

AGREEMENT
BETWEEN
COUNTY OF CUYAHOGA, OHIO
AND
LAKE COUNTY, OHIO
FOR GIS SERVICES

THIS AGREEMENT made and entered into on June 1, 2013 ("Effective Date"), by and between Cuyahoga County, Ohio (the "COUNTY"), on behalf of the Department of Public Safety & Justice Services, Office of Emergency Management ("Office of Emergency Management"), and Lake County, Ohio, through the Lake County Board of Commissioners (the "PROVIDER").

WHEREAS, the COUNTY desires to participate in the Northeast Ohio First Responder Common Operator GIS Project ("Project") that allows emergency responders across the region to respond to and recover from natural and man-made disasters and emergencies; and

WHEREAS, the PROVIDER has developed such a Project for emergency management purposes; and

WHEREAS, the COUNTY wishes to participate in the Project and contribute the County's GIS data, base maps and resource information to the Project; and

WHEREAS, the COUNTY has determined that the PROVIDER has the necessary skills and experience to assess and provide technical assistance to aid the COUNTY in participating in the Project and desires to engage the PROVIDER to provide such services.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the COUNTY and the PROVIDER agree as follows:

I. SCOPE OF SERVICES

A. GENERAL

PROVIDER agrees to provide, and the COUNTY agrees to pay for the implementation of a Geographic Information System (GIS) based Common Operating Picture (COP) web portal as further described in the Northeast Ohio First Responder Common Operating Picture Project ("Exhibit A") and the Project Itemized Cost List ("Exhibit B"). Exhibits A and B are attached and incorporated in this Agreement as fully rewritten herein. The terms and conditions in this Agreement shall prevail over any inconsistent terms of any Exhibits.

B. SPECIFIC SERVICES

The professional services to be provided by the PROVIDER shall include, but are not limited to, the following:

1. Application development using customized programming and scripting to further develop and refine the Northeast Ohio Common Operating Picture web portal ("NEO-COP"). This includes:
 - a. Downloadable applications, or software widgets, and other automated routines.
 - b. Web services, e.g., ESRI ArcGIS geo-coding, feature data, routing and map services and other web services compliant with the Open Geospatial Consortium data standards.
 - c. Acquisition of additional software or data sources to provide additional functionality to NEO-COP.
2. Performance of data and system administration activities including geodatabase management, ArcSDE server configuration, database tuning, version management, table inconsistency resolution, log file administration, management of services, feature class management and other system management tasks.
3. Administration and management of security appliances and protocols to ensure browser and network security in order to establish, develop and implement rules and measures to use against attacks over the Internet. This may include sub-contracting of an External Pentest, a Grey Box Web Application Assessment or other measures to test and develop Internet and network security measures.
4. Performance of data development and maintenance activities in order to develop the geospatial data of the NEO-COP application to accomplish the following:
 - a. Conform to the most recent version of the Department of Homeland Security Geospatial Data Model.
 - b. Meet other best practices data schema and distribution standards and methods.
 - c. Develop additional geospatial data, integrate and consume external services including Open Geospatial Consortium standard compliant services, e.g., WMS-C, WMTS, and WFS; RESTful services, and Open Source services including but not limited to GeoServer/Geowebcache based WMS endpoints and other services as necessary.
5. Other technical assistance meeting the needs of Emergency Management, as directed.

C. ASSISTANCE OF THE COUNTY

The COUNTY, through the Office of Emergency Management, will make available to the PROVIDER full and accurate direction and information as to its needs and requirements for the entire Project, including available data, reports, plans and other information that may be useful in the performance of the services of the PROVIDER.

II. TERM & TERMINATION

A. TERM

The term, of this Agreement shall begin on June 1, 2013, and shall, unless sooner canceled or terminated pursuant to the provisions hereof, expire on December 31, 2014.

B. TERMINATION

- (a) *For Cause.* If either party breaches any term of this Agreement, the non-breaching party reserves the right to immediately suspend performance and supply written notice of an intent to terminate to the breaching party. The breaching party shall have thirty (30) calendar days to cure the breach from the date of its receipt of the notice of breach. If the breaching party successfully cures the breach, the Agreement shall not terminate and the non-breaching party must resume performance. If the breaching party fails to cure the breach within thirty calendar days the Agreement shall immediately and automatically terminate for cause.
- (b) *For Convenience.* Either Party shall have the right to terminate this Agreement at any time with thirty (30) calendar days advance written notice..

III. COMPENSATION

- A. The COUNTY shall pay PROVIDER for accomplishment of all work and services described in Section I an amount not to exceed \$40,000.00, as further described in Exhibit B. The COUNTY will use best efforts to process invoices within 10 days of receipt, and to issue payment to PROVIDER within 45 business days of approval of an invoice. The not to exceed amount shall include PROVIDER's fees and expenses related to the services, including expenses and reimbursables.
- B. PROVIDER shall submit a monthly request for payment in writing to the Office of Emergency Management for approval. Any request for payment shall include a description of the services completed. Invoices shall provide the date services were rendered; the name of the COUNTY employee requesting the services; location where the services were performed; a detailed description of the particular services provided, citing to the appropriate fee table item; and applicable rate or charge according to Exhibit B.

VI. CONFIDENTIALITY

The PROVIDER agrees that the Project may contain information that is privileged, confidential and exempt from disclosure to the extent permitted under Ohio Public Records laws. PROVIDER shall seek approval from the COUNTY prior to dissemination and/or distribution of confidential information.

V. NOTICES

Any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given upon personal delivery or when received by registered or certified mail with postage and fees prepaid, addressed to the other party hereto at its address or at such other address as such party may designate by ten (10) days' advance written notice to the other party hereto.

COUNTY:	Department of Public Safety & Justice Services Office of Emergency Management 310 W. Lakeside Ave., 795A Cleveland, OH 44113 Attn: Director
PROVIDER:	Lake County Board of County Commissioners 105 Main Street Painesville, Ohio 44077 Attn: Richard J. Kotapish, Director, GIS Department

VI. COUNTY'S STANDARD TERMS AND CONDITIONS

A. Applicable County Ordinances

All contracts with the County, including this Agreement, are subject to all applicable laws, ordinances, resolutions, regulations, rules and policies of the County, including but not limited to the Cuyahoga County Ethics Ordinance, the Cuyahoga County Inspector General Ordinance, the Cuyahoga County Contracting and Purchasing Procedures Ordinance, and the Cuyahoga County Debarment Law, Procedures and Review Board Ordinance. Copies of all County ordinances are available on the County Council website at <http://council.cuyahogacounty.us/>.

B. Findings for Recovery

PROVIDER represents and warrants that it is not subject to an "unresolved" finding for recovery under Ohio Revised Code Section 9.24.

C. Annual Appropriations

All of the COUNTY's obligations under this Agreement are contingent upon the County Council's appropriating the funds on an annual basis necessary for the continuation of this Agreement in any contract year. In the event the funds necessary for the continuation of this Agreement are not appropriated or approved, the COUNTY will notify PROVIDER of such occurrence in writing. Notwithstanding the provisions of Section III, this Agreement shall thereafter terminate and be rendered null and void on the last day of the last fiscal period for which appropriations were made. Such termination is made pursuant to and in accordance with the terms of this Agreement and shall not be considered to be a breach or default on the part of the COUNTY, and shall not result in the COUNTY having liability to PROVIDER or any third party for any penalty, liability or any other expense other than for services already rendered pursuant to this Agreement.

D. No Apparent Authority

PROVIDER recognizes and agrees that no public official, officer, director, or employee of the COUNTY may be deemed to have apparent authority to bind the County to any contractual obligations not properly authorized pursuant to the County's Contracting and Purchasing Procedures Ordinance.

E. Liability and Insurance

- (1) Each party assumes responsibility for its own acts, omissions, negligence and intentional acts that may cause damage or injury.
- (2) PROVIDER shall have self-insurance or an insurance policy sufficient to cover the services provided under this Agreement. The COUNTY shall be named an additional insured on any policy of insurance and provided a certificate of insurance showing such additional insured status.

F. County Tax Status

The County is a tax exempt No. 29 political subdivision of the State of Ohio (Federal I.D. No. 34-6000817).

G. Governing Law/Jurisdiction

This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Ohio. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Agreement, and each party consents to the exclusive jurisdiction of such courts. PROVIDER hereby agrees not to challenge this Governing Law and Jurisdiction provision.

H. Entire Contract

This Agreement, in addition to the incorporated documents specified in Article I (A) constitute the entire agreement between the parties and supersede any inconsistent representations, written or oral, between the parties. All prior agreements between PROVIDER and the COUNTY are terminated and superseded by this Agreement.

I. Contract Interpretation and Construction

In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as though drafted by both parties, and no presumption or burden of proof shall arise favoring or disfavoring one party by virtue of the authorship of any of the provisions of this Agreement.

J. Authority

Each signatory hereto certifies that he or she is duly authorized and empowered to sign and deliver this Agreement on behalf of all entities named below on whose behalf he or she has so acted.

K. Prohibition on Assignment

PROVIDER may not assign, directly or indirectly, all or part of its rights or obligations under this Agreement without prior written consent from the COUNTY which shall not

be unreasonably withheld.

L. Successors and Assigns

All terms, covenants, conditions and provisions of this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, devisees, executors, administrators, legal representatives, and permitted successors in interest and assigns.

M. Amendment

No alteration, amendment or modification hereof shall be valid unless executed by an instrument in writing by the parties hereto with the same formality as this Agreement.

N. Counterparts

This Agreement may be executed in multiple counterparts, each of which, when so executed, shall be deemed an original, and all of which shall together constitute one and that same document, and shall be binding on the signatories; and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

In the event that any signature is delivered by facsimile transmission, by email delivery of a ".pdf" format data file, or by uploading of a ".pdf" format data file on the County's website, such signatures shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

O. Severability

If any provision of this Agreement is invalid or unenforceable for any reason, this Agreement shall be divisible as to such provisions and the remainder of this Agreement shall be and remain valid and binding as though such provision was not included.

P. Non-Waiver

The County's failure to require performance of any provision of this Agreement, or if it requires performance and does not follow through, shall not affect the County's right to require performance at any time thereafter. Additionally, the County's waiver of any breach or default of this Agreement shall not constitute a waiver of any subsequent breach or default or a waiver of the provision itself or any other provision.

Q. Independent Contractor

PROVIDER shall be and remain an independent contractor with respect to all services performed herein and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by PROVIDER for work performed under the terms of this Agreement and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials.

VII. ELECTRONIC SIGNATURE


PROVIDER AGREES ON BEHALF OF THE SUBMITTING BUSINESS ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUBGRANTEES, AGENTS OR ASSIGNS, THAT ALL CONTRACT DOCUMENTS REQUIRING COUNTY SIGNATURES MAY BE EXECUTED BY ELECTRONIC MEANS, AND THAT THE ELECTRONIC SIGNATURES AFFIXED BY THE COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECT AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. PROVIDER ALSO AGREES ON BEHALF OF THE AFOREMENTIONED ENTITY AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

IN WITNESS WHEREOF, the parties have each caused their duly authorized representatives to execute this Agreement, effective as of the Effective Date.

**COUNTY OF CUYAHOGA
STATE OF OHIO**

Edward FitzGerald, County Executive

By:

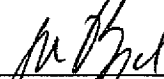

Edward FitzGerald - County Executive
2013-06-20 11:56:19

Date: _____

Approved as to legal form:

Cuyahoga County Law Department

**LAKE COUNTY, OHIO
BOARD OF COUNTY COMMISSIONERS**



County Commissioner - ADMINISTRATOR

Date: 5.2.13

Approved as to legal form:



Assistant Lake County Prosecutor