

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING PAYMENT TO HAMILTON COUNTY FOR THE 2014 GIS AERIAL IMAGERY UPDATE, IN THE AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing payment to Hamilton County for the 2014 GIS Aerial Imagery Update, in the amount of \$50,000.00.

ADOPTED: _____, 2014

/mms

City of Chattanooga



Resolution Request Form

(This form is only required for resolutions requiring expenditure of City funds)

Date: January 23, 2014

Preparer: William C. Payne

Department: Public Works - Engineering

Brief Description of Purpose for Resolution:

Resolution Number (if approved by Council):

A City Council Action is requested to authorize payment of \$50,000 to Hamilton County for the 2014 GIS Aerial Imagery Update.

Name of Vendor/Contractor/Grant, etc.	Hamilton County	New Contract/Project? (Yes or No)	Yes
Total project cost \$	50,000.00	Funds Budgeted? (YES or NO)	Yes
Total City of Chattanooga Portion \$	50,000.00	Provide Fund	6031
City Amount Funded \$	50,000.00	Provide Cost Center	K80107
New City Funding Required \$	0.00	Proposed Funding Source if not budgeted	
City's Match Percentage %	0.00	Grant Period (if applicable)	

List all other funding sources and amount for each contributor.

Amount(s)	Grantor(s)
\$	

Agency Grant Number

CFDA Number if known

Other comments: (Include contingency amount, contractor, and other information useful in preparing resolution)

Approved by:

Reviewed by: FINANCE OFFICE

DESIGNATED OFFICIAL/ADMINISTRATOR

Please submit completed form to @budget, City Attorney and City Finance Officer

CONTRACTUAL AGREEMENT

TERMS AND CONDITIONS

Between

Hamilton County, Tennessee

And

The Atlantic Group, LLC

Countywide Digital Color and Color Infrared Orthophotography

THIS CONTRACTUAL AGREEMENT, made this ____ day of _____ 2014 by and between **Hamilton County, Tennessee**, located at 1250 Market St, Chattanooga, TN 37402 hereinafter referred to as the "County", and **The Atlantic Group, LLC**, located at 2223 Drake Avenue SW, Suite 200, Huntsville, Alabama 35805, hereinafter referred to as the "Contractor".

WITNESSETH THAT:

WHEREAS, the County desires to engage the Contractor to render certain professional services and deliver certain materials hereinafter described; and WHEREAS, the Contractor represents that it is qualified, willing and able to provide the professional services and deliver the requested materials to the County according to the attached Scope of Work and the terms of this Contractual Agreement; it is therefore agreed and understood that:

THE SCOPE OF CONTRACTUAL AGREEMENT:

Contractor shall furnish and pay for all labor, supervision, tools, technical capability, transportation, materials and supplies (except those materials and supplies which County hereinafter agrees to furnish) and all other items or accessories necessary for Contractor to perform and accomplish the Work described in the Attachments, or as set forth in the Work Offer.

If Contractor has any questions regarding the intent or meaning of contract documents, Contractor must provide written notice of its questions to the County Representative and shall not proceed with Work without receiving a written interpretation. All interpretations by the County Representative shall be final and binding on Contractor. If Contractor proceeds without providing such written notice of questions and without such written interpretation, Contractor does so at its own risk and without liability to the County.

CONTRACT TERM:

This Agreement shall commence on _____ ("Effective Date"). The term of the Agreement shall continue for a term of one (1) year from its Effective Date, unless terminated by either party giving at least thirty (30) days prior written notice to the other party. Contractor may not terminate this Agreement as to any particular project upon which a Task Order has been commenced.

CONTRACT NOTICE TO PROCEED:

The project shall be started within seven (7) business days of written authorization to proceed.

ATTACHMENTS TO THE CONTRACT:

Attachment A: Scope of Work

1. GENERAL TERMS AND CONDITIONS

1.1 CONTRACTOR:

The Contractor is and shall at all times be an Independent Contractor to the County during performance under this Contract and at no time shall be considered an agent, servant, or partner of County. All persons employed by Contractor to perform its obligations under the Contract shall be its employees or servants and not the employees, servants, or agents of County.

All work conducted for a project shall be performed within the boundaries of the United States. Under no circumstances shall it be permitted to send any information associated with the performance of a contract to destinations outside of this country. The use of offshore labor or non US citizens in performance of any aspect of a project or work performed in the United States by a company that in any way is owned or partly owned or managed by a non-United States Citizen must be considered on a case-by-case basis and advance approval requested from the County. Contractor agrees to preserve and protect the rights of the Parties hereto in the provision of any goods or services to be performed under any purchase orders associated with this Contract.

1.2 TITLE TO GOODS AND SERVICES - RISK OF LOSS:

A. Except as may otherwise be provided herein, County shall acquire title to each and every of the goods and services to be provided by Contractor in this Contract. Contractor warrants that it has good and marketable title to each and every product of such goods and services and that they are and shall be free of and from any claims, liens, charges or encumbrances of any kind. Title to such goods and services shall pass to County upon receipt and acceptance at the place or places designated herein.

B. The risk of loss to such goods and services shall pass to County upon delivery to the County at the delivery point specified in this Contract.

1.3 INSPECTION AND ACCEPTANCE:

A. Contractor shall inspect and test as required in the Contract and maintain records and a system thereof.

B. County, its representatives, or Client may from time to time wish to view Contractor's performance under the Contract or conduct tests or inspections. Contractor agrees to cooperate fully with such activities and to allow reasonable access to its facilities at all reasonable times for these purposes.

C. Any inspections, tests, review, or comments by County, its representatives, or Client shall in no way relieve Contractor of any of its obligations in the Contract, unless otherwise expressly provided herein and then only to the extent provided.

D. If any of the goods and services does not conform to the requirements of this Contract, County may, within fourteen (14) days of receipt, reject any or all of the goods and services. If the County has not rejected the goods and services within fourteen (14) days of receipt thereof the goods and services shall be deemed to be accepted. Rejected goods may, at the option of County, be held for Contractor's disposition instructions or returned to Contractor. Any approval or acceptance by County of part of the goods and services shall not relieve Contractor of its obligations. No act of payment by County shall be considered an approval or acceptance of any or all of the goods and services.

1.4 WARRANTIES/GUARANTEES:

A. Contractor warrants that the goods and services to be provided herein shall: be new and of the best quality where no quality is specified; conform to the requirements of the Contract and any specifications or drawings incorporated herein; and be free from defects in workmanship, materials, and design, where design is the responsibility of Contractor.

B. If at any time prior to the expiration of NINETY (90) DAYS from the date of the acceptance of the goods or services provided by Contractor, the goods or services, or any part thereof, do not in any way conform to the requirements of the Contract, then upon Notice to Contractor by County within a reasonable period of time after the discovery thereof, Contractor shall promptly repair, replace, correct or re-perform such defective goods or services to the satisfaction of and at no cost to County.

C. This sole and limited warranty is in lieu of all other warranties, guarantees or representations, whether express or implied, with respect to the goods and services, including but not limited to, those relating to merchantability or fitness for a particular purpose or function and whether arising out of statute, law, equity, course of dealing, usage of trade or otherwise. In no event shall Contractor be liable for any consequential losses or damage including loss of profit, data, use, or capital, by County, arising here from.

1.5 REPORTS AND MEETINGS:

Contractor shall furnish County with reports and attend meetings when and as reasonably recommended by the Contractor and/or required by County.

1.6 CHANGES – SUSPENSION:

A. County by Notice through its authorized representative shall at all times have the right to: make changes (Change) hereto including, but not limited to, the goods or services to be provided, the time, place, or method of delivery, design, specifications, or drawings; or suspend performance by Contractor (Suspension) herein, whereupon Contractor shall promptly comply with such Suspension as required, place no further orders or subcontracts, make all reasonable efforts to obtain suspension terms favorable to County, and use its personnel and facilities so as to minimize costs associated with the Suspension.

B. If Contractor believes any instruction, interpretation, or decision by County affects its performance obligations herein and should be considered a Change, it may within ten (10) working days of receipt thereof, give written Notice to County's authorized representative of the effect upon Contractor's performance obligations. Receipt of such Notice by County or acquiescence thereto shall not be construed as a Change. In no event shall any instruction, interpretation or decision by County that results from an error, mistake, or omission of Contractor in the provision of goods or services herein be considered as a Change.

C. If any Change or Suspension results in an alteration to the cost of or time required for Contractor performance herein, an equitable adjustment will be made and the Contract amended accordingly. Contractor shall continue performance of its obligations herein during the period of Change or Suspension until such equitable adjustment is made. In no event shall any alteration, modification or other change to the Contract have effect or be binding upon either party unless in writing and signed by both parties.

D. If County fails to make payments to Contractor in accordance with the terms of this Contract, Contractor may suspend performance hereunder until all amounts owing have been paid.

1.7 TERMINATION:

A. County may at any time and without cause, upon thirty (30) days Notice to Contractor, terminate all or a portion of the Contract. Rights and obligations of the parties which may have accrued or arisen to the time of termination shall not be affected thereby. Contractor shall be paid for all work delivered and accepted in accordance with the Contract, the fully burdened cost of any work not completed or delivered up until the time of termination and reasonable costs of terminating the work plus overheads and a reasonable profit thereon.

B. Upon default by either party of any material term, condition, covenant or agreement to the contract, and upon mutual failure to cure such default within thirty (30) days of written notice thereof, either party may terminate all or a portion of this Contract. Contractor shall be paid for all work delivered to and accepted by County prior to the termination. Deemed acts of default by either party shall include but not be limited to:

Entity ceasing to carry on its business in the ordinary course; or, insolvency or bankruptcy of either party, or the making of a general assignment for the benefit of creditors; or, an order of receivership, or for the liquidation; or, the appointment of a Custodian, Receiver or Manager or similar person in respect thereof.

1.8 FORCE MAJEURE / EXCUSABLE DELAYS:

A party hereto shall not be in default under the Contract from any failure to perform hereunder if such failure arises from causes beyond the control of and without the fault or negligence of such party. Such causes include but are not limited to: acts of God or of the public enemy; acts of Government in either its sovereign or contractual capacity (including but not limited to export/import control); fire; flood; strike; epidemic; quarantine restrictions; freight embargo; or unusually severe weather. The affected party shall immediately give Notice to the other, including all relevant information available, that any such actual or potential cause is delaying or threatens to delay the timely performance of the Contract.

1.9 COMPLIANCE WITH LAW:

Contractor shall comply with applicable federal, state or municipal laws and regulations.

1.10 CONFIDENTIAL INFORMATION:

A. Both parties agree to: receive and maintain as proprietary and confidential, any Confidential Information of the other party; and to protect same from disclosure to others or from use, by itself or others, for any purpose inconsistent with this Contract without the prior written consent of the providing party.

Confidential Information shall include information or property falling within the scope of a party's patents, copyright, trade secrets, technical data, know-how, or business information conveyed in written, graphic or other permanent tangible form; or if oral, if promptly reduced to a permanent tangible form, and shall also include all information received by a party under an obligation of secrecy or confidentiality, but shall not include information which:

was already known to the receiving Party without an obligation of secrecy at the time of disclosure under this Contract; or is lawfully in the public domain at the time of disclosure under this Contract, or becomes lawfully within the public domain but only after such time; or after disclosure is lawfully obtained by the receiving party from another source without restriction on disclosure.

B. The provisions contained within this Article, shall survive termination of the Contract for any reason whatsoever for ten (10) years from the effective date of this Contract.

1.11 INDEMNITY FOR PATENT INFRINGEMENT

Contractor shall defend, indemnify and save harmless County or its Client from and against all damages, costs and expenses, including attorneys' fees and costs either may sustain, pay, or incur as a result of any cause, action, suit, proceeding or claim brought against County or its Client as a result of the sale or use of the goods or services provided by Contractor under this Contract. County will provide Contractor with timely written Notice of any such claim, and will co-operate fully with Contractor in furtherance of Contractor obligations herein. Contractor obligations herein shall not apply to County-provided designs or specifications.

1.12 LIABILITY AND INDEMNIFICATION:

A. Contractor shall indemnify and save harmless County from and against all manner of actions, proceedings, claims, demands, losses, costs, damages, and expenses whatsoever which may be brought or made against, or which County may sustain, pay or incur, as a result of or in connection with the performance or non-performance of the Contract in whole or in part by Contractor, whether in contract, tort or otherwise.

B. County shall provide Contractor with timely written Notice of any such claim, and will provide all relevant information and co-operate fully with Contractor in furtherance of Contractor's obligation herein.

C. In no event shall Contractor be liable for loss of profits, loss of revenue, special, indirect, or consequential damages.

D. Notwithstanding any other provisions of this Contract, Contractor's liability under this contract shall be limited to the lesser of the amount paid under this Contract or one million dollars (\$1,000,000.00).

1.13 INSURANCE:

Contractor shall maintain in force during the term of this Contract insurance with the following minimum limits:

General Liability	\$1,000,000
Automobile Liability	\$1,000,000

Worker's Compensation as required in any jurisdiction in which work is to be performed within ten days of the execution of the Contract the Contractor shall provide County with a certificate of insurance:

- showing evidence of the above coverage;
- showing County as an Additional Insured;
- providing for a minimum of thirty (30) days prior written notice to County of any cancellation or material alteration to any coverage.

1.14 NOTICES:

Any notice or communication pertaining to this Contractual Agreement shall be deemed to have been duly given by the parties hereto if sent to the other by registered or express mail or facsimile to the address hereinafter stated, or to other address as mutually agreed.

COUNTY REPRESENTATIVE

NAME
Position
Hamilton County
1250 Market Street
Chattanooga, TN 37402
Phone:
Email:

CONTRACTOR REPRESENTATIVE

Steve Denney, CP
Chief Executive Officer
The Atlantic Group, LLC (Atlantic)
2223 Drake Ave SW, Suite 200
Huntsville, AL 35805
Phone: (256) 971-9991
Email: rsdenney@theatlgrp.com

1.15 DISPUTES:

In the event of a dispute arising out of or relating to this Contract, the parties shall attempt to settle the matter amicably at the working level. Where the parties are unable to resolve the dispute, either party may by notice setting out the particulars of the dispute, refer the matter to the senior management of the parties. If senior management cannot resolve the dispute within thirty (30) days of the Notice of Dispute the dispute shall be referred to arbitration. Any such arbitration will be submitted to a Third Party Arbitrator for resolution. The parties agree to be bound by the decision of the arbitrator. The costs of the arbitration shall be apportioned between the parties, or against one or more of the parties, as the arbitrator may decide.

1.16 WAIVER:

Waiver by either party of the strict performance of any term, condition, covenant, or agreement in the Contract shall not of itself constitute a waiver of or abrogate such term, condition, covenant or agreement, nor be a waiver of any subsequent breach of same, or of any other term, condition, covenant or agreement.

1.17 HEADINGS:

Headings to any of the provisions of the Contract are for convenience only and shall not have the effect of modifying, amending, or altering any provision of the Contract.

1.18 SEVERABILITY:

If any provision of the Contract is held to be invalid in whole or in part, the remainder of the Contract or of such provision, as the case may be, and the application thereof, shall not be affected thereby.

1.19 LAW OF CONTRACT:

The laws of the State of Tennessee shall govern the legal obligations of the parties and the interpretation of the Contract.

1.20 ASSIGNMENT:

Neither the Contract nor any obligations contained herein may be assigned, or otherwise transferred in whole or in part by Contractor without the prior written consent of County. Such consent shall not be unreasonably withheld.

1.21 REPRESENTATIVES, SUCCESSORS AND ASSIGNS:

Each and every provision contained in this Contract on the part of either party shall apply to and ensure to the benefit of and bind their respective legal representatives, successors and assigns.

1.22 TAXES/DUTY:

Unless expressly included herein, prices for goods and services are exclusive of all sales, use and like taxes, value, value added, or business transfer taxes, customs or import/export duties and excise taxes; and any such taxes or duties required by law shall be paid by the County.

1.23 PUBLICITY:

Both parties acknowledges and accept that the other Party's name shall not be disclosed for purposes of advertising, including but not limited to press releases, brochures, photographic coverage, or verbal announcements concerning this Contract and/or any subsequent agreement, without the express written permission of the other party.

2. PAYMENT TERMS:

2.1 LIMITATION OF EXPENDITURE:

County shall not be obliged under this agreement to reimburse Contractor in excess of the firm fixed price noted in the Attachments. However, should the County request work that is beyond the scope of services outlined herein, the Contractor will provide the County with a new Scope of Work with an estimate of cost for the additional requested services (task orders). The Contractor will proceed with additional work only upon receipt of written authorization from the County.

2.2 BILLING:

The Contractor may secure payment for a percentage complete on a monthly work-in-progress basis or for the full amount of monies allocated to individual tasks or milestones by submitting to the County the following:

- A. A dated invoice showing the amount of the claimed payment with a brief description of the work complete for the amount being claimed. Invoices may be submitted on a monthly percent complete basis or as individual tasks or milestones are completed. Invoices may be sent by email, fax or U.S. Postal Service regular mail.

County will have seven (7) days from receipt of Contractor's invoice to notify Contractor of any discrepancies in such invoice. Contractor's invoice will be deemed approved by County if Contractor is not notified by County of a discrepancy within the seven (7) day period.

2.3 PAYMENT:

The County will make prompt payments to the **Contractor** following receipt of the items described in Attachment A.

- A. Unless otherwise noted in this agreement, the County shall pay within thirty (30) days of receipt of all payment claims submitted by the Contractor, meeting all of the above requirements, and not formally disputed by the County within the timeframe noted above. All payment claims not paid within thirty (30) days or disputed by the County may be considered overdue by the Contractor and shall bear a monthly charge of 1% on the unpaid amount until paid. The County shall not use the dispute of one payment claim as a reason for disputing or not paying on time any other payment claim, unless the disputed claim materially affects the usability of any other part, portion or phase of the work contemplated by this Contractual Agreement.

3. ENTIRETY OF CONTRACT:

The terms and conditions of the Contractual Agreement and any document specifically incorporated herein by reference, if any, constitute the entire Contractual Agreement between the parties. No prior communications, whether written or oral, nor any course of prior dealings between the parties shall be read into such Contractual Agreement for purposes of construction, interpretation or any other purpose whatsoever.

IN WITNESS WHEREOF, the parties have caused this instrument and Exhibits to be executed by themselves or their duly authorized officers or agents hereunto the day and year first written on this Agreement.

Hamilton County, Tennessee

The Atlantic Group, LLC

BY: _____

BY: _____

TITLE: _____

TITLE: _____

ATTEST:

WITNESS:

DATE: _____

DATE: _____

ATTACHMENT A

1. SCOPE OF WORK (SOW):

1.1 PROJECT AREA

The project area covers the entire County to include a total coverage area of 575.7 square miles.

1.2 GENERAL PROJECT REQUIREMENTS:

The Contractor will provide the County with color and color infrared digital orthophotography at 0.5 GSD pixel resolution.

1.3 TECHNICAL REQUIREMENTS:

A. ACCURACY:

Deliverables will meet or exceed ASPRS Class1 Standards for (1"=100') large scale mapping.

B. IMAGERY ACQUISITION:

The digital imagery acquisition will take place between February 2014 and March 2014. The imagery will be acquired at approximately 4,300 feet above ground level (AGL). The flight plan has been optimally designed to support the unique terrain surrounding the County. The flight plan consists of 51 flight lines with 5,804 images.

Imagery will be acquired with an on-board Airborne GPS/IMU and supported by the Tennessee Department of Transportation CORS network with COOP CORS network as a backup. The CORS Sites used in the project plan are:

- TN21 (TDOT CORS)
- TN22 (TDOT CORS)
- MWRX (COOP CORS)
- CUBC (COOP CORS)

C. GROUND CONTROL:

The Contractor will recover/establish sufficient horizontal and vertical ground control to serve as supplemental ground control to support Airborne GPS for imagery and map production. The twenty (20) selected ground control points may be either unique photo identifiable (PID) features or temporary bench mark (TBM) locations marked with rebar/cap or PK nail and paneled. The ground control points that are paneled will be of a material that is white, reflective and easy to identify on the imagery. The panel legs will be 10 ft. long and the material will be 2 ft. wide. The panels will be in the shape of a chevron with the control point located at the inside angle of the chevron. All panels will be retrieved once the imagery has been acquired.

The Contractor survey personnel will acquire coordinates for each ground control point utilizing survey grade Leica GPS instruments. Using an OPUS solution, each control point will be occupied a minimum of 20 minutes.

D. AERIAL TRIANGULATION:

Fully analytical aerial triangulation will be performed using Intergraph's Image Station Aerotriangulation (ISAT) program in conjunction with the developed ground control and processed Airborne GPS/IMU/CORS data.

E. SURFACE DATA:

The Contractor will utilize the existing LiDAR surface data in support of the digital orthophotography production. The LiDAR surface will be supplemented with Image Station Automated Elevation (ISAE) to

ATTACHMENT A

update any areas of significant change. The ISAE data will only support the orthophotography; therefore, will not be a deliverable product.

Contractor will use the County base mapping (transportation and hydrography features) to develop breaklines to support orthophotography development.

F. ORTHORECTIFICATIONS:

Contractor will rectify the digital imagery to the County surface and will provide full tile coverage for the entire project area, including the tiles that intersect the County Boundary. Orthophotography will be provided in both color (Red, Green, Blue), color infrared (CIR), 0.5 ft. GSD, 8 bit and tiff format tiled to the County provided 100 Scale index.

1.4 CONTRACT DELIVERABLES:

At the conclusion of this project and as a condition of its completion, Contractor shall deliver to the County the following deliverables:

- Field Survey Ground Control Report
- Digital Aerial Triangulation Report
- Provide four (4) separate delivery areas in increments as determined by the County.
- 100 Scale Color Orthophotography with a 0.5 ft. GSD, 24 bit (8 bit per band) in Tiff/TFW format
- 100 Scale CIR Orthophotography with a 0.5 ft. GSD, 8 bit in Tiff/TFW format
- 100 Scale Color Orthophotography with a 0.5 ft. GSD, 24 bit (8 bit per band) in MrSID mg3 format 10:1 compression
- 100 Scale CIR Orthophotography with a 0.5 ft. GSD, 8 bit in MrSID mg3 format 10:1 compression

2. PROJECT SCHEDULE:

The following is the Project Schedule, which contains the projected starting and ending dates for the major categories of services.

	<u>Start Date</u>	<u>Complete</u>
1. Notice to Proceed	TBD	TBD
2. Field Survey Operations	TBD	TBD
3. Acquire Digital Imagery	February	March
4. Post Processing of Imagery Data	TBD	TBD
5. Aerial Triangulation	TBD	TBD
6. Prepare and Submit Pilot Area	TBD	TBD
7. Approval of Pilot Area by County	TBD	TBD
8. Generation of the Digital Orthophotography	TBD	TBD
9. Submission of Contract Deliverables	TBD	TBD
10. Contract Completion	TBD	TBD

Note: A mutually agreed upon schedule with the County and the Contractor will be determined in the Project Kick-Off Meeting.

3. CONTRACTOR'S COMPENSATION:

The **FIRM FIXED PRICE** for the Work, exclusive of any modifications to the services as stated in this Attachment (A), is **One Hundred Forty Eight Thousand, Two Hundred Thirteen and 11/100 Dollars (\$148,213.11)** excluding any sales, use, value added or similar taxes.

Payment shall be made in accordance with the provisions of the contractual Payment Terms.