

ORANGE COUNTY DATA ACQUISITION PARTNERSHIP (OCDAP)

Instructions for OCDAP Cycle 2 Participation Agreement:

- Page 1: Fill out your Agency's name in the box at the top of Page 1.

**ORANGE COUNTY DATA ACQUISITION PARTNERSHIP (OCDAP)
Participation Agreement between the Orange County Council of Governments
and**

[Red-bordered box for Agency Name]

- Page 4: Fill out the primary contact person's information in the boxes on Page 4.

To	Local Agency Name	Name	[Red-bordered box]
		Title	[Red-bordered box]
		Local Agency Name	[Red-bordered box]
		Street Address 1	[Red-bordered box]
		Street Address 2	[Red-bordered box]
		City, State Zip	[Red-bordered box]
		Email	[Red-bordered box]
		Phone	[Red-bordered box]

- Page 6: Fill out signers Name and Title, then Date & Sign electronically. There are two spaces for additional, optional signatures from the local agency.

The diagram illustrates the signature requirements on page 6. It shows three signature blocks. The first block is mandatory and includes fields for 'By' (Name, Title), 'LOCAL AGENCY NAME', and 'Date'. Two additional blocks are optional, labeled 'Optional signer #2' and 'Optional signer #3', each with 'By' and 'Date' fields.

- Email signed PDF with subject line "OCDAP CYCLE 2" to Marnie Primmer at marnie@occog.com with a cc to ddiep@fullerton.edu (Deborah Diep) or forward an electronic signature request via Adobe or DocuSign to Marnie Primmer at marnie@occog.com.
- After OCCOG signs the Participation Agreement, the fully-executed digital agreement will be sent to the participating agency by the OCCOG Treasurer with the OCDAP Cycle 2 invoice. Agencies are not considered full members and will not be provided access to deliverables until both the Cycle 2 Participation Agreement is signed and the Invoice is paid.

**ORANGE COUNTY DATA ACQUISITION PARTNERSHIP (OCDAP)
Participation Agreement between the Orange County Council of Governments
and**

THIS ORANGE COUNTY DATA ACQUISITION PARTNERSHIP (“OCDAP”) PARTICIPATION AGREEMENT (“Agreement”) is made by and between , hereinafter referred to as “Local Agency” and Orange County Council of Governments, hereinafter referred to as “OCCOG” (hereinafter collectively also the “Parties”).

RECITALS

WHEREAS, the Parties wish to enter into an agreement to purchase Digital Aerial Data, reduce costs, and enable participants to acquire more data than would be possible individually. The group of participating agencies is known as the Orange County Data Acquisition Partnership (“OCDAP”);

WHEREAS, cities and agencies established the first cycle of OCDAP covering the period of July 2020 to June 2022 (“Cycle 1”);

WHEREAS, the County entered or will enter into an Agreement with NV5 (“Vendor”) for Digital Aerial Data (“County-Vendor Agreement”) for the Orange County Data Acquisition Partnership Project (“Project”), which is substantially in the form attached to this Agreement as Attachment A. The Project includes one (1) cycle of data capture anticipated to begin in June 2022 for the period of July 2022–June 2024 (“Cycle 2”);

WHEREAS, the Parties intend for any funds contributed under this Agreement in excess of the County-Vendor Agreement cost to be allocated toward a cycle three (3) of data capture anticipated for the period of July 2024–June 2026 (“Cycle 3”), and to execute an amendment to this Agreement or new participation agreement for Cycle 3;

WHEREAS, the Parties recognize the need to invest in Digital Aerial Data to conduct local and regional planning and to evaluate current and future legislative and regulatory proposals and wish to utilize the Digital Aerial Data from the County-Vendor Agreement;

WHEREAS, OCCOG is responsible for invoicing the Parties for the Project in Cycle 2;

WHEREAS, the Parties wish to enter into this Agreement to outline the roles and responsibilities for the Project; and

WHEREAS the “Recitals” are incorporated herein by this reference.

TERMS OF AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

1. Compensation

The Local Agency will compensate the County as described in Section 4 for the Digital Aerial Data, described in Section 2 for the data capture in 2022 for Cycle 2. The total cost of Cycle 2 is \$331,214.00. The next geospatial data capture is expected in 2024 (“Cycle 3”). Agencies participating in Cycle 2 are not obligated to participate in Cycle 3. Regardless of whether the Local Agency chooses to participate beyond Cycle 2, the Local Agency is authorized to possess and use the Cycle 1 and Cycle 2 Digital Aerial Data described in Section 2 for its organizational purposes in perpetuity, subject to the use provisions set forth in Section 3 and disclosure provisions of Section 5. If applicable, an amendment to this Agreement or separate participation agreement will be executed by the Parties for Cycle 3 and the distribution of funds for Cycle 3 will be addressed separately by such amendment or separate participation agreement. In such event, funds received in excess of the Cycle 2 costs shall be applied to Cycle 3. In the event that the Local Agency determines not to participate in Cycle 3, funds paid in excess of the Cycle 2 costs shall be forfeited. If the OCDAP does not continue past Cycle 2, any funds collected by OCCOG in excess of the Cycle 2 costs shall be returned to the Parties in proportion to their separate contributions.

2. Digital Aerial Data Description

- A. Digital Imagery: 3-inch resolution, 4 band (red, green, blue, and near infrared) true natural color digital orthophoto/ortho-rectified data covering Orange County and portions of surrounding area as shown in the map in Attachment A (page 2), attached hereto and incorporated herein by this reference. Digital imagery will be provided in the following formats: GeoTIFF tiles and mosaic of ECW or MrSID tile format (which includes seamline generation, radiometric balancing and final color balancing to ensure seamless consistent coverage of the area of interest). These data will be California State Plane Coordinate System, Zone 6 (US feet), Datum NAD 83.
- B. Digital Imagery: 12-inch resolution, 4 band (red, green, blue, and near infrared) true natural color digital orthophoto/ortho-rectified data covering Orange County and portions of surrounding area as shown in the map in Attachment A (page 2), attached hereto and incorporated herein by this reference. Digital imagery will be provided in mosaic of ECW or MrSID tile format (which includes seamline generation, radiometric balancing and final color balancing to ensure seamless consistent coverage of the area of interest). These data will be California State Plane Coordinate System, Zone 6 (US feet), Datum NAD 83.
- C. Building footprints: Outlines of building footprints for structures that are 300 square feet or greater will be provided for all Orange County in shapefile format with z values. These data will be California State Plane Coordinate System, Zone 6 (US feet), Datum NAD 83. The vertical datum will be North American Vertical Datum of 1988 (NAVD88), US Feet.
- D. Pursuant to the terms of the County-Vendor Agreement, , the Parties will have access and use of all imagery collected and processed through the online viewing software hosted by Vendor or be provided copies of the data by the County as described in Section 3.

3. Data Delivery

When possible, the digital data will be provided electronically through the online platform hosted by Vendor or through File Transfer Protocol (FTP) or alternate electronic delivery method by the County. Alternatively, upon request and receipt of a hard drive from the Local Agency, the digital imagery data will be provided by the County on such hard drive within 30 days of receipt by the County, subject to any use restrictions set forth in the agreement between the County and Vendor.

4. Invoicing/Payment

OCCOG, on behalf of the County, will submit an invoice to the Local Agency for the amount listed in Attachment C “OCDAP Cycle 2 Participation Costs”, attached hereto and incorporated herein by this reference, as payment for Cycle 2 Digital Aerial Data. The Local Agency will submit payment to OCCOG within 30 days. This will be

a line item invoice for those agencies that also receive an annual invoice for OCCOG dues (for OCCOG member agencies) and CDR fees. OCCOG shall invoice the Parties in July 2022. OCCOG will remit collected payments to the County within three months of invoicing Parties. In the event payment is not received by OCCOG from the Local Agency, the Local Agency will be denied access to the online data platform and will not receive copies of the data from the County.

The parties further understand and acknowledge that if the County does not proceed to approve the County-Vendor Agreement, this Agreement shall be deemed null and void and the parties will have no further obligations.

5. Disclosure of Information

The Local Agency may distribute the Digital Aerial Data to its subcontractors, partners, or consultants on projects that are outsourced from its own operations. The Local Agency shall require each subcontractor, partner, or consultant to whom the Digital Aerial Data is transferred or distributed to execute a written acknowledgement and agreement provided as Attachment B, Orange County Data Acquisition Partnership (OCDAP) Authorized User Confidentiality and Non-Disclosure Agreement, attached hereto and incorporated herein by this reference.

6. Steering Committee

The Steering and Technical Advisory Committee (“STAC”) shall meet at least six (6) times each year to (1) decide on the deliverables for each OCDAP Cycle, including geographic coverage, (2) set pricing structure for agency participation, (3) review the status of participation agreement signatures, project deliverables and OCDAP financial status, (4) modify budget and deliverables upon addition or termination of a Party, (5) decide how any surplus will be used, refunded or redistributed if the project ends, (6) provide review and creation of OCDAP documents, (7) facilitate the acquisition and sharing of data, and (8) address other matters vital to the function of the OCDAP.

The Steering and Technical Advisory Committee will be comprised of staff representing the Parties that contribute at least \$20,000 for that cycle. Each Party on the Steering and Technical Advisory Committee will each have one voting member of equal standing and there will be one city representative. The designees from each Party shall be named by July 1 of the beginning of the two-year OCDAP cycle. An organization may also designate an individual(s) to serve as an alternate member. The Steering and Technical Advisory Committee chair and vice-chair will be elected for a two-year term. City representatives will be solicited and appointed by the OCCOG TAC.

7. Representations and Warranties

The Local Agency warrants that its use, grant, and conveyance of the Digital Aerial Data will not violate any applicable terms set forth in the County-Vendor Agreement.

8. Indemnification

OCCOG agrees to indemnify and defend the Local Agency against all third-party claims, liabilities, losses, expenses, suits, actions and causes of actions (including reasonable attorneys’ fees and legal expenses), fines, penalties, or damages (collectively, the “**Liabilities**”) to the extent such Liabilities arise out of or result from: (a) the negligent acts or omissions, the willful or intentional misconduct of OCCOG or its employees, subcontractors or agents, in the course of providing the Digital Aerial Data; (b) OCCOG’s breach of the terms of this Agreement; or (c) any claim that any of Digital Aerial Data provided by OCCOG infringes or misappropriates a third party’s intellectual property rights.

The Local Agency agrees to indemnify and defend the County and OCCOG, their directors, officers and employees, against all Liabilities to the extent such Liabilities arise out of or result, from: (a) the negligent acts or omissions, the willful or intentional misconduct of Local Agency or its employees, subcontractors or agents under this Agreement; or (b) Local Agency's breach of the terms of this Agreement.

9. Amendments

No alteration or deviation of the terms of this Agreement shall be valid unless made in writing and properly executed by the Parties.

10. Notices

Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the following physical or email addresses:

To OCCOG: **Marnie Primmer**
Executive Director
Orange County Council of Governments
3972 Barranca Pkwy., Suite J-127
Irvine, CA 92606
marnie@occog.com

To	Name
	Title
	Agency
	Address
	Address 2 (Optional)
	City, State, Zip
	Email
	Phone number

11. Force Majeure

No Parties shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, pandemics, or any other similar cause beyond the reasonable control of the Parties.

12. Entire Agreement

This Agreement represents and contains the entire agreement of the Parties with respect to the matters set forth herein. This Agreement supersedes any and all prior negotiations, discussions and, if any, previous agreements between the Parties.

13. Execution of Agreement or Amendment

This Agreement, or any amendment related thereto (Amendment), may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement. The signature page of this Agreement or any Amendment may be executed by way of a manual or authorized digital signature processed by a technology authorized by the California Secretary of State. Delivery of an executed counterpart of a signature page to this Agreement or an Amendment by electronic transmission scanned pages shall be deemed effective as a delivery of a manually or digitally executed counterpart to this Agreement or any Amendment.

14. Effective Date

The Effective Date of this Agreement shall mean the date (meaning the last date indicated below) that the Parties have fully executed this Agreement.

**SIGNATURE PAGE TO
ORANGE COUNTY DATA ACQUISITION PARTNERSHIP (OCDAP) AGREEMENT**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates indicated below:

By

By

Date

Date

By

Date

By
Marnie Primmer, Executive Director
Orange County Council of Governments

Date

ATTACHMENT “A”

COUNTY SCOPE OF WORK FOR THE ORANGE COUNTY DATA ACQUISITION PARTNERSHIP
PROJECT

[See Following Page]



Please update date and quote/services summary to reflect final choices.

May 18, 2022

Cameron,

Here is our list of data and services you are requiring for the group and a breakdown of pricing.

Imagery

Eagle will provide 3-inch pixel resolution imagery captured in May/June/July 2022 using the highest quality, state of the art, full format digital mapping camera, the UltraCam Eagle Mark 3, using one of only two such cameras in the western USA. The imagery will be orthorectified using Eagle's proprietary elevation model and techniques that have been fine-tuned for a decade, yielding an industry best horizontal accuracy certified by OC Public Works as being plus/minus less than 4 inches (see accompanying OCPW analysis done by Art Andrew). Eagle will utilize the County's GPS control network and we will allow QA/QC review to be done by the County and agencies prior to acceptance. 4-band is included (red, green, blue, and near-infrared) true natural color digital orthophoto/ortho-rectified data.

Historical Data Stack

We will provide access to Eagle's exclusive 3-inch resolution historical data stack, which is the only high-resolution imagery available for Orange County for EVERY YEAR from 2010 until the present. It will be delivered via our fast WMTS imagery service to all consortium members, allowing them continual access to an annual sequence every year from 2010 to 2022. They will be able to zoom down to individual properties with clarity not available elsewhere. This is a significant benefit to the consortium members. This dataset will be compatible with the software we will provide and ESRI, AutoCAD, etc.

Software

Eagle will provide a viewer that will allow you to access aeriels fast via WMTS and do measurements and data analysis. This software provides a secure, on demand access to your data. Simple viewers and search tools allow anyone to visualize data and find answers fast. Any authorized user can work with the imagery from any computer. Managers and technicians can view massive 2D maps in simple, intuitive applications. With our powerful data delivery tools, you can search in a map to discover all the spatial data in a project area, and export only what is needed for a task (clip & ship).

The software works with standard spatial formats like WMTS, geodatabase and shapefile. It allows the import of any attributes or schema and to configure as needed. It supports REST APIs, OGC Compliant streaming, standard plug-ins, and integration with solutions from Esri, IBM, SAP, Oracle, and more. Securely access cloud-hosted spatial data which allows access your data where and when you need it.

1



*Note: The software & historical imagery access will be for two years.

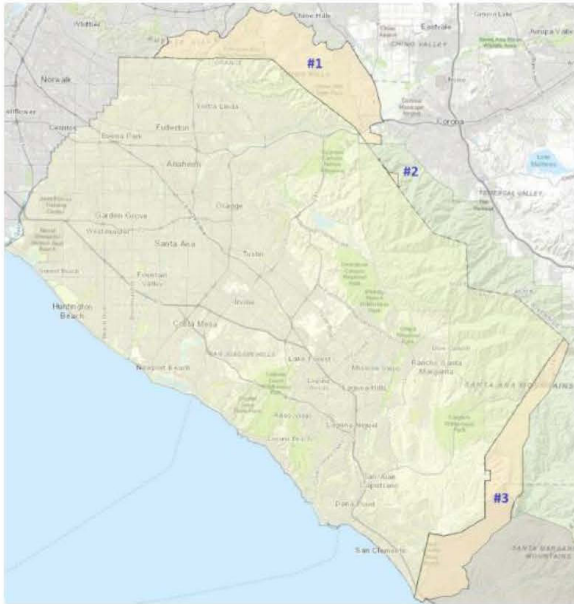
Building Footprint Update

Eagle will update Orange County's existing building footprint layer (from OCDAP Cycle 1) that consists of 685,354 buildings with the County Boundary which covers an area of 871 square miles. The buildings that have been updated or are new buildings since your existing dataset was created will include a building height attribute. We will utilize the 2022 stereo imagery to update the County's existing building footprint layer. We will only update changes to the building layer. For example, if a building is no longer present, the existing building footprint will be deleted; if an existing building has changed, it will be updated; if there is a new building, it will be newly collected. Building footprints will be delivered in an ESRI shape file format. Z-value/height will be included.

Discussion of Imagery Production Pricing:

Traditional Orange County coverage/photographed AOI is 871 square miles with the traditional 500-foot buffer. This project will increase the buffer around the County in the three areas indicated in Figure 1 below totaling approximately 96 square miles. Resolution will be 3" for the full AOI (county and buffer area).

Figure 1





As you know, EagleView took a year to get the data to the SCAG consortium. Part of the reason is the increased AOI size. We will certainly be able to get it done faster than they could. But delivery could be delayed a while to process an AOI that size.

Camp Pendleton area may be delayed and delivered separately if not able to receive clearance to fly at the same time as the rest of the project

Thanks,

A handwritten signature in black ink that reads "Wayne Tate".

Wayne Tate

<u>Product/Service</u>	<u>Total: High Res. Ortho, Historical data stack, Software & Footprint update</u>
#1) Orange County with buffer (provided) 3" in buffer & OC Mountains plus additions*)	\$331,214.00

*Additions consist of Bundled Package: 1) Software for Non-GIS customers & training 2) Streaming of Historical Data stack and 3) Building Footprint Update

ATTACHMENT “B”

ORANGE COUNTY DATA ACQUISITION PARTNERSHIP (OCDAP)
AUTHORIZED USER CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

[See Following Page]

**ORANGE COUNTY DATA ACQUISITION PARTNERSHIP (OCDAP)
AUTHORIZED USER CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

This ORANGE COUNTY DATA ACQUISITION PARTNERSHIP (“OCDAP”) AUTHORIZED USER CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (“NDA”) is entered as of _____, 20__ by and between [Local Agency Name] and the undersigned entity (“Authorized User”).

1. NV5, a company with offices at 200 South Park Road, Suite 350 Hollywood, Florida 33021-8798 (“NV5”), and the County of Orange (“COUNTY”) have entered into that certain agreement dated November 1 , 2 2 (“Agreement”) for the delivery of licensed digital mapping data and software (“Licensed Products”) to the COUNTY. Under the Agreement, certain governmental entities, including COUNTY departments and non-COUNTY Authorized Participants, which participate in OCDAP (“OCDAP Member Agencies”) shall be granted copies of or otherwise provided access to the Licensed Products through a Participation Agreement (“Participation Agreement”) with the COUNTY.
2. Pursuant to the Participation Agreement and for purposes of this NDA, the OCDAP Member Agency includes [Local Agency Name].
3. Pursuant to Section 5 of the Participation Agreement, Licensed Products may only be accessed or otherwise used by other entities besides the COUNTY, such as OCDAP Member Agencies. OCDAP Member Agencies in turn may choose to share Licensed Products with other partners, contractors or consultants that use the Licensed Products either at their facilities or for any Project (as defined below).
4. The undersigned (“Authorized User”) desires to use the Licensed Products solely for noncommercial use and for purposes no greater than reasonably needed to achieve the objectives of an actual project (“Project”).
5. The undersigned Authorized User understands and agrees that the Licensed Products contain trade secret and/or confidential information (“Confidential Information”) of NV5. Therefore, by signing this NDA, the Authorized User agrees that it will use, and require any of its authorized employees, agents or consultants to use, the Licensed Products solely for the Project, which is a nonexclusive, nontransferable and non-assignable right, from the effective date of this NDA in perpetuity. The Authorized User understands and hereby acknowledges that it shall be solely responsible for assuring its authorized employees, agents and consultants comply with the terms of this NDA and shall implement whatever methods it deems necessary to assure such compliance.

IN WITNESS WHEREOF, the undersigned Authorized User, by his/her authorized signature, agrees to all terms and conditions of this NDA as of the date set forth below.

AUTHORIZED USER:

Signature: _____ Address: _____
 Name: _____
 Organization: _____ City/Zip: _____
 Date: _____ Phone: _____
 Email: _____

[Local Agency Name]:

Signature: _____ Name: _____
 Date: _____ Title: _____

ATTACHMENT "C"

ORANGE COUNTY DATA ACQUISITION PARTNERSHIP (OCDAP)

CYCLE 2 PARTICIPATION COST SCHEDULE

Agency	Cost
Aliso Viejo	\$3,000
Anaheim	\$6,500
Brea	\$3,000
Buena Park	\$3,000
Costa Mesa	\$3,000
Cypress	\$3,000
Dana Point	\$3,000
Fountain Valley	\$3,000
Fullerton	\$3,000
Garden Grove	\$3,000
Huntington Beach	\$5,000
Irvine	\$6,500
Laguna Beach	\$3,000
Laguna Hills	\$3,000
Laguna Niguel	\$3,000
Laguna Woods	\$3,000
La Habra	\$3,000
Lake Forest	\$3,000
La Palma	\$3,000
Los Alamitos	\$3,000
Mission Viejo	\$3,000
Newport Beach	\$3,000
Orange	\$5,000
Placentia	\$3,000
Rancho Santa Margarita	\$3,000
San Clemente	\$3,000
San Juan Capistrano	\$3,000
Santa Ana	\$6,500
Seal Beach	\$3,000
Stanton	\$3,000
Tustin	\$3,000
Villa Park	\$3,000
Westminster	\$3,000
Yorba Linda	\$3,000
County of Orange	\$50,000
MWDOC	\$53,000
OCCOG	\$20,000
OCFA	\$58,702