

August 10, 2021

BOROUGH OF BRADLEY BEACH

RESOLUTION 2021-204

PARTICIPANT'S RESOLUTION LEAP IMPLEMENTATION GRANT

WHEREAS, the State of New Jersey has appropriated \$10 million for Shared Services and School District Consolidation Study and Implementation Grants to assist local units with the study, development and implementation of new shared and regional services; and

WHEREAS, the Department of Community Affairs, Division of Local Government Services (DLGS) is tasked with administering these grant funds through the Local Efficiency Achievement Program (LEAP); and

WHEREAS, LEAP Implementation Grants exist to support costs associated with shared service implementation to ensure that meaningful, efficiency generating initiatives are not hindered by short term transitional expenses; and

WHEREAS, the (COUNTY OF MONMOUTH and Participating Local Units) propose to enter into a shared services agreement, but face certain expenses associated with implementation that present a burden to the local units; and

WHEREAS, the purpose of this shared services agreement is to provide the technical benefits the County receives through our high resolution aerial imagery service (Nearmap) to all fifty-three (53) municipalities in the County, free of charge for two years, which will benefit the residents of all participating local units; and

WHEREAS, this service will provide high resolution, high quality imagery, as well as a complete set of countywide images three times a year through a web-based interface that allows the user to view the most recent images online; and

WHEREAS, Municipal Governments will use this to do the following:

- Measure size and footprints of buildings
- Determine property boundaries, setbacks and buffers
- Evaluate environmental conditions and potential development impacts
- Estimate capital investments
- Post disaster damage assessment
- Hazard mitigation assessments
- Search and rescue; and

WHEREAS, the COUNTY OF MONMOUTH has agreed to be the lead agency in this program and will submit the application to DLGS on behalf of all participating units; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Bradley Beach, that the Borough of Bradley Beach does hereby join with COUNTY OF MONMOUTH in applying for a LEAP Implementation Grant in the amount of \$250,000.00 to support implementation of this shared service.

Seconded by Councilman Sexsmith and adopted on roll call by the following vote:

	AYES	NAYS	ABSTAIN	ABSENT
Mr. Bonnell	X			
Mr. Gubitosi	X			
Mr. Sexsmith	X			
Mr. Weber	X			
Mayor Fox	X			

CERTIFICATION

I, Erica Kostyz, Municipal Clerk, Borough of Bradley Beach, Monmouth County, New Jersey, do hereby certify that the foregoing resolution was duly adopted by the Governing Body at the August 10, 2021 Council Meeting.

Erica Kostyz

Erica Kostyz, RMC, CMR
Municipal Clerk

SHARED SERVICE AGREEMENT FOR THE COUNTY OF MONMOUTH TO PROVIDE HIGH-RESOLUTION AERIAL IMAGERY SOFTWARE

THIS SHARED SERVICE AGREEMENT (the "Agreement") is made this ___ day of _____, 20___ by and between the COUNTY OF MONMOUTH, a body politic of the State of New Jersey, having its principal offices located at the Hall of Records, 1 E. Main Street, Freehold, New Jersey 07728 and NAME OF MUNICIPALITY, in the County of Monmouth, a municipal corporation of the State of New Jersey, having its principal offices located at street address, municipality, NJ zip code, (referred to as the "Sublicensee").

WHEREAS, The Uniform Shared Services and Consolidation Act (C.40A:565-1, et seq.), authorizes local units of this State to enter into a contract with any other local unit(s) for the joint provision within their several jurisdictions of any service, which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, Aerial imagery and software licenses are cost-prohibitive for many small government entities to purchase alone, based on limited financial, technical and professional resources; and

WHEREAS, Nearmap, owned by its parent company Nearmap Limited, provides for reliable, high-resolution aerial imagery software through a web-based interface, which lends to more timely insights from virtual site visits, and can result in saved time and reduced costs; and

WHEREAS, Monmouth has obtained a limited license and subscription service from Nearmap, which provides high-quality aerial imagery of the entire County three (3) times per year, in addition to a web-based interface that allows users to view prior flyovers and recent images; and

WHEREAS, Under the terms of its license, Monmouth may operate a Nearmap web-based interface for itself, and may also sublicense the use of the system for use by other contracting units in Monmouth County, New Jersey under a subscription service; and

WHEREAS, This service provides participating municipalities with an equitable and fair level of accessibility to this relevant and timely information at no cost, including: access to aerial imagery to support in-house programming and functions, including the measuring size and footprints of buildings; determining property boundaries, setbacks and buffers; evaluating environmental conditionals and potential development impacts; estimating capital investments and inventory; property inspection and compliance; tax assessments; building conditions; post-disaster damage assessment; hazard-mitigation assessments; and search and rescue.

NOW, THEREFORE, in consideration of the above and the provisions set forth hereinafter, it is mutually agreed as follows:

IT IS AGREED:

1. Grant of Sublicense. Monmouth hereby grants the Sublicensee to use Nearmap MapBrowser product, under the terms of this Agreement.
2. Costs. There is no cost to the sublicensee for use of Nearmap system.
 - (a) Each participating municipality has access to the Nearmap system at no cost for two years.
 - (a) The County contribution through the NJDCA LEAP Implementation Grant shall be \$240,000.
 - (b) The County will pay 100% of the program cost for each participating municipality to Nearmap through New Jersey LEAP Grant funding.
 - (c) Each municipality is entitled to 3 named users accounts to access the Nearmap MapBrowser product.
 - (d) Enhanced-release costs of additional releases and any other future add-ons, as mutually agreed upon by the parties.
 - (e) Annual maintenance costs for additional releases and any other future add-ons, as mutually agreed upon by the parties.
 - (f) In the event Monmouth fails to receive funding from other sources, such as New Jersey LEAP Grant program, annual payments remain the sole responsibility of the Sublicensee.

3. Other Costs.

- (a) The Sublicensee will retain Nearmap system directly to perform any customization, data conversion or future additional training and implementation services required by the Sublicensee.
- (b) The Sublicensee will also provide the necessary personal computer(s), printer(s) and internet connection for the proper operation of Nearmap. For current operating requirements, see Exhibit "A" attached.

4. Maintenance and Support.

- (a) The Monmouth County Office of Geographic Information Systems will procure and maintain vendor software licensing. Nearmap is responsible for maintenance and upgrades to the Nearmap MapBrowser product.
- (b) Sublicensees will have access to Nearmap's technical help and support services to assist questions regarding the Nearmap MapBrowser product. These tools include a documentation library, knowledge hub, technical videos, feedback access directly linked through the MapBrowser product to directly open a support request or report issues with Nearmap.
- (c) In the event of any major changes in the maintenance and support arrangements with Nearmap, all Sublicensees in good standing under this Agreement will receive prior and timely notification of such changes.

5. Copyright & Trademark Acknowledgement.

- (a) The Nearmap MapBrowser product is the exclusive property of Nearmap, owned by Nearmap Limited. Nearmap owns the title, copyright, and other intellectual property rights in web-based software. Nearmap is licensed, not sold. Nearmap is protected by copyright and other intellectual property laws and treaties. Except for those rights expressly granted by Nearmap Limited, Nearmap retains all proprietary rights to Nearmap.
- (b) Nearmap may not be reproduced, exploited, modified, transmitted, licensed or distributed without the prior written consent of Nearmap Limited. The licensee, Sublicensees and other users shall not disassemble; decompile, or reverse engineer Nearmap products.
Copyright © 2021 Nearmap
All rights reserved.

6. Ownership of Images, Metadata, and Database Information.

- (a) Sublicensee is solely responsible for the selection of indexing templates and the entry of indexing utilized in the retrieval of images and other content.
- (b) All data, associated metadata and database information of the Sublicensee remain the sole property of the Sublicensee. Monmouth may not make any portion of this information deposited in the repository available to the public without the prior written consent of the Sublicensee.

7. Term of Agreement.

This Agreement shall be effective through (December 31, 2023), unless sooner terminated or extended.

8. Termination of Agreement.

- (a) Either party has the right to terminate this Agreement upon ninety (90) days written notice to the other party. In addition, Monmouth may terminate this Agreement, upon thirty (30) days notice, if the Sublicensee fails to make timely payment(s) required under this Agreement.
- (b) If the underlying agreement between Monmouth and Nearmap is terminated for any reason, Monmouth shall promptly notify all Sublicensees of such termination and the effective termination date, whereupon this Agreement shall terminate.
- (c) If the agreement between Monmouth and the Sublicensee is terminated for any reason, upon the written request of the Sublicensee, Monmouth shall, within sixty (60) days from the effective termination date, provide the Sublicensee with a copy of all data and metadata stored within the Nearmap MapBrowser for the Sublicensee ("Sublicensee's data"). At Monmouth's discretion, delivery may be on any standard

media including, but not limited to CD, DVD or removable HDD. Upon delivery, Monmouth shall retain no custodial right or duty with regard to the Sublicensee's data.

9. Dispute Resolution.

- (a) The parties will attempt to resolve any dispute(s) between them, in good faith, through non-binding mediation. Either party may demand such mediation by written notice to the other party. The written notice shall contain at least (a) a brief statement of the nature of the dispute, and (b) the name, address and phone number of that party's designated representative for purposes of mediation. The other party shall designate its representative for mediation in writing no later than five (5) business days after receipt of the demand for mediation. The respective designees shall thereupon, and promptly, with due regard for the need for timely action, choose a mediator. If the parties cannot agree on a mediator, or if they prefer, they shall choose a reputable mediation firm. Any mediation firm so chosen shall present a list of at least five proposed mediators to the parties and shall provide the parties with a summary of each person's qualifications to serve as the mediator. Each party shall rank the proposed mediators in order of preference. The fifth and any lower ranked persons on each list will be excluded from further consideration. The chosen mediator shall be the remaining person who is the combined highest-ranking mediator on both preference lists, after deleting all excluded persons. In the event of a tie, the mediator shall be chosen by lot. The parties will not be bound by the Rules of Evidence in presenting their positions before the mediator. Each party will bear its own costs of participation in mediation and they will divide the costs of the mediator equally. If, after a good faith effort to resolve the dispute through mediation, the dispute is not resolved, either party may terminate the mediation by written notice to the mediator and to the other party, whereupon either party may submit the dispute to the Superior Court of New Jersey, Monmouth County, for adjudication, which Court shall have exclusive original jurisdiction over the dispute.
- (b) Monmouth agrees to continue providing the Sublicensee access to the Nearmap web-based interface and all data during the pendency of a dispute.

11. Limitation of Liability/Indemnification.

- (a) Monmouth makes no warranties, either express or implied under this Agreement. Monmouth shall not be liable to the Sublicensee for damages of any kind arising from Monmouth's non-performance or flawed performance under this Agreement.
- (b) The Sublicensee shall defend, indemnify and hold harmless Monmouth, its officers, agents and employees from and against any and losses, costs, damages, claims, suits and/or liabilities (including counsel fees and cost of suit), to which Monmouth may be subject by reason of any actions or inactions by the Sublicensee, its officers, agents and employees.

12. Terms of Use and Notices.

In order to access Monmouth's Nearmap license and the Nearmap MapBrowser product, the Sublicensee and its external authorized users must agree to the Terms of Use posted thereon, a copy of which is attached hereto, as Exhibit "B". By executing this Agreement, the Sublicensee agrees to the terms of Exhibit "B".

13. Support Process.

The Nearmap Product Support process attached hereto as Exhibit "A" is incorporated herein.

14. Changes.

The terms and conditions of this Agreement may not be amended, waived or modified, except in a writing signed by the parties.

15. Force Majeure.

A party shall not be liable for any failure of or delay in the performance of this Agreement for the period of time that such failure or delay is (a) beyond the reasonable control of a party, including, without limitation, acts of God, terrorist acts, shortage of supply, breakdowns or malfunctions, interruptions or malfunctions of computer facilities, or loss of data due to power failures or mechanical difficulties with information storage or retrieval systems, labor difficulties, war, or civil unrest, and (b) materially affects the performance of any of its obligations under this agreement, and (c) could not reasonably have been foreseen or provided against. The affected party shall provide the other with prompt notice, as soon as practicable, any such delay or failure in performance occurs and keep the other party apprised of developments and mitigation effort with respect thereto.

16. Choice of Law.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey.

17. Filing of Agreement.

Monmouth's Clerk of the Board shall file a fully executed copy of this Agreement with the Division of Local Government Services, New Jersey Department of Community Affairs in accordance with N.J.S.A. 40A:65-4(b).

18. Authority to Execute Agreement.

Each party to this Agreement represents to the other party that its governing body has taken the necessary action to authorize the execution of this Agreement.

19. Counterparts.

This Agreement may be fully executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one agreement binding upon all parties, notwithstanding that all parties have not signed the same counterpart. Such executions may be transmitted to the parties electronically or by facsimile, and such electronic or facsimile execution shall have the same force and effect as an original signature.

20. Notices.

Any notices that are provided pursuant to this Agreement shall be in writing (including facsimile and electronic transmissions) and mailed or transmitted or delivered as follows:

To Monmouth:

County of Monmouth
1 East Main Street
Freehold, NJ 07728
Attn: Elizabeth Perez, Shared Services Coordinator
Email: elizabeth.perez@co.monmouth.nj.us
Fax:

Exhibit "A"

END USER PC(s)

Support Services:

- Telephone and/or email-based technical support, training, troubleshooting, error-identification, and other assistance as needed.
- Up to 3 dedicated users for each community.
- Support requests sent to (enter email address here) will be addressed in a timely manner, Monday – Friday, 9AM – 5PM MST.
- Access to Nearmap’s ongoing trainings, known-problem database and updated technical guidance content.

Supported Browser Versions for viewing Vertical and Oblique Content in the MapBrowser product:

- The Nearmap Map Browser is supported in the most recent and second most recent versions of Mozilla Firefox, Safari, Microsoft Edge and Google Chrome.
- They do not support Internet Explorer 9 and below.
- JavaScript needs to be enabled on your web browser.

Suggested System Specifications for Basic Browsing:

- PC with at least 2GB of RAM, or
- Modern smartphone or tablet devices, and
- Latest version of Google Chrome

Suggested System Specifications for Advanced or Professional Use:

- PC with at least 8GB of RAM, and
- Latest version of Chrome