



PURCHASING ITEM FOR COUNCIL AGENDA

MEMO NO. PWE07-028

1. Agenda Item Number:

26

2. Council Meeting Date: May 24, 2007

TO: MAYOR & COUNCIL

3. Date Prepared: April 19, 2007

THROUGH: CITY MANAGER

4. Requesting Department: Public Works

5. SUBJECT: Approval of an agreement for Digital Elevation Model (DEM) and planimetric update mapping with Sanborn Map Company in an amount not to exceed \$60,736.

6. RECOMMENDATION: Recommend approval of an agreement for Digital Elevation Model (DEM) and planimetric update mapping with Sanborn Map Company in an amount not to exceed \$60,736.

7. BACKGROUND/DISCUSSION: The City currently has planimetric linework (back-of-curb, front and back of sidewalk and edge-of-pavement) that was professionally digitized from October 2002 aerial photography. This data serves many purposes such as APWA accreditation, landscape median designs, council map exhibits, etc. This update will bring this linework up-to-date. This work will include updating the existing digital elevation model and generating the linework from the new aerials. Updating is necessary to ensure horizontal accuracy in the City's GIS system.

8. EVALUATION PROCESS: Sanborn Map Company was awarded a contract for aerial photography and the associated mapping by Maricopa County Materials Management. The City utilized that contract for the purchase of digital aerial images. The City required some additional planimetric data and DEM updates, specific to Chandler, and a separate contract was negotiated directly with Sanborn for the additional data.

9. FINANCIAL IMPLICATIONS:

Fund Source:

Acct. No.:	Fund Name:	Amount:
101.1200.0000.5219	ITGISX General Funds, IT Applications, Other Professional Services, IT Geographical Information Systems	\$ 20,000
101.3020.0000.5219	Other Professional/Contract Services	\$ 5,736
101.3010.0000.5219	Other Professional/Contract Services	\$ 35,000

10. PROPOSED MOTION: Move to approve an agreement for Digital Elevation Model (DEM) update mapping with Sanborn Map Company in an amount not to exceed \$60,736, and authorize the Mayor to sign the agreement.

APPROVALS

11. Requesting Department
Warren White
Warren White, Senior Engineer

12. Department Head
Daniel W. Cook
Daniel W. Cook, Acting Public Works Director

13. Procurement Officer
Carolee Stees
Carolee Stees, CPPB

14. City Manager
W. Mark Pentz
W. Mark Pentz

CITY OF CHANDLER SERVICES AGREEMENT
FOR PHOTOGRAMMETRIC MAPPING SERVICES

THIS SERVICES AGREEMENT, hereinafter referred to as the "Agreement" is made and entered into this 15th day of May, 2007, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "City", and The Sanborn Map Company, Inc., hereinafter referred to as "Contractor".

WHEREAS, Contractor represents that Contractor has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

1.1. **Contract Administrator.** Contractor shall act under the authority and approval of the GIS Database Analyst /designee (Contract Administrator), to provide the services required by this Agreement.

1.2. **Subcontractors.** During the performance of the Agreement, Contractor may engage such additional Subcontractors as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with Contractor.

2. SCOPE OF WORK: Contractor shall provide photogrammetric mapping services all as more specifically set forth in the Scope of Work, labeled Exhibit A, attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.

2.1. **Compliance With Applicable Laws.** Contractor shall comply with all applicable Federal, state and local laws, and with all applicable license and permit requirements.

2.2. **Ownership.** All deliverables and/or other products of the Agreement (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by Contractor in performance of the Contract) are being produced from imagery that is the sole property of the Contractor.

2.3. City shall be the sole, absolute and exclusive owner, free from any claim or retention of right on the part of Contractor, its agents, sub-contractors, officers or employees of the copy of the Deliverables produced hereunder.

2.4. Contractor shall be the sole, absolute and exclusive owner, free from any claim or retention of right on the part of City, its agents, officers or employees of the Deliverables produced hereunder.

2.5. **One-Year Warranty.** Contractor provides a one-year limited warranty against defects in material and workmanship on all work performed pursuant to this Contract. EXCEPT AS EXPRESSLY PROVIDED OTHERWISE WITHIN THIS Article 2, Contractor MAKES NO WARRANTIES WITH REGARD TO THE DELIVERABLES, EXPRESSED OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY AND

ALL WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. Contractor provides no warranty with respect to latent defects in the Deliverables, the discovery of which may elude detection by the exercise of ordinary and reasonable care, which Contractor agrees to employ.

3. ACCEPTANCE AND DOCUMENTATION: Each task shall be reviewed and approved by the Contract Administrator to determine conformance with the specifications contained in this Agreement.

3.1. **Records.** The Contractor shall retain and shall contractually require each Subcontractor to retain all data and other "records" relating to the acquisition and performance of the Agreement for a period of five (5) years after the completion of the Contract.

3.2. **Audit.** At any time during the term of this Agreement and five (5) years thereafter, the Contractor's or any Subcontractor's books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Agreement or Subcontract. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.3. **Ownership.** All deliverables and/or other products of the Agreement (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by Contractor in performance of the Contract) shall be the sole, absolute and exclusive property of City, free from any claim or retention of right on the part of Contractor, its agents, subcontractors, officers or employees.

4. PRICE: City shall pay to Contractor the firm fixed price of **Sixty Thousand Seven Hundred Thirty Six** Dollars (\$60,736) for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by Contractor, payable as set forth in Exhibit B, attached hereto and made a part hereof by reference.

4.1. **Payment.** A separate invoice shall be issued monthly on a percentage complete basis against services performed. Payment terms are NET 30 upon receipt of a correct invoice.

4.2. **Taxes.** Contractor shall be solely responsible for any and all tax obligations, which may result out of the Contractor's performance of this Agreement. The City shall have no obligation to pay any amounts for taxes, of any type, incurred by the Contractor.

4.3. **Price Adjustment.** Any requests for reasonable price adjustments must be submitted thirty (30) days prior to the contract expiration date. Requests for adjustment in the firm fixed price must be supported by appropriate documentation. If City agrees to adjusted price terms City shall issue written approval of the change. The reasonableness of the request will be determined by performing a market survey.

5. TERM: The term of this contract commences on this _____ day of May, 2007 and terminates on December 31, 2008, unless sooner terminated in accordance with the provisions herein. City reserves the right to extend the term of this Agreement for like or similar services for up to three (3) additional terms of one (1) year each.

6. CITY'S CONTRACTUAL REMEDIES:

7.1. **Right to Assurance.** If the Contract Administrator, in good faith, has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Agreement in addition to any other rights and remedies provided by law or this Agreement.

7.2. **Stop Work Order.** The Contract Administrator may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Agreement for period(s) of days indicated by the City after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

7.2.1 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule and the firm fixed price and the Agreement shall be amended in writing accordingly.

7.3. **Non-exclusive Remedies.** The rights and the remedies of the City and Contractor under this Agreement are not exclusive.

7.4. **Nonconforming Tender.** Services supplied under this Agreement shall fully comply with Agreement requirements and specifications. Services that do not fully comply and are not corrected within the mutually agreed upon timeframe constitute a breach of contract.

7.5. **Right of Offset.** The City shall be entitled to offset against any sums due Contractor, any expenses or costs incurred by the City, or damages assessed by the City concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by City.

7.6. The City expressly warrants that the existing DEM data to be supplied to Contractor for the performance of its obligations hereunder shall substantially conform to the specifications contained in Exhibit A and shall not have to be replaced in its entirety by Contractor in order to meet its obligations hereunder. The City also warrants that the DEM shall be supplied to Contractor in a complete and timely manner so as not to disrupt or delay the work. Failure to provide the DEM shall constitute a breach hereunder. Any delay in supplying the DEM shall be an excused delay with an equitable adjustment to the schedule of deliveries. Any failure of the DEM to comply with the specifications contained in Exhibit A that require additional work on the part of Contractor shall also constitute an excused delay with an equitable adjustment to the schedule of deliveries.

8. TERMINATION:

8.1. **Termination for Convenience.** City reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, Contractor shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and Subcontractors to cease such work. As compensation in full for services performed to the date of such termination, the Contractor shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the Contractor and City, based on the agreed Scope of Work. If there is no

mutual agreement, the **Management Services Director** shall determine the percentage of work performed for each task detailed in the Scope of Work and the Contractor's compensation shall be based upon such determination and Contractor's fee schedule included herein.

8.2. Termination for Cause. City may, upon thirty (30) days written notice, terminate this Agreement for Contractor's failure to comply with the terms of this Agreement. Contractor shall be afforded the opportunity to cure any alleged cause or to timely submit a plan to cure that is acceptable to both parties.

8.3. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, City may cancel this Agreement after Agreement execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the City is or becomes at any time while this Agreement or an extension of this Agreement is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. Contractor stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

8.4. Gratuities. City may, by written notice, terminate this Contract, in whole or in part, if City determines that employment or a Gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of City for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The City, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by Contractor.

8.5. Suspension or Debarment. City may, by written notice to the Contractor, immediately terminate this Agreement if City determines that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If Contractor becomes suspended or debarred, Contractor shall immediately notify City.

8.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

8.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

9. FORCE MAJEURE: Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

10. ALTERNATE DISPUTE RESOLUTION: Notwithstanding anything to the contrary provided elsewhere in the Agreement documents, the alternate dispute resolution (ADR) process set forth in Exhibit D shall be the exclusive means for resolution of claims or disputes and other matters in question between the City and the Contractor arising out of, or relating to the Agreement documents, interpretation of the Contract, or the performance of or the breach by any party thereto, including but not limited to, original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.

11. INDEMNIFICATION: To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from Contractor's work or services. Contractor's duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of Contractor, anyone directly or indirectly employed by them or anyone for whose acts Contractor may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

12. INSURANCE: Contractor, at its own expense, shall purchase and maintain insurance of the types and amounts required as listed in Exhibit C attached hereto and incorporated herein by reference. Such insurance must be written by companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City.

13. NOTICES: All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

<p>In the case of the City</p> <p>Contract Administrator: <u>Jeff Forney</u></p> <p>Contact: <u>GIS Department</u></p> <p>Mailing Address: <u>PO Box 4008 MS 302</u></p> <p>Physical Address: <u>275 E. Buffalo Street</u></p> <p>City, State, Zip <u>Chandler, AZ 85244</u></p>	<p>In the case of the Contractor</p> <p>Firm Name: <u>Sanborn Map Company</u></p> <p>Contact: <u>B. Craig McDaniel</u></p> <p>Mailing Address: <u>1935 Jamboree Drive, Suite 100</u></p> <p>Physical Address: <u>1935 Jamboree Drive, Suite 100</u></p> <p>City, State, Zip <u>Colorado Springs, CO</u></p>
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Phone: 480-782-2468
FAX: 480-782-2440

80920
Phone: 877-368-9702
FAX: 719-528-5093

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. CONFLICT OF INTEREST:

- 14.1. **No Kickback.** Contractor warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the City has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in Contractor's proposal to the City.
- 14.2. **Kickback Termination.** City may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the City is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a Contractor to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from City is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).
- 14.3. **No Conflict:** Contractor stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

15. GENERAL TERMS:

- 15.1. **Entire Agreement.** This Agreement, including Exhibits A, B, C and D attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.2. **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 15.3. **Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the City.
- 15.4. **Amendments.** The Agreement may be modified only through a written Agreement Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the Contractor are violations of the Agreement. Any such changes, including unauthorized written Agreement Amendments

shall be void and without effect, and the Contractor shall not be entitled to any claim under this Agreement based on such changes.

- 15.5. Independent Contractor.** The Contractor under this Agreement is an independent Contractor. Neither party to this Agreement shall be deemed to be the employee or agent of the other party to the Agreement.
- 15.6. No Parole Evidence.** This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 15.7. Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this day of _____ 2007.

FOR THE CITY OF CHANDLER

FOR THE Contractor

MAYOR

By: _____
John Cople, President

ATTEST:

ATTEST: If Corporation

City Clerk

B. Craig McDaniel, Secretary

City Attorney



SEAL

- 15.3. **Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the City.
- 15.4. **Amendments.** The Agreement may be modified only through a written Agreement Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the Contractor are violations of the Agreement. Any such changes, including unauthorized written Agreement Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Agreement based on such changes.
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- 15.7. **Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this day of 2007.

FOR THE CITY OF CHANDLER

MAYOR

ATTEST:

City Clerk

City Attorney

FOR THE Contractor

By: 
John Copple, President

ATTEST: If Corporation

B. Craig McDaniel, Secretary

SEAL

EXHIBIT A SCOPE OF WORK

Contractor shall provide digitized planimetric and digital elevation model data from Contractor owned digital aerial photography to be utilized by the City of Chandler's GIS Department and for engineering design activities relating to the production of various engineering studies, reports, presentation exhibits and construction documents.

All work is anticipated to be completed within one hundred twenty (120) calendar days of execution of this Agreement and subsequent notice to proceed by the City subject to any force majeure events that are beyond the control of either party.

GIS Data shall be in Arizona State Plane NAD83 HARN (High Accuracy Resolution Network) International Foot Coordinate System.

Medium for data delivery is by external hard drive. The hard drive is Contractor's property and shall be returned to Contractor after the data is transferred onto City's computer system by City personnel.

DELIVERABLES:

DEM Update

Contractor shall update the existing City owned DEM (mass points and breaklines) for approximately 100 square miles sufficient to support a 1" = 100' map scale horizontal accuracy (NMAS) for digital orthophotography. The City shall provide the existing DEM and further warrants that the DEM will meet at least a 1"= 100' map scale for horizontal accuracy as provided.

Planimetric Update

City shall provide Contractor with its existing planimetric datasets for approximately 92 square miles. City warrants that the existing planimetric data will meet at least a 1"=100' map scale for horizontal accuracy as provided.

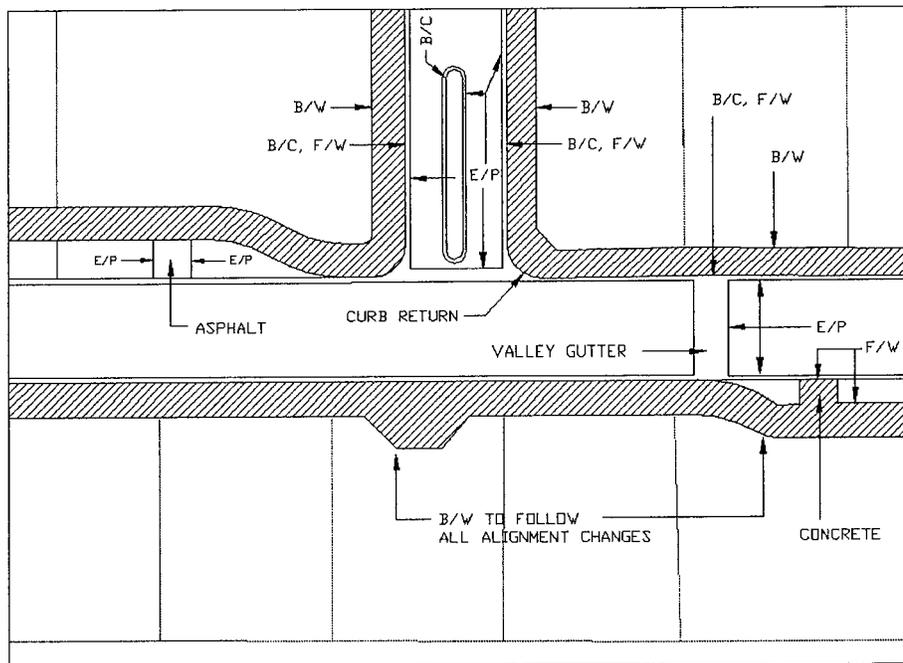
Contractor shall provide updated existing planimetric datasets from 2006 flight for approximately 92 square miles to include existing features (edge of pavement, back of curb including medians, and front and back of sidewalks). Pavement, curb, sidewalk, median and right-of-way features should meet a 1' – 2' horizontal accuracy.

Pavement, curb, sidewalk and median features within City right-of-way shall be digitized off aerial photography and provided to the City in ESRI shape file format as follows:

- 1) Pavement – a polyline feature class delineating pavement areas. The polyline shall represent the edge of pavement (E/P) and will typically consist of polygon areas broken by valley gutters. See graphic below.
- 2) Curb – a polyline feature class delineating ONLY the back of curb (B/C) line. The polyline shall be continuous through curb returns (sidewalk ramps) and driveways. In addition, the back of curb line shall be shown in conjunction to the front of sidewalk polyline where they are flush. See graphic below.

- 3) Sidewalk – a polyline feature class delineating the front (F/W) and back (B/W) of sidewalk. The polylines representing the sidewalk shall be continuous and follow all breaks in alignment such as scuppers, sidewalk ramps and driveways. And, as stated above, the front of walk line shall be shown in conjunction to the back of curb line where they are flush. For detached sidewalks, the area between the back of curb and front of walk shall be delineated as edge of pavement for asphalt areas or back of walk for concrete areas. See graphic below.
- 4) Median – a polyline feature class delineating ONLY the back of curb (B/C) line for medians. Edge of pavement lines shall also be shown around medians. See graphic below.

For all digitized features, it is expected that the line work will be continuous and snapping will be used to prevent breaks in alignment or gaps.



Optional Planimetric Features:

- Parking Lots (paved and upaved)
- Gravel Roads
- Building Footprints
- Other Structure Footprints greater than 10' x 10'
- Single Family Pools

**EXHIBIT B
PRICE LIST**

For services described in Exhibit A, the City shall pay Contractor a firm fixed price of Sixty Thousand Seven Hundred Thirty Six dollars (\$60,736). Payment will be made based on the following price list:

	From 2006 Imagery*	From 2006 Imagery*	From 2006 Imagery*	From Future Imagery**
Feature	Update existing tiles only for 100 square miles (per square mile price)	Compile in new areas only for 8 square miles (per square mile)	Update and compile new project-wide for 92 square miles (per square mile)	Update project-wide for 100 square miles (per square mile)
Existing Features				
Edge of Pavement			\$196.90	\$164.08
Back of Curb			\$71.60	\$59.67
Front and back of sidewalks			\$89.50	\$74.58
Total for Existing Features			\$358.00	\$298.33
Optional Features				
Parking Lots		\$177.00		
Gravel Roads		\$57.00		
Building Footprints		\$284.00		
Other Structure Footprints >10'x10'		\$134.00		
Single family Pools		\$57.00		
DEM Update	\$200.00			
Set-Up*	\$7,800			
Total Extended Prices	\$27,800		\$32,936	

*One-time Set up fee of \$7,800.00 (year one) and \$3,800 for each subsequent year (base year 2 or subsequent optional years, if exercised)

**Subject to an annual maximum 4% per square mile price increase (effective each October 1 of the base years and in subsequent optional years, if exercised).

EXHIBIT C

INSURANCE REQUIREMENTS

1. INSURANCE:

1.1. Insurance Representations and Requirements:

- A. Contractor, at its own expense, shall purchase and maintain insurance of the types and amounts required in this section, with companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City.
- B. Policies written on a "Claims made" basis are not acceptable without written permission from the City's Risk Manager.
- C. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of City, constitute a material breach of this Agreement and may result in termination of this contract.
- D. If any of the insurance policies are not renewed prior to expiration, payments to the Contractor may be withheld until these requirements have been met, or at the option of the City, the City may pay the Renewal Premium and withhold such payments from any monies due the Contractor.
- E. All insurance policies, except Workers' Compensation required by this Agreement, and self-insured retention or deductible portions, shall name, to the fullest extent permitted by law for claims arising out of the performance of this contract, the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- F. Contractor's insurance shall be primary insurance over any insurance available to the City and as to any claims resulting from this contract, it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
- G. The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against City, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's acts, errors, mistakes, omissions, work or service.
- H. The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be assumed by and be for the account of, and at the sole risk of Contractor. Contractor shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance. City, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit. Self-insured retentions (SIR) in excess of \$25,000 will only be accepted with the permission of the Management Services Director/Designee.

- I. All policies and certificates shall contain an endorsement providing that the coverage afforded under such policies shall not be reduced, canceled or allowed to expire until at least thirty (30) days prior written notice has been given to City.
- J. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.
- K. In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under this contract, the amount of excess of such claims, or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims as may be determined by the City.

1.2. Proof of Insurance – Certificates of Insurance

- A. Prior to commencing work or services under this Agreement, Contractor shall furnish to City Certificates of Insurance, issued by Contractor's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.
- B. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City of Chandler five (5) days prior to the expiration date.
- C. All Certificates of Insurance shall identify the policies in effect on behalf of Contractor, their policy period(s), and limits of liability. Each Certificate shall include the job site and project number and title. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the contract documents. Information required to be on the certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance company.
- D. REQUIRED City reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of City's right to insist on, strict fulfillment of Contractor's obligations under this Agreement.

1.3. Coverage

- A. Such insurance shall protect Contractor from claims set forth below which may arise out of or result from the operations of Contractor under this Agreement and for which Contractor may be legally liable⁶, whether such operations be by the Contractor or by a Subcontractor by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG00011093 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.
- B. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;

- C. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- D. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- E. Claims for damages insured by usual personal injury liability coverage;
- F. Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- G. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; Coverage will be at least as broad as Insurance Service Office, Inc., coverage Code "I" "any auto" policy form CA00011293 or equivalent thereof.
- H. Claims for bodily injury or property damage arising out of completed operations;
- I. Claims involving contractual liability insurance applicable to the Contractor's obligations under the Indemnification Agreement;
- J. Claims for injury or damages in connection with one's professional services;
- K. Claims involving construction projects while they are in progress. Such insurance shall include coverage for loading and off loading hazards. If any hazardous material, as defined by any local, state or federal authorities are to be transported, MCS 90 endorsement shall be included.

1.4. Commercial General Liability - Minimum Coverage Limits.

The Commercial General Liability insurance required herein shall be written for not less than \$500,000 limits of liability. Any combination between general liability and excess general liability alone amounting to a minimum of \$1,000,000 per occurrence (or 10% per occurrence) and an aggregate of \$2,000,000 (or 20% whichever is greater) in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc's (ISO) Additional Insured, Form B, CG 20101001, and shall include coverage for Contractor's operations and products, and completed operations.

1.5. Automobile Liability

Contractor shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work. Coverage shall be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof).

1.6. Worker's Compensation and Employer's Liability

Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$

1,000,000 for each accident, \$1,000,000 disease coverage for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, Contractor will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of Contractor.

EXHIBIT D
ALTERNATE DISPUTE REQUIREMENTS

1. ALTERNATE DISPUTE RESOLUTION: Notwithstanding anything to the contrary provided elsewhere in the Agreement documents, the alternate dispute resolution (ADR) process provided herein shall be the exclusive means for resolution of claims or disputes and other matters in question between the City and the Contractor arising out of, or relating to the Agreement documents, interpretation of the Contract, or the performance of or the breach by any party thereto, including but not limited to, original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.

1.1. Notice. Contractor shall submit written notice of any claim or dispute to the Contract Administrator within thirty (30) days of the occurrence, event or disputed response from City for immediate resolution pursuant to these provisions. Each claim or dispute shall be submitted and resolved as it occurs and not postponed until the end of the Agreement nor lumped together with other pending claims.

1.2. Forfeiture. Failure to submit a notice of any claim, dispute, or other issue within such thirty (30) days shall constitute Contractor's forfeiture of its right to dispute the issue, raise the claim or make the request and shall also constitute Contractor's agreement and acceptance of the City's position.

1.3. City Response. The Contract Administrator will provide to Contractor a written response to any claim, request for clarification or dispute on or before thirty (30) days from receipt of Contractor's written claim.

1.4. Appeal. If Contractor disagrees with the response of the Contract Administrator, within fifteen days of the date of the response by the Contract Administrator, Contractor shall file with the Contract Administrator, written notice of appeal. The Contract Administrator shall provide copies of all relevant information concerning the Agreement and claim or dispute to the Assistant Management Services Director who will determine the appeal. The Assistant Management Services Director may request additional information from either party, may hold an informal informational hearing or may make the determination based on the information provided. The Assistant Management Services Director shall make a final determination of the appeal and provide written notice to Contractor within sixty (60) days from the date of Contractor's written notice of appeal.

1.5. Arbitration. If Contractor is not satisfied with the determination of the Assistant Management Services Director, the following binding arbitration procedure shall serve as the exclusive method to resolve all unresolved disputes. If Contractor chooses not to accept the decision of the Assistant Management Services Director, Contractor shall notify the Contract Administrator in writing within ten (10) business days of receipt of the Assistant Management Services Director's decision of a request for arbitration. The Contractor shall post a cash bond with the Arbitrator in the amount of \$5,000, or a greater amount as determined by the Arbitrator, that will defray the cost of the arbitration as set forth in paragraph M, Fees and Costs, and proceeds from said bond shall be allocated in accordance with said paragraph by the Arbitrator.

- A. Arbitration Panel: The Arbitration Panel shall consist of the arbitrators selected by the parties involved in the dispute, (i.e., City will select one arbitrator, Contractor will select one arbitrator, and any other Contractor who has a contract with the City which contains this ADR provision and is a party to the same dispute will also select an arbitrator), and the foregoing arbitrators shall select a neutral Arbitrator who will hear the matter and make a final determination, as set forth herein.
- B. Expedited Hearing: The parties have structured this procedure with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this ADR process. To that end, any party can petition the Arbitrator to set an expedited hearing if circumstances justify it. The Arbitrator shall contact the parties and schedule the arbitration at the earliest possible date. In any event, the hearing of any dispute not expedited will commence as soon as practical, but in no event later than sixty (60) days after notification of request for arbitration having been submitted. This deadline can be extended only with the consent of all the parties to the dispute, or by decision of the Arbitrator upon a showing of emergency circumstances.
- C. Procedure: The Arbitrator shall conduct the hearing that will resolve disputes in a prompt, cost efficient manner giving due regard to the rights of all parties. Each party shall supply to the Arbitrator a written pre-hearing statement, which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The Arbitrator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. The Arbitrator, upon proper application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary, or sensitive materials or information from public disclosure or other misuse. Any party may make application to the Maricopa County Superior Court to have a protective order entered as may be appropriate to conform to such orders of the Arbitrator.
- D. Hearing Days: To effectuate the parties' goals, the hearing once commenced, will proceed from business day to business day until concluded, absent a showing of emergency circumstances.
- E. Award: The Arbitrator shall within ten (10) days from the conclusion of any hearing issue its award. The award shall include an allocation of fees and costs pursuant to the Binding Arbitration Procedure paragraph herein. Any award providing for deferred payment shall include interest at the rate of ten (10%) percent per annum. The award is to be rendered in accordance with the Agreement and the laws of the State of Arizona.
- F. Scope of Award: The Arbitrator shall be without authority to award punitive damages, and any such punitive damage award shall be void. The Arbitrator shall also be without authority to issue an award against any individual party in excess of \$500,000, exclusive of interest, arbitration fees, costs, and attorney's fees. If an award is made against any individual party in excess of \$50,000, exclusive of interest, arbitration fees, costs and attorneys' fees, it must be supported by written findings of fact, conclusions of law and statement as to how damages were calculated.

- G. Jurisdiction: The Arbitrator shall not be bound for jurisdictional purposes by the amount asserted in any party's claim, but shall conduct a preliminary hearing into the question of jurisdiction upon application of any party at the earliest convenient time, but not later than the commencement of the arbitration hearing.
- H. Entry of Judgment: Any party can make application to the Maricopa County Superior Court for confirmation of any award and for entry of judgment on it.
- I. Severance and Joinder: To reduce the possibility of inconsistent adjudications, the Arbitrator, may at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision, and the Arbitrator may, on his own authority, join or sever parties and/or claims subject to this ADR process as they deem necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and efficient resolution of disputes. Nothing herein shall create the right by any party to assert claims against another party not recognized under the substantive law applicable to the dispute. The Arbitrator is not authorized to join to the proceeding parties not in privity with the City.
- J. Appeal: Any party may appeal errors of law by the Arbitrator if, but only if, the errors arise in an award in excess of \$100,000; the exercise by the Arbitrator of any powers contrary to or inconsistent with the Contract; or any of the grounds provided in A.R.S. 12-1512. Appeals shall be to the Maricopa County Superior Court within fifteen (15) days of entry of the award. The standard of review in such cases shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or remand an award appealed under this section.
- K. Uniform Arbitration Act: Except as otherwise provided herein, binding arbitration pursued under this provision shall be governed by the Uniform Arbitration Act as enacted in Arizona in A.R.S. 12-1501, et. seq.
- L. Fees and Costs: Each party shall bear its own fees and costs in connection with any informal hearing before the Assistant Management Services Director. All fees and costs associated with any arbitration before the Arbitrator, including without limitation, the Arbitrator's fees, the prevailing party's attorneys' fees, expert witness fees and costs, will be paid by the nonprevailing party, except as provided for herein. The determination of prevailing and nonprevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the Arbitrator.
- M. Equitable Litigation: Notwithstanding any other provision of ADR to the contrary, any party may petition the Maricopa County Superior Court for interim equitable relief as necessary to preserve the status quo and prevent immediate and irreparable harm to a party or to ongoing work pending resolution of a dispute pursuant to ADR provided for herein. No court may order any permanent injunctive relief except as may be necessary to enforce an order or award entered by the Arbitrator. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.