenda..... 4

Notice of Award..... 5

Project Manager ..... 5

Proposal Requirements ..... 5

Evaluation and Selection Process ..... 6

Contractual Information and Payment Schedule ..... 7

Terms & Conditions..... 7

Incorporation of Attachments ..... 11

## Introduction

The Association of Monterey Bay Area Governments (AMBAG) is a Metropolitan Planning Organization which is accepting proposals for a seven month contract to assist in quality assurance / quality checking (QA/QC) of digital, low-level orthoimagery for the AMBAG Region. The AMBAG region includes several jurisdictions and agencies within the AMBAG Region for the scope of this orthoimagery project.

For the purposes of this RFP, a digital orthoimage (or also known as digital orthophoto) is defined as a geo-referenced image prepared from perspective photography, or other remotely sensed data in which the displacement within the image due to sensor orientation and terrain relief has been removed. A digital orthoimage represents the combination of photographic image characteristics with the geometric qualities of a map. From herein, georeferenced and corrected digital orthoimage, will be called orthoimagery for simplification purposes.

AMBAG used a competitive bid process to obtain vendor for the 2015 ortho to create new high-resolution digital orthoimagery anticipated flight dates in October. Previous to this 2015 cycle, the most recent orthoimagery in AMBAG Region was flown in the year 2007. For reference purposes, 2007 imagery will be made available to selected vendor upon request. Current technical specifications of the 2015 flights can be found in Attachment D. After a thorough review process, AMBAG selected Pictometry, Inc as the orthoimagery contractor for the 2015 flights and imagery vendor. Pictometry proposed an all-digital methodology to create the orthoimagery. Please see the attached technical specifications for the 2015 flights (see Attachment D). At this point in time, the project area includes up to 427 square miles of 3 inch GSD (øCDOö), 441 square miles of 9 inch GSD (øCDOö) , and 379 linear miles of 9 inch GSD. Each tile is 0.25 square miles. As part of the 2015 orthoimagery process, 2010 LIDAR elevation data will be available for use in this 2015 project. The 2010 LIDAR data, LIDAR DTMs for the øfirst returnö, and processed bare earth will be provided to selected vendor.

Due to limited staff time and knowledge of orthoimagery creation and quality assurance, AMBAG is seeking assistance from a qualified contractor to perform quality assurance and checking on the orthoimagery products from vendor Pictometry as part of this project. Interested Contractors or Contractor Teams are invited to submit their qualifications in addressing the requirements detailed below.

The Association of Monterey Bay Area Governments operates under a Joint Powers Agreement with local jurisdictions (cities) and the Counties of Monterey, San Benito and Santa Cruz. The Board is comprised of one representative member from each City and two supervisors from each of the counties. The selected consultant will serve at the discretion of the Board of Directors and work under the direction of the AMBAG Executive Director.

AMBAG is a public agency funded through a combination of federal transportation funds, grants and membership dues. Policy direction is provided by a twenty-four (24) member Board of Directors. The Executive Director reports directly to the Board of Directors and performs all duties necessary for the proper and efficient management of AMBAG, as determined by the Board and State and Federal law. A small professional staff provides support to the Board of Directors.

**Responses are due in the AMBAG office at 4:00 pm (PDT) on October 28, 2015. Postmarks will not substitute for receipt of proposal. Late submittals will not be accepted.**

## Schedule

Task	Completion Date
Release RFP	October 8, 2015
Questions Due	October 15, 2015 by 4:00pm PDT
Post responses to questions or addendum if required	October 21, 2015
Proposals Due	October 28, 2015 by 4:00pm PDT
Evaluation Committee Completes Proposal Review	November 3, 2015
Notifications to prospective bidder	November 4, 2015
Oral Interviews (if required)	November 10, 2015
Consultant Selection	November 12, 2015
AMBAG Board Approval of Consultant	November 18, 2015
Execute Contract	November 19, 2015
Kick Off Meeting	December 1, 2014

## Statement of Qualifications Requirements

AMBAG is seeking a Consultant that is committed to providing quality service in regards to Digital Orthoimagery Quality Assurance/Quality Checking for the 2015 orthoimagery project to a public sector client. A qualified applicant will have proven expertise in all aspects of administering a Digital Orthoimagery Quality Assurance/Quality Checking project.

Failure to meet minimum experience requirements will cause its proposal to be considered non-responsive and its proposal will be rejected.

The successful consultant chosen must meet the following minimum experience and specific competency requirements for contract personnel performing the work in this RFP. Consultant must provide narrative on all contract personnel who will be involved in providing the goods and/or services contemplated by this RFP. The contract personnel listed will perform/provide goods and services for AMBAG. Any changes in contract personnel during the contract must be approved by AMBAG. Additionally, replacement personnel must have comparable training, experience and ability as the person originally proposed for the contract work. The following information must be included in the narrative:

### Please address the following items in the Statement of Qualifications:

- 1. Contact Information** - List the name of the firm, address, contact person, and phone number.
- 2. Firm's Capabilities** ó Briefly describe three similar projects, which your firm has completed in the past three years. List the members of each project team and the role played by each member. Please provide references for each project.
- 3. Project Approach** ó Please provide a detailed explanation of how your firm would approach the quality assurance and quality checking tasks to ensure AMBAG receives products which comply with the stated specifications from the Orthoimagery contract technical specification (Attachment D) and provide AMBAG a sample QA/QC workplan as part of your proposal.

## Sample QA/QC Workplan & Tasks

This section includes an overview of the tasks AMBAG expects to be performed as part of the QA / QC review. This is provided as a reference to interested proposers. The final scope of work will be negotiated

once a contractor is selected. Imagery delivery must pass through a comprehensive evaluation and review process. This process will verify the positional accuracy of the data, and ensure its aesthetic and functional quality. The selected contractor will oversee this quality control process. The contractor may reject any tiles that fail to meet the project's positional accuracy or aesthetic and functional quality requirements.

The selected firm(s) will likely provide the following services:

1. Review orthoimagery project workplan and specifications for consistency with AMBAG project goals.
2. Image quality inspection of orthoimagery. In overall terms, the imagery must be free of the following types of errors:
  - ÉRaster artifacts resulting from push broom processing of the image.
  - ÉMisalignments in linear features (roads/curbs/building edges etc.) resulting from poorly stitched mosaics.
  - ÉObvious seams between images.
  - ÉScratches, lint, blemishes or other artifacts introduced in the processing of the film or imagery.
  - ÉFree of clouds, fog, or smoke.
  - ÉStark changes in color balance and contrast. Seamless color continuity is essential and part of the QA/QC process.
  - ÉStark shadows or bright spots in the imagery.
  - ÉLimit the amount of shadows from trees or tall buildings. Flag any tiles where buildings that obscure more than 25 percent of adjacent roadways/transportation features or obscured valley bottoms in the mountains.
  - ÉWarped bridges/overpasses/viaducts.
3. Horizontal accuracy inspection of products. Please refer to technical specification (Attachment D).
4. MrSID format data review. The majority of QA / QC work will be performed on the TIFF imagery tiles, but there will be some inspection and reporting on the MrSID format deliverables as well.
5. Review FGDC compliant metadata files submitted with imagery tiles to verify accuracy of content.

## Scope of Work

Respondents to this RFP should build on this general description by proposing a scope of work with specific sub-tasks as deemed appropriate as outlined in the previous section of QA/QC workplan and tasks. Some tasks may require additional information from respondents as called out under the description of each task. Respondents should also refer to the Proposal Requirements, and Evaluation and Selection Process sections for additional requirements.

Additional tasks and work elements may be added or deleted during contract negotiations. Upon conclusion of the negotiation process, the selected consultant will be required to prepare a final work plan, schedule, and budget for inclusion into a final contract.

Consultant shall be able to meet with AMBAG at AMBAG offices if requested. Consultants shall also be available by telephone, email, or webinar/Skype/Go-To Meeting when requested by AMBAG.

## Requirements

Consultant must provide substantive responses on how they would evaluate the orthoimagery gathered data, manage the contract work deliverables, provide and manage qualified staff. Describe any additional tasks and deliverables they would deem appropriate to achieve the overall goals and deliverables.

## Cost

Provide a cost for the service levels described in this RFP, on a per tile basis cost (tile 0.25 square miles for both 3ö and 9ö) and a total not to exceed project cost. Alternate formats of the cost proposal will not be considered responsive. See RFP Attachment A Cost Proposal Form.

## Proposal Submittal

Interested consultants must submit both hard copies and a digital copy of the proposal to the Project Manager as follows:

- Hard copy: One original, three copies
- Digital: Send as a single PDF or PDF portfolio

**All submissions must be received by AMBAG on or before October 28, 2015 at 4pm Pacific Daylight Time (PDT).** Postmarking by the due date will not substitute for actual proposal receipt by AMBAG.

Mail proposal to:  
Association of Monterey Bay Area Governments  
Attn: RFP for Orthoimagery QA/QC  
P.O. Box 809, Marina, CA 93933

Courier delivered to:  
Association of Monterey Bay Area Governments  
Attn: RFP Orthoimagery QA/QC  
445 Reservation Rd. Suite G, Marina, CA 93933

Until award of the contract, the proposals shall be held in confidence and shall not be available for public review. Upon award of a contract to the successful Proposer, all proposals shall become public record. No proposal shall be returned after the date of October 28, 2015 4 p.m. PDT and time set for opening thereof.

**If any of the above requirements are not met, the proposal may not be considered. Qualifications received after the deadline will not be accepted.**

## Submittal Questions and Addenda

All questions regarding the RFP should be received no later than October 15, 2015 at 4 p.m. PDT by e-mail to Gina Schmidt at [gschmidt@ambag.org](mailto:gschmidt@ambag.org) or by fax to 831.883.3755. Responses that require that an addendum be issued to the RFP will be posted on the AMBAG website at [www.ambag.org](http://www.ambag.org) on or before October 21. It is the responsibility of proposers to check the AMBAG website to determine if addenda have been issued. Any addenda to the RFP will become part of the RFP.

AMBAG reserves the right to revise the RFP prior to the date that proposals are due. It is the responsibility of proposers to check the AMBAG website to determine if a modified RFP has been issued.

## Notice of Award

Notification to all prospective bidders occurs on November 4, 2015. The short listed consultants may be interviewed. Short listed candidates will be contacted by November 4, 2015. Interviews will take place on November 10, 2015. The final selected consultant recommend for Board Approval shall be informed by phone on or before November 12, 2015.

## Project Manager

Gina Schmidt, GIS Coordinator  
Association of Monterey Bay Area Governments  
Email | [gschmidt@ambag.org](mailto:gschmidt@ambag.org) (preferred communication)  
Fax | 831.883.3755

## Proposal Requirements

- A. Proposals should be concise, well organized and demonstrate the proposer's qualifications and experience applicable to the project. Proposals shall be limited to 50 one-sided pages (8.5 inches x 11 inches). The proposal must include a discussion of the proposer's approach to Orthoimagery QA/QC project, a description of the firm's and any subconsultants' qualifications for the scope of work, and a cost proposal (see RFP Attachment A).
- B. The Proposal and any required certifications shall be signed by an individual or individuals authorized to execute legal documents on behalf of the proposer.
- C. Failure to comply with the requirements of the RFP may result in disqualification. AMBAG is not responsible for finding, correcting, or seeking clarification regarding ambiguities or errors in proposals. If a proposal is found to contain ambiguities or errors, it may receive a lower score during the evaluation process. AMBAG may, but is not required to, seek clarification from a proposer regarding information in a proposal. Errors and ambiguities in proposals will be interpreted in favor of AMBAG. Proposals and/or modifications received subsequent to the hour and date specified above will not be considered.
- D. The proposer shall certify whether it takes no exception(s) to this RFP and the draft contract. If the proposer does take exception(s) to any portion of the RFP or the draft contract, the specific portion to which exception(s) is taken must be identified and explained. Failure to make exceptions to the RFP or draft contract within the proposal will be deemed a waiver of any objection. Exceptions will be considered during the proposal evaluation process.
- E. AMBAG reserves the right to reject any or all proposals and to waive irregularities contained therein and to accept any proposals deemed most advantageous to AMBAG.

## Evaluation and Selection Process

- A. Based upon the proposals and other appropriate evaluation factors, the top-ranked proposer(s) will be identified and short listed. Negotiations with the selected firm may cover: scope of work, contract schedule, contract terms and conditions, technical specifications, level of effort, and cost or best value.
- B. All proposals must be completed and convey all of the information requested in order to be considered responsive. The proposals then will be evaluated on the basis of the criteria listed below. The total number of points used to score the proposals is 100.
- C. Evaluation factors and point values will be as follows:

<b>Criteria</b>	<b>Description</b>	<b>Points</b>
Qualifications and staffing	<ul style="list-style-type: none"> <li>▪ Professional qualifications</li> <li>▪ Relevant experience</li> <li>▪ Unique qualification of key personnel</li> </ul>	<b>25</b>
Project experience	<ul style="list-style-type: none"> <li>▪ Nature, quality, and relevance of recently completed projects</li> <li>▪ Past performance/References</li> </ul>	<b>20</b>
Project Approach	<ul style="list-style-type: none"> <li>▪ Achieve the requirements and deliverables of the QA/QC for the orthoimagery project</li> <li>▪ Proposed Workplan &amp; schedule</li> <li>▪ Define methodology proposed to meet expectations</li> </ul>	<b>35</b>
Cost or Best Value	<ul style="list-style-type: none"> <li>▪ Ranking of comparative costs among proposed firms, providing the best value of services offered</li> </ul>	<b>20</b>
Total		<b>100</b>



- D. The Evaluation Committee will review all submitted proposals. Proposers may be emailed and asked for further information, if necessary, and **may be expected to appear in-person or by skype for oral interviews on November 10, 2015**. The Evaluation Committee will make recommendations to AMBAG's Executive Director on the basis of the proposal, oral interview, and reference check. AMBAG reserves the right to select a consultant based solely on written proposals and to not convene oral interviews.
- E. AMBAG's Executive Director or designee will make the final recommended selection to the AMBAG Board of Directors. If the Board of Directors selects a different consultant than the one recommended by the Evaluation Committee, the Project Manager, in consultation with the AMBAG Executive Director, will prepare a memo explaining the selection.

## **Contractual Information and Payment Schedule**

The contract agreement for the Orthoimagery QA/QC will be between AMBAG and the Consultant. The consultant will invoice AMBAG for services rendered, and AMBAG will compensate the consultant for these services as set forth in the agreement. Funding for the consultant services will be provided by AMBAG. The project deliverables will be reviewed by the AMBAG Project Manager.

The Consultant will be paid based on work actually performed, and accepted in writing by AMBAG, during the preceding month. The consultant should forward a copy of all invoices for payment for work performed and associated expenses by the 15th day of the month.

## **Terms & Conditions**

### **A. Limitations**

This request for proposal (RFP) does not commit AMBAG to award a contract, to pay any pre-contractual expenses, or to procure or contract for services or supplies. AMBAG expressly reserves the right to reject any and all proposals or to waive any irregularity or informality in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any Proposer and of the suitability of the materials and/or services to be rendered. AMBAG reserves the right to withdraw this RFP at any time without prior notice. Further, AMBAG reserves the right to modify the RFP schedule described above.

### **B. Award**

AMBAG may ask RFP finalists to present oral briefings of their proposals. All finalists may be required to participate in negotiations and submit such price, technical, or other revisions of their proposals as may result from negotiations. AMBAG also reserves the right to award the contract without oral briefings or discussion, based upon the initial written proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and a technical viewpoint.

### **C. Verbal Agreement or Conversation**

No prior, current, or post award verbal conversations or agreement(s) with any officer, agent, or employee of AMBAG shall affect or modify any terms or obligations of the RFP, or any contract resulting from this RFP.

#### **D. Pre-contractual Expenses**

Pre-contractual expenses include any expenses incurred by Proposers and selected consultant in:

- Preparing proposals in response to this RFP
- Submitting proposals to AMBAG
- Negotiations with AMBAG on any matter related to proposals.
- Other expenses incurred by a consultant or Proposer prior to the date of award of any agreement.

In any event, AMBAG shall not be liable for any pre-contractual expenses incurred by any Proposer or selected consultant. Proposers shall not include any such expenses as part of the price proposed in response to this RFP. AMBAG shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

#### **E. Signature**

The proposal will also provide the following information: name, title, address, and telephone number of individual with authority to bind the consultant or consultant firm and also who may be contacted during the period of proposal evaluation. The proposal shall be signed by an official authorized to bind the consultant or consulting firm and shall contain a statement to the effect that the proposal is a firm offer for at least a ninety (90) day period. Execution of the contract is expected by no later than November 30, 2015.

#### **F. Conflict of Interest Statement**

Consultants and consultant firms submitting proposals in response to this RFP must disclose to AMBAG any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided under Agreement for consultant services to be awarded pursuant to this RFP. If the consultant or firm has no conflict of interest, a statement to that effect shall be included in the proposal. The selected consultant shall refrain from and disclose subsequent potential conflicts during this contract. Consultant shall at all time avoid conflicts of interest, or the appearance of conflicts of interest, in the performance of this contract. Consultant shall file statements of financial interest on forms provided by AMBAG to the extent and at all times required by AMBAG's Conflict of Interest Code and applicable law.

#### **G. Contract Arrangements**

The successful consultant is expected to utilize the AMBAG Standard Contractual Agreement which included as Attachment C.

G1. Disadvantaged Business Enterprise (DBE) Policy: It is the policy of the U.S. Department of Transportation(USDOT) that minority-and women-owned business enterprises (hereby referred to as DBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds.

G2. DBE Obligation: The recipient or its subconsultant agrees to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or subconsultants shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their subconsultants shall not

discriminate on the basis of race, color, national origin, or sex in the award and performance of USDOT assisted contracts.

G3. Title VI of the Civil Rights Act of 1964: The consultant agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 USC 2000d) and the regulations of the U.S. Department of Transportation issued there under in 49 CFR Part 21.

G4. Equal Employment Opportunity: In connection with the performance of the contract, the consultant shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex or national original. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Each proposal, to be considered responsive, must include the following:

- (1) A copy of the consultant's affirmative action policy (applicable for firms with 50 or more employees)
- (2) Discussion of the consultant's program for use of DBEs in the performance of this work, including the following:
  - The names and addresses of DBE firms that will participate
  - The description of the work each named firm will perform
  - The dollar amount of participation by each DBE firm

#### **H. Americans with Disabilities Act (ADA) Provisions**

To comply with the nondiscrimination requirements of the Americans with Disabilities Act (ADA), it is the policy of AMBAG to make every effort to ensure that its programs, activities and services are available to all persons, including persons with disabilities. For persons with a disability needing a reasonable modification to participate in the procurement process, or for persons having questions regarding reasonable modifications of the procurement process, you may contact the AMBAG representative listed in this RFP.

**IMPORTANT:** To ensure that we can meet your need for ADA accommodations, it is best that we receive your request for reasonable modification at least 10 working days before the scheduled event (i.e., meeting, conference, workshop, etc.) or deadlines due date for procurement documents. In order to ensure the proposal is in compliance with Federal ADA guidelines, Proposers should review the Federal ADA guidelines at <http://www.ada.gov/>.

#### **I. Alternative Protest Process**

This procurement is being conducted under the provisions of the Alternative Protest Process. By submitting a proposal to this solicitation conducted under the Alternative Protest Process, the Proposer agrees that all protests of the proposed award shall be resolved by binding arbitration. During the protest period, any participating Proposer may protest the proposed award on the following grounds:

For major information technology acquisitions ó that there was a violation of the solicitation procedure(s) and that the protesting Proposer's proposal should have been selected; or For any other acquisition ó that the protesting Proposer's proposal should have been selected in accordance with the selection criteria in the solicitation document.

A written notice of intent to protest the proposed award of this solicitation must be received (facsimile acceptable) by the project manager before the close of business 5 p.m. PDT on the third (3rd) day after notifying the Proposer of intent to award, as specified in the solicitation timeline. Failure to submit a timely, written notice of intent to protest waives the Proposer's right to protest. The Proposer is to send the notice of intent to protest to the project manager at the following address:

Gina Schmidt  
GIS Coordinator  
Association of Monterey Bay Area Governments  
445 Reservation Road, Suite G Marina, CA 93933  
Fax: 831-883-3755

Within seven (7) business days after the last day to submit a notice of intent to protest, the AMBAG project manager must receive from the protesting Proposer the complete protest filing including the signed, written, detailed statement of protest including exhibits, filing fee and deposit or small business certification, as applicable. Untimely submission of the complete protest filing waives the Proposer's right to protest.

Protest bond amount for this Alternative Protest Process shall be ten percent (10%) of the contract amount as specified in the solicitation.

#### **J. Requirements Protests**

Protests regarding any issue other than selection of the successful Proposer are "requirements protests" to be heard by the Executive Director, or his or her designee, and may be appealed to, heard, and resolved by the Executive Committee of AMBAG, whose decision will be final. Before a requirements protest is submitted, the Proposer must make full and timely use of the procedures described in Clarification of Specifications section. This procurement procedure is designed to give the Proposer and AMBAG adequate opportunity to submit questions and discuss the requirements, proposals and counter proposals before the Final Proposal is due. The protest procedure is made available in the event that a Proposer cannot reach a fair agreement with AMBAG after exhausting these procedures.

All protests to the RFP requirements must be received by the Executive Finance Committee as promptly as possible, but not later than October 29, 2015 by 4p.m. PDT for such protests.

Requirements protests must be mailed or delivered to:

AMBAG Executive Finance Committee  
445 Reservation Road, Suite G  
Marina, CA 93933

## **K. Forms and Certifications**

- A signed California Levine Act statement - **Section XIV** (Incorporation of Attachments/Attachment E)
- A signed Certification regarding Debarment, Suspension and Other Responsibility Matters - **Section XIV** (Incorporation of Attachments/Attachment E)
- A signed Certification of Restriction on Lobbying - **Section XIV** (Incorporation of Attachments/Attachment E)

## **Incorporation of Attachments**

The following documents are attached and incorporated by reference if the box next to document title is marked.

- RFP Attachment A – Cost Estimate
- RFP Attachment B – Sub-consultant List
- RFP Attachment C – AMBAG Standard Contractual Agreement
- RFP Attachment D – Orthoimagery Technical Specification
- RFP Attachment E – Forms and Certifications

**COST PROPOSAL FORM – RFP ATTACHMENT A**

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Telephone Number(s): \_\_\_\_\_

Contact E-mail Address: \_\_\_\_\_

I, the undersigned, certify I am duly authorized to represent the above named firm and am empowered to submit this bid. In addition, I certify I am authorized to contract with AMBAG on behalf of the above named firm.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (print)

Total All-inclusive Per Tile Price (0.25 square miles) for Orthoimagery QA/QC \$ \_\_\_\_\_

Total All-inclusive Total Project Price for Orthoimagery QA/QC \$ \_\_\_\_\_

**SUBCONSULTANT LIST - RFP ATTACHMENT B**

The proposal shall include a complete list of all proposed subconsultants. All subconsultants listed must be provided a meaningful element of work within the defined scope of work. Changes to this Subconsultant List will not be allowed without prior written approval from AMBAG.

**PROPOSED SUBCONSULTANTS**

<b>Subconsultant Firm Name and Address</b>	<b>Scope of Work</b>	<b>Dollar Amount of Work</b>

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Printed name and Title of Signatory

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## SAMPLE DRAFT AGREEMENT FOR SERVICES – RFP ATTACHMENT C

This Agreement is made and entered into this xx **day of month, 2015**, by and between **The Association of Monterey Bay Area Governments** (hereinafter referred to as "AMBAG" or "CLIENT"), and xxx (hereinafter referred to as "xxx" or "CONSULTANT").

### WITNESSETH

WHEREAS, as the Metropolitan Planning Organization (MPO) for Monterey, Santa Cruz and San Benito Counties, AMBAG is charged with maintaining a level of Orthoimagery QA/QC to serve the Board of Directors; and

WHEREAS, pursuant to its annual Overall Work Program (OWP), AMBAG will be engaged in many activities and projects that will require certain Orthoimagery QA/QC to complete the goals of AMBAG; and

WHEREAS, the CONSULTANT is qualified and experienced and has necessary technical and personnel resources to provide such Orthoimagery QA/QC; and

NOW, THEREFORE, AMBAG and CONSULTANT for the considerations hereinafter set forth, mutually agree as follows:

1. SCOPE OF WORK

CONSULTANT shall perform those services described in the "Scope of Work, Deliverables, Timeline, and Budget," Exhibit A attached hereto and incorporated herein by this reference and shall comply with all relevant conditions as set forth in the AGREEMENT.

2. TERM

- A. The term of this Agreement shall be from the date of its execution until the completion of the work contemplated by this Agreement and its final acceptance by AMBAG unless terminated earlier as provided herein. CONSULTANT shall complete all tasks **on or before June 30, 2016** unless otherwise extended by written authorization.
- B. Services performed under this Agreement shall commence only upon Notice to Proceed by AMBAG to CONSULTANT.

This Agreement includes the following Exhibits:

**Exhibit A. Project Tasks/Services, Timeline, and Budget**

**Exhibit B. Debarment and Suspension Certification**

**Exhibit C. Federal Tax Form W-9, Request for Taxpayer Identification Number and Certification**

**Exhibit D. Disadvantaged Business Enterprises (DBE) Information Form**



3. COORDINATION/STAFFING

- A. CONSULTANT shall assign **xx xxxx as Project Manager** to personally participate in said project. AMBAG also retains the right to approve any substitution of the Project Manager. No portion of the work included in this Agreement shall be subcontracted, except as provided herein, without the prior, written authorization of the AMBAG.
- B. Services described in the Scope of Work shall be performed by Consultant's staff, Subconsultant(s) or other members of the project team, hereinafter referred to as "Subconsultant(s)," listed in the "Project Tasks/Services, Timeline, and Budget," Exhibit A, attached hereto and incorporated by this reference.

4. COMPENSATION

AMBAG shall pay CONSULTANT for services on a firm fixed price basis as shown in Exhibit A. In no event shall compensation exceed XX DOLLARS (\$X,XXX) per year without prior written consent of AMBAG.

5. INVOICING

- A. Invoices for services must be presented to AMBAG no later than the fifteenth day of each month for the month prior. CONSULTANT shall submit an invoice to AMBAG stating the amount due for such services on a monthly basis throughout the duration of the project. Said monthly invoicing shall reflect the task worked on, the percentage of the task completed, and the total dollar amount for the task in comparison to the invoiced amount based upon the percentage of the task then completed. AMBAG shall reimburse the CONSULTANT as promptly as its fiscal procedures permit, upon receipt of itemized invoices submitted in accordance with this Agreement. Payment of the invoices will be made to CONSULTANT after acceptance and approval by AMBAG and upon reimbursement by Caltrans. Such reimbursements shall be based upon actual eligible costs incurred by the CONSULTANT consistent with the "Project Tasks/Services, Timeline, and Budget" Exhibit A. No interest or carrying charges shall accrue to CONSULTANT by reason of delayed payment.
- B. Prompt Payment to Subconsultant(s): A CONSULTANT shall pay any Subconsultant(s) for satisfactorily completed work no later than ten (10) days of receipt of each payment from AMBAG. The ten (10) day period is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with AMBAG's prior written approval. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the CONSULTANT or Subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT, deficient Subconsultant performance, and/or noncompliance by a Subconsultant. This clause applies to both DBE and non-DBE Subconsultant.

C. Invoicing Format and Content: All invoices submitted to AMBAG for payment shall be sent directly to:

**Association of Monterey Bay Area Governments**

**ATTN: Accounts Payable**

**P.O. Box 809**

**Marina, CA 93933**

1. The invoice shall be entitled "Invoice" or otherwise clearly identify that the document is an Invoice, and shall contain the following information:
  - i. AMBAG's "Bill To" information as stated in the above paragraph;
  - ii. Invoice number and/or billing number specified by CONSULTANT. The invoice number must be unique for each invoice submitted;
  - iii. Invoice date;
  - iv. Billing period specified with beginning and ending dates. The beginning date must not be sooner than the Notice to Proceed date of the Agreement, or within any previous billing dates;
  - v. Total amount due for the billing period;
  - vi. Total Contract Value (as identified in 4A. above); and
  - vii. AMBAG Project Manager

6. AGREEMENT COMPLETION RETAINER

No retainage will be held by AMBAG from progress payments due to CONSULTANT. CONSULTANT is prohibited from holding retainage from Subconsultant(s). Any delay or postponement of payment may take place only for good cause and with AMBAG's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code, if applicable. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT in the event of a dispute involving late payment or nonpayment by the CONSULTANT, deficient Subconsultant(s) performance, and/or noncompliance by Subconsultant(s). This clause applies to both DBE and non-DBE Subconsultant(s).

7. SATISFACTORY PERFORMANCE

Payment for services under this Agreement is contingent upon AMBAG's determination that the performance of the CONSULTANT has been satisfactory.

8. UNTIMELY PERFORMANCE BY CONSULTANT

Timely delivery of project deliverables is crucial to this project. Accordingly, late fees shall be assessed against the CONSULTANT for every **calendar day** a milestone or delivery date is not met. Milestone dates and delivery schedules have been negotiated between the CONSULTANT and AMBAG and shall be assessed as follows:

- Days one (1) through five (5): 0.01 percent of contract total per day
- Days six (6) through fifteen (15): 0.02 percent of contract total per day
- Days sixteen (16) through thirty (30): 0.03 percent of contract total per day

## 9. OWNERSHIP, CONFIDENTIALITY AND USE OF WORK PRODUCTS

- A. Ownership of any reports, data, studies, surveys, charts, memoranda, and any other documents, which are developed, compiled, or produced as a result of this Agreement, whether or not completed, shall vest with AMBAG. AMBAG reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the data.
- B. AMBAG shall receive copyright and ownership to all data and materials delivered under this contract upon formal acceptance, except for those data and materials that are subject to ownership or copyright of others prior to the execution of this contract. No distribution of the original or derived works shall be made prior to acceptance by AMBAG unless specified in the task order or authorized by the contracting officer. The consultant may maintain copyright and ownership of all original or derived works which are not required submittals under this contract.
- C. Methodology and materials developed under this Agreement are the property of AMBAG and may be used by AMBAG as it sees fit, including the right to revise or publish the same without limitation. CONSULTANT shall not be liable for use of such methodology, materials, software logic, and systems for purposes other than that for which it is developed.
- D. Subject to the California Public Records Act, all Work Products and Related Work Materials including Intellectual Property shall be held confidential by CONSULTANT. Nothing furnished to CONSULTANT, which is otherwise known to CONSULTANT or is generally known, or has become known, to the related industry shall be deemed confidential.
- E. The CONSULTANT shall not use, release, reproduce, distribute, publish, adapt for future use or otherwise use Work Products and Related Work Materials for purposes other than the performance of the Scope of Work, nor authorize others to do so, without prior written permission of AMBAG Legal Counsel; nor shall such materials be disclosed to any person or entity not connected with the performance of the work. CONSULTANT shall also safeguard such confidential materials from unauthorized disclosure, using the same standard of care to avoid disclosure, as the CONSULTANT treats its confidential information, but in no case less than reasonable care.
- F. Upon termination of this Agreement or when requested to do so by AMBAG, CONSULTANT shall erase all copies of Work Products and Related Work Materials from its computers.
- G. All equipment, including, but not limited to, computer hardware, printing and duplication equipment, multimedia equipment, software tools and programs, and

upgrade packages to existing equipment, procured in whole or part by funds provided under this Agreement, are the property of AMBAG. AMBAG shall determine the disposition of all such property upon completion or termination of this Agreement.

- H. AMBAG may utilize any Work Products or Related Work Materials provided by CONSULTANT pursuant to this Agreement, in any manner which AMBAG deems appropriate without additional compensation to CONSULTANT.

## 10. TERMINATION

### A. Termination of Convenience of AMBAG

AMBAG may terminate this Agreement at any time by giving notice to the CONSULTANT of such termination (including the effective termination date) at least thirty (30) calendar days before the effective date of such termination. In such event, all finished or unfinished documents and other materials as described in this Agreement, at the option of AMBAG, become AMBAG's property. If this Agreement is terminated by AMBAG, as provided herein, AMBAG's only obligation shall be the payment of fees and expenses incurred prior to the termination date, for work deemed satisfactory to AMBAG, in accordance with the cost provisions of this Agreement.

### B. Termination for Cause

If through any cause, the CONSULTANT shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the CONSULTANT violates any of the covenants, terms, or stipulations of this Agreement, AMBAG shall thereupon have the right to terminate the Agreement by giving not less than ten (10) working days written notice to the CONSULTANT of the intent to terminate and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the CONSULTANT under this Agreement shall, at the option of CONSULTANT, become AMBAG's property.

## 11. AMENDMENT OF SCOPE OF WORK

The parties may amend the Scope of Work subject to mutual prior written modification of the Agreement.

## 12. CORRECTION OF WORK

The performance of services or acceptance of information furnished by CONSULTANT shall not relieve the CONSULTANT from obligation to correct any defective, inaccurate or incomplete work subsequently discovered and all such work shall be remedied by the CONSULTANT on demand without cost to AMBAG.

## 13. DELAYS AND EXTENSIONS

Time is of the essence concerning performance of this Agreement; however, the CONSULTANT will be granted time extensions for delays beyond the Consultant's control. Time extensions will be equal to the length of the delay or as otherwise agreed upon in writing between the CONSULTANT and AMBAG.

#### 14. RECORDS RETENTION AND AUDITS

CONSULTANT shall maintain adequate records of contract performance costs, expenses, etc., and make these records available for inspection, audit, and copying by AMBAG and Caltrans, FHWA, FTA at the Consultant's principal place of business during the agreement period and for a period of three (3) years from the date of final payment, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Consultant agrees to maintain same until AMBAG, Caltrans, FHWA, FTA, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

#### 15. SUBCONTRACTING

In accordance with Government Code Section 7550, CONSULTANT agrees to state in a separate section of any filed report the numbers and dollars amounts of all contracts and subcontracts relating to preparation of the report.

#### 16. ASSIGNMENT

The Agreement shall not be assigned by the CONSULTANT, in whole or in part, without the prior written consent of AMBAG.

#### 17. INDEMNIFICATION

To the full extent permitted by law, CONSULTANT shall indemnify, hold harmless, release and defend AMBAG, its officers, employees and agents from and against any and all actions, claims, demands, damages, disability, losses, expenses including attorney's fees and other defense costs and liabilities of any nature that may be asserted by any person or entity including CONSULTANT, in whole or in part, arising out of Consultant's activities hereunder, including the activities of other persons employed or utilized by CONSULTANT in the performance of this Agreement (including design defects and regardless of AMBAG's approval, use or acceptance of the work or work product hereunder) excepting liabilities due to the admitted or adjudicated sole negligence or willful misconduct of AMBAG. If the adjudicated or admitted sole negligence or willful misconduct of AMBAG has contributed to a loss, CONSULTANT shall not be obligated to indemnify AMBAG for the proportionate share of such loss caused by such sole negligence or willful misconduct. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for CONSULTANT under Worker's Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by CONSULTANT and shall continue to bind the parties after termination/completion of this Agreement.

18. CIVIL RIGHTS

- A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CONSULTANT agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONSULTANT agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
1. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONSULTANT agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The CONSULTANT agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONSULTANT agrees to comply with any implementing requirements FTA may issue.
  2. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CONSULTANT agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONSULTANT agrees to comply with any implementing requirements FTA may issue.
  3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONSULTANT agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the CONSULTANT agrees to comply with any implementing requirements FTA may issue.

- C. The CONSULTANT also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

20. FEDERAL CHANGES - Consultant shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Consultant's failure to so comply shall constitute a material breach of this contract.

21. ENERGY CONSERVATION - The consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

22. NO OBLIGATION BY THE FEDERAL GOVERNMENT

A. AMBAG and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to AMBAG, CONSULTANT, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

B. The CONSULTANT agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration (FTA). It is further agreed that the clause shall not be modified, except to identify the Subconsultant who will be subject to its provisions.

23. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

A. The CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONSULTANT further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONSULTANT to the extent the Federal Government deems appropriate.

B. The CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the

Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CONSULTANT, to the extent the Federal Government deems appropriate.

- C. The CONSULTANT agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subconsultant who will be subject to the provisions.

#### 24. SUSPENSION AND DEBARMENT

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the CONSULTANT is required to verify that none of the its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The CONSULTANT is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting the contract, the CONSULTANT shall certify those clauses described in the "Debarment and Suspension Certification," Exhibit B attached hereto and incorporated herein by this reference and shall comply with all relevant conditions as set forth in the AGREEMENT.

#### 25. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

The following requirements apply to the Consultant and its employees that administer any system of records on behalf of the Federal Government under any contract:

- A. The CONSULTANT agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the CONSULTANT agrees to obtain the express consent of the Federal Government before the CONSULTANT or its employees operate a system of records on behalf of the Federal Government. The CONSULTANT understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- B. The CONSULTANT also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

#### 26. INSURANCE/NOTIFICATION



Prior to the beginning, and throughout the duration, of the work, CONSULTANT will maintain insurance in conformance with the requirements set forth below. CONSULTANT will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, it will be amended to do so. CONSULTANT acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to AMBAG.

CONSULTANT is covered by, and agrees to maintain, general liability insurance for bodily injury and property damage arising directly from its negligent acts or omissions with limits as specified below. Certificates of insurance shall be provided to AMBAG prior to commencement of work by CONSULTANT. CONSULTANT agrees to indemnify, protect, defend and name AMBAG, its public officials, officers and employees as additional insured on the Commercial General Liability and Business Auto Insurance and hold harmless from any loss, damage or liability arising directly from any negligent act or omission by CONSULTANT. CONSULTANT shall not be responsible for any loss, damage or liability arising from any act or omission by AMBAG, its officials, officers or employees.

CONSULTANT shall provide the following types and amounts of insurance:

- A. Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01, with an edition date prior to 2004, or the exact equivalent. Coverage for an additional insured shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits. Limits shall be no less than \$1,000,000 per occurrence for all covered losses and no less than \$2,000,000 general aggregates.
- B. Workers' Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for all covered losses.
- C. Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including owned, non-owned and hired autos, or the exact equivalent. Limits shall be no less than \$1,000,000 per accident, combined single limit. If CONSULTANT owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If CONSULTANT or CONSULTANT'S employees use personal autos in any way on this project, CONSULTANT shall obtain evidence of personal auto liability coverage for each such person.
- D. Errors and Omissions Liability CONSULTANT shall provide evidence of professional liability insurance on a policy form appropriate to Consultant's profession. Limits shall be no less than \$1,000,000/claim.
- E. Certificate of Insurance CONSULTANT shall file a certificate of insurance completed and filed with AMBAG within fifteen (15) days of execution of this Agreement and prior to engaging any operation or activities set forth in this Agreement. The foregoing policies shall provide that no cancellation, major change in coverage, or expiration by insurance company or insured during the term of this

contract shall occur without thirty (30) days written notice to AMBAG prior to the effective date of such cancellation or change in coverage.

- F. All such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of two (2) years after completion of the contract.
- G. The Commercial General Liability and Business Auto insurance policies shall provide an endorsement naming AMBAG, its officers, agents, employees and volunteers as Additional Insured, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by AMBAG and that the insurance of the Additional Insured shall not be called upon to contribute to a loss covered by the insurance AMBAG.

27. CONFLICT OF INTEREST

CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. CONSULTANT further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

CONSULTANT shall at all time avoid conflicts of interest, or the appearance of conflicts of interest, in the performance of this contract. CONSULTANT shall file statements of financial interest on forms provided by AMBAG to the extent and at the times required by AMBAG's Conflict of Interest Code and applicable law.

28. STATEMENT OF ECONOMIC INTEREST

If AMBAG determines CONSULTANT comes within the definition of CONSULTANT under the Political Reform Act (Government Code §87100), CONSULTANT shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with AMBAG disclosing CONSULTANT and/or such other person's financial interests.

29. MERGER

This Agreement shall constitute the entire Agreement between the parties and shall supersede any previous agreements, whether verbal or written, concerning the same subject matter. No modification of this Agreement shall be effective unless and until evidence by a writing is signed by both parties.

30. DEFAULT

If CONSULTANT should fail to perform any of his obligations hereunder, within the time and in the manner herein provided or otherwise violate any of the terms of this Agreement, AMBAG may terminate this Agreement by giving CONSULTANT written notice of such termination, stating the reason for such termination. In such event, CONSULTANT shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the

agreement as the services satisfactorily rendered hereunder by CONSULTANT bear to the total services otherwise required to be performed for such total fee; provided, however, that AMBAG may withhold payments not yet made to CONSULTANT for the purpose of setoff until such time as the exact amount of damages due AMBAG from CONSULTANT is determined.

31. NO WAIVER OF BREACH/ TIME

The waiver by AMBAG of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement. Time is of the essence in carrying out the duties hereunder.

32. THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

33. ATTORNEYS' FEES, APPLICABLE LAW AND FORUM

In the event either party brings an action or proceeding for damages arising out of the other's performance under this Agreement or to establish the right or remedy of either party, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs as part of such action or proceeding, whether or not such action or proceeding is prosecuted to judgment. This Agreement shall be construed and interpreted according to California law, and any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in the County of Monterey.

34. INDEPENDENT CONSULTANT

The parties intend that CONSULTANT, in performing the services specified herein, shall act as an independent consultant and shall have control of the work and the manner in which it is performed. CONSULTANT is not to be considered an agent or employee of AMBAG and is not entitled to participate in any pension plan, insurance, bonus or similar benefits AMBAG provides its employees. In the event AMBAG exercises its right to terminate this Agreement, CONSULTANT expressly agrees that he/she shall have no recourse nor right of appeal under rules, regulations, ordinances or laws applicable to employees.

35. TAXES

CONSULTANT agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. CONSULTANT agrees to indemnify and hold AMBAG harmless from any liability which it may incur to the United States or to the State of California as a consequence of CONSULTANT'S failure to pay, when due, all such taxes and obligations.

36. FEDERAL TAX FORMS

Prior to issuing the initial claim under this Agreement, the CONSULTANT shall submit Federal Tax Form W-9, Request for Taxpayer Identification Number and Certification to the following address:

**Association of Monterey Bay Area Governments**

**ATTN: Accounts Payable**

**P.O. Box 809**

**Marina, CA 93933**

or by FAX to: (831) 883-3755. Unless AMBAG receives a completed Tax Form W-9, payments for services performed under this AGREEMENT shall be subject to federal backup withholding.

37. COMPLIANCE WITH LAWS, RULES, AND REGULATIONS

- A. CONSULTANT shall study and comply with all applicable federal, state and local laws, rules and regulations affecting the CONSULTANT and his/her work hereunder. CONSULTANT represents and warrants to AMBAG that CONSULTANT has and will keep in effect during the term of this Agreement all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for CONSULTANT to practice Consultant's profession and to do the work hereunder.
- B. CONSULTANT agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all employees of CONSULTANT performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form I-9 (as it may be amended from time to time) is completed and on file for each employee. CONSULTANT shall make the required documentation available upon request to AMBAG for inspection.

38. FEDERAL AND STATE LOBBYING ACTIVITIES CERTIFICATION (43 CFR PART 18)

By signing this AGREEMENT, the CONSULTANT certifies, to the best of its knowledge and belief, that no State or Federal funds have been paid or will be paid, by or on behalf of AMBAG, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any State or Federal contract, the making of any State or Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan, or cooperative agreement.

If any funds other than State or Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the CONSULTANT shall complete and submit Federal Standard Form-LL, "Disclosure Form to Report Lobbying," in accordance with those form instructions.

This certification is a material representation of fact, upon which reliance was placed when this Agreement was entered into. Submission of this certification is a prerequisite for making or entering into this Agreement pursuant to 31 U.S.C. 1352 and 49 C.F.R. Part 19, Appendix A, Section 7.

The CONSULTANT also agrees by signing this Agreement that it will require that the language of this certification be included in all subcontracts funded wholly or in part by any funds provided herein and which exceed \$100,000 and that all such Subconsultant(s) shall certify and disclose accordingly.

### 39. CERTIFICATIONS AND ASSURANCES

A. CONSULTANT shall adhere to the requirements contained in AMBAG's annual Certification and Assurances (FHWA and FTA "Metropolitan Transportation Planning Process Certification") submitted as part of AMBAG's OWP, pursuant to 23 CFR 450.334 and 23 U.S.C. 134. This Certification shall be published annually in AMBAG's OWP. Such requirements shall apply to CONSULTANT to the same extent as AMBAG and may include, but are not limited to:

1. Title VI of the Civil Rights Act of 1964 and Title VI Assurance executed by California under 23 U.S.C. 324 and 29 U.S.C. 794;
2. Pub. Law 105-178, 112 Stat. 107 and any successor thereto, regarding the involvement of disadvantaged business enterprises in FHWA and FTA funded projects (Sec. 105(f), Pub. L. 970424, 96 Stat. 2100, 49 CFR part 26); and
3. The Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, as amended) and the United States Department of Transportation (US DOT) implementing regulations (49 CFR 27, 37, and 38).

B. CONSULTANT shall additionally comply with the requirements contained in the annual FTA "Certifications and Assurances for FTA Assistance," including "Certifications and Assurances Required of Each Applicant" and the "Lobbying Certification" in compliance with 49 U.S.C. Chapter 53; published annually in AMBAG's OWP. Such assurances shall apply to CONSULTANT to the same extent as AMBAG, and include but are not limited, the following areas:

1. Standard Assurances
2. Debarment, Suspension, and Other Responsibility Matters for Primary Covered Transactions
3. Drug Free Work Place Agreement
4. Intergovernmental Review Assurance

5. Nondiscrimination Assurance
  6. DBE Assurance
  7. Nondiscrimination on the Basis of Disability
  8. Certification and Assurances required by the U.S. Office of Management and Budget
- C. The CONSULTANT shall require its Subconsultant(s) to comply with these Certifications, and agrees to furnish documentation to AMBAG to support this requirement that all of its agreements with Subconsultant(s) contain provisions requiring adherence to this section in its entirety.

#### 40. COST PRINCIPLES

- A. CONSULTANT agrees to comply with the following:
1. the Contract Cost Principles and Procedures, 48 Code of Federal Regulations, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq. (Office of Management and Budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments"), shall be used to determine the allowability of individual project cost items, and
  2. the Federal administrative procedures in accordance with 49 Code of Federal Regulations, Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."
- B. Any costs for which CONSULTANT receives payment or credit that is determined by a subsequent audit or other review by either AMBAG, Caltrans or other State or Federal authorities to be unallowable under, but not limited to, OMB Circular A-87; 48 CFR, Chapter 1, Part 31; or 49 CFR, Part 18, are to be repaid by CONSULTANT within thirty (30) days of CONSULTANT receiving notice of audit findings. Should CONSULTANT fail to reimburse moneys due AMBAG within thirty (30) days of demand, or within such other period as may be agreed between Parties hereto, AMBAG is authorized to withhold future payments due CONSULTANT.
- C. CONSULTANT agrees to furnish documentation to AMBAG to support this requirement that all of its agreements with Subconsultant(s) contain provisions requiring adherence to this section in its entirety.

#### 41. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- A. The CONSULTANT and its Subconsultant(s) shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of State or DOT-assisted contracts or in the administration of AMBAG's DBE Program. Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as AMBAG deems appropriate.
- B. It is the policy of AMBAG, Caltrans, and DOT, that the Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, shall have an equal opportunity to

receive and participate in DOT-assisted contracts. The CONSULTANT and its Subconsultant(s) shall comply with the requirements of 49 CFR Part 26 and with AMBAG's DBE Program, as amended.

- C. A DBE Information Form is attached hereto and incorporated herein by this reference as Exhibit D. Even if no DBE participation will be reported, the CONSULTANT shall complete and sign such form at the time this AGREEMENT is executed
- D. During the period of this Agreement, the CONSULTANT shall maintain records of all applicable subcontracts advertised and entered into germane to this AGREEMENT, documenting the actual DBE participation and records of materials purchased from DBE suppliers. Such documentation shall show the name and business address of each DBE Subconsultant(s) or vendor, and the total dollar amount actually paid each DBE Subconsultant(s) or vendor. Upon completion of the AGREEMENT, regardless of whether DBE participation is obtained, a summary of the DBE records shall be prepared, certified correct, and submitted on a form that shall be provided by AMBAG.

#### 42. FLOW-DOWN PROVISIONS

Any subcontract entered into as a result of this AGREEMENT shall contain the following provisions of this Agreement:

Section 3 (Coordination/Staffing); Section 5 (Invoicing for Payment); Section 6 (Agreement Completion Retainer); Section 7 (Satisfactory Performance); Section 9 (Ownership, Confidentiality, and Use of Work Products); Section 10 (Termination); Section 11 (Disputes); Section 15 (Records Retention and Audits); Section 18 (Indemnification); Section 19 (Civil Rights); Section 23 (Program Fraud and False or Fraudulent Statements and Related Acts); Section 27 (Conflict of Interest); Section 34 (Independent Consultant); Section 37 (Compliance with Laws, Rules, and Regulations); Section XX (Disadvantaged Business Enterprise); Section 38 (Federal and State Lobbying Activities Certification); Section 39 (Certifications and Assurances); and Section 40 (Cost Principles)

#### 43. INTERPRETATION

Notwithstanding the fact that one or more provisions of this Agreement may have been drafted by one of the parties to this Agreement, such provisions shall be interpreted as though they were a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

AMBAG:

Signature: \_\_\_\_\_

**Name:** Maura F. Twomey

**Title:** Executive Director

Association of Monterey Bay Area Governments (AMBAG)

CONSULTANT:

Signature: \_\_\_\_\_

**Name:**

**Title:** President

APPROVED TO AS TO FORM:

By: \_\_\_\_\_

Don Freeman, AMBAG Legal Counsel

P.O. Box 805, Carmel CA 93921



**EXHIBIT A. PROJECT TASKS/SERVICES,  
TIMELINE, AND BUDGET**

**EXHIBIT B. DEBARMENT AND SUSPENSION  
CERTIFICATION**

**TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29**  
**DEBARMENT AND SUSPENSION CERTIFICATION**

1. All persons or firms, including Subconsultant(s), must complete this certification and certify, under penalty of perjury, that, except as noted below, he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not, within the three (3) year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification; and
  - d. Have not, within the three (3) year period preceding this certification, had one or more public transactions (Federal, state, and local) terminated for cause or default.
2. If such persons or firms later become aware of any information contradicting the statements of paragraph (1), they will promptly provide that information to AMBAG.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of actions.

The certification in this clause is a material representation of fact relied upon by AMBAG. If it is later determined that the CONSULTANT knowingly rendered an erroneous certification, in addition to remedies available to AMBAG, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The CONSULTANT agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The CONSULTANT further agrees to include a provision requiring such compliance in its lower tier covered transactions.

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**Name of Firm**

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**Signature (original signature required)**

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**Date**

**EXHIBIT C. FEDERAL TAX FORM W-9, REQUEST  
FOR TAXPAYER IDENTIFICATION NUMBER AND  
CERTIFICATION**

**EXHIBIT D. DISADVANTAGED BUSINESS  
ENTERPRISES (DBE) INFORMATION FORM**

## APPENDIX 1 PHOTOGRAMMETRIC PRODUCT SPECIFICATIONS

### Color Digital Orthophotography

#### Product Overview:

Seamless digital ortho-mosaic produced from individual frames and tiled to agreed to tiling scheme. Specifications and deliverables as follows:

#### Acquisition:

Frame Overlap: 60% forward/30% side

Capture Window: solar elevation >30 degrees, acquisition expected to be performed between July and September 2015

Environmental Conditions: ground free of snow cover; imagery free of clouds, fog, haze, smoke, and dust

Camera System: Pictometry PentaView Sensor System, dual-nadir sensor configuration; dynamic range of 12 bits per band, RGB, resampled to 8 bits during processing

Any planned deviation from these conditions imposed by capture window constraints will be discussed with AMBAG prior to commencement of acquisition.

#### Ground Control:

AMBAG to provide control from 2007 flight.

Pictometry will provide any additional ground control surveyed for the project. All ground survey work will be performed by appropriately licensed personnel.

#### Image Processing:

Aerial Triangulation: Pictometry will perform aerial triangulation utilizing post-processed exterior orientations, calibrated camera model(s), and specified ground control points as input to the aerial triangulation process. Aerial triangulation process to be performed using Trimble Inpho's Match-AT software. Pictometry will generate a preliminary AT report for review by AMBAG prior to the final adjustment.

Elevation Surface: Pictometry will use the DEM provided by AMBAG to perform orthorectification. The provided DEM must cover the entire project area.

Orthorectification: Pictometry will use the triangulated exterior orientation values, calibrated camera interior orientation models, and the provided digital terrain model to perform the Orthorectification. To preserve the most nadir perspective, Pictometry will use the 'best nadir area' of each photo, rather than every other photo.

Bridges and elevated roadways will be manually corrected to ensure proper horizontal positioning. When rectification requires a resampling of the source imagery, cubic convolution will be used.

Tonal and Color Balance: Global color balancing will be applied to all orthophotos to create homogeneous orthophotos within the project area. Local adjustments of brightness values, color, and contrast will be performed if needed.

Mosaicking: There will be no obvious seam edge between two adjacent orthophotos. Mosaic will be created using automated seamline steering, with manual edits to eliminate feature misalignment caused by seamlines which pass thru features above the elevation surface. Feature alignment across seamlines will be 3 pixels or better. When possible, seamlines will be steered away from elevated features to improve orthophoto quality. Final mosaic will be tiled and named according to the agreed upon schema for delivery or as specified below.

Tiling Schema: Imagery will be tiled according to agreed upon schema.

#### Deliverables:

The following will be delivered in California State Plane NAD83 US Survey Feet Zone 3/4:

3-inch GSD ortho mosaic tiles (GeoTIFF format; according to specified tiling schema)

3-inch GSD area-wide ortho mosaic (ECW format)

3-inch GSD area-wide ortho mosaic (MrSID format)

9-inch GSD ortho mosaic tiles (GeoTIFF format; according to specified tiling schema)

9-inch GSD area-wide ortho mosaic (ECW format)

9-inch GSD area-wide ortho mosaic (MrSID format)

Flight plan map and shapefiles

Photo center shapefiles

Any additional ground control established as part of this project and Survey report

FGDC compliant metadata

Preliminary and Final AT Report

#### Orthomosaic Accuracy:

3-inch GSD: RMSE(x or y) 0.50 ft; RMSE(r) 0.50 ft; NSSDA (95%) 0.87 ft;

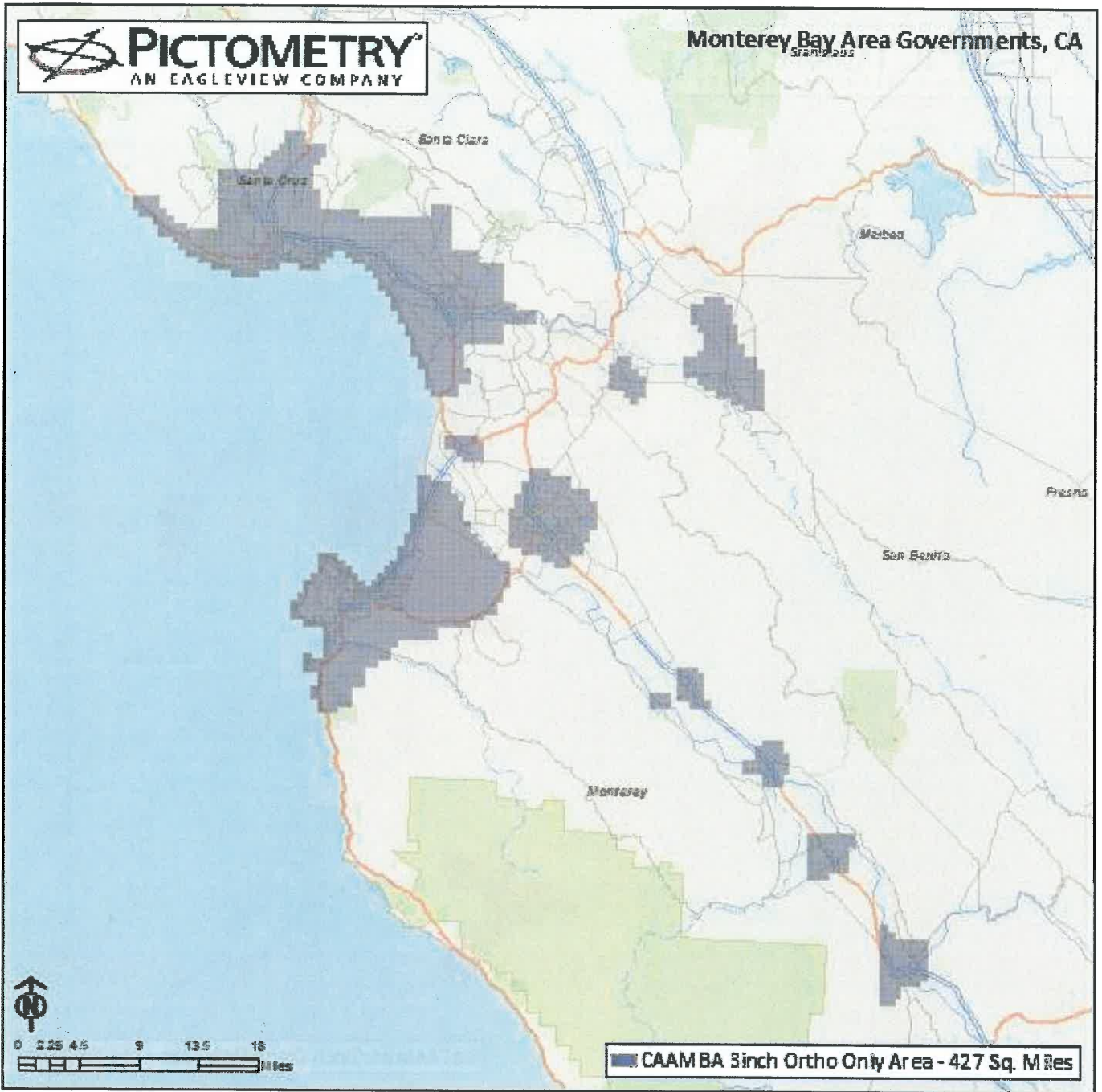
9-inch GSD: RMSE(x or y) 1.41 ft; RMSE(r) 2.00 ft; NSSDA (95%) 3.46 ft;

Accuracy guaranteed only in area covered by provided LiDAR based DEM.

SECTOR MAP

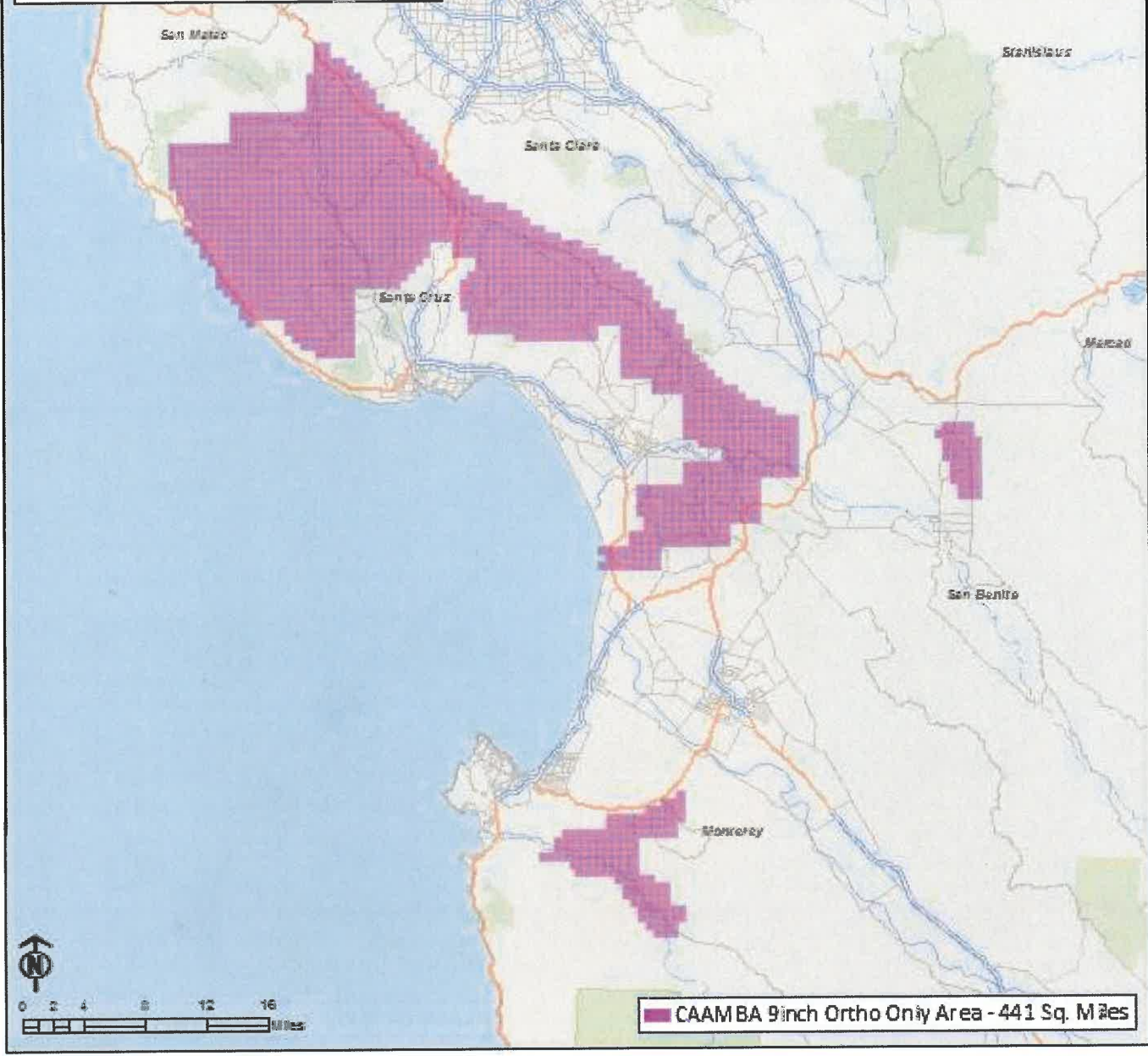








Monterey Bay Area Governments, CA



**FORMS AND CERTIFICATIONS – RFP ATTACHMENT E**  
**CALIFORNIA LEVINE ACT STATEMENT**

California Government Code § 84308, commonly referred to as the "Levine Act," precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any AMBAG/RAPS, Inc. Board Director in the 12 months preceding the date of the issuance of this Request for Proposals?

YES                      NO

If yes, please identify the Board Director(s): \_\_\_\_\_

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any AMBAG/RAPS, Inc. Board Director in the three months following the award of the contract?

YES                      NO

If yes, please identify the Board Director(s): \_\_\_\_\_

Answering yes to either of the two questions above does not preclude AMBAG from awarding a contract to your firm. It does, however, preclude the identified Board Director(s) from participating in the contract award process for this contract.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
(SIGNATURE OF AUTHORIZED OFFICIAL)

\_\_\_\_\_  
(TYPE OR WRITE APPROPRIATE NAME, TITLE)

\_\_\_\_\_  
(TYPE OR WRITE NAME OF COMPANY)

**CERTIFICATION  
DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

1. All persons or firms, including Subcontractor(s), must complete this certification and certify, under penalty of perjury, that, except as noted below, he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not, within the three (3) year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification; and
  - d. Have not, within the three (3) year period preceding this certification, had one or more public transactions (Federal, state, and local) terminated for cause or default.
  
2. If such persons or firms later become aware of any information contradicting the statements of paragraph (1), they will promptly provide that information to AMBAG.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of actions.

The certification in this clause is a material representation of fact relied upon by AMBAG. If it is later determined that the CONTRACTOR knowingly rendered an erroneous certification, in addition to remedies available to AMBAG, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The CONTRACTOR agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

---

**Name of Firm**

---

**Signature (original signature required)**

---

**Date**

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I. \_\_\_\_\_ hereby certify on behalf of \_\_\_\_\_ that:  
(name and title of authorized official) (name of firm)

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

By \_\_\_\_\_ (signature of authorized official)

\_\_\_\_\_  
(title of authorized official)