

**Windsor Town Board  
RESOLUTION 2014-12**

**A RESOLUTION AUTHORIZING THE EXECUTION  
OF A MEMORANDUM OF AGREEMENT WITH THE COUNTY OF DANE FOR  
PARTICIPATION IN THE FLY DANE 2014 PROJECT**

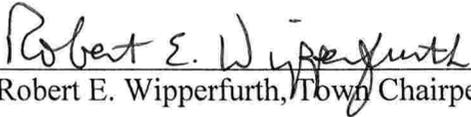
**WHEREAS**, Dane County Land Information Office has contracted for the production of digital terrain and orthophotography data for Dane County; and

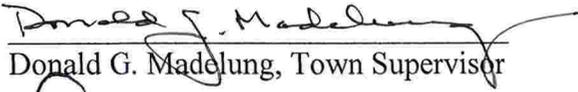
**WHEREAS**, the Town Board desires to acquire the data from Dane County, and the County is willing to provide the data to Windsor in exchange for Windsor participating in Dane County's costs of producing the data;

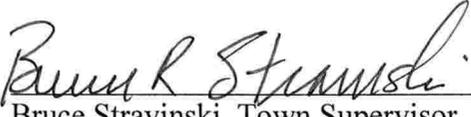
**NOW THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Windsor that it hereby authorizes the execution of a Memorandum of Agreement with Dane County as attached hereto as Exhibit A.

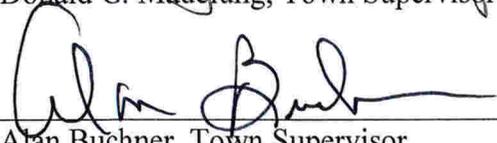
The above and foregoing resolution was duly adopted by the Town Board of the Town of Windsor, Dane County, Wisconsin at a meeting held on the 20<sup>th</sup> day of March, 2014 by a vote of 5 ayes and 0 nays.

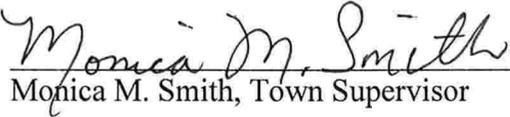
**Town of Windsor**

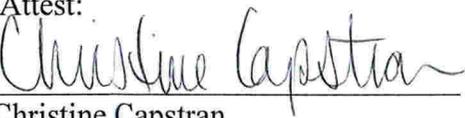
  
\_\_\_\_\_  
Robert E. Wipperfurth, Town Chairperson

  
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Donald G. Madelung, Town Supervisor

  
\_\_\_\_\_  
Bruce Stravinski, Town Supervisor

  
\_\_\_\_\_  
Alan Buchner, Town Supervisor

  
\_\_\_\_\_  
Monica M. Smith, Town Supervisor

Attest:  
  
\_\_\_\_\_  
Christine Capstran  
Clerk

**AGREEMENT**

Number of Pages, including schedules: 8

Agreement No. 11869

Expiration Date: December 31, 2016

Authority: Res. NA, 2013-2014

Department: Land Information Office

Maximum Cost: \$ 813.75

Registered Agent: NA

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**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Town of Windsor (hereafter, "ENTITY"),

**WITNESSETH:**

**WHEREAS** COUNTY, whose address is c/o Dane County Land Information Office, 210 Martin Luther King Jr Blvd, Room 339; Madison, WI 53703, has contracted for the production of digital terrain and orthophotography data ("the data") from a private vendor, the acquisition, analysis and development of the data and its conversion to a usable product is hereinafter referred to as "the project"; and

**WHEREAS** ENTITY, whose address is 4084 Mueller Rd; DeForest, WI 53532-2332, desires to acquire the data from COUNTY, COUNTY being willing to provide the data to ENTITY in exchange for ENTITY's participating in COUNTY's costs of producing the data; and

**WHEREAS** COUNTY is seeking the participation of private entities as well as municipalities within Dane County and agencies of federal, state and local governments in the project;

**NOW, THEREFORE**, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and ENTITY do agree as follows:

1. The term of this Agreement shall commence as of the date by which all parties hereto have executed this Agreement and shall end as of the Expiration Date set forth on Page 1, unless sooner agreed to in writing by the parties or if terminated by a party pursuant to the provisions of this Agreement.

2. COUNTY agrees to arrange for the completion of the project, the same being more fully described on the attached Schedule A, incorporated herein by reference. Schedule A, at A-3, sets forth certain obligations on the part of ENTITY which ENTITY covenants to perform.

54 3. ENTITY agrees to share in the costs of the project in the manner and to the extent set  
55 forth in the attached Schedule B, incorporated herein by reference.  
56

57 4. COUNTY will establish a segregated fund to capture revenue from sales of the data for  
58 the specific purpose of funding maintenance and future updates of these data. The fund will  
59 be used to reduce the costs of participating entities, including ENTITY, related to updating the  
60 data. Data update costs include the acquisition and production of updated imagery.  
61

62 5. Data derived from the project and requested by ENTITY will be delivered in the  
63 Wisconsin Coordinate Reference System (WISCRS) - Dane County, and the North American  
64 Vertical Datum of 1988. File format will be GeoTIFF or MrSID, as requested by ENTITY.  
65

66 6. COUNTY will deliver to ENTITY the requested data which is detailed in the attached  
67 Schedule C, incorporated herein by reference.  
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69 7. ENTITY shall not assign or transfer any interest or obligation in this Agreement,  
70 whether by assignment or novation, without the prior written consent of COUNTY.  
71

72 8. If, for any reason, a party fails to fulfill in a timely and proper manner its obligations  
73 under this Agreement, or if a party violates any of the covenants of this Agreement, the other  
74 party shall thereupon have the right to terminate this Agreement by giving a thirty (30) day  
75 written notice to the offending party of such termination and specifying the effective date  
76 thereof. Any ENTITY that chooses to terminate the Agreement pursuant to this provision  
77 must remit payment to the COUNTY for any services or goods incurred within the thirty (30)  
78 day notice period.  
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80 9. If during the term of this Agreement, a governmental ENTITY's governing body fails to  
81 appropriate sufficient funds to carry out that party's obligations under this Agreement, this  
82 Agreement shall be automatically terminated as of the date funds are no longer available and  
83 without further notice of any kind to the other party. This paragraph shall not relieve the  
84 governmental ENTITY of its responsibility to pay for services or goods provided or furnished to  
85 the governmental ENTITY prior to the effective date of termination. This paragraph does not  
86 apply to any private ENTITY. Further, COUNTY may utilize the provisions of this paragraph in  
87 any event.  
88

89 10. The parties shall commence, carry on and complete their respective obligations under  
90 this Agreement with all deliberate speed and in a sound, economical and efficient manner, in  
91 accordance with this Agreement and all applicable laws. Each party agrees to cooperate with  
92 the various departments, agencies, employees and officers of the other.  
93

94 11. Each party agrees to secure at the party's own expense all personnel necessary to  
95 carry out the party's obligations under this Agreement. Such personnel shall not be deemed  
96 to be employees of the other party nor shall they or any of them have or be deemed to have  
97 any direct contractual relationship with the other party.  
98

99 12. Notices, bills, invoices and reports required by this Agreement shall be deemed  
100 delivered as of the date of postmark if deposited in a United States mailbox, first class postage  
101 attached, addressed to a party's address as set forth above. It shall be the duty of a party  
102 changing its address to notify the other party in writing within a reasonable time.  
103

104 13. In the performance of this Agreement, each party shall be responsible for the  
105 consequence its own acts, errors or omissions and those of its employees, boards,  
106 commissions, agencies, officers, officials, representatives and employees and shall be  
107 responsible for any losses, claims, and liabilities which are attributable to such acts, errors or  
108 commissions, including providing its own defense. In doing so, it is not the intent of any party  
109 to waive or modify the provisions of Wis. Stat. §893.80 or any other immunity, protection, or

110 limitation of liability that may be available to the party under law. The obligations set forth  
111 under this paragraph shall survive the expiration or termination of this Agreement  
112

113 14. In no event shall the making of any payment or acceptance of any service or product  
114 required by this Agreement constitute or be construed as a waiver by the non-breaching party  
115 of any breach of the covenants of this Agreement or a waiver of any default of the breaching  
116 party and the making of any such payment or acceptance of any such service or product by  
117 the non-breaching party while any such default or breach shall exist shall in no way impair or  
118 prejudice the right of the non-breaching party with respect to recovery of damages or other  
119 remedy as a result of such breach or default.  
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121 15. During the term of this Agreement, both parties agree not to discriminate on the basis of  
122 age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation,  
123 national origin, cultural differences, ancestry, physical appearance, arrest record or conviction  
124 record, military participation or membership in the national guard, state defense force or any  
125 other reserve component of the military forces of the United States, or political beliefs against  
126 any person, whether a recipient of services (actual or potential) or an employee or applicant  
127 for employment. Such equal opportunity shall include but not be limited to the following:  
128 employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination,  
129 training, rates of pay, and any other form of compensation or level of service(s). Both parties  
130 will post in conspicuous places, available to all employees, service recipients and applicants  
131 for employment and services, notices setting forth the provisions of this paragraph. The listing  
132 of prohibited bases for discrimination shall not be construed to amend in any fashion state or  
133 federal law setting forth additional bases, and exceptions shall be permitted only to the extent  
134 allowable in state or federal law.  
135

136 16. In all solicitations for employment placed on a party's behalf during the term of this  
137 Agreement, the party shall include a statement to the effect that the party is an "Equal  
138 Opportunity Employer."  
139

140 17. Each party warrants that the persons executing this Agreement on its behalf are  
141 authorized to do so.  
142

143 18. It is expressly understood and agreed to by the parties hereto that in the event of any  
144 disagreement or controversy between the parties, Wisconsin law shall be controlling.  
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146 19. This Agreement is intended to be an agreement solely between the parties hereto and  
147 for their benefit only. No part of this Agreement shall be construed to add to, supplement,  
148 amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or  
149 parties, including but not limited to employees of either of the parties.  
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151 20. The entire agreement of the parties is contained herein and this Agreement supersedes  
152 any and all oral agreements and negotiations between the parties relating to the subject  
153 matter hereof. The parties expressly agree that this Agreement shall not be amended in any  
154 fashion except in writing, executed by both parties.  
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156 21. The parties may evidence their agreement to the foregoing upon one or several  
157 counterparts of this instrument, which together shall constitute a single instrument.  
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159 **IN WITNESS WHEREOF**, COUNTY and ENTITY, by their respective authorized agents,  
160 have caused this Agreement and its Schedules to be executed, effective as of the date by  
161 which all parties hereto have affixed their respective signatures.  
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FOR ENTITY:

Date Signed: 3/20/14

Robert W. Wiergenth  
Town Chairperson

Date Signed: 3/20/14

Christine Capistran  
Town Clerk

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FOR COUNTY:

Date Signed: 4-7-14

Joseph T. Parisi  
JOSEPH PARISI, County Executive

\* [print name and title, below signature line of any person signing this document]

## SCHEDULE A

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- A.1 Introduction and general description:
    - A.1.1 Fly Dane Partnership is a Dane County cooperative project related to the development of digital orthophotography products and information.
    - A.1.2 It is intended that the partnership will consist of those entities electing to participate in the project's benefits and costs.
    - A.1.3 Project scope, services, schedules, and budget are outlined in COUNTY's Contract No. 11783, as amended. A copy of COUNTY's Contract No. 11783 is attached to this Schedule A and incorporated herein by reference.
    - A.1.4 The vendor under COUNTY's Contract No. 11783 is Ayres Associates, however, as between the parties to this Agreement COUNTY reserves the right in the exercise of its discretion to change vendors as the need to do so may arise.
    - A.1.5 The Expiration Date is related to the termination date of the contract with Ayres Associates and not related to access rights of partners.
  - A.2 COUNTY's obligations. As administrator for the project, COUNTY agrees to:
    - A.2.1 Provide project planning, oversight and contract administration;
    - A.2.2 Serve as primary contact with vendor;
    - A.2.3 Provide products as requested by participating entities; (See Schedule C)
    - A.2.4 Contribute funding as a project participant;
    - A.2.5 Coordinate arrangements and meetings among participating entities;
    - A.2.6 Communicate project information to participating entities;
    - A.2.7 Apply for a copyright on the data, administer the copyright and defend the same, the latter only to the extent COUNTY acting in its sole discretion deems necessary or advisable;
    - A.2.8 Distribute data on behalf of participating entities;
    - A.2.9 Manage data distribution on behalf of participating entities;
    - A.2.10 Administer data licensing agreements;
    - A.2.11 Provide access to participating entities of data produced from the project;
    - A.2.12 Work with the vendor to develop a schedule for data development and delivery based on priorities identified by participating entities and their project needs;
    - A.2.13 Develop quality control specifications;
    - A.2.14 Perform quality control procedures on products developed prior to distribution to participating entities; and

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A.2.15 Act as data custodian for project data.

A.3 ENTITY's obligations. ENTITY agrees to:

A.3.1 Provide funding as set forth in Schedule B.

A.3.2 Share information for use in the project.

A.3.3 Target any utilities or landscape features desired by any agency or department of ENTITY.

A.3.4 Identify any priority areas for data development and delivery.

A.3.5 Identify areas with specific product needs, Schedule C.

A.3.6 Participate in project planning meetings and the development of arrangements with participating entities;

A.3.7 Share data with other participating entities at no cost;

A.3.8 Abide by data distribution and licensing agreements established by or entered into by COUNTY after consultation with the participating entities; and

A.3.9 Deposit revenue from data sales into COUNTY's segregated fund to be used for data updates as described in section 4 of this Agreement.

A.4 Timelines. The target dates for commencement or completion of the various steps in the project are as follows:

A.4.1 Utility and landscape features targeted: If the ENTITY is interested in utility marking, it should commence work in spring 2014 and have it in place by early March 2014.

A.4.6 The digital orthophotography acquisition will be conducted between mid-March and late April 2014.

A.4.7 Processing of data: Commencing early April, 2014 or shortly after the flights are completed.

A.4.8 Orthophotography related products including reports and metadata will be completed and delivered to COUNTY by September 30, 2014.

A.4.9 Orthophotography related products will be delivered to ENTITY by September 30, 2014.

**SCHEDULE B**

**Payments**

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B.1	ENTITY'S obligation for payment	
B.1.1	Total contribution	\$ 813.75
B.2	Payment Schedule	
B.2.1	Amount due by July 30, 2014	\$ 813.75

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**SCHEDULE C**

**Deliverables**

- C.1 2014 Digital Orthophoto Imagery (as specified)
  - C.1.1 Orhtophotography – Base Products:
    - C.1.1.1 Six-inch resolution, 4-band, true color imagery
    - C.1.1.2 Per mile units follow Public Land Survey System (PLSS) sections. T09N-R10E: Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36
    - C.1.1.3 Municipal mosaic (MrSID format)
  - C.1.2 Enhanced Products:
    - C.1.2.1 3-inch resolution, 4-band, true color imagery
    - C.1.2.2 None requested
  - C.1.3 Multi-Participant Support:
    - C.1.3.1 ENTITY can contract with Ayres to develop other mosaic (MrSID format), of various geographic extents, to provide a seamless image of a project area beyond the municipality.
    - C.1.3.2 ENTITY can contract with Ayres to generate orthophoto imagery in other file formats or other compressed formats, as specified by ENTITY.
    - C.1.3.3 Pricing outlined in the Contract No 11783, Schedule B, III, A.
- C.2 COUNTY will make the following Fly Dane 2014 products available to ENTITY upon request:
  - C.2.1 Six-inch resolution, 4-band, true color imagery outside of areas identified above.
- C.3 Upon request, COUNTY will provide a hardcopy poster displaying the imagery produced over the ENTITY area.

**COUNTY OF DANE**  
**Purchase of Services Agreement**

Number of Pages, including schedules: 14  
Agreement No. 11783  
Expiration Date: December 31, 2016  
Authority: Res. 237, 2013-2014  
Department: Land Information Office  
Maximum Cost: \$106,975.00  
Registered Agent:  
Address:

**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Ayres Associates (hereafter, "PROVIDER"),

**W I T N E S S E T H :**

**WHEREAS** COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Room 339, Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of acquiring photogrammetric services and products; and

**WHEREAS** PROVIDER, whose address is 5201 E. Terrace Drive, Suite 200, Madison, WI 53718, is able and willing to provide such services;

**NOW, THEREFORE**, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

- I. **TERM.** The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.
- II. **SERVICES.**
  - A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.
  - B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.
  - C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.

III. ASSIGNMENT/TRANSFER: PROVIDER shall neither assign nor transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY unless otherwise provided herein, provided that claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

IV. TERMINATION.

A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.

B. The following shall constitute grounds for immediate termination:

1. violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
2. failure by PROVIDER to carry applicable licenses or certifications as required by law.
3. failure of PROVIDER to comply with reporting requirements contained herein.
4. inability of PROVIDER to perform the work provided for herein.

C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.

D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of set-off.

V. PAYMENT. COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

VI. REPORTS. PROVIDER agrees to make such reports as are required in the attached Schedule C, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said Schedule C shall result in the penalties set forth herein.

VII. DELIVERY OF NOTICE. Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class

postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

VIII. INSURANCE.

See Insurance Addendum	Name	1-23-14
		Date

~~A. PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or expiration or termination of this Agreement.~~

B. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, employees and representatives under the indemnity provisions of this Agreement, PROVIDER shall obtain and at all times during the term of this Agreement keep in full force and effect comprehensive general liability and auto liability insurance policies (as well as professional malpractice or errors and omissions coverage, if the services being provided are professional services) issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department, with liability coverage provided for therein in the amounts of at least \$1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. COUNTY shall be given ten (10) days advance notice of cancellation or nonrenewal. Upon execution of this Agreement, PROVIDER shall furnish COUNTY with a certificate of insurance listing COUNTY as an additional insured and, upon request, certified copies of the required insurance policies. If PROVIDER's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this Agreement. The Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date. PROVIDER shall maintain coverage for the duration of this Agreement and for two years following the completion of this Agreement. PROVIDER shall furnish COUNTY, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that PROVIDER shall furnish the COUNTY with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either PROVIDER or COUNTY may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by PROVIDER. In the event any action, suit or other proceeding is brought against COUNTY upon any matter herein indemnified against, COUNTY shall give reasonable notice thereof to PROVIDER and shall cooperate with PROVIDER's attorneys in the defense of the action, suit or other proceeding. PROVIDER shall furnish evidence of adequate Worker's Compensation Insurance.

C. In case of any sublet of work under this Agreement, PROVIDER shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required of PROVIDER.

D. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.

IX. NO WAIVER BY PAYMENT OR ACCEPTANCE. In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

X. NON-DISCRIMINATION. During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

XI. CIVIL RIGHTS COMPLIANCE.

- A. If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.

- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

XII. LIVING WAGE.

- A. PROVIDER agrees to pay all workers employed by PROVIDER in the performance of this Agreement, whether on a full-time or part-time basis, the prevailing living wage as defined in section 25.015(1)(f), Dane County Ordinances. PROVIDER agrees to make available for COUNTY inspection PROVIDER's payroll records relating to employees providing services on or under this Agreement or subcontract.
- B. If any payroll records of PROVIDER contain any false, misleading or fraudulent information, or if PROVIDER fails to comply with the provisions of section 25.015 of the Dane County Code of Ordinances, COUNTY may withhold payments on the Agreement, terminate, cancel or suspend the Agreement in whole or in part, or, after a due process hearing, deny PROVIDER the right to participate in bidding on future county contracts for a period of one year after the first violation is found and for a period of 3 years after a second violation is found.
- C. PROVIDER agrees to submit to COUNTY a certification as required in section 25.015(7) of the Dane County Code of Ordinances.
- D. PROVIDER agrees to display COUNTY's current living wage poster in a prominent place where it can be easily seen and read by persons employed by PROVIDER.
- E. PROVIDER shall ensure that any subcontractors comply with the provisions of this section.
- F. The following are exemptions from the requirements of this section:
1. When the Maximum Cost of the Agreement is less than \$5,000;
  2. When the provider is a school district, a municipality, or other unit of government;
  3. When the County is purchasing residential services at an established per bed rate;
  4. When employees are persons with disabilities working in employment programs and the provider holds a current sub-minimum wage certificate issued by the U.S. Department of Labor or where such a certificate could be issued but for the fact that the employer is paying a wage higher than the minimum wage;
  5. When an individual receives compensation for providing services to a family member;
  6. When employees are student interns;
  7. When the provider meets any other criteria for exemption outlined in section 25.015(1)(d) of the Dane County Code of Ordinances; and
  8. Where the contract is funded or co-funded by a government agency requiring a different living wage, the higher wage requirement shall prevail.

- XIII. DOMESTIC PARTNER EQUAL BENEFITS. The PROVIDER agrees to provide the same economic benefits to all of its employees with domestic partners as it does to employees with spouses, or the cash equivalent if such a benefit cannot reasonably be provided. The PROVIDER agrees to make available for County inspection the PROVIDER's payroll records relating to employees providing services on or under this contract or subcontract. If any payroll records of a PROVIDER contain any false, misleading or fraudulent information, or if a PROVIDER fails to comply with the provisions of s. 25.016, D. C. Ords., the contract compliance officer may withhold payments on the contract; terminate, cancel or suspend the contract in whole or in part; or, after a due process hearing, deny the contractor the right to participate in bidding on future County contracts for a period of one year after the first violation is found and for a period of three years after a second or subsequent violation is found.

XIV. COMPLIANCE WITH FAIR LABOR STANDARDS.

- A. Reporting of Adverse Findings. During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations Commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.
- B. Appeal Process. PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in sec. 25.015(11)(c) through (e).
- C. Notice Requirement. PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation or union organizing."

XV. MISCELLANEOUS.

- A. Registered Agent. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.
- B. Controlling Law and Venue. It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.
- C. Limitation Of Agreement. This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- D. Entire Agreement. The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.
- E. Counterparts. The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

IN WITNESS WHEREOF, COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR PROVIDER:

Date Signed: January 23, 2014

Kirk M. Contrucci  
KIRK M CONTRUCCI, Vice President

Date Signed: \_\_\_\_\_

\_\_\_\_\_

\*\*\*

FOR COUNTY:

Date Signed: 2-10-14

Joseph Parisi  
JOSEPH PARISI, County Executive

Date Signed: 2-10-14

Scott McDonnell  
SCOTT MCDONELL, County Clerk

\* [print name and title, below signature line of any person signing this document]

## SCHEDULE "A"

Pursuant paragraph #1 of the attached AGREEMENT, the PROVIDER shall provide the following services:

### I. ORTHOPHOTOGRAPHY

#### A. General requirements of the contract are.

1. Perform professional services for COUNTY in 2014 to develop county wide six-inch resolution, 4-band, true color imagery.
2. Provide contract flexibility so that Fly Dane partners can select additional upgrades beyond the base level products.

#### B. Base Products

1. Six-inch resolution, 4-band, true color orthophotography county-wide.
2. Imagery will be acquired during leaf-off conditions in the spring of 2014.
3. Imagery will be acquired after snow melt with no ice on the lakes.
4. There will be a spot shot over the Capitol Building at true nadir with no building lean that will be stitched into the mosaic.
5. Imagery must have consistent tonal balance and contrast within each image and across images. The imagery must be free of defects such as dust, blemishes, tonal changes, significant building lean and other discrepancies
6. Image manipulation should be used to minimize harsh seam lines across large water bodies.
7. Ortho-rectification shall eliminate feature displacement, loss or distortion of features along mosaic seam lines.
8. Imagery will be tiled by the Public Land Survey System (PLSS) section system with overlapping tiles.
9. All imagery will be in the WSCCRS-Dane projection.
10. Final orthophotography shall meet or exceed ASPRS Class I accuracy standards.
11. Final mission reports and documents.
12. FGDC-compliant metadata based on current county GIS metadata files and guidelines.
13. Work with county staff on quality control and assurance on all project deliverables.
14. Imagery will be registered to the county's 2009 LiDAR terrain surface.
15. Municipal/County mosaic (MrSID format), to provide partners with a seamless image of municipality/county.
16. The PROVIDER will supply the portable media for data delivered to COUNTY.

### II. ENHANCED PRODUCTS

#### A. Options Products may be selected by partners in addition to the base set of deliverables.

1. Three-inch resolution, 4-band, true color imagery.
2. Three-inch resolution, black/white imagery, for areas designated by partners.
3. Imagery must have consistent tone and contrast within each image and across images. The imagery must be free of defects such as dust, blemishes, tonal changes, significant building lean and other discrepancies.

4. Final orthophotography shall meet or exceed ASPRS Class I accuracy standards.
5. Final mission reports and documents.
6. Develop FGDC-compliant metadata based on current county GIS metadata files and guidelines.
7. Work with county staff on quality control and assurance on all project deliverables.
8. Imagery will be registered to the county's 2009 LiDAR terrain surface.
9. Municipal mosaic (MrSID format), to provide partners with a seamless image of their community.
10. The PROVIDER will supply the portable media for data delivered to COUNTY.

III. MULTI-PARTICIPANT SUPPORT

1. Provide assistance to Dane County to build and facilitate the partnership.
2. Develop a mosaic (MrSID format), of various geographic extents that is specified by a partner, to provide a seamless image of a project area beyond the municipality.
3. Generate orthophoto imagery in other file formats or other compressed formats, as specified by partner.
4. Provide sample materials for prospective partners.
5. Support the Fly Dane final set of deliverables.
6. Low resolution, county-wide mosaic, 4-band true color orthophotography.

IV. DATA APPROVAL. The COUNTY has final approval on the quality of all the imagery. The PROVIDER shall provide access to an imagery review application as part of the COUNTY quality assurance effort. The quality control review will check for, but limited to, the consistent tone and contrast within each image and across images, that the imagery is free of defects such as dust, blemishes, tonal changes, significant building lean and other discrepancies

V. DATA OWNERSHIP. The COUNTY will hold copyright to all files and products produced as a result of this agreement.

## SCHEDULE "B"

PROVIDER shall be paid on the basis of work completed, when completed at the following rates:

### I. ORTHOPHOTOGRAPHY

A. General requirements of the contract are the production of six-inch resolution, 4-band, true color, county wide imagery and partner mosaic image.

#### B. Base Products

Total Fees not to exceed .....\$106,975.00

The following price breakdown is for the county wide project (1,250 miles<sup>2</sup>)

Product:	Unit:	Fee:
Six-inch resolution, 4-band, true color, county-wide imagery .....	1 mile <sup>2</sup>	\$85.58
Partner mosaic (municipality and county-wide).....	Municipal/County	included

### II. ENHANCED PRODUCTS

A. The COUNTY may acquire the following Enhanced Products, based on partner requests, according to the following unit prices.

B. The PROVIDER shall provide for the development of color three-inch resolution, 4-band imagery based on the total acquisition following the three tier unit pricing.

Product:	Unit:	Fee:
Three-inch resolution, 4-band, true color, county-wide imagery (3 to 10 mi <sup>2</sup> area).....	1 mile <sup>2</sup>	\$1000.00
Three-inch resolution, 4-band, true color, county-wide imagery (11 to 20 mi <sup>2</sup> area).....	1 mile <sup>2</sup>	\$900.00
Three-inch resolution, 4-band, true color, county-wide imagery (21 mi <sup>2</sup> or greater area).....	1 mile <sup>2</sup>	\$825.00
Partner mosaic (municipality).....	Municipal	Included

C. Enhance products will be paid for by partners.

### III. MULTI-PARTICIPANT PROJECT SUPPORT

A. The PROVIDER shall provide additional project support to Fly Dane partners, to develop large area imagery mosaics based on partner needs.

Product:	Unit:	Fee:
Partner requested mosaic (beyond community mosaic) .....	1 mile <sup>2</sup>	\$25.00
County-wide low resolution mosaic.....	County-wide	\$1,000.00

B. The PROVIDER shall provide a 0% price increase for 2015-2016 to the COUNTY and other government agencies during the term of the contract.

IV. PAYMENT

A. The COUNTY will pay the PROVIDER on the following schedule.

Activity Completed	Approximate timeline	Percent Payment
Acceptance of final acquisition.....	May 2014	50%
Pilot Area Production.....	June-July 2014	15%
Orhtophotography Production.....	July – August 2014	15%
Final Delivery.....	September 2014	20%

B. PROVIDER shall provide the COUNTY with a written report on the work competed that will accompany invoicing to the COUNTY.

## SCHEDULE "C"

### I. STUDY REPORTS

- A. The PROVIDER will supply COUNTY with FGDC-compliant metadata in ESRI ArcCatalog XML format for each digital dataset produced for this project. Metadata templates will be provided by COUNTY to use as guidance for metadata documentation.
- B. The PROVIDER will supply COUNTY with project reports and documentation including aero-triangulation report.

### II. PROGRESS REPORTS

- A. The PROVIDER will supply COUNTY with weekly, verbal updates, detailing progress reports on the project.

### III. TIMELINE

- A. The PROVIDER will complete the project on the following schedule.

Task	Approximate Time Frame
Fly Dane Partner Meeting.....	February 2014
Imagery flight plan finalized.....	February 2014
Control Layout.....	February 2014
Establish ground control and targeting.....	February-March 2014
Imagery Acquisition.....	March-April 2014
Imagery acquisition acceptance	April-May 2014
Surface Model Comparisons.....	April 2014
Analytical aero-triangulation.....	April 2014
Ortho-rectification surface development from updated surface.....	May 2014
Pilot area ortho production.....	June 2014
Orthophotography production 6-inch, *3-inch.	May-July 2014
Final Delivery of Base Project, 6-inch imagery (COUNTY and Partner imagery) .....	120 days from acceptance
* Final Delivery of Enhanced Products, 3-inch imagery (Partner imagery).....	150 days from acceptance

\*If Fly Dane partners contract for 3-inch resolution imagery

### IV. CONTACTS

- A. The Project Contact(s) for the COUNTY is:
  - 1. Frederic Iausly, Dane County Land Information Office, 608-266-4398
- B. The Project Contact(s) for the PROVIDER is:

1. Adam Derringer, Ayres Associates, 608-443-1200
2. Kirk Contrucci, Ayres Associates, 608-443-1200

## INSURANCE ADDENDUM

Each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, boards, commissions, agencies, officers, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions, including providing its own defense.

FOR COUNTY



Dan Lowndes, Dane County Risk Manager

Date: January 17, 2014

FOR AYRES ASSOCIATES, INC



Kirk M Contrucci, Vice President

January 23, 2014 Date