



COMMUNITY DEVELOPMENT

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Staff Report

TO: Human Resource Committee
Isabella County Board of Commissioners

FROM: Timothy A Nieporte, Community Development Director

DATE: July 3, 2019

RE: Intergovernmental Agreement for Data Exchange

BACKGROUND

The Isabella County GIS Fund has purchased Orthophotography through two (2) percent funding in both 2009 and 2015. In 2015 Isabella County partnered with six (6) other Counties in our region and saved fifteen (15) percent on the actual costs of the flight. While preparing to go out for an RFP to update the data on a five (5) year cycle in 2020, I was introduced to the MiSAIL program at with the State of Michigan through the Center for Shared Solutions office. The MiSAIL program is an additional opportunity to save costs on Orthophotography in partnership with the State of Michigan.

The MiSAIL Program is an Intergovernmental Agreement for Data Exchange which permits mutual access to the output of each party's Geographic Information Systems (GIS), while permitting the collection of a fee for third-party requests for data, pursuant to each party's established Enhanced Access Policy and fee schedule.

Additionally, an Imagery Agreement allows the County to purchase certain data at an upgraded fee. The Orthophotography flight in 2015 partnered with both the City of Mount Pleasant and Union Township to purchase higher resolution data (6" resolution) as needed in urban areas.

With the consideration of the MiSAIL Program for the County Enterprise GIS System I have contacted both the City and the Township regarding an up purchase for Data under our agreement with the State. Both the City and the Township have confirmed their desire to participate and purchase the higher resolution data. Therefore, the separate Imagery Agreement allows the County to purchase the Union Township six (6) inch resolution data at a total cost of \$6,876.76. The City of Mount Pleasant and Union Township have both agreed to share the cost and pay the County for the upgraded data under the Imagery Agreement.

At this time I am recommending that the Isabella County Board of Commissioners authorize the signing of both the Intergovernmental Agreement for Data Exchange and the separate Imagery Agreement. Both Agreements have been reviewed by Timothy M. Perrone of Cohl, Stoker &

Toskey, P.C. in which he has no legal objection to either agreement.

ALTERNATIVES

1. Accept the Intergovernmental Agreement for Data Exchange and the Imagery Agreement with the State of Michigan through its Department of Technology, Management and Budget and authorize the signing of the Agreements.
2. Do not accept the Intergovernmental Agreement for Data Exchange and the Imagery Agreement with the State of Michigan through its Department of Technology, Management and Budget and authorize the signing of the Agreements.

FINANCIAL IMPACT

None.

OTHER CONSIDERATIONS

None.

RECOMMENDATIONS

1. Move to accept the Intergovernmental Agreement for Data Exchange and the Imagery Agreement with the State of Michigan through its Department of Technology, Management and Budget and authorize the signing of the Agreements.

ATTACHMENTS

1. Intergovernmental Agreement for Data Exchange
2. Imagery Agreement



Michigan Statewide Authoritative Imagery and LiDAR Program (MiSAIL)

Intergovernmental Agreement For Data Exchange Between Isabella County and DTMB

This Intergovernmental Agreement (Agreement) is between Isabella County, a Constitutional and Municipal Corporation, *[Partner Office Address]* (Partner) and the Michigan Department of Technology, Management and Budget, through its Center for Shared Solutions, P.O. Box 30026 Lansing, Michigan, 48909 (DTMB). In this Agreement, the Partner and DTMB may be referred to individually as “Party” or jointly as “Parties.” Partners may include, but are not limited to, state, local and federal government entities.

In consideration of the mutual promises, obligations, representations and assurances in this Agreement, the Parties agree as follows:

1. Purpose

Pursuant to the Enhanced Access to Public Records Act, 1996 PA 462, MCL 15.441 *et seq.*, the Urban Cooperation Act of 1967, MCL 124.501 *et seq.*, and the authority granted to the Director of DTMB pursuant to Executive Reorganization Order No. 2009-39, Section V(E), MCL 18.441, the Partner and DTMB enter into this Agreement for the purpose of making Geographic Information System (GIS) data and digital orthoimagery data (Imagery) owned and maintained by the respective Parties available to both Parties, without fee or cost, to assist the Parties in performing statutory and governmental duties and activities that benefit DTMB or the Partner, specifically the scope of work described in Exhibit A.

2. Definitions

Data originator: The author or owner of the GIS data and information contained within the GIS data.

Geographic Information System data or GIS data or Data: The output from a Geographic Information System as defined by MCL 15.442(b) or the saved output (datasets) covered by this Agreement, as more specifically identified in

Exhibit A, and provided by either Party pursuant to MCL 15.441, *et seq.* GIS data does not include derivative works developed by DTMB or data produced by DTMB from GIS data.

Digital orthoimagery data – aerial imagery collected by the State of Michigan State) as part of the State’s collection efforts per the specifications defined in the State’s contract # 071B6600034 (Contract). A copy of the Contract is available online at: http://www.michigan.gov/documents/localgov/6600034_516430_7.pdf

Third Party: An organization or individual requesting GIS data that is not a party to this Agreement. Third Party does not include any organizations or individuals specifically identified as intended pass-through data recipients under Exhibit A.

3. Coordination Representatives

To provide for consistent and effective communication between DTMB and the Partner, each Party shall appoint a Coordination Representative to serve as its central point of contact on matters relating to this Agreement. The Coordination Representatives for this Agreement are listed below.

Everett Root
DTMB Center for Shared Solutions
Romney Building, 10th Floor
111 S. Capitol St.
Lansing, MI, 48933
Phone No. 517-373-7910
Fax No. 517-373-2939
E-mail roote@michigan.gov

[Customer Representative Name]
[Customer Title]
[Customer Street Address]
[City, State, Zip]
[Customer Telephone Number]
[Customer E-mail]

4. Responsibilities of the Parties

The following paragraphs identify responsibilities of the parties involved:

- a. **DTMB Responsibilities.** DTMB will provide the Partner, in accordance with the purpose, terms, and conditions of this Agreement and implementing arrangements, as appropriate, with the following:
 - i. Protection and good stewardship of the Partner’s data;

- ii. Those responsibilities set forth in Exhibit A.
- b. **Partner Responsibilities.** The Partner will provide DTMB, in accordance with the purpose, terms, and conditions of this Agreement and implementing arrangements, as appropriate, with the following:
 - i. GIS dataset updates, without fee or cost, through the data exchange mechanism identified in Exhibit A;
 - ii. Protection and good stewardship of the State's data;
 - iii. Those responsibilities set forth in Exhibit A.
 - iv. A copy of their enhanced access policy and fee schedule(s)
 - v. Updates to fee schedule throughout duration of this agreement

5. GIS Data Usage and Distribution Terms

- a. The County authorizes its GIS data to be used as identified in Exhibit A.
- b. In the event that a Third Party requests GIS data, one of the following three scenarios will apply:
 - i. If the Partner receives a request for its own Data, that request will be subject to the Partner's local Enhanced Access to Public Records policy. There is no need for the request to go through or be approved by DTMB.
 - ii. In the event that DTMB receives a request for Data provided by the Partner, such requests will be honored pursuant to DTMB's Enhanced Access to Public Records policy 2410.04 and associated fee schedule. In accordance with its policy, DTMB will pass on any applicable fees pursuant to the Partner's local Enhanced Access to Public Records policy.
 - iii. If the Partner receives a request for any Data that it received from DTMB, it will provide the Data in accordance with its local Enhanced Access to Public Records policy, and pass on any applicable fees to DTMB as established under DTMB's Enhanced Access to Public Records policy 2410.04 and associated fee schedule. The Partner may also charge an administrative fee to distribute the Data as outlined in its local Enhanced Access to Public Records policy.

- c. The Parties agree to exercise all applicable exemptions available under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*, to ensure that the GIS Data will not be re-distributed to a Third Party.

6. GIS Data Disclaimer

- a. All GIS data is provided “as is.” The Parties expressly disclaim any and all warranties, express or implied, including, but not limited to, any warranties of accuracy, reliability, title, merchantability, non-infringement, fitness for a particular purpose, or any other warranty, condition, guarantee or representation, whether oral, in writing, or in electronic form including, but not limited to, the accuracy or completeness of any information contained in or provided by the GIS data. The Parties do not represent or warrant that access to GIS data will be uninterrupted or that there will be no failures, errors, omissions, or loss of transmitted information.
- b. In no event shall either Party be liable to the other for any special, indirect, or consequential damages, or any damages whatsoever resulting from loss of use, data, or profits arising out of or in connection with the use or performance of GIS data under this Agreement.

7. Image Service Contact

The MiSAIL program includes partner access to a secure imagery viewing service known as the Michigan Imagery Solution (MIS), managed by the State of Michigan, DTMB, Center for Shared Solutions. Service will be accessible for up to five partner desktop applications and one partner web based application.

Image Service Contact designated per signature is the single point of contact for the DTMB for all technical considerations and inquiries regarding MIS access by partner.

Image Service contact	Email	Phone

8. Effective Date and Duration

This Agreement becomes effective upon the date of the last approving signature and will remain in effect indefinitely until terminated unless superseded, rescinded, or modified by written agreement of both Parties.

9. Amendment and Modification

This Agreement may be amended or modified only by written agreement of both Parties.

10. Termination

- a. Either Party may terminate this Agreement with sixty (60) days written notice for any reason, or for no reason.
- b. Upon termination of this Agreement, GIS Data provided to DTMB under this Agreement by the Partner will be retained by DTMB, but will no longer be updated. Remaining GIS Data shall be marked that it has not been updated as of the date of the last update prior to termination.

11. Dispute Resolution

In the event of a dispute between the Parties, the Partner and DTMB agree to use their best efforts to resolve that dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the Parties.

12. Assignment

This Agreement may not be assigned, delegated, or otherwise transferred by the parties, nor may any right, duty, or obligation under this Agreement be assigned, delegated, or transferred, unless otherwise provided for in this Agreement.

13. Reservation of Rights

- a. This Agreement does not, and is not intended to, impair, divest, delegate, or contravene any constitutional, statutory, or other legal right, privilege, power, or immunity of the Parties. Nothing in this Agreement is a waiver of governmental immunity by either Party.
- b. Unless this Agreement expressly states otherwise, it does not, and is not intended to, transfer, delegate, or assign to the other Party, any civil or legal responsibility, duty, obligation, duty of care, cost, legal obligation, or liability associated with any governmental function delegated or entrusted to either Party under any existing law or regulation.

14. No Third-Party Beneficiaries

Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or

benefit, right to indemnification, right to subrogation, or any other right in favor of any other person or entity.

15. Applicable Laws

The applicable statutes, regulations, directives, and procedures of the State of Michigan shall govern this Agreement and all documents and actions thereunder.

16. Entire Agreement

This Agreement represents the entire Agreement between the Parties and supersedes all other Agreements between the Parties governing the matters described. The language of this Agreement will be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

The undersigned execute this Intergovernmental Agreement on behalf of the Parties and by doing so, obligate and bind the DTMB and the Partner to the stated terms and conditions.

ERIC SWANSON
Director
Center for Shared Solutions (CSS)
Romney Building, 10th Floor
111 S. Capitol St.
Lansing, MI, 48933

DATE

[Customer Representative Name]

DATE

[Customer Representative Title]

[Customer Mailing Address, City, State, Zip]

Exhibit A
Intergovernmental Agreement
For Data Exchange Between Isabella County and DTMB
[Date]

Attributes to be included with each data category will vary. DTMB has a standard data schema for each data type that will be shared with the partner. Variations between local data and the DTMB standard will be reviewed prior to data submission.

Description of Partner Data:

Tax parcels: Geometry and attributes for Community Parcel Repository

Address points: Geometry and attributes for structure point location at rooftop, driveway, geocoded along road centerline, or parcel centroid.

Road Centerlines: Geometry and attributes

Description of DTMB Data:

12" pixel resolution, 4-band (red, green, blue, near-infrared) aerial imagery.
Specification document available at: http://www.michigan.gov/som/0,4669,7-192-78943_78944_78949_78952_63834---,00.html

Data Exchange Process: **select one**

- ☐ Digital Upload (file upload or through feature service)
- ☐ External Hard Drive
- ☐ Other _____

Data Use: **select one for each data category**

Parcels:

- ☐ Publicly Available
- ☐ Available for use by all State of Michigan Agencies

Address Points:

- ☐ Publicly Available
- ☐ Available for use by all State of Michigan Agencies

Road Centerlines:

☐ Publicly Available

Update Schedule:

Parcels: 1-2 times per year

Address Points: 4 times per year

Road Centerlines: 4 times per year

Optional pass through to the United States Census Bureau:

The DTMB, Center for Shared Solutions (CSS) is the State of Michigan's liaison to the US Census Bureau (USCB) for local data collection efforts in support of various USCB geospatial data programs.

DTMB is authorized to pass data through to United States Census Bureau

Address Points:

☐ Yes
☐ No

Road Centerlines:

☐ Yes
☐ No

Michigan Statewide Authoritative Imagery and LiDAR Program (MiSAIL)

State of Michigan and Partner Agreement

Agreement to establish the cost, ownership, licensing, and restrictions on the purchase and use of digital orthoimagery data and LiDAR data (referred in this document as "Data") collected by the State of Michigan (State) for "**Isabella County**" (Partner) as part of the State's collection efforts during 2020, per the specifications defined in the State's Contract# 071B6600034 ("Contract"). Partners may include, but are not limited to, State, Local and Federal Government entities. Data to be created and delivered to Partner is defined in the attached Exhibit A - Product Schedule.

A copy of Contract# 071B6600034 is available online at:

http://www.michigan.gov/documents/localgov/6600034_516430_7.pdf

This agreement is entered into between **Partner** and State signing as of the effective date identified below.

1. LICENSE AND RESTRICTIONS

The State hereby assigns ownership, including all right, title and interest, subject to the license and restrictions set forth below, of the Data to Partner upon the State's receipt of full payment for the services requested by Partner, as set forth in Section 2. Notwithstanding this assignment, the State retains for itself, and Partner otherwise grants to the State in consideration of the State's assignment, a fully-paid-up, royalty free, non-exclusive, unlimited, irrevocable license to use the Data throughout the World consistent with the purposes, rights and restrictions of the Contract and other applicable laws.

2. AGREEMENT TO PAY THE STATE

Partner agrees to the following:

- (i) Area of Interest (AOI) for which Data is to be acquired is defined by **UnionTwpBuyupTiles**
- (ii) Provide Environmental Conditions Contact and Product Schedule Contact
- (iii) Define acquisition options per Exhibit A – Product Schedule

At a total cost of: **\$ 6,876.76**

PAYMENT SCHEDULE

- a. PARTNER MUST REMIT TO THE STATE A NON-REFUNDABLE PAYMENT IN THE AMOUNT OF 25% OF THE TOTAL PRODUCT SCHEDULE COST, DUE UPON THE STATE'S RECEIPT OF NOTICE FROM CONTRACTOR THAT IMAGERY ACQUISITION IS COMPLETE
- b. THE BALANCE OF THE PRODUCT SCHEDULE COST IS DUE 30 DAYS AFTER PARTNER'S RECEIPT OF FINAL DELIVERABLES

3. INVOICE CONTACT

Provide the contact information for the person to receive the invoice from the State of Michigan.

Invoice contact	Mailing address	Email	Phone

4. ENVIRONMENTAL CONDITIONS CONTACT

Data acquisition requires specific environmental conditions as detailed in the product specifications documents. The most common parameters are listed in the attached Exhibit B - MiSAIL Acquisition Environmental Criteria.

Environmental Contact designated per signature on this agreement has the authority to communicate to Axis GeoSpatial and State that environmental conditions are acceptable for acquisition.

Environmental Conditions contact	Email	Phone

5. PRODUCT SCHEDULE CONTACT

The MiSAIL program includes standard and optional product deliverables as detailed in the product specifications documents.

Product Schedule Contact designated per signature is the authority to complete attached Exhibit A – MiSAIL Product Schedule, and be the point of contact for State and Axis GeoSpatial for all inquiries and decisions regarding listed deliverables

Product Schedule contact	Email	Phone

6. IMAGE SERVICE CONTACT

The MiSAIL program includes partner access to a secure imagery viewing service known as the Michigan Imagery Solution (MIS), managed by the State, DTMB, Center for Shared Solutions. Service will be accessible for up to five partner desktop applications and one partner web-based application.

Image Service Contact designated per signature is the single point of contact for the State for all technical considerations and inquiries regarding MIS access by partner.

Image Service contact	Email	Phone

Please complete, sign, and return to:
State - Center for Shared Solutions
Attn: Everett Root
Romney building – 10th floor
111 S. Capitol Ave.
Lansing, MI 48933
517-373-7910
roote@michigan.gov

County Name *
Signature *
Printed Name *
Printed Title *
Signature Date *

EXHIBIT A PRODUCT SCHEDULE

Products to be Delivered:

Project boundary shapefile	<i>UnionTwpBuyupTiles</i>	[comment]
Communities to be acquired	<i>Union Township</i>	[comment]
Square Mileage from boundary shapefile	<i>44 Square Miles</i>	Tiles to be delivered defined by project boundary shapefile

IMAGERY

Coordinate System	MI State Plane south zone, North American Datum 1983(2011), International feet	[comment]
Resolution	6"	[comment]

Insert Pricing Table Here:

AOI	SQ MILES	COST/SQ MILE	TOTAL COST	COMMENT
Union Township 6 inch	44	\$156.29	\$6,876.76	6" buyup - flown w/in 12" AOI 10-100 sq miles
			\$6,876.76	

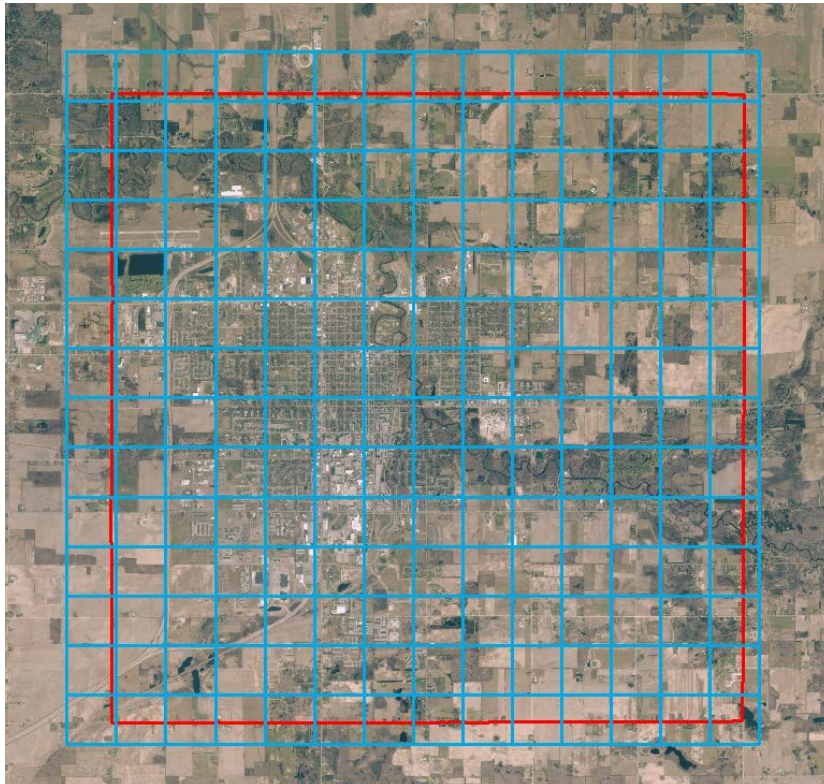


EXHIBIT B

MiSAIL ACQUISITION ENVIRONMENTAL CRITERIA

Parameter	Criteria	Reportable Conditions
Sky Conditions	Clear, with no clouds, smoke, dust, smog, haze, or precipitation such as rain or fog.	State/County to report any unusual conditions not likely to be reported or seen in ordinary weather reports, such as large fires, activities likely to produce large amounts of dust. Generally the responsibility of Axis GeoSpatial.
Sun Angle	Greater than 30 degrees. Difference between flight lines of less than 15 degrees.	Full responsibility of Axis GeoSpatial
Ground Conditions	Clear of snow	State/County to Authorize acquisition in writing (email acceptable) when conditions are acceptable and if there is any change in that authorization to a point that imagery would not be desired at that point (i.e.. snow falls after authorization given). Most areas should be basically clear of snow. Minor snow piles or embankments in non-critical areas, such as bases of trees, may be acceptable.
Trees	Deciduous trees free of leaves	State/County to Authorize acquisition in writing (email acceptable). Recommendation is for trees to be relatively free of leaves. Very small (i.e. thumbnail-size) leaves may be acceptable. Certain ornamental trees may leaf-on unusually early and typically are not disqualifying. Requirement may otherwise be loosened at State's option per contract in such as open fields, pine forest, and urban areas. Axis GeoSpatial will provide it's professional opinion for consideration by the stakeholders.
Streams and Rivers	Within natural banks	State/County to report any unusual conditions that have or have the potential to cause flooding. State/County will notify Axis GeoSpatial of significant rain events and any observed flooding.
Lakes	Free of ice	State/County to Authorize acquisition in writing (email acceptable). Some ice on lakes may be allowed, if other conditions are favorable
Roadways	Not wet from recent precipitation	State/County to report any unusual conditions not caused by ordinary, observable weather phenomena.