



Board of County Commissioners Agenda Request

3A
Agenda Item #

Requested Meeting Date: September 13, 2016

Title of Item: Approve Data Cloud Solutions, LLC Testing Agreements

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input checked="" type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft)	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing* <small>*provide copy of hearing notice that was published</small>
Submitted by: Mike Dangers, County Assessor		Department: County Assessor
Presenter (Name and Title): Mike Dangers, County Assessor		Estimated Time Needed: 10 minutes
Summary of Issue: <p>Aitkin County is a member of the joint powers organization Minnesota Counties Information Systems (MCIS). Our property tax and computer aided mass appraisal (CAMA) systems are owned by MCIS. The county assessors in MCIS member counties wish to enter into an agreement with Data Cloud Solutions to test a mobile data collection program. This program would be used by staff appraisers to collect property data when doing field inspections.</p> <p>There are two separate agreements attached. One is for the data access and use and the other is for confidentiality. These agreements are solely for the testing of the product. New agreements will be drafted if MCIS or the County wishes to move forward with purchasing the product.</p> <p>These agreements have been reviewed by both the Aitkin County Attorney's Office and the MCIS Attorney. The costs associated with the testing will very likely be paid for by MCIS. I can elaborate on this during the presentation.</p> <p>Please contact Mike with any questions.</p>		
Alternatives, Options, Effects on Others/Comments: 		
Recommended Action/Motion: The action requested is a motion to sign the agreements as presented.		
Financial Impact: Is there a cost associated with this request? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No What is the total cost, with tax and shipping? \$ Is this budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Please Explain:</i>		

Legally binding agreements must have County Attorney approval prior to submission.



DATA ACCESS AND USE AGREEMENT

This Agreement is between Data Cloud Solutions, LLC, an Ohio Limited Liability Company (“DCS”), the Minnesota Counties Information Systems (“MCIS”) a governmental entity and its undersigned member counties, political subdivisions of the State of Minnesota, (hereinafter “Member Counties”) and shall govern the conditions of disclosure of data to DCS by MCIS and its undersigned Member Counties; and

WHEREAS, Member Counties and MCIS will be providing DCS access to government data for the purpose of DCS developing a pilot program to enable MCIS and the Member Counties to evaluate the services and program features that they are considering purchasing from DCS; and

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the parties agree as follows:

1. **Data Privacy.**

- a. **Government Data.** All data collected, created, received, maintained, or disseminated in any form, by DCS from MCIS or the Member Counties are governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (as amended) (“MGDPA”), the Minnesota Rules promulgated pursuant to the MGDPA, and/or other applicable State and Federal laws.
- b. **Response to Requests for Data.** All data requests under the MGDPA are to be responded to by the Member County as the responsible authority for the data. Any requests for data, or for changes, additions or deletions to data, received by DCS from a third-party shall be forwarded to Member County for response.
- c. **Notice of Requests for Access to Data.** DCS shall provide MCIS and the affected Member County with oral and written notice within 24 hours of receipt of any subpoena, order or requests for government data that is in its possession under the provisions of this Agreement.
- d. **Need to Know.** DCS agrees that only those employees whose job duties reasonably require access to the government data under this Agreement shall be allowed access. DCS shall adopt appropriate security protocols to ensure that only employees and agents of DCS who have a legitimate business reason for accessing government data under the Agreement will be provided access to such data.
- e. **MCIS and Member County Access to Data.** DCS acknowledges and agrees that MCIS and the Member Counties have the right to communicate with DCS’s staff about the services provided pursuant to the Agreement and to access any and all data relating to the services, including, but not limited to, MCIS and County data stored by DCS pursuant to the Agreement.



2. **Data Security.** It is of paramount importance that the data of MCIS and the Member Counties accessed and/or maintained by DCS is secure.
 - a. DCS agrees that its security will be a “True Level 30” at minimum, and preferably at Level 40. DCS agrees to take all reasonable steps to protect the security of all government data collected, created, received, or maintained under the terms of this Agreement.
 - b. DCS specifically is responsible for storing all data collected, created, received, and maintained by each Member County pursuant to this Agreement on separate servers and other physical and electronic storage media from data collected, created, received, or maintained by any other client(s) of DCS, or any other data collected, created, received, or maintained from or on behalf of any other individual or entity, including other Member Counties.
 - c. DCS shall notify MCIS and the affected Member County immediately, but no later than one business day, after receiving information that the security of any data collected, created, received, or maintained for any purpose of this Agreement has been compromised, that any such data has been stored in any physical or electronic storage media with other data not subject to this Agreement, or that any such data has been improperly disclosed.
3. **State Auditing.** To the extent required by Minnesota Statutes, Section 16C.05, subdivision 5 (as amended), the books, records, documents, and accounting procedures and practices of DCS and its employees, owners, agents, or representatives relevant to this Agreement shall be made available and subject to examination by the County and the State of Minnesota for a minimum of six (6) years from the end of this Agreement.
4. **Indemnification.** DCS agrees to indemnify, save, and hold harmless, the Member Counties and MCIS and their current and former Board members, employees, elected officials, officers, attorneys, insurers, and agents from any and all claims, damages, demands, causes of action, and liability of any nature, including attorneys’ fees and punitive damages, arising from or in any manner attributable to any actual or alleged violation of the MGDPA or other applicable State or Federal law, as well as common law claims, regarding the privacy of data collected, created, received, maintained, or disseminated by DCS or its officers, directors, employees, or other agents pursuant to the Agreement. DCS also agrees to indemnify the Member Counties and MCIS against any legal fees and disbursements incurred by the Member Counties and MCIS to enforce the provision of this Section.
5. **Severability:** In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid, or unenforceable, such provisions shall be limited or eliminated only to the extent necessary to preserve the validity of this Agreement. This Agreement shall otherwise remain in full force and effect.



6. **Governing Laws:** This Agreement shall be governed and interpreted by the substantive laws of the State of Minnesota.
7. **Waiver:** No waiver shall be effective unless it is set forth in a written instrument executed by the party waiving a breach or default hereunder. No consent to, or waiver of, any breach or default in the performance of any obligation hereunder shall be deemed or construed to be a consent to, or waiver of, any other breach or default in the performance of the same or any other obligation hereunder. Failure on the part of any party to complain of any act or failure to act of any other party or to declare any other party in default of any obligation hereunder, irrespective of how long such failure continues shall not constitute a waiver of rights hereunder.
8. **NOTICE.** Notice required or permitted to be given under this Agreement shall be in writing, signed on behalf of the party providing notice, and deemed received (1) upon receipt if personally delivered; or (2) the next business day if sent by messenger or reputable overnight courier. Notices shall be sent to the following addresses:
 - a. Executive Director
Minnesota Counties Information Systems
413 S.E. 7th Ave.
Grand Rapids, MN 55744
 - b. MCIS Executive Director will distribution to member Counties
9. **EXECUTION.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and to constitute one and the same instrument. Electronic copies shall be considered originals.
10. **MISCELLANEOUS.** This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, documents and proposals. Any amendment or modification to this Agreement shall not be valid unless such amendment or modification is in writing, signed by authorized representatives, and references this Agreement.




Minnesota Counties Information Systems
413 SE 7th Avenue, Grand Rapids, MN 55744
Phone 218-326-0381

**DATA ACCESS AND USE AGREEMENT
SIGNATURE PAGE**


DATA CLOUD SOLUTIONS, LLC

Dated: 7/11/2016

By: 
Daniel T. Anderson
President
P.O. Box. 2194
Springfield, OH 45501

**MINNESOTA COUNTIES
INFORMATION SYSTEMS**

Dated: 7/21/2016

By: 
Lyle Eidelbes
413 SE 7th Avenue
Grand Rapids, MN 55744

Dated: _____

_____ COUNTY
By: _____

Printed Name: _____

Address: _____



DATA CONFIDENTIALITY AGREEMENT

This Agreement is between Data Cloud Solutions, LLC, an Ohio Limited Liability Company (“DCS”), the Minnesota Counties Information Systems (“MCIS”) a governmental entity and its undersigned member counties, political subdivisions of the State of Minnesota, (hereinafter “Member Counties”) and shall govern the conditions of disclosure of DCS data/intellectual property to MCIS and its undersigned Member Counties.

For the purposes of this agreement, “Not Public Data” shall mean any data that is classified as confidential, private, nonpublic, or protected nonpublic data pursuant to Minnesota Statutes Chapter 13. Non-public data includes trade secrets as defined in Minnesota Statutes section 13.37.

1. In consideration of DCS disclosing and using its intellectual property/trade secrets to provide services to MCIS and its Member Counties, MCIS and the Member Counties agree as follows with respect to the Not Public Data disclosed them by DCS (hereinafter “Not Public Data):
 - (a) It will not be used except for the purpose of evaluating a potential agreement or transaction between the parties or as required by such agreement or transaction (“Purpose”).
 - (b) It will be held in confidence and with the same reasonable precautions as are taken with respect to the not public data of MCIS and the Member Counties.
 - (c) It shall not be disclosed to any person or entity except as authorized by law, or as ordered by a court, or by the prior written permission DCS as the trade secret holder, except to the employees, affiliates, consultants or agents whose duties or responsibilities reasonably require access; and
 - (d) It will not be copied or reverse engineered, except for duplication as is necessary for the Purpose.



2. Trade secrets that would otherwise constitute Not Public Data shall not include data that MCIS or the Member County can document and show by written evidence:
 - (a) is already in its/their possession;
 - (b) is lawfully disclosed to it by a party other than DCS without, to MCIS or the Member County's knowledge after inquiry, violation of DCS's legal rights;
 - (c) is developed by employee(s) of MCIS or the Member County do not have knowledge of or access to the Not Public Data provided by DCS; or
 - (d) is or has generally become available to the public without violation hereof.
3. It is further agreed that the furnishing of Not Public Data under this Agreement shall not constitute any grant, option or license to MCIS or Member Counties under any patent, option, license or other right now or hereafter held by DCS or any of its affiliates.
4. MCIS and Member Counties will treat any Not Public Data received from DCS prior to the execution of this Agreement in accordance with this Agreement.
5. At DCS's request, MCIS and Member Counties will promptly return all copies of Not Public Data which have been provided to MCIS and the Member Counties and will destroy all other copies under their control, in whatever media, except as required by the Minnesota Records Retention Act or other law.
6. MCIS and the Member Counties may make disclosures required to comply with applicable laws or regulations, or with a court or administrative order. MCIS and/or the affected Member County shall provide MCIS written notice of any subpoena, order or requests for Not Public Data in its possession which it received from DCS. DCS specifically understands and agrees that all data in the possession of MCIS and the Counties is considered to be government data and is subject to the provisions of the Minnesota Government Data Practices Act, as amended.
7. MCIS and the Member Counties shall notify DCS in writing immediately upon becoming aware of the occurrence of any unauthorized release of Not Public Data under this Agreement.



Minnesota Counties Information Systems

413 SE 7th Avenue, Grand Rapids, MN 55744
Phone 218-326-0381

8. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid, or unenforceable, such provisions shall be limited or eliminated only to the extent necessary to preserve the validity of this Agreement. This Agreement shall otherwise remain in full force and effect.
9. This agreement shall be governed and interpreted by the substantive law of the State of Minnesota.
10. No waiver shall be effective unless it is set forth in a written instrument executed by the party waiving a breach or default hereunder. No consent to or waiver of any breach or default in the performance of any obligation hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance of the same or any other obligation hereunder. Failure on the part of any party to complain of any act or failure to act of any other party or to declare any other party in default of any obligation hereunder, irrespective of how long such failure continues shall not constitute a waiver of rights hereunder.
11. All notices and other communications which are required or permitted under the terms or conditions of this Agreement, shall be in writing and sent by overnight courier or registered or certified mail, postage prepaid, to the receiving party at the address herein or at any other address that the receiving party may have provided to the sending party in writing as provided herein. Any notice or other communication sent by overnight courier shall be deemed to have been received on the day after it is sent, if a business day, and on the next succeeding business day, if not. Any notice or other communication sent by registered or certified mail shall be deemed to have been received on the date received.
12. This Agreement constitutes the entire agreement and understanding between the parties, superseding any prior understandings, commitments or agreements, oral or written, with respect to Not Public Data disclosed by DCS. Any changes to this Agreement must be in writing and signed by the parties hereto.

performance of the same or any other obligation hereunder. Failure on the part of any party to complain of any act or failure to act of any other party or to declare any other party in default of any obligation hereunder, irrespective of how long such failure continues shall not constitute a waiver of rights hereunder.

11. All notices and other communications which are required or permitted under the terms or conditions of this Agreement, shall be in writing and sent by overnight courier or registered or certified mail, postage prepaid, to the receiving party at the address herein or at any other address that the receiving party may have provided to the sending party in writing as provided herein. Any notice or other communication sent by overnight courier shall be deemed to have been received on the day after it is sent, if a business day, and on the next succeeding business day, if not. Any notice or other communication sent by registered or certified mail shall be deemed to have been received on the date received.
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Minnesota Counties Information Systems
 413 SE 7th Avenue, Grand Rapids, MN 55744
 Phone 218-326-0381

**DATA CONFIDENTIALITY AGREEMENT
 SIGNATURE PAGE**


DATA CLOUD SOLUTIONS, LLC

Dated: 6/30/2016

By: 
 Daniel. T. Anderson
 President
 P.O. Box. 2194
 Springfield, OH 45501

**MINNESOTA COUNTIES
 INFORMATION SYSTEMS**

Dated: 7/21/2016

By: 
 Lyle Eidelbes
 413 SE 7th Avenue Grand
 Rapids, MN 55744

_____ COUNTY

Dated: _____

By: _____

Printed Name: _____

Address :