

KENNETH SCHMITT
Town Supervisor

TOWN OF CARMEL
TOWN HALL

ANN SPOFFORD
Town Clerk

FRANK D. LOMBARDI
Town Councilman
Deputy Supervisor

60 McAlpin Avenue
Mahopac, New York 10541
Tel. (845) 628-1500 • Fax (845) 628-6836
www.carmelny.org

KATHLEEN KRAUS
Receiver of Taxes

JOHN D. LUPINACCI
Town Councilman
SUZANNE MC DONOUGH
Town Councilwoman
JONATHAN SCHNEIDER
Town Councilman

MICHAEL SIMONE
Superintendent of Highways
Tel. (845) 628-7474

TOWN BOARD WORK SESSION
Wednesday, August 26, 2015 7:00pm

Pledge of Allegiance – Moment of Silence

1. **Public Hearing:** In the Matter of the Increase and Improvement of the Facilities of Carmel Sewer District #1

Town Board Work Session:

1. Consider Additions to the Active List of the Carmel Fire Department
 2. Richard Franzetti, PE, Town Engineer –Consider Rejecting all Bids and Advertise for Bids for the Rehabilitation of the Tennis Courts at Sycamore Park
 3. Richard Franzetti, PE, Town Engineer – Consider Awarding Bid for Camarda Park Concession Stand and Dugout
 4. Glenn Droese, Town Assessor –Consider Proposal for Pictometry Aerial Photography
- Public Comment (Three (3) Minutes on Agenda Items Only)
 - Town Board Member Comments

Open Forum:

- Public Comments on New Town Related Business (Three (3) Minutes Maximum per Speaker for Town Residents, Property Owners & Business Owners Only)
- Town Board Member Comments
- Adjournment

PH#1

NOTICE OF PUBLIC HEARING

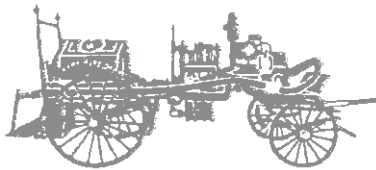
NOTICE IS HEREBY GIVEN that the Town Board of the Town of Carmel, Putnam County, New York, will meet at the Town Hall, 60 McAlpin Avenue, in Mahopac, New York, on August 26, 2015, at 7:00 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon a certain map, plan and report, including an estimate of cost, in relation to the proposed increase and improvement of the facilities of Carmel Sewer District No. 1, in said Town, consisting of the reconstruction of sewer lines for infiltration and inflow remediation, including incidental improvements and expenses in connection therewith, at a maximum estimated cost of \$1,112,310.

Said capital project has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act ("SEQRA"), the implementation of which as proposed, said regulations provide will not result in any significant environmental effects.

At said public hearing said Town Board will hear all persons interested in the subject matter thereof. The Town Board will make every effort to assure that the Public Hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.

Dated: Mahopac, New York
August 13, 2015

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF CARMEL
ANN SPOFFORD, TOWN CLERK

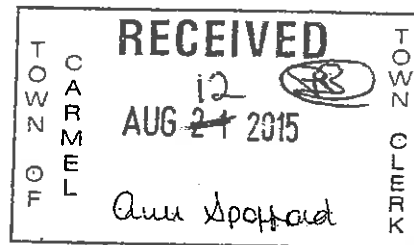


Carmel Fire Department, Inc.

94 Gleneida Avenue
Carmel, New York 10512
(845) 225-5100
FAX: 845-225-2252

Established 1915

cc: Supervisor #1
Legal Counsel



Ann Spofford, Town Clerk
Town of Carmel
60 McAlpin Ave.
Mahopac, New York 10541

☒ Work Session 8/26/15

☐ Agenda _____

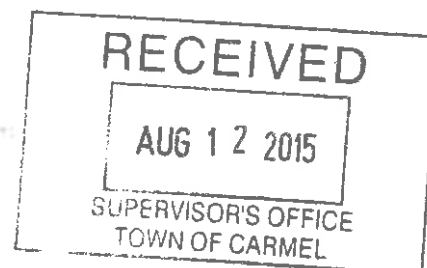
Dear Mrs. Spofford:

The following people have been added to the fire department roles as probationary members:

Alyssa Lipton	[REDACTED]	Carmel, NY
Melissa Depass	[REDACTED]	Carmel, NY

Respectfully Submitted,

Robert Lipton
2nd Assistant Chief



Richard J. Franzetti, P.E.
Town Engineer



(845) 628-1500
(845) 628-2087
Fax (845) 628-7085

Office of the Town Engineer
60 McAlpin Avenue
Mahopac, New York 10541

☒ Work Session 8/26/15

☐ Agenda _____

MEMORANDUM

To: Carmel Town Board

From: Richard J. Franzetti P.E. Town Engineer *RTF*

Date: August 14, 2015

Re: C230-2015 – Sycamore Park Court Rehabilitation

On Wednesday, July 22, 2015 at 11:00 am Bids were opened by the Town Clerk for the above project. A copy of the bid opening results is attached. The scope of work involves milling and resurfacing of the two (2) tennis courts, including some drainage improvements and the conversion of one (1) of the tennis courts to a basketball court.

Two (2) bids were received, as noted below:

<u>Contractor</u>	<u>Total Bid Price</u>
Sport Tech Construction Brewster, NY	\$ 223,756.00
Avello Brothers Contracting Poughkeepsie, NY	\$268,520.00

In evaluating the Bids, Sport Tech Construction advised that they do not have an apprenticeship program approved by the New York State Commissioner of Labor as required by New York State Labor Law §816-b and Town Board resolution (attached) if the Bid value exceeds \$100,000.00. As a matter of standard procedure, the attached resolution was included with the bid documents that were provided to all bidders. Town Counsel has advised that this failure renders the bid non-responsive, as the bidder did not comply with the project's bidding requirements. As such we recommend this bid be rejected.

In a conversation with Avello Brothers Contracting, they indicated that they participate in an apprenticeship program. A copy of the documents was requested on July 31, 2015. To date no documents were provided.

As the Town Board may be aware the original budget amount for this project was ~\$129,000.00.

While this Department considered the bids non-responsive as outlined above, they do support the actual market cost of the work.

Based this evaluation of the bids received we recommend that the C230-2015 – Sycamore Park Court Rehabilitation bid be rejected. If the Board wishes to rebid the project the Board may wish to consider either increasing the budget amount to accommodate the market costs or modifying the scope of work to bring it in line with the budgeted amount.

SYCAMORE PARK COURT REHABILITATION

2015 C-230

BID OPENING – JULY 22, 2015 @ 11:00 AM

		Bidder #1	Bidder #2	Bidder #3	Bidder #4
Item #1	Unit Price	29,250.	14,124.00		
	Amount Bid	29,250	14,124.00		
Item #2	Unit Price	70.	100.00		
	Amount Bid	11,900.00	17,000.00		
Item #3	Unit Price	100.00	108.00		
	Amount Bid	10,000.00	10,800.00		
Item #4	Unit Price	68.00	42.00		
	Amount Bid	61,200.00	37,800.00		
Item #5	Unit Price	30.00	50.00		
	Amount Bid	1,500.00	2,500.00		
Item #6	Unit Price	10.00	12.73		
	Amount Bid	24,960.00	30,552.00		
Item #7	Unit Price	20.55	23.54		
	Amount Bid	73,220.00	56,496.00		
Item #8	Unit Price	4.00	5.00		
	Amount Bid	2,400.00	2,000.00		
Item #9	Unit Price	5,900.00	4,600.00		
	Amount Bid	5,900.00	4,600.00		
Item #10	Unit Price	8.00	11.00		
	Amount Bid	19,200.00	26,400.00		
Item #11	Unit Price	25,590.00	19,480.00		
	Amount Bid	25,590.00	19,480.00		
Item #12	Unit Price	3,000.00	2,000.00		
	Amount Bid	2,000.00	2,000.00		
Total	All items	268,500.00	253,788.00		

<u>Company Name</u> <u>Address</u>	<u>NC Affidavit</u> <u>attached</u>	<u>NCBC</u> <u>attached</u>	<u>Bid Bond/Check</u> <u>attached</u>
1. <u>Avello Brothers Contractors Inc.</u> ✓ <u>60 Fulton St, Baychester, NY 10601</u>	✓	✓	✓
2. <u>Sport Tech Construction</u> ✓ <u>410 Route 22, Brewster, NY 10509</u>	✓	✓	✓
3. _____ _____			
4. _____ _____			

#3

Richard J. Franzetti, P.E.
Town Engineer



(845) 628-1500
(845) 628-2087
Fax (845) 628-7085

Office of the Town Engineer
60 McAlpin Avenue
Mahopac, New York 10541

☒ Work Session 8-26-15

☐ Agenda _____

MEMORANDUM

To: Carmel Town Board

From: Richard J. Franzetti P.E. Town Engineer 

Date: August 25, 2015

Re: C233-2015 – Camarda Park Concession Stand and Dugout

On Tuesday, August 18, 2015 at 11:00 am Bids were opened by the Town Clerk for the above project. A copy of the bid opening results is attached. The scope of work involves supplying one (1) prefabricated concession building and four (4) prefabricated dugouts at the Camarda Park facility located off of Seminary Hill Road in the Town of Carmel, Putnam County, New York.

Two (2) bids were received, as noted below:

<u>Contractor</u>	<u>Total Bid Price</u>
United Concrete Products Yalesville, CT	\$395,578.00 \$296,128.00 for the concession stand \$ 99,450.00 for the dugouts
Old Castle PreCast Easton, PA	\$396,055.00 \$294,731.00 for the concession stand \$101,324.00 for the dugouts

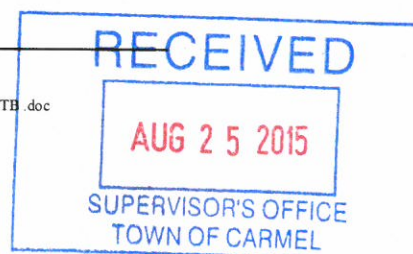
The lowest bidder, by \$477.00 is United Concrete Products. This Department subsequently checked references provided by the contractor. The reference intake sheets are provided. Based upon our discussions with the references we have determined that United Concrete Products is qualified to perform this work for the Town of Carmel and therefore recommends that the contract be awarded to United Concrete Products at the bid price of \$395,578.00 (\$296,128.00 for the concession stand and \$ 99,450.00 for the dugouts)

As the Town Board may be aware the original budget amount for this project was ~447,776.00; 347,776.00 for the concession stand (including site work, electric service, building foundation, plumbing connections to building and landscaping) and \$100,000.00 for the dugouts.

I respectfully request that this matter be placed on the next available work session for discussion.

Tel: (845) 628-1500 Fax: (845) 628-7085 email rjf@ci.carmel.ny.us

G:\Engineering\Contracts and RFPs\C233 Camarda Park Concession Stand and Dugout\Memo to TB\08-25-15 C233-2015 Memo to TB.doc



**SUPPLY & DELIVERY OF PREFABRICATED CONCESSION STAND
AND DUGOUTS AT CAMARDA PARK - CONTRACT #C-233**

Bid Opening: August 18, 2015 @ 11:00 AM

Bidder #	Name	Address	NCBC att.	Bond / Check
1.	Oldcastle Precast, Inc.	3900 Glover Rd. Easton, PA 18040	✓	Bond
2.	United Concrete Products	173 Church St. Yalesville, CT 06492	✓	Bond
3.				
4.				
5.				

Bidder #	Concession Stand		Prefabricated Dugout		Total
	Unit Price	x Quantity	Unit Price	x Quantity	
1.	294,731.00	294,731.00	25,331.00	101,324.00	396,055.00
2.	296,128.00	296,128.00	24,862.50	99,450.00	395,578.00
3.					
4.					
5.					

What to look for in an investment property

Editor's Note: The following information was provided by Metro Creative Connection.

Historically, the appreciation rate for real estate is very strong. Even when the housing market declines, long-term investors in real estate can rest easy knowing that property values tend to rebound rather quickly, rewarding patient investors in the process.

Looking at real estate as a long-term investment is just one way approach a potential investment property. The following are a few additional considerations prospective investors should contemplate before buying an investment property.

LOCATION

Many people are familiar with the real estate industry axiom, location, location, location! When

buying an investment property, location is everything. A great location should outweigh your own personal feelings about the home, especially if you do not intend to live at the property. You will likely define a great location for an investment property differently than you would a property you intend to live in, so don't let your own desires in a home cloud your judgment when choosing an investment property. Properties in safe neighborhoods that boast good schools and offer easy access to public transportation tend to make great investment properties.

DECOR

Decor is another thing to consider when looking for an investment property. If you don't plan to reside in the property, your opinion of the decor should not carry much weight. When viewing a property,



try to imagine how much it might appeal to prospective tenants. Quirky properties typically do not appeal to as many prospective ten-

ants as properties whose decor are similar to other homes in the area. Though you might find a tenant who prefers properties with unique interiors, a property that appeals to as many prospective tenants as possible often makes for a better investment and a lot less stress when the time comes to find tenants.

CONDITION

The condition of the property also must be considered before buying an investment property. Some investors want a fixer-upper, while others prefer turnkey properties that won't require any elbow grease. The former type of property likely won't cost as much as a fully renovated property, but those cost savings might be lost when it's time to renovate. Find a property that's in the type of condition you're comfortable with. If you de-

cide to go with a fixer-upper, learn the cost of your potential projects before submitting an offer.

COST

Real estate makes a great investment, but don't go overboard when buying an investment property. Before making an offer on a property, research rents in the area and the cost of insurance in that particular neighborhood. You want a property that essentially pays for itself, so make sure the rent you're likely to collect is enough to cover your monthly costs, including the mortgage on the property, insurance and the costs associated with managing and maintaining the property.

Real estate investors often reap great rewards when selling their properties. But it's still important for potential investors to consider a host of factors before investing in a property.

LEGAL NOTICES

ADVERTISEMENT FOR BID

NOTICE IS HEREBY GIVEN that sealed bids will be received at the Office of the Town Clerk, Town of Carmel, 60 McAlpin, Mahopac, New York 10541, until 11:00 AM on August 18, 2015 at which time all bids will be publicly opened, read and recorded by the Town Clerk for the following:

CONTRACT #C233

SUPPLY AND DELIVERY OF PREFABRICATED CONCESSION STAND AND DUGOUTS AT CAMARDA PARK IN THE TOWN OF CARMEL

All bidders must comply with Section 103(a) and 103(d) of the General Municipal Law relating to non-collusive bidding and waiver

of immunity against criminal prosecution.

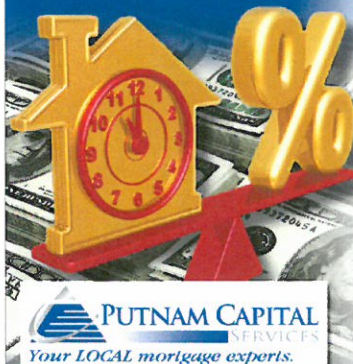
Specifications may be obtained at the Office of the Town Clerk, at the above address beginning August 6, 2015 between the hours of 8:30 A.M.- 4:30 P.M. Monday through Friday, at a cost of twenty-five dollars (\$25.00) cash or certified check only, non-refundable.

Bid envelope shall be marked "BID" plus bid title and number.

The Town Board of the Town of Carmel reserves the right to reject any and all bids and abandon the proposal or may reject all bids and re-advertise at a future date.

By Order of the Town Board of the Town of Carmel
Ann Spofford, Town Clerk

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We're your neighborhood professional licensed mortgage firm.

We deliver personalized attention and service to all our clients and will provide you with a mortgage loan that meets your needs and fits your budget.

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RETIREMENT

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Mahopac, NY 10541
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FINANCIAL GROUP, LTD.
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PRIVATE WEALTH MANAGEMENT FOR SELECT INDIVIDUALS

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DATE: August 24, 2015_____

NAME OF CONTRACTOR: Aquarian Water Company

NAME OF REFERENCE: Ted Merchant

TYPE OF PROJECT: 2014 Booster Pumps

	SUPERIOR			GOOD					POOR	
QUALITY OF WORK:	10	9	8	7	6	5	4	3	2	1
STAFF/SUBCONTRACTING:	10	9	8	7	6	5	4	3	2	1
ALL WORK IAW APPROVALS:	10	9	8	7	6	5	4	3	2	1
MEETING SCHEDULES:	10	9	8	7	6	5	4	3	2	1
QUALITY & EXP OF ASSIGNED PERSONNEL:	10	9	8	7	6	5	4	3	2	1
SHOP DRAWING SUBMITTALS:	10	9	8	7	6	5	4	3	2	1
WERE THEY LOW BID?	10	9	8	7	6	5	4	3	2	1
SUBMISSION OF EXTRAS:	10	9	8	7	6	5	4	3	2	1
AGREEABILITY ON CHANGE ORDERS:	10	9	8	7	6	5	4	3	2	1
GENERAL COOPERATIVENESS:	10	9	8	7	6	5	4	3	2	1

OVERALL EVALUATION:

Would use them again as the quality of work is excellent. They had a few issues that came up but were eventually resolved. Would recommend that the contract is extremely specific.

DATE: August 24, 2015_____

NAME OF CONTRACTOR: HI Stone Construction

NAME OF REFERENCE: Chuck Stone

TYPE OF PROJECT: Ongoing Projects

	SUPERIOR			GOOD					POOR	
QUALITY OF WORK:	10	9	8	7	6	5	4	3	2	1
STAFF/SUBCONTRACTING:	10	9	8	7	6	5	4	3	2	1
ALL WORK IAW APPROVALS:	10	9	8	7	6	5	4	3	2	1
MEETING SCHEDULES:	10	9	8	7	6	5	4	3	2	1
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SUBMISSION OF EXTRAS:	10	9	8	7	6	5	4	3	2	1
AGREEABILITY ON CHANGE ORDERS:	10	9	8	7	6	5	4	3	2	1
GENERAL COOPERATIVENESS:	10	9	8	7	6	5	4	3	2	1

OVERALL EVALUATION:

Highly recommended

DATE: August 24, 2015_____

NAME OF CONTRACTOR: Town of New London, Ct

NAME OF REFERENCE: Tracy Bloch

TYPE OF PROJECT: Restroom 2014 & Various Ongoing Projects

	SUPERIOR			GOOD					POOR	
QUALITY OF WORK:	10	9	8	7	6	5	4	3	2	1
STAFF/SUBCONTRACTING:	10	9	8	7	6	5	4	3	2	1
ALL WORK IAW APPROVALS:	10	9	8	7	6	5	4	3	2	1
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GENERAL COOPERATIVENESS:	10	9	8	7	6	5	4	3	2	1

OVERALL EVALUATION:

Highly recommended

Pasquerello, Anne

☐ Agenda

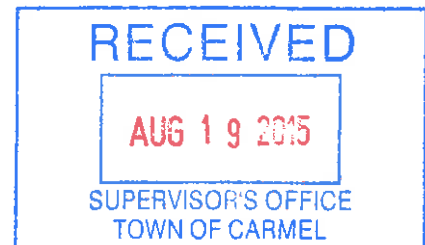
From: Droese, Glenn
Sent: Thursday, August 20, 2015 11:09 AM
To: Pasquerello, Anne
Subject: FW: Pictometry agenda item
Attachments: Pictometry Contract for NYTCARM15-Imagery-081915.pdf, GSD-3-4-6-9-Full-Zoomed-Comparison-RocNY-Mar14.pdf

Hi Anne,

Attached is the Pictometry aerial photography contract and zoom sample information to put on the 8/26/2015 work session agenda.

Thank you,

Glenn A. Droese
Assessor
Town of Carmel
60 McAlpin Ave.
Mahopac, NY 10541
Phone: (845) -628-1500



-----Original Message-----

From: Stefanie Medina [<mailto:stefanie.medina@pictometry.com>]
Sent: Thursday, August 20, 2015 8:30 AM
To: Lori Miller; Droese, Glenn
Subject: RE: Pictometry Contract Attached

Good morning, this email confirms you may present the attached agreement to your board. Lori, I will be available to take your call after 10.
Please email me with any questions or concerns prior to that.
Thank you

Sent via the Samsung GALAXY S® 5, an AT&T 4G LTE smartphone

----- Original message -----

From: Lori Miller <lori.miller@pictometry.com>
Date: 08/19/2015 11:22 PM (GMT-05:00)
To: "Droese, Glenn" <gad@ci.carmel.ny.us>, Stefanie Medina <stefanie.medina@pictometry.com>
Cc: Lori Miller <lori.miller@pictometry.com>
Subject: Pictometry Contract Attached

Hi Glenn & Stephanie,

Attached you will find the Pictometry contract. Stefanie prepared this for me, but she and I have been unable to connect to discuss the details behind decision to move ahead with giving you an actual contract directly from us.

Stefanie, I'm going to be unavailable tomorrow between 8 and 10 am- would you be able to send a brief email to Glenn and I in the morning confirming that this is indeed the final contract and he can use it to present to his board?

I will check in with both of you after 10 am.

Thanks so much!
Lori

Lori Miller
District Manager, New York & New England

C: 585-489-3705
E: lori.miller@pictometry.com<<mailto:lori.miller@pictometry.com>>

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<<http://twitter.com/#!/eagleviewtech>>

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PICTOMETRY® GROUND SAMPLE DISTANCE COMPARISONS



3-inch oblique



4-inch oblique

PICTOMETRY® GROUND SAMPLE DISTANCE COMPARISONS



6-inch oblique



9-inch oblique



**AGREEMENT BETWEEN
PICTOMETRY INTERNATIONAL CORP. ("Pictometry") AND
TOWN OF CARMEL, NY ("Customer")**

1. This order form ("Order Form"), in combination with the contract components listed below:

Section A: Product Descriptions, Prices and Payment Terms

Section B: License Terms:

- Delivered Content Terms and Conditions of Use
- Online Services General Terms and Conditions
- Software License Agreement

Section C: Non-Standard Terms and Conditions

(all of which, collectively, constitute this "Agreement") set forth the entire understanding between Pictometry and Customer with respect to the subject matter hereof and supersedes all prior representations, agreements and arrangements, whether oral or written, relating to the subject matter hereof. Any modifications to this Agreement must be made in writing and be signed by duly authorized officers of each party. Any purchase order or similar document issued by Customer in connection with this Agreement is issued solely for Customer's internal administrative purposes and the terms and conditions set forth on any such purchase order shall be of no force or effect as between the parties.

2. In the event of any conflict among any contract components comprising this Agreement, order of precedence for resolving such conflict shall be, from highest (i.e., supersedes all others) to lowest (i.e., subordinate to all others): Non-Standard Terms and Conditions; Product Descriptions, Prices and Payment Terms; License Terms in order as listed above under the heading 'Section B: License Terms'; and Order Form.
3. All notices under this Agreement shall be in writing and shall be sent to the following respective addresses:

CUSTOMER NOTICE ADDRESS	PICTOMETRY NOTICE ADDRESS
60 McAlpin Avenue	100 Town Centre Drive, Suite A
Mahopac, New York 10541	Rochester, NY 14623
Attn: Glenn Droese, Assessor	Attn: Contract Administration
Phone: (845) 628-1500 Fax:	Phone: (585) 486-0093 Fax: (585) 486-0098

Either party may change their respective notice address by giving written notice of such change to the other party at the other party's then-current notice address. Notices shall be given by any of the following methods: personal delivery; reputable express courier providing written receipt; or postage-paid certified or registered United States mail, return receipt requested. Notice shall be deemed given when actually received or when delivery is refused.

4. This Agreement, including all licenses granted pursuant to it, shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not be assignable by either party except that (i) Pictometry shall have the right to assign its right to receive Fees under this Agreement, provided no such assignment shall affect Pictometry's obligations hereunder, and (ii) Pictometry shall have the right to assign all its rights under this Agreement to any person or entity, provided the assignee has assumed all of Pictometry's obligations under this Agreement.
5. IN NO EVENT SHALL EITHER PARTY BE LIABLE, UNDER ANY CAUSE OF ACTION OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING UNDER THEORIES INVOLVING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR BREACH OF WARRANTY), FOR ANY LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY OR OTHERS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. With respect to any claims that Customer may have or assert against Pictometry on any matter relating to this Agreement, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry pursuant to this Agreement.
7. The waiver by either party of any default by the other shall not waive subsequent defaults of the same or different kind.
8. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.
9. Pictometry shall not be responsible for any failure on its part to perform due to unforeseen circumstances or to causes beyond

Pictometry's reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, weather, floods, accidents, strikes, failure to obtain export licenses or shortages or delays of transportation, facilities, fuel, energy, supplies, labor or materials. In the event of any such delay, Pictometry may defer performance for a period of time reasonably related to the time and nature of the cause of the delay.

10. In consideration of, and subject to, payment by Customer of the Fees specified in Section A of this Agreement, Pictometry agrees to provide Customer with access to and use of the products specified in Section A of this Agreement, subject to the terms and conditions set forth in this Agreement. Customer hereby agrees to pay the Fees specified in Section A of this Agreement in accordance with the stated payment terms and accepts and agrees to abide by the terms of this Agreement.

This Agreement shall become effective upon execution by duly authorized officers of Customer and Pictometry and receipt by Pictometry of such fully executed document, such date of receipt by Pictometry being the "Effective Date."

PARTIES:

CUSTOMER	PICTOMETRY
TOWN OF CARMEL, NY	PICTOMETRY INTERNATIONAL CORP.
(entity type)	a Delaware corporation
SIGNATURE:	SIGNATURE:
NAME:	NAME:
TITLE:	TITLE:
DATE:	EXECUTION DATE:
	DATE OF RECEIPT (EFFECTIVE DATE)

SECTION A

PRODUCT DESCRIPTIONS, PRICES AND PAYMENT TERMS

Pictometry International Corp.
100 Town Centre Drive, Suite A
Rochester, NY 14623

ORDER #

C144555

BILL TO

Town of Carmel, NY
Glenn Droese
Assessor
60 McAlpin Avenue
Mahopac, New York 10541
(845) 628-1500
gad@ci.carmel.ny.us

SHIP TO

Town of Carmel, NY
Glenn Droese
Assessor
60 McAlpin Avenue
Mahopac, New York 10541
(845) 628-1500
gad@ci.carmel.ny.us

CUSTOMER ID	SALES REP	FREQUENCY OF PROJECT
A139046	lmiller	Biennial

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
1	E-911 Interface - Unlimited seats in one PSAP	Perpetual License. Product enables system interface but does not cover the actual integration. Licensee must engage third party to provide this integration.	\$5,000.00	\$0.00 (100%)	\$0.00
1	EAP PROGRAM	Refer to detailed description of EAP Program in attached Agreement.	\$0.00		\$0.00
1	Electronic Field Study (EFS)	One copy of Electronic Field Study software, latest version.	\$0.00		\$0.00
59	IMAGERY - NEIGHBORHOOD - 4-way (N5) (3in) Per Sector	Product includes: 3-inch GSD oblique frame images (4-way), 3-inch GSD orthogonal frame images, 1-meter GSD ortho mosaic sector tiles and one area-wide 1-meter GSD mosaic (ECW format). Orthogonal GSD: 0.25 feet/pixel; Nominal Oblique GSD (all values +/-10%): Front Line: 0.24 feet/pixel, Middle Line: 0.28 feet/pixel, Back Line: 0.34 feet/pixel.	\$450.00		\$26,550.00
1	Media Drive Capacity 931G - Drive Model 1T - EXTPOWER	External USB 2.0 / eSATA Externally Powered. Delivery media prices include copying a complete image library onto media. Sub-warehousing sold separately.	\$199.00		\$199.00
59	Mosaic - Area Wide (3in GSD; MrSID format; individual) Per Sector	Available with purchase of corresponding tile product. New processing or re-processing to MrSID of individual tiles of 3-inch GSD imagery. Tiles are provided "as is." Refer to Product Parameters for additional details.	\$2.00		\$118.00
1	Oblique Imagery Bundle with Two (2) Years of EFS Maintenance & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation.	\$0.00		\$0.00
1	Pictometry Connect - CA - 50	Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. License Term: 1 Year(s)	\$2,000.00		\$2,000.00
1	Pictometry for ArcGIS Desktop - Active X Extension - Government (Seat)	Pictometry for ArcGIS Desktop. Active X extension compatible with ArcMap versions 9.3xx and 10.	\$0.00		\$0.00
59	Tiles - Standard (3in GSD; JPG format) Per Sector	Available with corresponding 3" GSD imagery purchase. 3-inch GSD Mosaic Tiles in JPG Format. Tiles are provided "as is." Refer to Product Parameters for additional details.	\$20.00		\$1,180.00

Thank you for choosing Pictometry as your service provider.

TOTAL

\$30,047.00

¹Amount per product = ((1-Discount %) * Qty * List Price)

FEES; PAYMENT TERMS

All amounts due to Pictometry pursuant to this Agreement ("Fees") are expressed in United States dollars and do not include any duties, taxes (including, without limitation, any sales, use, ad valorem or withholding, value added or other taxes) or handling fees, all of which are in addition to the amounts shown above and, to the extent applicable to purchases by Customer, shall be paid by Customer to Pictometry without reducing any amount owed to Pictometry unless documents satisfactory to Pictometry evidencing exemption from such taxes is provided to Pictometry prior to billing. To the extent any amounts properly invoiced pursuant to this Agreement are not paid within thirty (30) days following the invoice due date, such unpaid amounts shall accrue, and Customer shall pay, interest at the rate of 1.5% per month (or at the maximum rate allowed by law, if less). In addition, Customer shall pay Pictometry all costs Pictometry incurs in collecting past due amounts amount due under this Agreement including, but not limited to, attorneys' fees and court costs.

Due at Signing	\$3,545.50
Due at Initial Shipment of Imagery	\$10,636.50
Due at First Anniversary of Shipment of Imagery	\$13,865.00
Due at Activation of Online Services	\$2,000.00
Total Payments	\$30,047.00

PRODUCT PARAMETERS

IMAGERY

Product:	IMAGERY - NEIGHBORHOOD - 4-way (N5) (3in) Per Sector
Elevation Source:	USGS
Leaf:	Less than 30% leaf cover (Off)
Special Instructions:	

Standard Ortho Mosaic Products: Pictometry standard ortho mosaic products are produced through automated mosaicking processes that incorporate digital elevation data with individual Pictometry ortho frames to create large-area mosaics on an extremely cost-effective basis. Because these products are produced through automated processes, rather than more expensive manual review and hand-touched corrective processes, there may be inherent artifacts in some of the resulting mosaics. While Pictometry works to minimize such artifacts, the Pictometry standard ortho mosaic products are provided on an 'AS IS' basis with respect to visible outlines along mosaic seams resulting from the following types of artifacts:

- i. Disconnects in non-elevated surfaces generally caused by inaccurate elevation data;
- ii. Disconnects in elevated surfaces (e.g., roadways, bridges, etc.) generally caused by elevated surfaces not being represented in the elevation data;
- iii. Building intersect and clipping generally caused by buildings not being represented in the elevation data;
- iv. Seasonal variations caused by images taken at different times during a season, or during different seasons;
- v. Ground illumination variations caused by images taken under different illumination (e.g., sunny, high overcast, morning light, afternoon light, etc.) within one flight day or during different flight days;
- vi. Single GSD color variations caused by illumination differences or multiple-aircraft/camera captures;
- vii. Mixed GSD color variations caused by adjacent areas being flown at different ground sample distances (GSDs); and
- viii. Water body color variations caused by multiple individual frames being used to create a mosaic across a body of water (e.g., lakes, ponds, rivers, etc.).

Other Pictometry products may be available that are less prone to such artifacts than the Pictometry standard ortho mosaic products.

CONNECT

Product:	Pictometry Connect - CA - 50
Admin User:	Glenn Droese
Admin User Email:	gad@ci.carmel.ny.us
Requested Activation:	At Signing
Special Instructions:	
Geofence:	NY Putnam

Economic Alliance Partnership (EAP)

Customer is eligible for the EAP program described below for a period of two years from the Effective Date. Following payment to Pictometry of amounts due with respect to each subsequent capture, Customer will be eligible for the then-current EAP program for a period of two years from delivery of such subsequent capture.

- A. **Disaster Coverage Imagery at No Additional Charge** – Pictometry will, upon request of Customer and at no additional charge, provide updated imagery of up to 200 square miles of affected areas (as determined by Pictometry) upon the occurrence of any of the following events during any period Customer is eligible for the EAP program:
- **Hurricane:** areas affected by hurricanes of Category II and higher. (Coverage for hurricanes below Category II and for areas exceeding 200 square miles will be, subject to Pictometry resource availability, available to Customer at the then-current EAP rates.)
 - **Tornado:** areas affected by tornados rated EF4 and higher. (Coverage for tornados below EF4 and for areas exceeding 200 square miles will be, subject to Pictometry resource availability, available to Customer at the then-current EAP rates.)
 - **Terrorist:** areas affected by damage from terrorist attack. (Coverage for areas exceeding 200 square miles will be, subject to Pictometry resource availability, available to Customer at the then-current EAP rates.)

- **Earthquake:** areas affected by damage to critical infrastructure resulting from earthquakes measured at 6.0 or higher on the Richter scale. (Coverage for earthquakes rated below 6.0 on the Richter scale and for areas exceeding 200 square miles will be, subject to Pictometry resource availability, available to Customer at the then-current EAP rates.)
 - **Tsunami:** areas affected by damage to critical infrastructure resulting from tsunamis. (Coverage for areas exceeding 200 square miles will be, subject to Pictometry resource availability, available to Customer at the then-current EAP rates.)
- B. Software – Use of Pictometry Change Analysis™** – Pictometry’s EAP program includes the use of Change Analysis software for a term of ninety days from the date of delivery of the EAP imagery. The Change Analysis software simultaneously compares pre and post disaster images to aid recovery and restoration efforts.

**PICTOMETRY DELIVERED CONTENT
TERMS AND CONDITIONS OF USE**

These Pictometry Delivered Content Terms and Conditions of Use (the "Delivered Content Terms and Conditions"), in combination with the corresponding Agreement into which these terms are incorporated, collectively set forth the terms and conditions that govern use of Delivered Content (as hereinafter defined) for use within computing environments operated by parties other than Pictometry. As used in the Delivered Content Terms and Conditions the terms "you" and "your" in uppercase or lowercase shall mean the Customer that entered into the Agreement into which the Delivered Content Terms and Conditions are incorporated.

1. DEFINITIONS

- 1.1 "Authorized Subdivision" means, if you are a county or a non-state consortium of counties, any political unit or subdivision located totally or substantially within your boundaries that you authorize to have access to Delivered Content pursuant to the Delivered Content Terms and Conditions.
- 1.2 "Authorized System" means a workstation or server that meets each of the following criteria (i) it is owned or leased by you or an Authorized Subdivision, (ii) it is located within and only accessible from facilities that are owned or leased by you or an Authorized Subdivision, and (iii) it is under the control of and may only be used by you or Authorized Subdivisions.
- 1.3 "Authorized User" means any employee of you or Authorized Subdivisions that is authorized by you to have access to the Delivered Content through an Authorized System.
- 1.4 "Delivered Content" means the images, metadata, data layers, models, reports and other geographic or structural visualizations or embodiments included in, provided with, or derived from the information delivered to you by or on behalf of Pictometry pursuant to the Agreement.
- 1.5 "Project Participant" means any employee or contractor of persons or entities performing services for compensation for you or an Authorized Subdivision that has been identified by written notice to Pictometry prior to being granted access to Delivered Content and, unless Pictometry expressly waives such requirement for any individual, has entered into a written agreement with Pictometry authorizing such access.

2. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP

- 2.1 Subject to the terms and conditions of the Agreement, you are granted nonexclusive, nontransferable, limited rights to:
 - (a) install the Delivered Content on Authorized Systems;
 - (b) permit access and use of the Delivered Content through Authorized Systems by:
 - (i) Authorized Users for performance of public responsibilities of you or Authorized Subdivisions that are to be performed entirely within facilities of you or Authorized Subdivisions;
 - (ii) Project Participants under the supervision of Authorized Users for performance of tasks or preparation of materials using only hard copies (or jpg copies) of Delivered Content solely for fulfilling public responsibilities of you or Authorized Subdivisions to be performed entirely within facilities of you or Authorized Subdivisions; and
 - (iii) individual members of the public, but only through Authorized Users and solely for the purpose of making hard copies or jpg copies of images of individual properties or structures (but not bulk orders of multiple properties or structures) to the individual members of the public requesting them.
- 2.2 You may not reproduce, distribute or make derivative works based upon the Delivered Content in any medium, except as expressly permitted in the Delivered Content Terms and Conditions.
- 2.3 You may not offer any part of the Delivered Content for commercial resale or commercial redistribution in any medium.
- 2.4 You may not distribute or otherwise make available any Delivered Content to Google or its affiliates, either directly or indirectly.
- 2.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 2.6 You may not remove, alter or obscure copyright notices or other notices contained in the Delivered Content.
- 2.7 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in Delivered Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Delivered Content acquire any proprietary interest in the Delivered Content, or any copies thereof, except the limited use rights granted herein.

3. OBLIGATIONS OF CUSTOMER

- 3.1 **Geographic Data.** If available, you agree to provide to Pictometry geographic data in industry standard format (e.g., shape, DBF) including, but not limited to, digital elevation models, street centerline maps, tax parcel maps and centroids, which data, to the extent practicable, shall be incorporated into the Delivered Content. You agree that any of this data that is owned by you may be distributed and modified by Pictometry as part of its products and services, provided that at no time shall Pictometry claim ownership of that data.
- 3.2 **Notification.** You shall (a) notify Pictometry in writing of any claims or proceedings involving any of the Delivered Content within ten (10) days after you learn of the claim or proceeding, and (b) report promptly to Pictometry all claimed or suspected defects in Delivered Content.
- 3.3 **Authorized User Compliance.** You shall at all times be responsible for compliance by each Authorized User with the Delivered Content Terms and Conditions.
- 3.4 **Authorized Subdivision Compliance.** You shall at all times be responsible for compliance by each Authorized Subdivision with the Delivered Content Terms and Conditions.
- 3.5 **Project Participants.** Each notice to Pictometry identifying a potential Project Participant shall include a detailed description of the scope and nature of the Project Participants' planned work and the intended use of the Delivered Content in such work. Pictometry retains the right to restrict or revoke access to Delivered Content by any Project Participant who does not comply with the terms of the Delivered Content Terms and Conditions.

4. LICENSE DURATION; EFFECT OF TERMINATION

- 4.1 **Term.** The license granted to you in the Delivered Content Terms and Conditions is perpetual, subject to Pictometry's right to terminate the license in the event you do not pay in full the Fees specified elsewhere in the Agreement, the Agreement is terminated for any reason other than a breach of the Agreement by Pictometry, or as otherwise provided in the Agreement.
- 4.2 **Effect of Termination.** Upon termination of the license granted to you in the Delivered Content Terms and Conditions, you shall immediately cease all use of the Delivered Content, promptly purge all copies of the Delivered Content from all workstations and servers on which any of it may be stored or available at the time, and return hard drive/media containing Delivered Content to Pictometry.

5. TRADEMARKS; CONFIDENTIALITY

- 5.1 **Use of Pictometry's Marks.** You agree not to attach any additional trademarks, trade names, logos or designations to any Delivered Content or to any

copies of any Delivered Content without prior written approval from Pictometry. You may, however, include an appropriate government seal and your contact information so long as the seal and contact information in no way obscure or deface the Pictometry marks. You further agree that you will not use any Pictometry trademark, trade name, logo, or designation in connection with any product or service other than the Delivered Content. Your nonexclusive right to use Pictometry's trademarks, trade name, logos, and designations are coterminous with the license granted to you in the Delivered Content Terms.

- 5.2 **Confidentiality of Delivered Content.** The Delivered Content consists of commercially valuable, proprietary products owned by Pictometry, the design and development of which reflect an investment of considerable time, effort, and money. The Delivered Content is treated by Pictometry as confidential and contains substantial trade secrets of Pictometry. You agree that you will not disclose, provide a copy of, or disseminate the Delivered Content (other than as expressly permitted in the Delivered Content Terms and Conditions) or any part thereof to any person in any manner or for any purpose inconsistent with the license granted to you in the Delivered Content Terms and Conditions. You agree to use your best efforts to assure that your personnel, and any others afforded access to the Delivered Content, protect the Delivered Content against unauthorized use, disclosure, copying, and dissemination, and that access to the Delivered Content and each part thereof will be strictly limited.

6. LIMITED WARRANTY; DISCLAIMER OF WARRANTIES

- 6.1 **Limited Warranties; Exclusive Remedy.** Pictometry warrants that the Delivered Content will contain true and usable copies of the designated imagery as of the date of capture. As the sole and exclusive remedy for any breach of the foregoing warranty, Pictometry shall use reasonable efforts to correct any deficiency that precludes use of the Delivered Content in the manner intended.
- 6.2 **Disclaimer of Other Warranties.** Except as provided in Section 6.1, above, THE DELIVERED CONTENT IS PROVIDED TO YOU "AS IS" AND "WITH ALL FAULTS." PICTOMETRY MAKES NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY. ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ACCURACY, ARE HEREBY DISCLAIMED AND EXCLUDED BY PICTOMETRY.
- 6.3 **Limitation of Liability.** With respect to any other claims that you may have or assert against Pictometry on any matter relating to the Delivered Content, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry in payment for Delivered Content during the immediately preceding twenty-four (24) month period.

7. MISCELLANEOUS PROVISIONS

- 7.1 **Restricted Rights.** Delivered Content acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable.
- 7.2 **Governing Law.** This License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles.

[END OF DELIVERED CONTENT TERMS AND CONDITIONS]

**PICTOMETRY ONLINE SERVICES
GENERAL TERMS AND CONDITIONS**

These Pictometry Online Services General Terms and Conditions (the "General Terms and Conditions"), in combination with the corresponding Pictometry order form, if any, collectively constitute the license agreement (the "License Agreement") that governs your use of the Pictometry online services (the "Online Services"), the images available in the Online Services, and all associated metadata and data layers included in, provided with, or derived from those images (the "Licensed Content") provided by Pictometry International Corp. and its affiliated companies (collectively, "Pictometry"). The terms "you" and "your" in uppercase or lowercase shall mean the individual, entity (e.g., corporation, limited liability company, partnership, sole proprietor, etc.) or government agency entering into the License Agreement.

1. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP

- 1.1 You are granted a nonexclusive, nontransferable, limited right to access and use the Online Services and the Licensed Content obtained or derived from the Online Services solely for your internal business purposes and not for resale or redistribution. The rights granted to you include, subject to the restrictions set forth below and on the Order Form, the right to copy limited portions of the Licensed Content onto your computer to facilitate preparation of hardcopies and work product records, and the right to make hardcopies of the Licensed Content, provided that the Licensed Content and the permitted copies thereof may not be sold, leased, loaned, distributed, or copied for use by anyone other than you.
- 1.2 You may not make the Online Services available to any other party.
- 1.3 You may not copy the Licensed Content or portions thereof onto any computer or storage device or media for the purpose of creating or maintaining one or more databases of that content for use in substitution for subsequent access to the content through the Online Services.
- 1.4 You may not distribute or otherwise make available any Licensed Content to Google or its affiliates, either directly or indirectly.
- 1.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 1.6 You may not remove, alter or obscure copyright notices or other notices contained in the Licensed Content.
- 1.7 You may not offer any part of the Online Services or the Licensed Content for commercial resale or commercial redistribution in any medium.
- 1.8 You may not use the Online Services or the Licensed Content to compete with any businesses of Pictometry.
- 1.9 You may not use information included in the Online Services or the Licensed Content to determine an individual consumer's eligibility for (a) credit or insurance for personal, family, or household purposes; (b) employment; or (c) a government license or benefit. The term "consumer" is defined in the United States Fair Credit Reporting Act at 15 USC §1681.
- 1.10 You may not access the Online Services via mechanical, programmatic, robotic, scripted or any other automated means. Unless otherwise agreed by Pictometry in writing, use of the Online Services is permitted only via manually conducted, discrete, human-initiated individual search and retrieval activities.
- 1.11 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in the Online Services and the Licensed Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Online Services or the Licensed Content acquire any proprietary interest in the Online Services, the Licensed Content, or any copies thereof, except the limited use rights granted herein.

2. ACCESS TO SERVICES

- 2.1 Only you, your employees, and temporary or contract employees dedicated to performing work exclusively for you (each, an "Eligible User" and collectively, the "Eligible Users") are eligible to access and use the Online Services and the Licensed Content pursuant to the License Agreement. Each Eligible User to be provided access to the Online Service shall be assigned a unique login/password ("Pictometry Credential") for purposes of accessing the Online Services. You agree that each Pictometry Credential shall only be used by the Eligible User to whom it was originally assigned and that Pictometry Credentials may not be shared with, or used by, any other person, including other Eligible Users. You will promptly deactivate an Eligible User's Pictometry Credential in the event the Eligible User no longer meets the eligibility requirements or you otherwise wish to terminate the Eligible User's access to the Online Services. You are responsible for all use of the Online Services accessed with Pictometry Credentials issued to your Eligible Users, including associated charges, whether by Eligible Users or others. You will use reasonable commercial efforts to prevent unauthorized use of Pictometry Credentials assigned to your Eligible Users and will promptly deactivate any Pictometry Credentials you suspect are lost, stolen, compromised, or misused.
- 2.2 The Online Services, the Licensed Content, and features and functionality within the Online Services may be enhanced, added to, withdrawn, or otherwise changed by Pictometry without notice.
- 2.3 You are aware and understand that any user data collected or stored by the Online Services may be accessed by US law enforcement agencies under the US PATRIOT Act. You hereby release, and agree to hold Pictometry harmless from, all claims against Pictometry with respect to such access.

3. DISCLAIMERS

- 3.1 The Online Services and the Licensed Content are provided for visualization purposes only, are not authoritative or definitive, and do not constitute professional engineering or surveying services.
- 3.2 The Online Services and the Licensed Content are not to be relied upon to precisely locate or determine property boundaries and should not be used in lieu of a professional survey where the accuracy of measurements, distance, height, angle, area and volume, may have significant consequences.
- 3.3 All measurements and reports generated by the Online Services or from the Licensed Content are based upon second order visualization and measurement data that do not provide authoritative or definitive measurement results suitable for professional engineering or surveying purposes.
- 3.4 Contour information obtained from the Online Services or contained in the Licensed Content is generated from undersampled elevation data, is provided for informational purposes only, and is not suitable for use as the basis for hydrographic computations, estimations or analyses.
- 3.5 While the Online Services and the Licensed Content may be considered useful supplements for life critical applications, they are not designed or maintained to support such applications and Pictometry and its third party suppliers of the Online Services and the Licensed Content hereby disclaim all liability for damages claims and expenses arising from such use.
- 3.6 Your reliance on the Online Services and the Licensed Content should only be undertaken after an independent review of their accuracy, completeness, efficacy, timeliness and adequacy for your intended purpose.
- 3.7 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content assume no responsibility for any consequences resulting from the use of the Online Services or the Licensed Content.
- 3.8 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content hereby disclaim all liability for damages, claims and expenses arising from or in any way related to the accuracy or availability of the Online Services and the Licensed Content.
- 3.9 By accepting these General Terms and Conditions or by using the Online Services or the Licensed Content, you waive any and all rights you may have against Pictometry, each third party supplier of any portion of the Online Services or the Licensed Content, and each of their directors, officers, members and employees, arising out of use of or reliance upon the Online Services or the Licensed Content.

4. LIMITED WARRANTY

- 4.1 Pictometry represents and warrants that it has the right and authority to make the Online Services and the Licensed Content available to you and your Eligible Users as authorized expressly by this License Agreement.
- 4.2 EXCEPT AS OTHERWISE PROVIDED IN SECTION 4.1, THE ONLINE SERVICES AND LICENSED CONTENT ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND PICTOMETRY AND EACH THIRD PARTY SUPPLIER OF LICENSED CONTENT EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. LIMITATION OF LIABILITY

- 5.1 No Covered Party (as defined below) shall be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from (a) any errors in or omissions from the Online Services or the Licensed Content, (b) the unavailability or interruption of the Online Services or any features thereof or the Licensed Content, (c) your or an Eligible User's use of the Online Services or the Licensed Content, (d) the loss or corruption of any data or equipment in connection with the Online Services or the Licensed Content, (e) the content, accuracy, or completeness of the Licensed Content, all regardless of whether you received assistance in the use of the Online Service from a Covered Party, (f) any delay or failure in performance beyond the reasonable control of a Covered Party, or (g) any content retrieved from the Internet even if retrieved or linked to from within the Online Services.
- 5.2 "Covered Party" means (a) Pictometry and any officer, director, employee, subcontractor, agent, successor, or assign of Pictometry; and (b) each third party supplier of any Licensed Content, third party alliance entity, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of any Licensed Content or third party alliance entity and their affiliates.
- 5.3 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF THE COVERED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THE ONLINE SERVICES OR THE LICENSED CONTENT OR THIS LICENSE AGREEMENT EXCEED THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR THE AMOUNT YOU PAID FOR THE ONLINE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. YOUR RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH YOU MAY HAVE AGAINST ANY COVERED PARTY.
- 5.4 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, NEITHER YOU NOR THE COVERED PARTIES WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE ONLINE SERVICES, THE LICENSED CONTENT, OR THE FAILURE OF ANY COVERED PARTY TO PERFORM ITS OBLIGATIONS. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO A PARTY'S INDEMNITY OBLIGATIONS OR YOUR (AND YOUR ELIGIBLE USERS') INFRINGEMENT OF INTELLECTUAL PROPERTY OR MISAPPROPRIATION OF PROPRIETARY DATA BELONGING TO PICTOMETRY OR ITS THIRD PARTY SUPPLIERS.
- 5.5 Notwithstanding anything to the contrary in this Section 5:
 - (a) If there is a breach of the warranty in Section 4.1 above, then Pictometry, at its option and expense, shall either defend or settle any action and hold you harmless against proceedings or damages of any kind or description based on a third party's claim of patent, trademark, service mark, copyright or trade secret infringement related to use of the Online Services or the Licensed Content, asserted against you by such third party provided: (i) all use of the Online Services and the Licensed Content was in accordance with this License Agreement; (ii) the claim, cause of action or infringement was not caused by you modifying or combining the Online Services or the Licensed Content with or into other products, applications, images or data not approved by Pictometry; (iii) you give Pictometry prompt notice of such claim; and (iv) you give Pictometry the right to control and direct the investigation, defense and settlement of such claim. You, at Pictometry's expense, shall reasonably cooperate with Pictometry in connection with the foregoing.
 - (b) In addition to Section 5.5(a), if the Online Services, the operation thereof or the Licensed Content become, or in the opinion of Pictometry are likely to become, the subject of a claim of infringement, Pictometry may, at its option and expense, either: (i) procure for you the right to continue using the Online Services or the Licensed Content, (ii) replace or modify the Online Services or the Licensed Content so that they become non-infringing, or (iii) terminate the License Agreement on notice to you and grant you a pro-rata refund or credit (whichever is applicable) for any pre-paid fees or fixed charges.
 - (c) The provisions of Sections 5.5(a) and (b) shall constitute your sole and exclusive remedy for the respective matters specified therein.

6. MISCELLANEOUS

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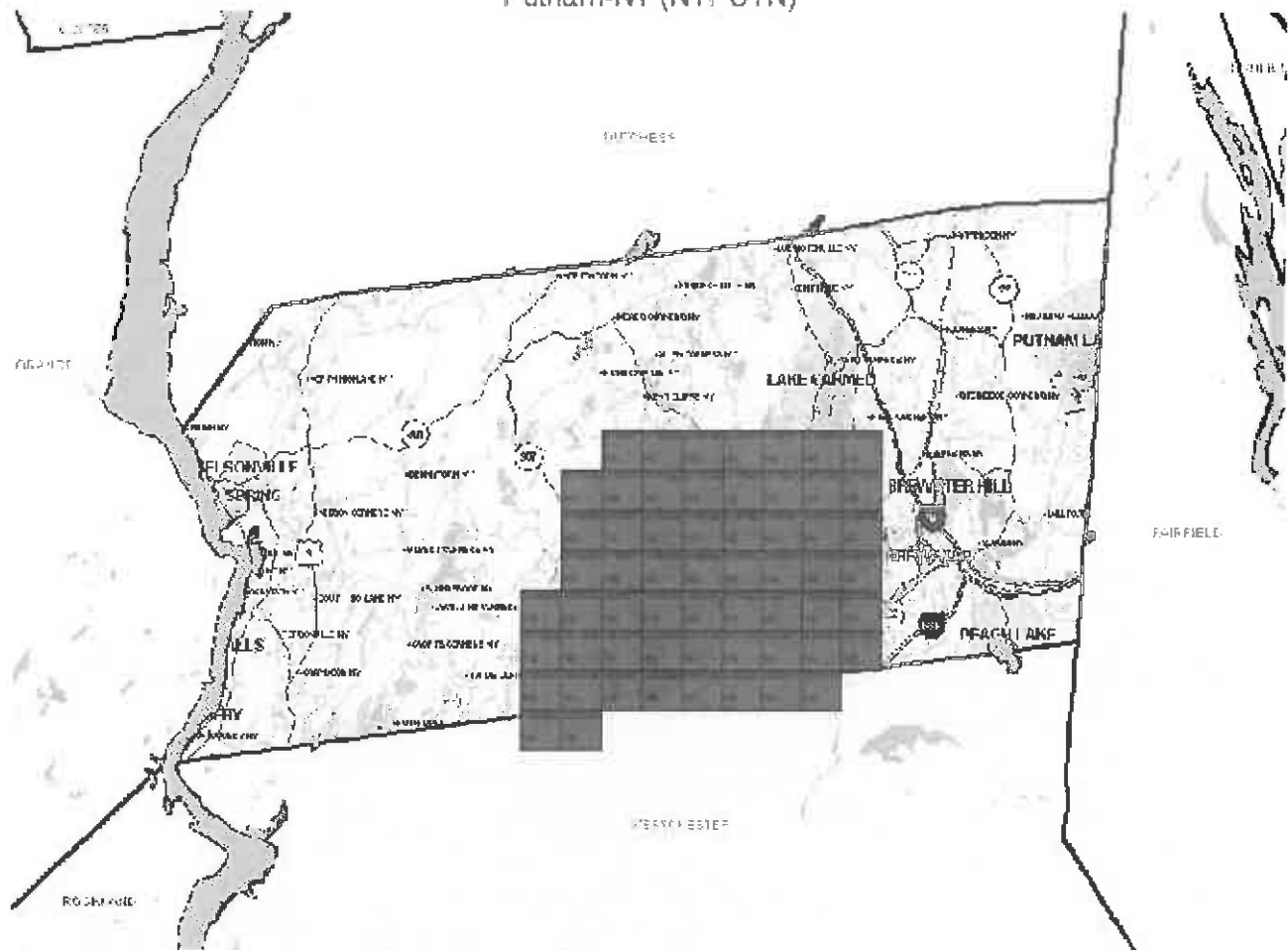
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SECTOR MAP

Putnam-NY (NYPUTN)



Community Sectors: 0 Neighborhood Sectors: 59