

DANE COUNTY CONTRACT # 14152



of Pages Including Schedules: 25
Expiration Date: 11/30/2021
Authority: Res. # , 20-21
Department: Planning and Development
Maximum Cost: \$26,848.00
Registered Agent: Registered Agents Inc.
Registered Agent Address: 2800 E. Enterprise Ave, Ste
333 Appleton, WI 54913

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

WITNESSETH:

WHEREAS COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Room 118, Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of providing redistricting software and implementation services; and

WHEREAS PROVIDER, whose address is 990 Spring Garden Street, 5th Floor, Philadelphia, PA 19123, 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 offset.

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:

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's 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 representatives. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.

B. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, agents, volunteers, employees and representatives under the indemnity provisions of the subparagraph above, PROVIDER shall, at PROVIDER's own expense, obtain and at all times during the term of this Agreement keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Agreement and otherwise, PROVIDER agrees to preserve COUNTY's subrogation rights in all such matters that may arise that are covered by PROVIDER's insurance. Neither these requirements nor the COUNTY's review or acceptance of PROVIDER's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the PROVIDER under this Agreement. The County expressly reserves the right to require higher or lower insurance limits where County deems necessary.

Commercial General Liability.

PROVIDER agrees to maintain Commercial General Liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage shall include, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent PROVIDERs and Subcontractors, and Fire Legal Liability. The policy shall not exclude Explosion, Collapse, and Underground Property Damage Liability Coverage. The policy shall list DANE COUNTY as an Additional Insured.

Commercial/Business Automobile Liability.

PROVIDER agrees to maintain Commercial/Business Automobile Liability insurance at a limit of not less than \$1,000,000 Each Occurrence. PROVIDER further agrees coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event PROVIDER does not own automobiles, PROVIDER agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation.

PROVIDER agrees to maintain Workers Compensation insurance at Wisconsin statutory limits.

Umbrella or Excess Liability.

PROVIDER may satisfy the minimum liability limits required above for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for the Commercial General Liability and Business Auto Liability. PROVIDER agrees to list DANE COUNTY as an "Additional Insured" on its Umbrella or Excess Liability policy.

- C. 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 professional malpractice or errors and omissions coverage, if the services being provided are professional services coverage is Claims-Made and indicate the Retroactive Date, PROVIDER shall maintain coverage for the duration of this Agreement and for six (6) 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. 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. 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. 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 Dane County Ordinances Sec. 25.08(20)(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 for union organizing."

XIII. 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:

 _____ President 21 October 2020
Date Signed

Date Signed

* * *

FOR COUNTY:

 _____ 10/30/20
Joseph T. Parisi, Dane County Executive Date Signed

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

SCHEDULE A

Scope of Services

Introduction

County is planning to run a mapping initiative that engages members of the public and solicits submissions for supervisory district plans. To do this, Provider is proposing to use DistrictBuilder, a web-based redistricting application that provides a user interface for interactive mapping.

Provider shall complete the following scope of work to configure a custom region for Dane County in DistrictBuilder so public users can access the tool and submit county district maps for review.

Scope of Work

Task 1: Data Preparation

Provider will prepare a dataset of demographic data for Dane County from the Census Bureau API to be used in the DistrictBuilder tool. Provider plans to use data from the 2010 Decennial Census (PL 94-171), 2018 revision (<https://www2.census.gov/geo/tiger/TIGER2018/TABBLOCK/>), which will be procured from the Census data repository at census.gov. The data will be collected from the census at the Census Block level and aggregated up to Blockgroups for mapping.

Task 2: Configure DistrictBuilder for Dane County

Once the necessary demographic data has been collected, Provider will configure DistrictBuilder for district mapping of Dane County by members of the public. This configuration will include the following:

- a) Setting up a “project definition” for Dane County that defines district mapping rules for a fixed number of districts. The rules will be limited to enforcing 1) district contiguity and 2) a fixed threshold for deviation from the target population.
- b) Connecting the project definition to the data prepared from Task 1
- c) Configuring a link that routes a user to begin district mapping for Dane County

Once the Dane County project definition exists, users will be able to follow the link to begin mapping.

Task 3: Generate Map Reports

Provider will generate reports for Dane County to review the submissions during the public mapping period.

- a) Provider will develop a processing script to generate a summary report for maps created for Dane County.
- b) Provider will generate this report for Dane County up to three times throughout the public mapping period (e.g. two interim reports and one final report). Dane County may request additional reports as described in the Software Support Services section below.
- c) This report, provided in CSV format, will include a list of the maps submitted, including details such as the map name, user name, and link to the map. The link will allow the map and its details to be viewed in DistrictBuilder.
- d) To assist with organization and prioritization of submitted maps in the CSV, other fields such as metrics (contiguity, compactness), demographics (e.g. breakdown

of district population by race), create/last modified date, and number of saves can also be included if desired.

- e) In the report, the link for each map will be a URL that enables viewing the map in DistrictBuilder in a browser. From the map page, it will be possible to download a file, in CSV format, that shows each census block included in each DistrictBuilder-generated district. Each census block will be identified by 15-digit Block-level GEOID, as specified in the U.S. Census Bureau's "Understanding Geographic Identifiers (GEOIDs)" [<https://www.census.gov/programs-surveys/geography/guidance/geo-identifiers.html>]

Task 4: Training Webinar

To help Dane County users get started building their maps, Provider will provide a training webinar that explains DistrictBuilder features, workflows, and tips. This offering includes a live webinar lasting for up to two hours. The webinar will include two parts:

- a) an organized training and walkthrough and
- b) a DistrictBuilder Setup for Dane County informal Q&A session for attendees.

The webinar will be recorded and can be distributed afterwards to users not able to attend.

Task 5: Software Support Services

In addition to the above services, Provider offers additional support hours to provide assistance with troubleshooting issues, running additional reports, making minor tweaks to the system, and generally responding to requests not covered in the other items. The support period will begin upon delivery of the DistrictBuilder app and run for 12 months. Provider is providing a package of 20 prepaid support hours. If additional support hours are required, additional support packages may be purchased at the quoted rate.

Assumptions

- 1) The Dane County project creation workflow will be accessible via link from the Dane County website promoting the initiative. The Dane County mapping initiative will not be discoverable by users through browsing the app, but users who have already started a Dane County map will be able to see it listed with their maps.
- 2) To start mapping, users of DistrictBuilder are required to login using an account. The user will need to create an account with DistrictBuilder by providing their email address and a password.
- 3) The public mapping period may have defined start and end dates. DistrictBuilder will not restrict users from making submissions outside of these dates. However, valid submissions could be determined by create date and last modified date provided in the report.
- 4) The quote does not include configuration of political demographic data, e.g. voter registration or election results
- 5) During mapping users will have only the standard metrics offered by DistrictBuilder available to evaluate districts, including:
 - o Population
 - o Deviance from target population
 - o Contiguity
 - o Compactness (measured by the Polsby-Popper test)
 - o Demographics by race
 - White

- Black
- Asian
- Hispanic
- Other

- 6) For this project, DistrictBuilder assumes districts are to be contiguous and of equal population (within the tolerance threshold). DistrictBuilder cannot yet support complex district drawing criteria including but not limited to:
 - Contiguity overrides (e.g. allowing for non-contiguous districts due to geographical features)
 - Multi-member districts
 - Jurisdictional splits (e.g. restricting districts from splitting municipalities)
 - Other configurations that require districts to be non-contiguous or of unequal population
- 7) The reports for Task 3 will be generated by Provider upon request. No user interface will be provided for generating reports.
- 8) For demographic data, Provider plans to use data from the 2010 Decennial Census (PL 94-171), 2018 revision, although other data may be used if this is not viable.
- 9) The addition of features not part of the core DistrictBuilder application is not included in this quote. If additional features are required, Provider will require additional funding in addition to the quoted price.
- 10) Provider will not provide redistricting services as part of this project. Dane County releases Provider from any liability related to maps generated by users as part of this project.
- 11) At any given time, the use of DistrictBuilder is supported on the two most recent major versions of Chrome, Firefox, and Edge web browsers. Provider cannot guarantee that DistrictBuilder will be fully functional on older versions or other browsers.

Timeline

Tasks	September		October		November		December		Thru Nov 2021
Task 1: Data Preparation	X	X							
Task 2: Configure DistrictBuilder for Dane County		X	X	X					
Task 3: Generate Map Reports			X	X	X	X	X	X	
Task 4: Training Webinar				X					
Task 5: Support Services					X	X	X	X	X

SCHEDULE B

Pricing Structure and Payment

Tasks	Amount
Task 1: Data Preparation	\$ 6,530
Task 2: Configure DistrictBuilder for Dane County	6,451
Task 3: Generate Map Reports	4,867
Task 4: Training Webinar	1,000
Task 5: Support Services (20 Hours)	4,400
Labor Subtotal	\$ 23,248
DistrictBuilder License Fee	
DistrictBuilder License - 1 Year	\$ 8,750
DistrictBuilder License - 1 Year - Discount	(8,750)
License Subtotal	\$ --
Other	
Travel*	--
Hosting (12 months @ \$300 / month)	\$ 3,600
Other Subtotal	\$ --
Total	\$ 26,848

Payment Schedule

Tasks	Amount
Milestone 1: Begin data preparation	\$ 11,224
Milestone 2: Deliver access to DistrictBuilder with Dane County configuration	11,224
Milestone 3: Begin support period	4,400
Total	\$ 26,848

Invoices shall be sent to Invoices-plandev@countyofdane.com .

SCHEDULE C

Reports

No reports are required under this contract.

Schedule D Terms of Use

Terms of Use

The web site and web products, including Raster Foundry, Raster Vision, GeoTrellis, Temperate, DistrictBuilder, and OpenTreeMap web services (“Web Services”), are owned and operated by Azavea Inc. (“Azavea”, “we”, or “us”). By using the Site, any services provided on the Site, or data content we make available to you through the services (collectively, “Services”), you agree to be bound by the following Terms of Use, updated from time to time (collectively, the “Terms”). Please read them carefully. If you do not agree to these Terms, you may not use the Services.

User Accounts

In order to use most Services, you must register for a user account. When you use our application programming interfaces (APIs), each request to an API must include your account’s unique API keys. Unauthorized use of any API identifier is prohibited.

In using the Services, you agree that the account information you provide will be correct and kept current and up to date. Please carefully guard the security of your account and monitor the use of your API keys. You are responsible for all use of the Services under your account, whether or not authorized, including any use of your API keys. At our discretion, we may make limited exceptions to this policy for unauthorized use of your account if you notify us of the problem promptly.

You must be 13 years or older to use the Services. By registering as a user or providing personal information on the site, you represent that you are at least 13 years old.

If you are entering into this agreement on behalf of your company or another legal entity, you represent that you have the authority to bind that entity to these Terms, in which case “you” will mean the entity you represent.

Azavea Web Services

You must adhere to all policies posted within the Services and accompanying documentation. All such policies are hereby incorporated by reference into these Terms. Terms specific to an individual product may be provided as an addendum to this agreement. Where individual product terms contradict these general terms the product-specific terms supersede the general terms.

You agree to provide attribution when required, as outlined in Web Service documentation or as requested by Azavea.

Subject to these Terms, we grant you a non-exclusive, non-transferable, non-sublicensable, revocable license and right to:

- Manage, analyze and visualize data;
- Use the Services to develop online services and online, desktop, or mobile applications; and
- Make the Services available to end users in connection with their use of your publicly available online services and publicly available online, desktop, or mobile applications.

Unlawful and Unauthorized Uses

You agree to use the Services in compliance with all applicable laws, regulations and third-party agreements. Further, you agree that you are not, and are not controlled by an individual, organization, or entity organized or located in a country or territory that is the target of sanctions imposed, or on any restricted or sanctioned party list maintained by the U.S. Government, the European Union, or the United Kingdom.

You may not use the Services in any manner which could damage, disable, overburden, or impair the Services or interfere with any other party's use of the Services. You will follow all of the documentation we provide for the Services. You will not attempt to change the way the Services function. We may monitor your use of the Services for compliance with these rules, and we may limit your usage or deny you access at our discretion if you attempt to exceed the limitations we set or the parameters outlined herein.

You may not use the Services to:

- i. Disseminate or transmit material that is abusive, obscene, pornographic, defamatory,

- harassing, grossly offensive, vulgar, threatening, or malicious;
- ii. Aid or implement practices violating basic human rights or civil liberties. For the avoidance of doubt, you may not use the Services to assist in the creation of databases of identifying information for any government to abrogate any human rights, civil rights, or civil liberties of individuals on the basis of race, gender, gender identity, sexual orientation, religion, immigration status, or national origin;
 - iii. Disseminate, store, or transmit material that infringes the copyright, trademark, patent, trade secret, or other intellectual property right of any person;
 - iv. Create a false identity or to otherwise attempt to mislead any person as to the identity or origin of any communication;
 - v. Export, re-export, or permit downloading of any content in violation of any export or import law, regulation, or restriction of the United States and its agencies or authorities, or without all required approvals, licenses, or exemptions;
 - vi. Interfere, disrupt, or attempt to gain unauthorized access to other accounts or any computer network;
 - vii. Host, transmit, or provide us with Protected Health Information (as defined by the Health Insurance Portability and Accountability Act (HIPAA)), financial information (as regulated by the U.S. Financial Services Modernization Act), and information subject to export control or economic sanction laws;
 - viii. Use the Services for warfighting, surveillance, and related activities;
 - ix. Operate dangerous businesses such as emergency services or air traffic control, where use or failure of the Services could lead to death, personal injury, or significant property damage;
 - x. Disseminate, store, or transmit viruses, trojan horses, or any other malicious code or program;
 - xi. Use automated systems or software to extract or scrape data from the Services without a written license agreement; or
 - xii. Engage in any other activity deemed by Azavea to be in conflict with the spirit or intent of these Terms.

You may not modify, create derivative works from, reverse engineer, or attempt to derive any source code from the site's software, except as expressly permitted by a written license from us.

Privacy

Azavea respects your desire for privacy. By using the Web Services, you are agreeing to the terms and conditions of our Privacy Policy, a copy of which can be found

at <https://www.azavea.com/privacy-policy/>.

End Users and Notification

You may not allow your end users or other third parties to use the Services in any way that would be a violation of these Terms if done by you, and you agree to take reasonable efforts to prevent such use. You agree to promptly notify Azavea in writing if you become aware of any misappropriation or unauthorized use of the Services.

Charges and Payment

Some of the Services require payment. We may charge your credit card or send an invoice for payment on an ongoing basis in advance of providing Services or as needed for prepayments for your subscription fee, any applicable sales taxes, and any other charges you may incur in connection with your use of the Services. The subscription fee is billed in full on the first day of each billing period, unless and until you cancel your subscription.

We are not responsible for any bank fees, interest charges, finance charges, overdraft charges, or other fees resulting from charges billed by Azavea. Currency exchange settlements will be based on agreements between you and the provider of your credit card.

All charges are non-refundable unless expressly stated otherwise, or otherwise provided by applicable law.

Ownership

Your Content

You retain ownership of all content and data that you contribute to the Services (“Your Content”), excluding any content that you receive from Azavea.

We will never sell Your Content. We do not distribute Your Content other than for the purpose of providing the service or for technical support directly related to the service. Azavea will not access, use or disclose Your Content without your permission, except as reasonably necessary to provide customer support to you, to configure and troubleshoot your account or for any other purpose authorized by you.

For the limited purpose of providing the Services to you, you hereby grant Azavea a non-

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- OpenStreetMap Open Database License:
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You may cancel your use of the Service at any time. However, we do not give prorated refunds for unused time, data, or API credits.

If you breach any of these Terms, we may immediately without notice cancel or suspend your account and the limited license granted to you hereunder automatically terminates, without notice to you. Upon termination of the limited license, you agree to immediately destroy any materials downloaded from the Services. In addition, Azavea may cancel or suspend your account for any reason by providing you 90 days' advance notice.

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Changes to Services or Terms

We may modify these Terms and other terms related to your use of the Services (like our privacy policy) from time to time, by posting the changed terms on the site. All changes will be effective immediately upon posting to the site unless otherwise specified. Changes will not apply retroactively. Please check these Terms periodically for changes. Your continued use of the Services after new terms become effective constitutes your binding acceptance of the new terms.

We may change the features and functions of the Services, including APIs. It is your responsibility to ensure that calls or requests you make to the Services are compatible with then-current APIs. We attempt to avoid changes to our APIs that are not backward compatible, but such changes may occasionally be required. If that happens, we will use reasonable efforts to notify you prior to deploying the changes.

Mobile Applications

These Terms apply to all mobile applications that use the Services. You agree that Azavea may collect technical data and related information about your device, system and application software, and peripherals to support the Services and updates or improvements to the Services. Azavea agrees to not use or distribute the information in a way that personally

identifies the user from whom it was gathered.

Use of Service for Real-Time Navigation

You acknowledge that the Services enable the visualization and analysis of location data to produce dynamic maps and other visualizations that can be used to provide directions and similar results for a variety of commercial and consumer applications. Neither Azavea nor its suppliers are responsible for any damages arising out of, relating to or that result from your use of the Service, on its own or integrated with (or otherwise made a part of) any other software, sensors (or other hardware) or data to:

- provide real-time, turn-by-turn navigation for a vehicle of any type, whether automatically or autonomously (such as in an autonomous or semi-autonomous vehicle) or through voice-activated or other prompts, (such as those provided in connection with satellite navigation devices), or
- display a dynamic or static map or visualization on a moving vehicle of any type.

Furthermore, you hereby agree to indemnify us pursuant to the Indemnification section below for any claims that arise from such use.

Indemnification

You agree to indemnify and hold harmless Azavea and its subsidiaries, affiliates, officers, agents, partners, and employees from any claim or demand, including reasonable attorneys' fees, arising out of:

- Your use of the Services;
- Your violation of these Terms;
- Your end users' use of the Services in or through an application or service you provide; and
- Content you or your end users submit, post to, extracts from, or transmit through the Services.

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Limitation of Liability. UNDER NO CIRCUMSTANCES, AND UNDER NO LEGAL THEORY, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, SHALL AZAVEA OR ITS CUSTOMERS AFFILIATES, CONTRACTORS, EMPLOYEES, AGENTS, OR THIRD PARTY PARTNERS OR SUPPLIERS, BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, DATA, OR USE OR COST OF COVER) ARISING OUT OF OR RELATING TO THESE TERMS OR THAT RESULT FROM YOUR USE OR THE INABILITY TO USE THE SITE, INCLUDING SOFTWARE, SERVICES, MAPS, CONTENT, YOUR SUBMISSIONS, OR ANY THIRD-PARTY SITES REFERRED TO ON OR BY THE SITE, EVEN IF AZAVEA OR AN AZAVEA AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Limitation of Damages. IN NO EVENT SHALL THE TOTAL LIABILITY OF AZAVEA OR ITS CUSTOMERS, AFFILIATES, CONTRACTORS, EMPLOYEES, AGENTS, OR THIRD-PARTY PARTNERS, LICENSORS, OR SUPPLIERS TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION ARISING OUT OF OR RELATING TO THESE TERMS OR YOUR USE OF THE SITE (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, OR OTHERWISE) EXCEED THE GREATER OF ONE HUNDRED DOLLARS (\$100 USD) OR FEES PAID IN THE PRECEDING TWELVE (12) MONTHS.

Claim Period. YOU AND AZAVEA AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF THESE TERMS OR RELATED TO AZAVEA MUST COMMENCE WITHIN 90 DAYS AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

Digital Millennium Copyright Act Compliance

If you are a copyright owner or an agent thereof, and believe that any user submission or other Azavea content infringes upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act (“DMCA”) by providing our Copyright Agent with the following information in writing (see 17 U.S.C § 512(c)(3) for further detail):

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
2. Identification of the copyrighted work claimed to have been infringed, or, if multiple

copyrighted works on Azavea are covered by a single notification, a representative list of such works from Azavea;

3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Azavea to locate the material;
4. Information reasonably sufficient to permit Azavea to contact the complaining party, such as an address, telephone number, and, if available, an email address;
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
6. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

The designated Copyright Agent to receive notifications of claimed infringement is: Azavea Inc Tel: +1 215.925.2600 Email: info@azavea.com

Additional Terms

You may not encourage others to violate these Terms, including by selling products or services that would violate these Terms if the products or services are used in their intended manner.

You may not create multiple accounts for the purpose of increasing the free services that you receive under a Services plan. Except as provided in these Terms, the license and right to use the Services is granted only to you and may not be transferred to anyone without the prior written consent of Azavea. These Terms shall benefit Azavea and its successors and assignees.

You shall not assign these Terms or any right, interest or benefit hereunder without the prior written consent of Azavea, which may be withheld for any reason or no reason at all. Azavea may assign (i) these Terms to an affiliate, (ii) these Terms or any right, interest or benefit hereunder to a third party in connection with a collection proceeding against you, and (iii) these Terms in their entirety to its successor in interest pursuant to a merger, acquisition, corporate reorganization, or sale of all or substantially all of that party's business or assets to which these Terms relate.

These Terms are governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without giving effect to any principles of conflicts of law. Any action arising out of or relating to these Terms must be filed in the state or federal courts for Philadelphia County, Pennsylvania, USA, and you hereby consent and submit to the exclusive personal jurisdiction and venue of these courts for the purposes of litigating any such action.

A provision of these Terms may be waived only by a written instrument executed by the party entitled to the benefit of such provision. The failure of Azavea to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. Azavea reserves all rights not expressly granted to you.

If any provision of these Terms is held to be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions. Headings are for convenience only and have no legal or contractual effect.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and Azavea as a result of these Terms or your use of the Services. You further acknowledge no confidential, fiduciary, contractually implied, or other relationship is created between you and Azavea other than pursuant to these Terms.

Changelog

10/18/2013:

- Initial publication

4/21/2014:

- Added terms related to use of mobile apps and updated section on unacceptable use
- Added GeoTrellis to covered services
- Added specific Third Party Content terms

10/24/2016:

- Changed privacy clause to reference separate privacy web page

4/2/2017:

- Added Raster Foundry to covered services
- Revised CARTO company name and link
- Added section for Use of Service for Real-Time Navigation
- Revised License section
- Revised User Submitted Content section under Intellectual Property Rights
- Moved Indemnification from User's Obligations to a separate section
- Revised Indemnification section
- Allowed for additional terms that may be specific to a particular product

10/21/2017:

- Updated list of unacceptable uses

4/15/2018:

- Added Temperate to covered services

5/22/2018:

- Added Charges and Payment and End Users and Notifications sections
- Added Feedback section
- Changed "User" to "You"
- Replaced Ownership section
- Added minimum age 13

1/2/2019:

- Moved current contact information from Additional Terms to User Accounts
- Removed Mapbox and Stamen maps from third party content list
- Reorganized and reworded Ownership section
- Added requirement to use documentation and allow for monitoring and limitation if not in compliance
- Added a restriction against scraping the content of a database