

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. DEPARTMENT OF THE INTERIOR
OF THE
UNITED STATES OF AMERICA
AND
THE OPEN SOURCE GEOSPATIAL FOUNDATION

The U.S. Department of the Interior of the United States of America (hereinafter “DOI”) represented by Thomas Dabolt, Geospatial Information Officer (GIO),
Department of the Interior

And

The Open Source Geospatial Foundation (hereinafter “OSGeo”), represented by Venkatesh Raghavan, President, Open Source Geospatial Foundation. Throughout this Agreement, each party may be referred to individually as “a Party,” and both parties may be referred to jointly as “the Parties.”

1. Background. The mission of the Department of the Interior is to protect and manage the Nation's natural resources and cultural heritage; provide scientific and other information about those resources; and honor its trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated Island Communities. The mission of the Open Source Geospatial Foundation is to foster global adoption of open geospatial technology by being an inclusive software foundation devoted to an open philosophy and participatory community driven development.

2. Objectives. The Parties share a mutual interest in the importance of geospatial data, tools for processing geospatial data, need for educational materials for teaching geospatial processing, and need to provide geospatial data products to the public in open and fully

documented data formats. This Memorandum of Understanding (MOU) establishes the framework for coordination and cooperation between the DOI and OSGeo on the topics of publicly documented open geospatial data formats, effective use of open source geospatial software, and the sharing of educational resources concerning open source geospatial software to disseminate scientific and other information about the Nation's natural resources. The purpose of this MOU is to formalize a non-binding relationship between the Parties to expand public access to geospatial data

3. Authority. The Department of the Interior and U.S. Geological Survey (USGS) enter into this MOU under the authority of the Organic Act of March 3, 1879 (43 U.S.C. § 31 et seq.); the E-Government Act of 2002 (Dec. 17th 2002, Section 209(b), Pub. L. No. 107-347, Section 214, Pub. L. No. 107-347, Section 216, Pub. L. No. 107-347); OMB Circular Nos. A-16, A119; Economy Act of 1932, as amended (31 U.S.C. § 1535); and Exec. Order No. 12906, 3 C.F.R. 17671 (1994).

4. Procedures and Responsibilities of the Parties. This MOU serves as an umbrella agreement that sets forth the general terms and conditions under which the Parties will coordinate and cooperate in activities involving geospatial information, remote sensing, in situ monitoring, and scientific analysis, investigations, and research. The responsibilities to be implemented include, but are not limited to:

1. DOI will endeavor to coordinate with OSGeo on effective use of publicly documented open geospatial data formats for the general dissemination of geospatial data.
2. OSGeo will endeavor to coordinate with DOI on the effective and secure use of open source geospatial software.
3. DOI will endeavor to coordinate with OSGeo on the effective use of vendor-independent formats and software by designating subject matter experts within DOI as points of contact with the different OSGeo projects.
4. DOI will endeavor to share any open source geospatial training materials created internally with the OSGeo projects that are the subject of the training materials, to be distributed on the OSGeo project websites as appropriate.
5. OSGeo will endeavor to provide infrastructure for sharing open source code and training materials.
6. OSGeo shall endeavor to coordinate with DOI personnel and subject matter experts to facilitate open source contribution, participation and collaboration.

5. Definitions.

a. Geospatial Information: The term “geospatial information” means information that identifies the geographic location and characteristics of natural or constructed features and includes-

1. Imagery: The term "imagery" means, except as provided in subparagraph (a.l.iii), a likeness or representation of any natural or constructed features or related object or activity and the positional data acquired at the same time the likeness or representation was acquired, including:

- i. Products produced by space-based national intelligence reconnaissance systems; and
- ii. Likeness and representations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means.
- iii. Such term does not include handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.

2. Statistical data and information derived from, among other things, remote sensing, mapping, surveying technologies, in situ monitoring, and scientific analysis, investigations, and research; and

3. Mapping, charting, geodetic data, and related products.

b. Remote Sensing: The term "remote sensing" refers to the acquisition or collection of information from a distance, as from an aircraft or space, using active and passive technologies to exploit the electromagnetic spectrum.

c. In-situ monitoring: The term "in situ monitoring" refers to observations and associated measurements obtained in place at a location on the earth's surface through direct contact or interaction with an object or phenomena; this is in direct contrast with studying the object or phenomena from a distance or remotely.

d. Scientific Analysis, Investigations, and Research: The terms "scientific analysis, investigations, and research" refer to the examination of geographic, geologic, hydrologic, and biologic processes in order to model and improve understanding and predictive capability necessary to prepare for, mitigate, respond to, and recover from natural and man-made hazards.

- e. Subject data means data that was first recorded in the performance of the MOU.

6. Implementation.

- a. Implementation of this MOU shall be supported by annexes and will be coordinated between the DOI Geospatial Information Officer (GIO) and the Director of OSGeo or their designated representatives and mutually agreed upon in writing.
- b. The Parties will review all existing agreements between the DOI and OSGeo and their predecessor organizations with the intent to terminate, revise, consolidate, and/or incorporate as annexes to this MOU, where possible, such agreements pertaining to the areas of cooperation covered by the scope of this MOU.
- c. Each of the Parties shall implement their responsibilities under this MOU as to the covered entities under their jurisdiction through such binding regulations, orders, directives, and guidance as necessary or prudent from time to time.
- d. The specific relationships and responsibilities with regard to the cooperative activities covered under the scope of this umbrella MOU shall be further defined in subsequent implementing annexes to this MOU.

7. Financial Arrangements.

- a. This MOU is neither a fiscal nor funds obligation document. Any activities involving reimbursement or contribution of funds between the Parties of this MOU will be handled in accordance with applicable federal laws, regulations, and procedures. Such activities will be documented in annexes, with specific projects between the Parties mutually agreed upon in writing. The separate annexes will reference this MOU. This MOU does not establish authority for a noncompetitive award among the Parties for any contractor or other agreement.
- b. This MOU defines in general terms the basis on which the Parties will cooperate, and as such, does not constitute a financial obligation to serve as a basis for expenditures. Expenditures of funds, human resources, equipment, supplies, facilities, training, public information, and expertise will be provided by

each signatory Party to the extent that their participation is required and resources are available. Each Party shall separately assign personnel, equipment, supplies, transportation, and facilities, as needed and available to meet respective responsibilities hereunder, such resources to remain the property of the assignor.

- c. This MOU in no way restricts the Parties from participating in similar activities with other public or private agencies, organizations, or individuals.
- d. This MOU does not obligate the Parties to expend appropriations on any particular project or purpose or to enter into any agreements, contracts, or other obligations, even if funds are available. This MOU does not commit the Parties to enter into any specific agreements for the purposes of this MOU. Projects involving cost sharing or reimbursable funding between the Parties must be authorized in a separate, follow-on agreement(s) based on appropriate statutory authorities.
- e. Nothing in this agreement may be interpreted to imply that the United States or the Department of the Interior, endorses any OSGeo product, service, or policy of OSGeo. OSGeo shall not in any way state or imply that this MOU or the results of this MOU are an endorsement of the United States or the Department of the Interior organizational units, employees, products, or services.

8. Change, Modification, and Review.

- a. This MOU and any subsequent implementing annex(es) will be reviewed at least every two years after the date of the last signatory by the Directors of the Parties or their designated offices acting.
- b. Signers of this MOU and their duly appointed successors may initiate discussion to recommend review, update, or modification of this MOU at any time.
- c. During review, all Parties shall determine the continued applicability of this MOU and continuing relevance of its provisions.

- d. Changes and/or modifications to this MOU shall be in writing and signed by the Directors of the Parties or that Party's Authorized Agent of their designated offices acting within the scope of their authority.
- e. Annexes can be added, modified, or deleted at any time upon joint approval by the Director of the Parties or their designated offices. No modification, renewal, extension, waiver, or termination of this MOU or any of its articles shall be binding upon the Party against whom enforcement of such modification, renewal, extension, waiver, or termination is sought, unless made in writing and signed on behalf of such Party or by that Party's Authorized Agent.
- f. No oral statement by any person from either Party shall be interpreted as modifying or otherwise affecting the terms of this MOU.
- g. All requests for interpretation or modification shall be made in writing.

9. Termination.

- a. This MOU may be terminated at any time, by any Party, with or without cause, and without incurring any liability or obligation to the terminated Party (other than payment of amounts due and owing and performance of obligations accrued, in each case on or prior to the termination date) by giving the other Party at least one hundred-eighty (180) calendar days prior written notice of termination.
- b. Upon receipt of a notice of termination, the receiving Party shall take immediate steps to stop the accrual of any additional obligations, which might require payment.
- c. In the event of termination of this MOU, or any subsequent implementing Annex, the following rules shall apply:
 - 1. All Parties agree to prepare a mutually agreed to "Termination Protocol," which shall include procedures for satisfying all obligations arising during the period the MOU or any subsequent implementing Annex was in force;

2. All Parties shall continue participation, financial or otherwise, up to the effective date of termination. Each Party shall pay the costs it incurs as a result of the termination; and
 3. Termination of the MOU terminates all subsequent implementing Annexes and Appendices, which may later come into force.
 4. If any Party unilaterally terminates participation to this MOU pursuant to Article 9(a), each Party shall return to the other or destroy, as shall be then agreed, any and all data and materials originated or provided by one Party to the other that is still in the receiving Party's possession within 30 days of termination, unless the Parties agree otherwise.
- d. The obligations of any clause of this MOU that were intended to survive the period of performance, for example, Articles 10 and 13 shall also survive any termination of this MOU.

10. Protection of Information & Publication.

- a. For Official Use Only (FOUO)/ Sensitive Information identifies unclassified information of a sensitive nature that unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national interest. This also includes trade secrets or commercial, financial or proprietary information that is privileged or confidential under the meaning of 5 USC § 552(b)(4) and/or 35 USC § 205, provided that such information is not generally known or available from other sources without obligation concerning its confidentiality; has not been made available by the owners to others without obligation concerning its confidentiality; and is not already available to the government without obligation concerning its confidentiality. Proprietary information includes classified information or Controlled Unclassified Information (CUI). All classified information and CUI is protected from disclosure under U.S. law. All CUI that is introduced or generated in the performance of this MOU shall be properly marked and safeguarded. The Parties will appropriately identify any FOUO/Sensitive, proprietary, privileged, or otherwise restricted data and information before transfer takes place and will document all data transfers by their standard internal means.

- b. The Parties agree that they shall take appropriate measures to protect proprietary, privileged, or otherwise restricted data and information that may come into their possession as a result of this MOU.
- c. All data and information approved for public release transferred among the Parties will be identified for public release, in accordance with the internal regulations and/or guidance of the originating Party.
- d. Publications or presentations documenting the cooperative efforts may be prepared by either Party, or jointly, provided that Parties have an opportunity to review manuscripts prior to publication. The DOI and OSGeo agree to confer and consult at least 30 days prior to a Party's submission for presentation and/or publication of subject data to assure that no proprietary information or protected information, such as, classified information or Controlled Unclassified Information (CUI) is released and that patent rights are not jeopardized. The Party receiving the document for review has 30 days from receipt to object in writing, detailing the objections to the proposed submissions. Neither DOI nor the OSGeo will make editorial changes to the portions of joint documents drafted by the other Party without full knowledge and consent of the other Party. The draft may be submitted for publication or presentation upon receipt of the Party's written comments or upon expiration of the review period with no comments received from DOI or OSGeo.
- e. To the extent possible, decisions involving authorship, review of reports, and other conditions and circumstances will be addressed during the preparation of annexes referencing the MOU.
- f. Should technical differences of viewpoint occur on cooperative activities, an effort will be made to reconcile them by both Parties. However, this shall not prohibit a Party from publishing the data or information after the 30-day review by the other Party provided the publishing Party assumes sole responsibility and gives appropriate credit to the other Party.
- g. The Parties agree that sharing credit is mutually beneficial, and will make every effort to assure that appropriate citation and attribution, including the use of official agency visual identifiers, is given for work performed under this MOU.
- h. Publicity and public information products, including news releases, reports, briefing papers, or other information products, are subject to the same terms and conditions as other publications as stated above. Any press releases

resulting from this MOU must be coordinated with the DOI Office of Communications.

- i. Any commitment of either Party to preserve the confidentiality of information is subject to applicable United States laws and regulations.
- j. The Parties intend that any intellectual property that is owned or controlled by a Party prior to the commencement of cooperation under this MOU, or which is acquired or developed by either Party during this MOU, is to remain at all times owned or controlled by the said Party.

11. Disputes.

- a. Where possible, disputes will be resolved by informal discussion between the Parties. If the Parties are unable to resolve any disagreement through good faith negotiations, the dispute will be resolved by the Director of each Party.
- b. No one who is not a Party to this MOU has or shall have any rights whatsoever under this MOU to enforce any term of this MOU against the Parties for any action taken or not taken by them.

12. Construction.

- a. The Parties understand and agree that this MOU does not confer any legal rights, duties, or obligations on either Party and that this provision shall survive the termination of this MOU.
- b. The Parties understand and agree that this MOU is not subject to dispute in any forum outside of that forum provided in this MOU and that this provision shall survive the termination of this MOU.
- c. The Parties understand and agree that neither Party is authorized or empowered to act on behalf of the other with regard to any matter arising under this MOU and that this provision shall survive the termination of this MOU.

- d. The Parties understand and agree that neither Party shall be bound by the acts nor conduct of the other in connection with any activity governed by this MOU and that this provision shall survive the termination of this MOU.
- e. To the extent that this MOU provides for more expansive guidance than other authorities or agreements between the Parties, with the exception of statutes, or Presidential Directives including, but not limited to, Executive Orders and Presidential Directives, the more expansive provisions of this MOU shall be followed.
- f. In the event of any inconsistency between the terms of the MOU, the inconsistency shall be resolved by giving preference in the following order:
 - 1. The MOU;
 - 2. The Annexes;
 - 3. The Appendices.
- g. For the purposes of this MOU:
 - 1. "Shall" or "must" are used in an imperative sense;
 - 2. "May" is used in a permissive sense to state authority or permission to do the act prescribed;
 - 3. "Or" is used in the alternate and inclusive sense;
 - 4. "Nor" is used in the alternative and exclusive sense;
 - 5. "Including" means including, but not limited to.

13. Warranties. Neither Party makes any express or implied warranty as to any matter, nor any other provision, arising under this MOU, its Annexes, or its Appendices. The DOI shall be solely liable for the negligent or wrongful acts of its officers and employees to the extent provided for in the Federal Tort Claims Act (28 U.S.C. § 2671 et. seq.) and in other applicable laws and regulations of the United States that specifically waive sovereign immunity. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of the United States.

14. Signatories.

- a. The foregoing represents the Memorandum of Understanding between the U.S. Department of the Interior and the Open Source Geospatial Foundation upon the matters referred to herein.
- b. IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this MOU in duplicate and copies have been exchanged between Parties.

Thomas Dabolt
Geospatial Information Officer
Department of the Interior

Venkatesh Raghavan
President
Open Source Geospatial Foundation



Date _____

Date 25th September, 2017