

**HARDIN COUNTY FISCAL COURT
RESOLUTION NO. 2021-154**

WHEREAS, the LIDAR topographic data may be utilized for various activities, including economic development, flood hazard identification and transportation planning, and

WHEREAS, these data will be shared with the public and private entities for their use, and

WHEREAS, the Hardin County Fiscal Court has insufficient funds to fund the total cost of the data collection, processing, storage, and distribution, and

WHEREAS, the Hardin County Fiscal Court has assumed a leadership role, in partnership with the Kentucky Finance & Administration Cabinet, Commonwealth Office of Technology, with a project to acquire enhanced LiDAR topographic data for multiple counties situated along the Ohio River, and

WHEREAS, grant funds are available through the Kentucky Department for Local Government to assist communities with the funding of projects such as the one proposed,

WHEREAS, that the Hardin County Fiscal Court hereby authorizes Judge Executive Harry L. Berry to sign and submit a FY2022 Flood Control Matching Funds Grant application in the amount of \$253,000 to assist with the funding of this project; there is no funding obligation for the Hardin County Fiscal Court.

WHEREAS, upon recommendation of Hardin County Judge/Executive Harry L. Berry, to purchase from Quantum Spatial, Inc. (State Contract # MA 758 1800000325) for digital orthoimagry and LiDAR services.

NOW THEREFORE BE IT RESOLVED, to pay invoices for these total amounts.

ADOPTED, by the Hardin County Fiscal Court in its regular meeting on 10 August 2021.



Harry L. Berry
Hardin County Judge/Executive

ATTEST:



Debbie Donnelly
Hardin County Clerk

ATTACHMENT A
CONTRACT
FOR
DIGITAL ORTHOIMAGRY and LiDAR SERVICES
BETWEEN
THE COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION CABINET
COMMONWEALTH OFFICE OF TECHNOLOGY (COT)
AND
Quantum Spatial, Inc.

MA 758 1800000325

VENDOR CONTACT INFORMATION:
Rick Wallace, Sr. Account Manager
523 Wellington Way
Lexington, KY 40503
Phone: (859) 277-8700
Email: rwallace@quantumspatial.com

This Master Agreement ("Contract", "Award" or "Agreement") is entered into, by and between the Commonwealth of Kentucky, Finance and Administration Cabinet, Commonwealth Office of Technology ("the Commonwealth" or "Customer" or "COT") and Quantum Spatial, Inc. ("Contractor" or "Vendor" or "Quantum") as the Prime Vendor.

The Commonwealth and Contractor agree to the following:

i. Scope of Contract

The Commonwealth Division of Geographic Information is responsible for building and maintaining a current basemap for the Commonwealth of Kentucky that can meet the needs of its users at the state, federal, local, and regional level. A common basemap, including current color leaf-off aerial photography and elevation data (LiDAR), reduces the cost of developing Geographic Information System (GIS) applications, promotes data

sharing, and adds efficiencies to many state agency business processes. It is planned that access to the basemap data will be made available in the public domain.

II. Negotiated Items

1. Quantum Spatial has agreed to the inclusion of the Model Key Points (Class 8) as part of all LiDAR based deliverables. The deliverable can be included in the final Classified LiDAR Point Cloud or as a separate Model Key Points (Class 8) LAS file as required per project. Model Key LiDAR Points are defined as being an educated, thinned classification of the final bare-earth ground class. Quantum Spatial will provide at no additional cost to the Commonwealth. (Refer to Exhibit A)

III. Terms and Conditions

SECTION 30 – COMMONWEALTH OFFICE OF TECHNOLOGY (COT) REQUIREMENTS
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- 30.1 Commonwealth Information Technology Policies and Standards**
The vendor and any subcontractors shall be required to adhere to applicable Commonwealth policies and standards related to technology use and security.
- 30.2 System Vulnerability and Security Assessments**
The Commonwealth reserves the right to conduct external non-invasive vulnerability and security assessments of the software and infrastructure used to provide services prior to implementation and periodically thereafter. Upon completion of these assessments, the Commonwealth will communicate any findings to the vendor for action. Any cost relating to the alleviation of the findings will be the responsibility of the vendor. Mitigations will be subject to re-evaluation after completion. In cases where direct mitigation cannot be achieved, the vendor shall communicate this and work closely with the Commonwealth to identify acceptable compensating controls that will reduce risk to an acceptable and agreed upon level. An accredited third party source may be selected by the vendor to address findings, provided they will acknowledge all cost and provide valid documentation of mitigation strategies in an agreed upon timeframe.
- 30.3 Privacy, Confidentiality and Ownership of Information**
The Commonwealth Office of Technology (COT) is the designated owner of all data and shall approve all access to that data. The vendor shall not have ownership of Commonwealth data at any time. The vendor shall be in compliance with privacy policies established by governmental agencies or by state or federal law. Privacy policy statements may be developed and amended from time to time by the Commonwealth and will be appropriately displayed on the Commonwealth portal (Ky.gov). The vendor should provide sufficient security to protect the Commonwealth and COT data in network transit, storage, and cache. **All data,**

including backups and archives, must be maintained at all times within the contiguous United States. All sensitive data, as defined in Enterprise Standards, must be encrypted in-transit and at rest.

30.4 Software Version Requirements

Vendors shall maintain data in a format compliant with industry standards. Any solution provided by vendor shall be compatible with the Commonwealth's IT operating environment as specified (and as modified from time to time) in the Commonwealth Office of Technology's Kentucky Information Technology Standards (KITS) including, without limitation, any software version described therein. If any third party dependency interferes with the vendor's solution, the vendor shall present a plan to the Commonwealth to resolve any such interference or incompatibility, including any actions necessary to modify or update the dependency, in the shortest time possible, which shall not exceed three months unless otherwise approved by the Commonwealth.

30.5 Section 508 Compliance

Vendor warrants that its provision of products and services shall comply with the World Wide Web Consortium's (W3C) Web Content Accessibility Guidelines (WCAG) 1.0, conformance level Double-A or greater.

30.6 Applicable Security Control Framework Compliance

The vendor must have an awareness and understanding of the NIST Special Publication 800-53 Security Control Framework and employ safeguards that meet or exceed the moderate level controls as defined within the standard. These controls must provide sufficient safeguards to provide reasonable protections around the Commonwealth's data to ensure that the confidentiality, integrity, and availability is maintained at an appropriate level. These include but are not limited to:

- *Access Control*
The vendor must employ policy and process that provide for stringent control to limit physical and logical access to systems that house Commonwealth data to a need to know basis and provide clear separation of duties.
- *Awareness and Training*
The vendor must provide the appropriate role specific training for staff to ensure that there is awareness and understanding of roles and responsibilities as they relate to the protections around the Commonwealth's data.
- *Audit and Accountability*
There must be sufficient auditing capability to ensure that actions are tracked and there is individual accountability for all actions taken by vendor staff.
- *Configuration Management*
The vendor must work within established baselines that provide minimal functionality needed to ensure service delivery without exposing unnecessary

risk. The vendor must also employ structured change control processes that provide a level of coordination with the client agreed upon in a Service Level Agreement (SLA).

- ***Contingency Planning***
The vendor must employ contingent planning policy and procedures that ensure service delivery based on agreed SLA levels while maintaining all Commonwealth data within the continental United States.
- ***Identification and Authorization***
The vendor must employ appropriate identity and access management policies and procedures to ensure that access is appropriately authorized and managed at a level to ensure that access is provisioned and de-provisioned in a timely and efficient manner.
- ***Incident Response***
The vendor must employ policy and procedures to ensure that an appropriate response to all identified security incidents are addressed in a timely manner and are reported to the appropriate parties in an agreed upon SLA timeframe. The vendor must also ensure that all staff are sufficiently trained to ensure that they can identify situations that are classified as security incidents.
- ***Maintenance***
The vendor must employ policy and procedures that ensure that all maintenance activities are conducted only by authorized maintenance staff leveraging only authorized maintenance tools.
- ***Media Protection***
The vendor must employ policy and procedure to ensure that sufficient protections exist to protect Commonwealth data on all storage media throughout the media lifecycle and maintain documentation from media creation through destruction.
- ***Physical and Environmental Controls***
The vendor must employ physical and environmental policies and procedures that ensure that the service and delivery infrastructure are located in a physically secure and environmentally protected environment to ensure the confidentiality, integrity, and availability of Commonwealth data.
- ***Personnel Security***
The vendor must employ policies and procedures to ensure that all staff that have access to systems that house, transmit, or process Commonwealth data have been appropriately vetted and have been through a background check at the time of hire and periodically thereafter.
- ***System and Communications Protections***
The vendor must employ physical and logical protection that protect system communications and communication media from unauthorized access and to ensure adequate physical protections from damage.

SECTION 40 – PROCUREMENT REQUIREMENTS
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40.1 Procurement Requirements

Procurement requirements are listed under “**Procurement Laws, Preference, Regulations and Policies**” and “**Response to Solicitation**” located on the eProcurement Web page at <http://eprocurement.ky.gov> and <http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx> respectively. The vendor must comply with all applicable statutes, regulations and policies related to this procurement.

40.2 Contract Components and Order of Precedence

The Commonwealth's acceptance of the contractor's offer in response to the Solicitation RFP 758 1800000049, indicated by the issuance of a contract award by the Office of Procurement Services, shall create a valid contract between the Parties consisting of the following:

1. Any written Agreement between the Parties;
2. Any Addenda to the Solicitation RFP 758 1800000049;
3. The Solicitation RFP 758 1800000049 and all attachments
4. Procurement Statutes, Regulations and Policies
5. Any Best and Final Offer;
6. Any clarifications concerning the Contractor's proposal in response to the Solicitation RFP 758 1800000049;
7. The Contractor's proposal in response to the Solicitation RFP 758 1800000049.

In the event of any conflict between or among the provisions contained in the Contract, the order of precedence shall be as enumerated above.

40.3 Final Agreement

This Contract represents the entire agreement between the parties with respect to the subject matter hereof. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this Contract.

40.4 Contract Provisions

If any provision of this Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the Commonwealth and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

40.5 Type of Contract

This Contract shall be on the basis of a **firm fixed unit price**.

40.6 Contract Usage

The contractual agreement with the Vendor will in no way obligate the Commonwealth of Kentucky to purchase any services or equipment under this Contract. The Commonwealth agrees, in entering into any Contract, to purchase only such services in such quantities as necessary to meet the actual requirements as determined by the Commonwealth.

40.7 Addition or Deletion of Items or Services

The Office of Procurement Services reserves the right to add new and similar items, by issuing a contract modification, to this Contract with the consent of the Vendor. Until such time as the Vendor receives a modification, the Vendor shall not accept delivery orders from any agency referencing such items or services.

40.8 Changes and Modifications to the Contract

Pursuant to KRS 45A.210 (1) and 200 KAR 5:311, no modification or change of any provision in this Contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the Commonwealth, and incorporated as a written amendment to the Contract and processed through the Office of Procurement Services and approved by the Finance and Administration Cabinet prior to the effective date of such modification or change pursuant to KRS 45A.210(1) and 200 KAR 5:311. Memorandum of understanding, written clarification, and/or correspondence shall not be construed as amendments to the Contract.

If the Contractor finds at any time that existing conditions made modification of the Contract necessary, it shall promptly report such matters to the Commonwealth Buyer for consideration and decision.

40.9 Changes in Scope

The Commonwealth may, at any time by written order, make changes within the general scope of the Contract. No changes in scope are to be conducted except at the approval of the Commonwealth.

40.10 Contract Conformance

If the Commonwealth Buyer determines that deliverables due under the Contract are not in conformance with the terms and conditions of the Contract and the mutually agreed-upon project plan, the Buyer may request the Contractor to deliver assurances in the form of additional contractor resources and to demonstrate that other major schedules will not be affected. The Commonwealth shall determine the quantity and quality of such additional resources and failure to comply may constitute default by the Contractor.

40.11 Assignment

This Contract shall not be assigned in whole or in part without the prior written consent of the Commonwealth Buyer.

40.12 Payment

The Commonwealth will make payment within thirty (30) working days of receipt of Contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453 and KRS 45.454.

Payments are predicated upon successful completion and acceptance of the described work, services, supplies, or commodities, and delivery of the required documentation. Invoices for payment shall be submitted to the agency contact person or his representative.

40.13 Contractor Cooperation in Related Efforts

The Commonwealth of Kentucky may undertake or award other contracts for additional or related work, services, supplies, or commodities, and the Contractor shall fully cooperate with such other contractors and Commonwealth employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees.

40.14 Contractor Affiliation

"Affiliate" shall mean a branch, division or subsidiary that is effectively controlled by another party. If any affiliate of the Contractor shall take any action that, if done by the Contractor, would constitute a breach of this agreement, the same shall be deemed a breach by such party with like legal effect.

40.15 Commonwealth Property

The Contractor shall be responsible for the proper custody and care of any Commonwealth-owned property furnished for contractor's use in connections with the performance of this Contract. The Contractor shall reimburse the Commonwealth for its loss or damage, normal wear and tear excepted.

40.16 Confidentiality of Contract Terms

The Contractor and the Commonwealth agree that all information communicated between them before the effective date of the Contract shall be received in strict confidence and shall not be necessarily disclosed by the receiving party, its agents, or employees without prior written consent of the other party. Such material will be kept confidential subject to Commonwealth and Federal public information disclosure laws.

Upon signing of the Contract by all parties, terms of the Contract become available to the public, pursuant to the provisions of the Kentucky Revised Statutes.

The Contractor shall have an appropriate agreement with its subcontractors extending these confidentiality requirements to all subcontractors' employees.

40.17 Confidential Information

The Contractor shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the Commonwealth, its financial affairs, its relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential by the Commonwealth in writing to the Contractor. All Federal and State Regulations and Statutes related to confidentiality shall be applicable to the Contractor. The Contractor shall have an appropriate agreement with its employees, and any subcontractor employees, to that effect, provided however, that the foregoing will not apply to:

- A. Information which the Commonwealth has released in writing from being maintained in confidence;
- B. Information which at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected;
or
- C. Information, which, after disclosure, becomes part of the public domain as defined above, through no act of the contractor.

40.18 Advertising Award

The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky without the expressed written consent of the agency technical contact person listed in Section 50.4.

40.19 Patent or Copyright Infringement

The Contractor shall report to the Commonwealth promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

The Commonwealth agrees to notify the Contractor promptly, in writing, of any such claim, suit or proceeding, and at the Contractor's expense give the Contractor proper and full information needed to settle and/or defend any such claim, suit or proceeding.

If, in the Contractor's opinion, the equipment, materials, or information mentioned in the paragraphs above is likely to or does become the subject of a claim or infringement of a United States patent or copyright, then without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, with the

Commonwealth's written consent, substitute other equally suitable equipment, materials, and information, or at the Contractor's options and expense, obtain the right for the Commonwealth to continue the use of such equipment, materials, and information.

The Commonwealth agrees that the Contractor has the right to defend, or at its option, to settle and the Contractor agrees to defend at its own expense, or at its option to settle, any claim, suit or proceeding brought against the Commonwealth on the issue of infringement of any United States patent or copyright or any product, or any part thereof, supplied by the Contractor to the Commonwealth under this agreement. The Contractor agrees to pay any final judgment entered against the Commonwealth on such issue in any suit or proceeding defended by the Contractor.

If principles of governmental or public law are involved, the Commonwealth may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of the Contractor without the Contractor's written consent.

The Contractor shall have no liability for any infringement based upon:

- A. the combination of such product or part with any other product or part not furnished to the Commonwealth by the Contractor
- B. the modification of such product or part unless such modification was made by the Contractor
- C. the use of such product or part in a manner for which it was not designed

40.20 Permits, Licenses, Taxes and Commonwealth Registration

The Contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all Federal, State, and local governments in which work under this Contract is performed.

The Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this Contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. Additional local registration or license may be required.

The Contractor shall pay any sales, use, and personal property taxes arising out of this Contract and the transaction contemplated hereby. Any other taxes levied upon this Contract, the transaction, or the equipment or services delivered pursuant hereto shall be borne by the Contractor.

40.21 EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The Contractor shall comply with all terms and conditions of the Act.

<http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx>.

40.22 Provisions for Termination of the Contract

This Contract shall be subject to the termination provisions set forth in 200 KAR 5:312.

40.23 Bankruptcy

In the event the Contractor becomes the subject debtor in a case pending under the Federal Bankruptcy Code, the Commonwealth's right to terminate this Contract may be subject to the rights of a trustee in bankruptcy to assume or assign this Contract. The trustee shall not have the right to assume or assign this Contract unless the trustee (a) promptly cures all defaults under this Contract; (b) promptly compensates the Commonwealth for the monetary damages incurred as a result of such default, and (c) provides adequate assurance of future performance, as determined by the Commonwealth.

40.24 Conformance with Commonwealth & Federal Laws/Regulations

This Contract is subject to the laws of the Commonwealth of Kentucky and where applicable Federal law. Any litigation with respect to this Contract shall be brought in state or federal court in **Franklin County, Kentucky in accordance with KRS 45A.245.**

40.25 Accessibility

Vendor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Vendor further warrants that the products or services to be provided under this contract comply with existing federal standards established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1193, to the extent the vendor's products or services may be covered by that act. Vendor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

40.26 Access to Records

The Contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which

are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the Contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

40.27 Prohibitions of Certain Conflicts of Interest

In accordance with KRS 45A.340, the Contractor represents and warrants, and the Commonwealth relies upon such representation and warranty, that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services. The Contractor further represents and warrants that in the performance of the contract, no person, including any subcontractor, having any such interest shall be employed.

In accordance with KRS 45A.340 and KRS 11A.040 (4), the Contractor agrees that it shall not knowingly allow any official or employee of the Commonwealth who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this Contract to voluntarily acquire any ownership interest, direct or indirect, in the contract prior to the completion of the Contract.

40.28 No Contingent Fees

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this Contract, excepting bona fide employees of the offeror or bona fide established commercial or selling agencies maintained by the offeror for the purpose of securing business. For breach or violation of this provision, the Commonwealth shall have the right to cancel the Contract without liability.

40.29 Left Blank Intentionally

40.30 Contract Claims

The Parties acknowledge that KRS 45A.225 to 45A.290 governs contract claims.

40.31 Limitation of Liability

The liability of the Commonwealth related to contractual damages is set forth in KRS 45A.245.

40.32 Discrimination (Effective April 8, 2015)

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended,

and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 50 – SCOPE OF WORK

50.1 **Agencies to Be Served**

This Contract shall be for use by **ALL State Agencies**. No shipments shall be made except upon receipt by vendor of an official delivery order from the using agency.

Political Subdivisions

Under Kentucky Statutes, political subdivisions of this State including cities of all classes, counties, and school districts may participate in All State Agency Master Agreements to the same extent as agencies of the Commonwealth.

50.2 **Term of Contract and Renewal Options**

The initial term of the Contract shall be for a period of **two (2) years** from the effective date of the Award of Contract.

This Contract may be renewed at the completion of the initial contract period for **four (4) additional one (1) year** periods upon the mutual agreement of the Parties. Such mutual agreement shall take the form of a contract modification as described in Section 40.8.

At the end of the Contract, the vendor shall provide all agency data in a form that can be converted to any subsequent system of the agency's choice. The vendor shall cooperate to this end with the vendor of the agency's choice, in a timely and efficient manner.

The Commonwealth reserves the right not to exercise any or all renewal options. The Commonwealth reserves the right to extend the contract for a period less than

the length of the above-referenced renewal period if such an extension is determined by the Commonwealth Buyer to be in the best interest of the Commonwealth.

The Commonwealth reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

50.3 Basis of Price Revisions

PRICE ADJUSTMENTS: Unless otherwise specified, the prices established by this Contract shall remain firm for the contract period subject to the following:

- A. **Price Increases:** A price increase shall not occur during the first twelve (12) months of the Contract. A vendor may request a price increase after twelve (12) months of the Contract, which may be granted or denied by the Commonwealth. Any such price increase shall be based on industry wide price changes. The Contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The Office of Procurement Services may request additional information or justification. If the price increase is denied, the Contract holder may withdraw from the Contract without prejudice upon written notice and approval by the Office of Procurement Services. Provided, however, that the vendor must continue service, at the contract prices, until a new contract can be established (usually within sixty (60) days).
- B. **Price Decreases:** The Contract price shall be reduced to reflect any industry wide price decreases. The Contract holder is required to furnish the Office of Procurement Services with notice of any price decreases as soon as such decreases are available.
- C. **Extended Contract Periods:** If the Contract provides for an optional renewal period, a price adjustment may be granted at the time the contract is renewed, subject to price increase justification as required in Paragraph A "Price Increases" as stated above.

50.4 Notices

All programmatic communications with regard to day-to-day performance under the contract are to be made to the agency technical contact(s) identified below:

Rob C. Guckenberger
Executive Director
Finance and Administration Cabinet
Commonwealth Office of Technology
Office of IT Architecture and Governance

669 Chamberlin Ave
Frankfort, KY 40601
Phone: (502) 782-5369
Email: Rob.Guckenberger@ky.gov

All communications of a contractual or legal nature are to be made to the Commonwealth Buyer identified below:

Nikki James
Commonwealth of Kentucky
Finance and Administration Cabinet
Office of Procurement Services
702 Capitol Avenue, Room 096
Frankfort, KY 40601
Phone: (502) 564-6523
Email: Nikki.James@ky.gov

50.5 Subcontractors

The Contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire Contract whether or not subcontractors are used. The Commonwealth shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime contractor. All references to the Contractor shall be construed to encompass both the Contractor and any subcontractors of the Contractor.

50.6 Scope of Work/Technical Requirements

A. Scope of Work

The Commonwealth of Kentucky expects to obtain leaf-off natural color digital orthophotos and updated digital elevation datasets for specific areas in Kentucky. The funds for this program will be provided through a Cooperative Funding Agreement between the Commonwealth of Kentucky, Local Units of Government, and several Federal agencies. Funding levels throughout the life of the program are dependent upon a number of factors including fluctuating budgets at all levels of government.

Program deliverables shall include, but not be limited to:

1. Leaf-off natural color digital orthophotos – 1-foot resolution
2. Digital elevation products to include:

- a. A LIDAR point cloud
 - b. A Digital Elevation Model with hydro-enforced breaklines
 - c. Triangular Irregular Network with hydro-enforced breaklines
 - d. A Topographic Contour Dataset
3. Associated documentation and media.

B. Mandatory Vendor Requirements

1. Number of Years of Experience and in Business

The Vendor shall have been in business for a minimum of ten (10) years and shall have a minimum of ten (10) years of experience in photogrammetry and providing digital orthoimagery and digital elevation products.

If a Vendor has less than the required number of years of experiences, the Office of Procurement Services shall deem the Business Experience requirement satisfied under any one of the following conditions:

- (1) the Vendor (a) has undergone a mere change in business form (for example, undergone a change from an S corporation to C corporation or from a general partnership to an LLC), (b) continues to provide the X services in the same or substantially similar manner as before the change in business form and (c) possesses the requisite Business Experience from the combined years of Business Experience from the Vendor's predecessor entity and current organizational entity;
- (2) the Vendor's acquisition of another entity or the merger of two or more entities into the Vendor's entity that results in the Vendor's meeting the Business Experience requirement by combining the Business Experience of the acquired entity or the Business Experiences of the merged entities with the Business Experience of the Vendor; or
- (3) the spinoff or splitoff of the Vendor from another entity (a) whose Business Experience transfers to the Vendor and (b) whose Business Experience, when combined with the Business Experience of Vendor, meets the requisite Business Experience of this RFB / RFP.

2. Large Scale Experience

The Vendor shall have been the primary vendor providing leaf-off digital orthoimagery and elevation data for at least one (1) project involving large geographic areas (10,000+ square miles).

C. Technical Requirements

1. Post-collection Data Processing Location

The Vendor shall not perform any post-collection data processing outside the United States of America.

2. Program Area

The program area shall include the entire Commonwealth of Kentucky. The total program area, covering all one hundred and twenty (120) counties, is approximately 40,411 square miles. Terrain elevations range from approximately two hundred and fifty-seven (257) feet to over 4,139 feet above mean sea level. A program area map showing the extent of coverage and the desired tiling scheme is included in Attachment I—Project Area Map.

3. Program Timeline

The Commonwealth of Kentucky plans to acquire data for this program during three (3) or more consecutive leaf-off seasons beginning in Spring of 2018. In order to accommodate acquisition within this timeline, the state will be broken down into three (3) or more distinct areas that will follow county boundaries. The designation of these areas will be driven by a variety of factors, including but not limited to scheduling, budgeting, need, and economies of scale.

4. Project Governance

The Commonwealth will designate a point of contact for this contract who will be responsible for defining the areas to be addressed as funding becomes available and who will address any issues or questions from the vendor. The vendor shall designate a point of contact for this contract who shall provide a Statement of Work for each area proposed by the Commonwealth and who shall address any issues or questions from the Commonwealth. The vendor shall provide a path of escalation to be used if the point of contact does not or cannot provide the level of service desired by the Commonwealth.

When the Commonwealth defines an area to be mapped the vendor shall produce a Statement of Work including but not limited to:

- Scope of work
- Start date
- Work schedule with tasks to be performed including duration, start date and end date for each task
- Planned completion date
- Cost based upon the rates defined in the contract
- Deliverables

The work shall begin after the Statement of Work is approved by the Commonwealth. Throughout the schedule defined in the Statement of Work the vendor shall report, on a monthly basis, their accomplishments, plans for the next month, schedule changes, and any issues or risks that need to be addressed. During periods of increased activity, the Commonwealth may request more frequent status reports. The Commonwealth requires immediate notification of significant schedule changes.

5. Project Deliverables

All mapping products shall be delivered in Kentucky Single Zone State Plane coordinates (parameters defined in FIPS 1600, and units of U.S. Survey Feet), NAD83* geometric datum (NSRS2007 or CORS96 adjustment), and NAVD88 vertical datum. GPS derived NAVD88 heights shall use the Geoid09* model. [*The vendor shall use the most current adjustment and geoid model available from the National Geodetic Survey at beginning of the program and continue to use that same model throughout term of this contract.]

The project shall consist of producing and delivering all specified digital orthophoto products and digital elevation data in the format specified by the contract, and furnishing all documentation necessary to satisfy the requirements of the contract. Completion of the project shall consist of, but not be limited to, the following items:

1. Provision of a project production and delivery schedule
2. Provision of a monthly project status report and schedule
3. Leaf-off natural color digital orthophotos – 1-foot resolution
4. Digital elevation products to include:
 - a. A LiDAR point cloud
 - b. A Bare Earth Model/DTM with hydro-enforced breaklines
 - c. A Digital Elevation Model with hydro-enforced breaklines
 - d. Triangular Irregular Network with hydro-enforced breaklines
 - e. A Topographic Contour Dataset
5. Associated documentation and media.
6. Provision of a certification of product accuracy in terms of ASPRS Class Accuracy Standards for all products furnished. The statement should specifically warrant that the delivered products are sufficient for the intended purposes stated earlier.
7. Provision of ASPRS firm and personnel certification as well as any other pertinent certifications.

The project deliverables shall be provided to the Commonwealth on New high-capacity (2TB+) portable hard drives with eSata and USB 2.0 interfaces. A virus scan (with current virus definitions within one week of

transfer) shall run against each drive prior to delivery to the Commonwealth. The Commonwealth shall own and retain the portable hard drives. These drives shall be delivered to the designated Division of Geographic Information contact.

Data errors that may incur penalties are:

1. Data that is delivered in the wrong coordinate system.
2. Data that is delivered in the wrong units.
3. Data that is delivered with NODATA areas on the margins.

If data is delivered to the Commonwealth with any of the above errors the vendor will be given thirty (30) days, beginning with the date of notification, to correct the error. Notification will be via email to the vendor's main point of contact. If the errors are not corrected and delivered to the Commonwealth within thirty (30) days then the vendor shall be penalized ten percent (10%) of the price for that project, as defined above, for each incident.

6. Product Standards

All work completed as a part of the contract award shall comply with the Orthoimagery and LiDAR Standards & Specifications as developed and provided by the Commonwealth in:

- Attachment F-Technical Specifications - Digital Orthophoto Production
- Attachment G-Technical Specifications - LiDAR Production

IV. Pricing

Quality Level 1

Price per square mile.

Product or Service	Area 1	Area 2	Area 3
Digital Elevation Data Production			
LIDAR Point Cloud			
1 to 300 square miles	\$425.00	\$425.00	\$465.00
301 to 1,000 square miles	\$325.00	\$325.00	\$357.00
1,001 to 2,500 square miles	\$285.00	\$285.00	\$314.00
2,501 to 5,000 square miles	\$245.00	\$245.00	\$270.00
5,001 to 10,000 square miles	\$230.00	\$230.00	\$253.00
10,001 and above square miles	\$228.00	\$228.00	\$250.00
Digital Elevation Model with hydro-enforced breaklines			
1 to 300 square miles	\$4.50	\$4.50	\$4.50
301 to 1,000 square miles	\$4.35	\$4.35	\$4.35
1,001 to 2,500 square miles	\$2.75	\$2.75	\$2.75
2,501 to 5,000 square miles	\$2.20	\$2.20	\$2.20
5,001 to 10,000 square miles	\$1.50	\$1.50	\$1.50
10,001 and above square miles	\$1.50	\$1.50	\$1.50
Triangulated Irregular Network with hydro-enforced breaklines			
1 to 300 square miles	\$4.50	\$4.50	\$4.50
301 to 1,000 square miles	\$4.35	\$4.35	\$4.35
1,001 to 2,500 square miles	\$2.75	\$2.75	\$2.75
2,501 to 5,000 square miles	\$2.20	\$2.20	\$2.20
5,001 to 10,000 square miles	\$1.50	\$1.50	\$1.50
10,001 and above square miles	\$1.50	\$1.50	\$1.50
Pricing for Capture of hydro-enforced breaklines			
1 to 300 square miles	\$38.00	\$35.00	\$35.00
301 to 1,000 square miles	\$36.00	\$33.00	\$33.00
1,001 to 2,500 square miles	\$35.00	\$32.00	\$32.00
2,501 to 5,000 square miles	\$34.00	\$31.00	\$31.00

5,001 to 10,000 square miles	\$33.00	\$30.00	\$30.00
10,001 and above square miles	\$33.00	\$30.00	\$30.00
Contour Lines			
1 to 300 square miles	\$13.00	\$13.00	\$14.00
301 to 1,000 square miles	\$11.00	\$11.00	\$12.00
1,001 to 2,500 square miles	\$7.00	\$7.00	\$8.00
2,501 to 5,000 square miles	\$5.00	\$5.00	\$6.00
5,001 to 10,000 square miles	\$5.00	\$5.00	\$6.00
10,001 and above square miles	\$5.00	\$5.00	\$6.00
Projection into Local Coordinate System *			
1 to 300 square miles	\$11.00	\$11.00	\$11.00
301 to 1,000 square miles	\$9.00	\$9.00	\$9.00
1,001 to 2,500 square miles	\$6.00	\$6.00	\$6.00
2,501 to 5,000 square miles	\$5.00	\$5.00	\$5.00
5,001 to 10,000 square miles	\$5.00	\$5.00	\$5.00
10,001 and above square miles	\$5.00	\$5.00	\$5.00

* Buy-up options

Quality Level 2

Price per square mile.

Product or Service	Area 1	Area 2	Area 3
Digital Elevation Data Production			
LIDAR Point Cloud			
1 to 300 square miles	\$175.00	\$175.00	\$195.00
301 to 1,000 square miles	\$165.00	\$165.00	\$185.00
1,001 to 2,500 square miles	\$155.00	\$155.00	\$175.00
2,501 to 5,000 square miles	\$136.00	\$136.00	\$156.00
5,001 to 10,000 square miles	\$128.00	\$128.00	\$148.00
10,001 and above square miles	\$125.00	\$125.00	\$145.00
Digital Elevation Model with hydro-enforced breaklines			
1 to 300 square miles	\$4.00	\$4.00	\$4.00
301 to 1,000 square miles	\$3.90	\$3.90	\$3.90
1,001 to 2,500 square miles	\$2.35	\$2.35	\$2.35
2,501 to 5,000 square miles	\$1.90	\$1.90	\$1.90
5,001 to 10,000 square miles	\$1.20	\$1.20	\$1.20
10,001 and above square miles	\$1.20	\$1.20	\$1.20
Triangulated Irregular Network with hydro-enforced breaklines			
1 to 300 square miles	\$4.00	\$4.00	\$4.00
301 to 1,000 square miles	\$3.90	\$3.90	\$3.90
1,001 to 2,500 square miles	\$2.35	\$2.35	\$2.35
2,501 to 5,000 square miles	\$1.90	\$1.90	\$1.90
5,001 to 10,000 square miles	\$1.20	\$1.20	\$1.20
10,001 and above square miles	\$1.20	\$1.20	\$1.20
Pricing for Capture of hydro-enforced breaklines			
1 to 300 square miles	\$34.00	\$31.00	\$31.00
301 to 1,000 square miles	\$33.50	\$30.50	\$30.50
1,001 to 2,500 square miles	\$33.00	\$30.00	\$30.00
2,501 to 5,000 square miles	\$32.75	\$29.75	\$29.75
5,001 to 10,000 square miles	\$32.75	\$29.50	\$29.50

10,001 and above square miles	\$31.00	\$28.00	\$28.00
Contour Lines			
1 to 300 square miles	\$11.00	\$11.00	\$12.00
301 to 1,000 square miles	\$9.00	\$9.00	\$10.00
1,001 to 2,500 square miles	\$5.00	\$5.00	\$6.00
2,501 to 5,000 square miles	\$3.00	\$3.00	\$4.00
5,001 to 10,000 square miles	\$3.00	\$3.00	\$4.00
10,001 and above square miles	\$3.00	\$3.00	\$4.00
Projection into Local Coordinate System *			
1 to 300 square miles	\$10.00	\$10.00	\$10.00
301 to 1,000 square miles	\$8.00	\$8.00	\$8.00
1,001 to 2,500 square miles	\$5.00	\$5.00	\$5.00
2,501 to 5,000 square miles	\$4.00	\$4.00	\$4.00
5,001 to 10,000 square miles	\$4.00	\$4.00	\$4.00
10,001 and above square miles	\$4.00	\$4.00	\$4.00

* Buy-up options

Imagery

Price per square mile.

Product or Service	Area 1	Area 2	Area 3
Digital OrthoPhotography - 1 foot resolution			
1 to 300 square miles	\$51.00	\$51.00	\$51.00
301 to 1,000 square miles	\$37.00	\$37.00	\$37.00
1,001 to 2,500 square miles	\$35.00	\$35.00	\$35.00
2,501 to 5,000 square miles	\$32.00	\$32.00	\$32.00
5,001 to 10,000 square miles	\$28.00	\$28.00	\$28.00
10,001 and above square miles	\$27.00	\$27.00	\$27.00
Digital OrthoPhotography - 6 inch resolution*			
1 to 300 square miles	\$77.00	\$77.00	\$77.00
301 to 1,000 square miles	\$73.00	\$73.00	\$73.00
1,001 to 2,500 square miles	\$68.00	\$68.00	\$68.00
2,501 to 5,000 square miles	\$67.00	\$67.00	\$67.00
5,001 to 10,000 square miles	\$66.00	\$66.00	\$66.00
10,001 and above square miles	\$65.00	\$65.00	\$65.00
Digital OrthoPhotography - 3 inch resolution*			
1 to 300 square miles	\$445.00	\$445.00	\$445.00
301 to 1,000 square miles	\$285.00	\$285.00	\$285.00
1,001 to 2,500 square miles	\$225.00	\$225.00	\$225.00
2,501 to 5,000 square miles	\$200.00	\$200.00	\$200.00
5,001 to 10,000 square miles	\$180.00	\$180.00	\$180.00
10,001 and above square miles	\$175.00	\$175.00	\$175.00

V. Approvals

This Contract is subject to the terms and conditions as stated. By executing this Contract, the parties verify that they are authorized to bind this agreement and that they accept the terms of this agreement

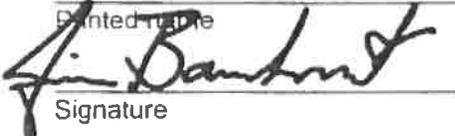
This Contract may be executed electronically in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Contract.

This Contract is invalid until properly approved and executed by the Finance and Administration Cabinet

1st Party: Quantum Spatial, Inc., as Contracting Agent ("Contractor" or "Vendor" or "Quantum")

<u>Robert Vander Meer</u>	<u>Vice President</u>
Printed name	Title
	<u>1/6/2018</u>
Signature	Date

2nd Party: COMMONWEALTH OFFICE OF TECHNOLOGY, ("the Commonwealth" or "Customer" or "COT")

<u>Jim Barnhart</u>	<u>Deputy CIO</u>
Printed name	Title
	<u>1-8-18</u>
Signature	Date

**Approved by the Finance and Administration Cabinet
Office of Procurement Services**

<u>Joan Graham</u>	<u>Executive Director</u>
Printed name	Title
	<u>1-9-18</u>
Signature	Date

Attachments

- ATTACHMENT A – This Document**
- ATTACHMENT B – Omitted Intentionally**
- ATTACHMENT C – Omitted Intentionally**
- ATTACHMENT D – Omitted Intentionally**

**ATTACHMENT E – The Protection of Personal Information Security and Breach Investigation
Procedures and Practice Act (KRS 61.931)
EXHIBIT A – Quantum Model Key Points**

EXHIBIT A – QUANTUM MODEL KEY POINTS

A. Classified LIDAR Point Cloud

- Fully compliant LAS v1.4, Point Record Format 6
- Geo-reference information included in LAS header
 - The horizontal datum shall be Kentucky State Plane Coordinate, Single Zone – US Survey Feet
 - The vertical datum shall be North American Vertical Datum of 1988 (NAVD 88) – Geoid12b, US Survey Feet
- GPS times are to be recorded as Adjusted GPS Time, at a precision sufficient to allow unique timestamps for each return
- Intensity values
- Tiled delivery, without overlap on each tile

Classification Scheme	
LAS Class Number	Class Description
1	Processed, but unclassified
2	Bare-earth ground
7	Noise (low or high, manually identified, if needed)
8	Model Key
9	Water
10	Withheld Ground (BL Proximity 3 ft.)
13	Hydro-Enforced Ground
17	Bridge Deck

Table 1: Classification Scheme for LAS v1.4 files (Full LAS Point Cloud)

B. Model Key LIDAR Point Cloud

- These are the educated, thinned points to represent the final bare-earth ground class
- Fully compliant LAS v1.4, Point Record Format 6
- Geo-reference information included in LAS header
- GPS times are to be recorded as Adjusted GPS Time, at a precision sufficient to allow unique timestamps for each return
- Intensity values
- Tiled delivery, without overlap on each tile

Classification Scheme	
LAS Class Number	Class Description
8	Representation of Ground

Table 2: Classification Scheme for LAS v1.4 files (Model Key Point Cloud)

ATTACHMENT E

PERSONAL INFORMATION SECURITY AND BREACH INVESTIGATION PROCEDURES AND PRACTICES ACT (KRS 61.931, ET SEQ.)

Vendors that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a) An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b) A Social Security number;
- c) A taxpayer identification number that incorporates a Social Security number;
- d) A driver's license number, state identification card number or other individual identification number issued by an agency;
- e) A passport number or other identification number issued by the United States government; or
- f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement."

The vendor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall immediately notify as soon as possible, but not to exceed seventy-two (72) hours, the contracting agency, the Office of Procurement Services, the Commonwealth Office of Technology and the NG-KIH Program Office of a determination of or knowledge of a breach, unless the exception set

forth in KRS 61.932(2)(b)2 applies and the vendor abides by the requirements set forth in that exception.

The vendor hereby agrees that the Commonwealth may withhold payment(s) owed to the vendor for any violation of the Identity Theft Prevention Reporting Requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a) the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

<http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx>