

CAPITAL AREA COUNCIL OF GOVERNMENTS

ORTHOIMAGERY INTERLOCAL CONTRACT FOR GEOMAP 2012
WORK ORDER 4511-1-COA

Art. 1. Parties and Purpose

1.1. The Capital Area Council of Governments ("CAPCOG") is a regional planning commission and political subdivision of the State of Texas organized and operating under the Texas Regional Planning Act of 1965, as amended, chapter 391 of the Local Government Code.

1.2. The City of Austin, is a home-rule municipality incorporated by the State of Texas that is seeking to obtain 6-inch resolution orthoimagery.

1.3. CAPCOG has contracted with Sanborn Map Company, Inc. ("Sanborn") to provide these services to the City of Austin. This contract is entered into between CAPCOG and the City of Austin under chapter 791 of the Government Code so that the City of Austin can contribute funding toward the development of 6-inch resolution orthoimagery being developed jointly by the City of Austin, CAPCOG, and Sanborn.

Art. 2. Goods and Services

2.1. CAPCOG agrees to furnish the City of Austin the 6-inch resolution orthoimagery according to the delivery schedule described in Section 3.2 of this Agreement and in accordance with the attached Exhibit A, Scope of Work to this contract. The services will be performed by Sanborn for the City of Austin under its contract with CAPCOG.

Art. 3. Contract Price and Payment Terms

3.1. The City of Austin agrees to provide funding to CAPCOG under this contract, solely from current revenues available to the City of Austin, with a total amount not to exceed \$67,072.91. The total contract amount includes a project management fee of \$3,152.43, which is equal to 5% the price to be paid Sanborn under the particular work order as described in Exhibit B (GEOMAP 2010 Work Order No. 4511-1-COA) executed to provide goods and services for the City of Austin. In each invoice submitted for an installment payment under Art. 3.2, CAPCOG agrees to invoice the City of Austin for the percentage of the project management fee equal to the installment percentage due under Art. 3.2.

3.2 The City of Austin agrees to provide installment payments to CAPCOG subject to Art. 3.4 and based on the Deliverable Schedule shown below:

- 30% upon acquisition complete
- 30% upon survey report and AT report delivery
- 30% upon initiation of online QA/QC ortho process

- 10% upon final acceptance

3.3. CAPCOG shall submit each invoice to the City of Austin for completed services and deliverables, including the project management percentage fee due, requesting payment along with attached documentation provided by Sanborn to CAPCOG that the Deliverable milestones have been met, as per Art. 3.2, invoices shall be delivered to: CTM Accounts Payable, PO Box 1088, Austin, TX 78767-1088.

3.4. The City of Austin agrees to pay the invoice within 30 days after it receives the invoice, as required by the Prompt Payment Act, chapter 2251 of the Government Code.

3.5. The City of Austin may withhold or set off the entire payment or part of any payment otherwise due CAPCOG to such extent as may be necessary on account of:

- (1) Delivery of defective or non-conforming deliverables and services by CAPCOG or Sanborn, as determined by reference to Exhibit A (Scope of Work);
- (2) Failure of CAPCOG to submit proper invoices with all required attachments and supporting documentation; or
- (3) Overpayment by any earlier invoice.

3.6 unless otherwise instructed in writing, the City of Austin may rely on the remittance address specified in CAPCOG's invoices. No pre-printed terms on notices or invoices shall modify or change the terms of this contract. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City of Austin will furnish a tax exemption certificate upon request. Under no circumstances shall the City of Austin be liable to pay exempt taxes under this contract.

3.7. CAPCOG agrees to provide funding and/or in-kind services to Sanborn under its Contract for the Capital Area Geospatial Base Map Project, as currently amended, with a total value of not to exceed \$63,048.54 in order to provide funding for performance of this contract.

Art. 4. Effective Date and Term of Contract

4.1. This contract takes effect on the date it is signed on behalf of CAPCOG and it ends, unless sooner terminated under Art. 6 or 7, when the total value of funding, as set out in paragraph 3.1, has been furnished by the City of Austin to CAPCOG, or on September 30, 2012, whichever comes first.

Art. 5. Nondiscrimination and Equal Opportunity

5.1. CAPCOG and the City of Austin shall not exclude anyone from participating under this contract, deny anyone benefits under this contract, or otherwise unlawfully discriminate against anyone in carrying out this contract because of race, , creed, color, religion, national origin, sex, age, disability, handicap, gender identity, sexual orientation or veteran status.
GEOMAP 2012 ORTHOIMAGERY

Art. 6. Termination of Contract for Unavailability of Funds

6.1. Each party acknowledges that the other party is a governmental entity whose sole source of funding for this contract is current revenue obligated for this purpose and agrees that either party may terminate this contract in whole or part if CAPCOG learns that funds to pay for the goods or services will not be available at the time of delivery or performance.

6.2. A party terminates this contract for unavailability of funds by giving the other party prior written notice of the termination, as soon as it learns of the funding unavailability, and specifying the termination date, which may not be less than 15 calendar days from the notice date. The contract terminates on the specified termination date.

Art. 7. Termination for Breach of Contract

7.1 (a) If the City of Austin or CAPCOG breaches a material provision of this contract, the other may notify the breaching party describing the breach and demanding corrective action. The breaching party has five business days from its receipt of the notice to correct the breach, or to begin and continue with reasonable diligence and in good faith to correct the breach. If the breach cannot be corrected within a reasonable time, despite the breaching party's reasonable diligence and good faith effort to do so, the parties may agree to terminate the contract or either party may invoke the dispute resolution process of Art. 8.

(b) If Sanborn breaches its contract with CAPCOG, so that the 6-inch orthoimagery contracted for is not delivered to the City of Austin, CAPCOG may terminate this contract by giving the City of Austin written notice of the termination, as soon as it learns of the nondelivery, and specifying the termination date, which may not be less than 15 calendar days from the notice date. The contract terminates on the specified termination date.

7.2. Termination for breach under Art. 7.1 does not waive either party's claim for damages resulting from the breach.

Art. 8. **Dispute Resolution**

8.1. The parties desire to resolve disputes arising under this contract without litigation. Accordingly, if a dispute arises, the parties agree to attempt in good faith to resolve the dispute between themselves. To this end, the parties agree not to sue one another, except to enforce compliance with this Art. 8, toll the statute of limitations, or seek an injunction, until they have exhausted the procedures set out in this Art. 8.

8.2. At the written request of either party, each party shall appoint one nonlawyer representative to negotiate informally and in good faith to resolve any dispute arising under this contract. The representatives appointed shall determine the location, format, frequency, and duration of the negotiations.

8.3. If the representatives cannot resolve the dispute within 30 calendar days after the first negotiation meeting, the parties agree to refer the dispute to the Dispute Resolution Center of Austin for mediation in accordance with the Center's mediation procedures by a single mediator assigned by the Center. Each party shall pay half the cost of the Center's mediation services.

8.4. The parties agree to continue performing their duties under this contract, which are unaffected by the dispute, during the negotiation and mediation process.

Art. 9. Notice to Parties

9.1. Notice to be effective under this contract must be in writing and received by the party against whom it is to operate. Notice is received by a party: (1) when it is delivered to the party personally; (2) on the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address specified in paragraph 9.2 and signed on behalf of the party; or (3) three business days after its deposit in the United States mail, with first-class postage affixed, addressed to the party's address specified Art. 9.2.

9.2. CAPCOG's address is 6800 Burleson Road, Building 310, Suite 165, Austin, TX 78744, Attention: Betty Voights, Executive Director. The City of Austin's address is P. O. Box 1088 , Austin, TX, 78767, Attention: Ross Clark, GIS Supervisor.

9.3. A party may change its address by providing notice of the change in accordance with Art. 9.1.

Art. 10. Miscellaneous

10.1. Each individual signing this contract on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

10.2. (a) This contract states the entire agreement of the parties, and an amendment to it is not effective unless in writing and signed by all parties.

(b) The Exhibit A, Scope of Work and Exhibit B, GEOMAP 2012 Work Order No. 4511-1-COA are part of this contract.

10.4. This contract is binding on and inures to the benefit of the parties' successors in interest.

10.5. This contract is executed in duplicate originals.

CITY OF AUSTIN, TEXAS

CAPITAL AREA COUNCIL OF
GOVERNMENTS

Marc A. Ott
City Manager

Betty Voights
Executive Director

EXHIBIT

CAPITAL AREA COUNCIL OF GOVERNMENTS

GEOMAP 2012 WORK ORDER 4511-1-COA

When signed on behalf of CAPCOG, this Work Order authorizes Sanborn to provide the goods and services described in the Scope of Work set out below in accordance with the timetable set out in the Scope of Work.

CAPCOG agrees to pay Sanborn the firm fixed price of \$63,048.54 for the goods and services provided under the Scope of Work.

This Work Order is subject to all of the terms and conditions of the Contract for the Capital Area Geospatial Base Map Project, as currently amended, between CAPCOG and Sanborn.

SCOPE OF WORK

Acquisition of 6" Orthophotos for 813 square miles (Q4 tiles), totaling \$67,072.91, or \$82.50 per unit tile. Further details of the overall Scope of Work and Work Order are provided as exhibits to the contract between CAPCOG and Sanborn, which are available upon request

MAP

(SEE ATTACHMENT)

THE SANBORN MAP
COMPANY, INC.

CAPITAL AREA COUNCIL OF
GOVERNMENTS

John Copple
Chief Executive Officer

Betty Voights
Executive Director
