HARDIN COUNTY FISCAL COURT
RESOLUTION NO. 2012-027

BE IT RESOLVED, upon recommendation of Judge/Executive Harry L. Berry, with the concurrence of the Public Works Committee, to authorize the Hardin County Judge/Executive and the County Treasurer to take the necessary actions to execute a Memorandum of Agreement between the Commonwealth Office of Technology's Division of Geographic Information within the Commonwealth of Kentucky's Finance and Administration Cabinet and Hardin County Fiscal Court. This Memorandum of Agreement establishes a funding partnership for the acquisition of digital orthophotography and LiDAR data covering the County's area of interest.

ADOPTED, by Hardin County Fiscal Court in its regular meeting on 13 March 2012.

_____
Harry L. Berry
Hardin County Judge/Executive

ATTEST:

_____
Kenneth L. Tabb
Hardin County Clerk

MEMORANDUM OF AGREEMENT

This Agreement, made and entered into at Frankfort, Kentucky, this _13th_ day of _March_, 2012, by and between the Commonwealth Office of Technology's Division of Geographic Information ("DGI") within the Commonwealth of Kentucky's Finance and Administration Cabinet and Hardin County Fiscal Court ("HCFC") 100 Public Square, 3rd Floor, PO Box 568, Elizabethtown, KY 42702.

Purpose

DGI is responsible for developing and maintaining a current basemap that meets the needs of its users at the federal, state, regional, and local levels, including the public at large. A common basemap reduces the cost of developing geographic information system (GIS) applications, promotes data sharing, and adds efficiency to state agency business processes. The purpose of this Memorandum of Agreement (MOA) is to specify the responsibilities of both parties in the acquisition of current, leaf-off aerial photography and elevation data (LiDAR) for the Commonwealth.

Scope of Services and Responsibilities

The total program area served by Kentucky's Statewide Digital Aerial Photography and Elevation Basemap Program includes all 120 counties in the Commonwealth and comprises approximately 40,411 miles. Terrain elevations range from approximately 257 feet to over 4,139 feet above mean sea level. The Commonwealth plans to acquire data for this program during multiple, consecutive leaf-off seasons beginning in the Spring of 2012.

DGI, along with other state, federal, regional and/or local agencies are providing funding for the acquisition of the new digital orthophotography and LiDAR data. The state will be divided into at least three (3) or more distinct areas that follow county boundaries. DGI is responsible for defining the areas to be mapped. The designation will be driven by a variety of factors, including but not limited to, scheduling, budgeting, need, and economies of scale.

Please note that all data will be delivered in a defined standard format so as to promote data sharing and information exchange. All data obtained under this agreement will reside within the public domain and will be distributed freely by the Commonwealth. The most current data standards for digital orthophotography and LiDAR deliverables and other information regarding the Commonwealth's program can be found @ http://kygeonet.ky.gov/kyfromabove/

DGI will award and administer all contracts necessary for data and imagery acquisition. This MOA establishes a funding partnership for the acquisition of digital orthophotography and LiDAR data that covers your entity's area of interest (AOI) as defined on the attached map. Acquisition areas shall be defined using the Commonwealth's 5k Grid (5,000' x 5,000' tiles). Participating agencies shall receive one (1) copy of the data on a portable hard drive. If a DGI portable

hard drive is used for data transfer it must be returned within a reasonable timeframe (1-2 weeks).

Pricing for Orthoimagery and LiDAR products can be found within Master Purchase Agreement (MA 758 1200000546 1) in V. Pricing on pages 18 and 19. The specific products desired and the defined acquisition AOI requested by *HCFC* are shown in Appendix A.

The cost to the Commonwealth for Orthoimagery and LiDAR products to be procured through the selected contractor/vendor is $31,545 as indicated in Appendix A. *HCFC* shall be responsible for the cost as follows and will pay DGI accordingly:

Hardin County Fiscal Court $31,545

The Commonwealth Office of Technology will make full payment to the vendor for these products after funding is received from Hardin County Fiscal Court..

TERM OF AGREEMENT:

> This Agreement shall be effective on the date executed below, and shall expire on December 31, 2012.   Time is of the essence for performance herein.

CAUSES AND TERMINATION:

> Either party may terminate this contract without cause after thirty (30) days written notice, or for cause at any time.

CONFLICT OF INTEREST:

> The parties certify by the signatures of duly authorized representatives hereinafter affixed, that they are legally entitled to enter into this agreement and that they shall not be violating, either directly or indirectly, any conflict of interest statute of the Commonwealth of Kentucky, by the performance of this agreement.

LIABILITY:

> HCFC agrees that any and all claims against DGI resulting from negligence on its part or that of its employees/agents shall be brought in accordance with KRS § 44.070 *et. seq* or KRS § 45A.240 *et. seq*

CHOICE OF LAW AND FORUM:

> All questions as to the execution, validity, interpretation, construction and performance of this agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this agreement

shall be filed in the Franklin County Circuit Court of the
Commonwealth of Kentucky.

MISCELLANEOUS:

1. The Commonwealth, including but not limited to, the
   Finance and Administration Cabinet may audit or review all
   documentation and records pertaining to the event pursuant to the
   provisions of KRS 45A.150;

2. No modification or change of any provision of this Agreement shall be
   made, or construed to be made, unless such modification is mutually
   agreed in writing;

3. Both parties shall abide by KRS 45.570;

4. All notices or communications whatsoever, shall be in writing and sent
   by First Class Mail to the parties as identified below.

FUNDING OUT PROVISION:

The state agency may terminate this contract if funds are not appropriated to the
contracting agency or are not otherwise available for the purpose of making
payments without incurring any obligation for payment after the date of
termination, regardless of the terms of the contract. The state agency shall
provide the contractor thirty (30) calendar days written notice of termination of
the contract.

REDUCTION IN CONTRACT WORKER HOURS:

The Kentucky General Assembly may allow for a reduction in contract worker
hours in conjunction with a budget balancing measure for some professional and
non-professional service contracts. If under such authority the agency is
required by Executive Order or otherwise to reduce contract hours, the contract
will be reduced by the amount specified in that document.

ACCESS TO RECORDS:

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting
agency, the Finance and Administration Cabinet, the Auditor of Public Accounts,
and the Legislative Research Commission, or their duly authorized
representatives, shall have access to any books, documents, papers, records, or
other evidence, which are directly pertinent to this contract for the purpose of
financial audit or program review. Records and other prequalification
information confidentially disclosed as part of the bid process shall not be
deemed as directly pertinent to the contract and shall be exempt from disclosure
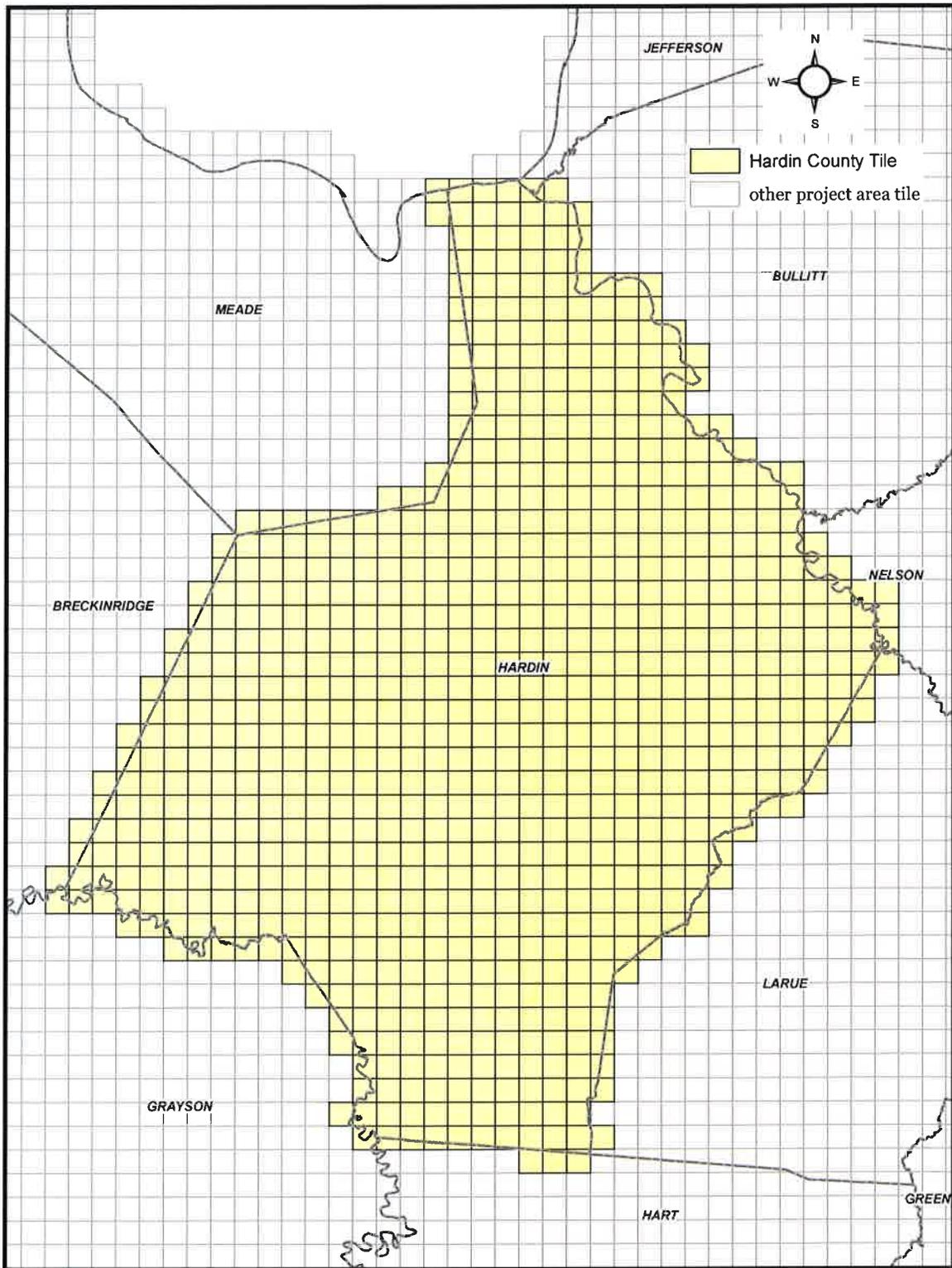
as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. In the event of a dispute between the contractor and the contracting agency, Attorney General, or the Auditor of Public Accounts over documents that are eligible for production and review, the Finance and Administration Cabinet shall review the dispute and issue a determination, in accordance with Secretary's Order 11-004.

IN WITNESS WHEREOF, the Parties hereunto have executed this agreement the day and year first written above.

AGREED TO:

Harry L. Berry   Carolyn Ritchie
Judge Executive   Treasurer
Hardin County Fiscal Court   Hardin County Fiscal Court

13 March 2012   _Carolyn K Ritchie 3/13/12_

Signature   Date   Signature   Date

Lori Flanery, Secretary   Steve Rucker, Commissioner
Finance and Administration Cabinet   Commonwealth Office of Technology

Signature   Date   Signature   Date

Approved as to form and legality:

Finance and Administration Cabinet
Office of General Counsel

APPENDIX A

PRODUCTS TO BE ACQUIRED FOR HCFC

1. Contours (2') based on the LiDAR data to be acquired for all of Hardin County.

NOTE: All other base products acquired for Hardin County by the Program will be delivered as well. This will include 12" orthophotography, the LiDAR Point Cloud, Hydro-Breaklines, a DEM, and a DTM.

APPENDIX A

PROPOSED PROJECT AREA

Commonwealth Aerial Photography and Elevation Program