

**AGREEMENT
BETWEEN THE

OFFICE OF INFORMATION TECHNOLOGY SERVICES

AND

Albany County

FOR UPGRADED GEOGRAPHIC INFORMATION SYSTEMS
DIGITAL ORTHOIMAGERY DATA
Contract # X000827**

This **GEOGRAPHIC INFORMATION SYSTEMS DIGITAL ORTHOIMAGERY DATA ENHANCEMENT AGREEMENT** (hereinafter "Agreement") by and between the State of New York (hereinafter "State"), acting by and through the New York State Office of Information Technology Services (hereinafter "ITS") with offices located at Empire State Plaza, (PO Box 2062), Albany, NY 12220, and **Albany County** (hereinafter "Governmental Entity"), located at 112 State Street, Room 900, Albany, New York 12207, its successor and/or assigns (collectively, the "Parties").

WITNESSETH:

WHEREAS, ITS conducts a Geographic Information System (hereinafter "GIS") Coordination Program, designed to improve and enhance various forms of spatial data related to the State of New York; and

WHEREAS, ITS will be enhancing and improving the State's spatial data through a Statewide Digital Orthoimagery Program (hereinafter "Program"); and

WHEREAS, a Governmental Entity shall be deemed to include: all New York State agencies, authorities, departments, offices, divisions, boards, bureaus, and commissions; and all public corporations and metropolitan planning organizations in New York State; and

WHEREAS, this Program is designed to meet the needs of Governmental Entities and is designed to provide complete statewide orthoimagery coverage on an annual phased cycle, with each phase covering approximately 25% of the State; and

WHEREAS, under the Program, the State has contracted for most areas of the State to be covered by 1.0 Ft GSD four-band orthoimagery. The State has also contracted for other options (hereinafter "upgrades") for higher resolution and alternate imagery type to be exercised should an individual Governmental Entity opt to contribute additional funding for this purpose; and

WHEREAS, the Governmental Entity has determined that digital orthoimagery upgrades are convenient, necessary and desirable for the Governmental Entity, its general population and its agencies, and has opted to contribute additional funding to the State for such purpose.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties do hereby agree as follows:

I. Purpose

The purpose of this Agreement is to set forth the mutual understanding between the Governmental Entity and the State with respect to the financing and development of upgrades for digital orthoimagery covering the Governmental Entity.

II. Consideration

The Governmental Entity hereby agrees to pay the State a sum not to exceed \$41,000 (Forty-one thousand dollars), which final amount will represent the actual cost to ITS in consideration for the upgrades, or any part thereof, for digital orthoimagery as described below. Such consideration must be paid by the Governmental Entity within forty-five (45) days after receipt of a fully executed and approved (*) agreement or February 1, 2025, whichever is later.

(*Approval by the NYS Office of the State Comptroller and The NYS Office of the Attorney General is only required where the amount of the consideration is in excess of \$25,000.00 [twenty-five thousand dollars])

All funds should be remitted to:

NYS Office of Information Technology Services
State Capitol ESP
PO Box 2062
Albany, NY 12220-0062
Attn: Accounts Receivables – Financial Reporting unit

- Please include supporting documentation to identify the payment including NYS ITS Contract #.
- For any questions regarding billing: itsbilling@its.ny.gov

All invoices or requests for remittance of payment should be sent to:

Governmental Entity
Name: Laura DeGaetano
Title: Senior Natural Resource Planner
Address: 112 State Street, Room 1310, Albany, New York 12207
Telephone Number: (518) 447-5670
Facsimile Number:
E-Mail Address: Laura.DeGaetano@albanycountyny.gov

III. Term of this Agreement

This Agreement shall commence upon execution by all parties and if required, approval of the Agreement by the New York State Office of the Comptroller (OSC) and the New York State Office of the Attorney General (OAG). The contract will terminate on December 31, 2025.

IV. Deliverable

OPTIONS PURCHASED:

Substitute 0.5-ft resolution orthoimagery for 1.0-ft orthoimagery for the entirety of the following municipalities: Albany, Bethlehem, Coeymans, Cohoes, Colonie, Guilderland, Green Island, Menands, New Scotland and Watervliet; as well as portions of Berne, Knox, and Westerlo.

MATERIALS TO BE DELIVERED:

- Compressed orthoimagery (JP2 format) in the East Zone of the New York State Plane Coordinate System (NAD 83), U.S. Survey Feet.
- Other related materials can be made available upon the Governmental Entity's request and at the convenience of ITS.

V. Information Sharing

ITS agrees to provide upgrades for digital orthoimagery covering the Governmental Entity, and to provide the upgraded digital orthoimagery to the Governmental Entity to assist the Governmental Entity in providing services to its general population and its agencies. The Governmental Entity and ITS agree that the upgraded digital orthoimagery will also be made available to the public by ITS through methods including, but not limited to, Internet distribution and that such orthoimagery will be provided to the public free of charge or subject to any statutory allowed fees. The portion of this Agreement regarding release of the digital orthoimagery will survive the expiration or termination of this contract or until amended by a writing signed by both parties.

VI. Termination

ITS may terminate this Agreement and the services provided at any time by providing the Governmental Entity with 30 calendar days' written notice prior to the intended termination date.

VII. Nonperformance

If for any reason the upgraded digital orthophotography cannot be delivered, or any part thereof, to the Governmental Entity, the State's liability to the Governmental Entity shall be limited solely to the return of any actual consideration paid prorated for any upgraded digital orthophotography delivered to the Governmental Entity.

VIII. Disclaimer

Neither the Governmental Entity nor ITS assumes any risk, liability or responsibility for the accuracy of the data which is the subject of this Agreement.

IX. Non-Waiver

The failure by any Party to insist on performance of any term or condition or to exercise any right or

privilege included in this Agreement shall not constitute a waiver of same unless explicitly denominated in writing as a waiver and shall not thereafter waive any such term or condition and/or any right or privilege. No waiver by any party of any breach of any term of this Agreement shall constitute a waiver of any subsequent breach or breaches of such term.

X. New York State Appendix A - Standard Terms for State Contracts

New York State Appendix A - Standard Terms for State Contracts - is attached hereto as Appendix A and made a part hereof to the extent applicable.

XI. Federal Funding

To the extent that any of the goods or services provided under this Agreement may be funded in whole or in part by federal funds, Governmental Entity agrees to comply with all applicable federal laws, rules and regulations required for the receipt and/or expenditure of such funds, including, but not limited to 2 CFR Part 200, relating to procurements by States and any federal laws, rules, regulations specifying federal government intellectual property rights.

XII. Laws of New York State

This Agreement shall be construed in accordance with the Laws of the State of New York.

XIII. No Third Party Rights

Nothing in the Agreement shall create or give to third parties any claim or right of action against the Governmental Entity or ITS beyond such as may legally exist irrespective of the Agreement.

XIV. Notices

1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
 - (a) via certified or registered United States mail, return receipt requested;
 - (b) by facsimile transmission;
 - (c) by personal delivery;
 - (d) by expedited delivery service; or
 - (e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

New York State Office of Information Technology Services

Name: Tim Ruhren
Title: Director of Geospatial Data Services
Address: 1220 Washington Ave, Building 5, Floor 1, Albany NY12226
Telephone Number: 518-242-5061
E-Mail Address: tim.ruhren@its.ny.gov

Governmental Entity

Name: Laura DeGaetano
Title: Senior Natural Resource Planner
Address: 112 State Street, Room 1310, Albany, New York 12207
Telephone Number: (518) 447-5670
E-Mail Address: Laura.DeGaetano@albanycountyny.gov

2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

3. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

XV. General Responsibility

The Governmental Entity shall at all times during the Agreement term remain responsible. The Governmental Entity agrees, if requested by the Director of ITS or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

XVI. Suspension of Work (for Non-Responsibility)

The Commissioner of ITS or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Agreement, at any time, when he or she discovers information that calls into question the responsibility of the Governmental Entity. In the event of such suspension, the Governmental Entity will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Governmental Entity activity may resume at such time as the Director of ITS or his or her designee, issues a written notice authorizing a resumption of performance under the Agreement.

XVII. Termination (for Non-Responsibility)

Upon written notice to the Governmental Entity, and a reasonable opportunity to be heard with appropriate ITS officials or staff, the Agreement may be terminated by the Director of ITS or his or her designee, at the Governmental Entity's expense where the Governmental Entity is determined by the Director of ITS or his or her designee, to be non-responsible. In such event the Director of ITS or his or her designee, may complete the

contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

XVIII. Assignment

ITS may assign this agreement at any time to a successor NYS Agency by providing written notice to the Governmental Entity.

XIX. Amendments to this Agreement

Any amendments to this Agreement must be made in writing and executed by both parties and, if necessary, approved by the OSC.

IN WITNESS WHEREOF, this Agreement has been duly executed the date and year set out below.

<p>NEW YORK STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES Federal ID #: 14-6013200</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>GOVERNMENTAL ENTITY Federal ID#: _____</p> <p>By _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>Approved:</p> <p>Office of the Attorney General By: _____</p> <p>Date: _____</p>	<p>Approved:</p> <p>State Comptroller By: _____</p> <p>Date: _____</p>

STATE OF)
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COUNTY OF)

On this _____ day of _____, 202_, before me personally came _____, to me known, and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for her/himself depose and say that she/he is the _____ (title) of _____ (Governmental Entity), with its principal place of business located at _____, and that she/he executed the foregoing instrument in the name of the Governmental Entity, and that she/he executed the same as the act and deed of the Governmental Entity for the uses and purposes mentioned therein.

Notary Public