



**WASHINGTON COUNTY
INFORMATION TECHNOLOGIES**
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WASHINGTON COUNTY DIGITAL SPATIAL DATA LICENSE AGREEMENT

THIS AGREEMENT is made by the Washington County GIS Office, Information Technology Department (the "Department") as the duly authorized representative of the Board of County Commissioners of Washington County, Maryland, a body corporate and politic and a subdivision of the state of Maryland (the "County"), and the Licensee of digital spatial data ("DSD") set forth below ("Licensee").

RECITALS

The undersigned Licensee requests the non-exclusive right to use a copy of certain DSD maintained by the Department.

Md. Code, State Government Article, Title 10, Subtitle 9, provides that the County may assess an administrative charge to license DSD, but such charges do not represent its true value.

NOW, THEREFORE, in consideration of the mutual conditions in this agreement, the Department and Licensee agree as follows:

1. RIGHTS GRANTED. The Department grants to Licensee the non-exclusive right to use the products listed on the attached order form until this agreement is terminated or expires under its terms. The Department shall furnish DSD on appropriate media. DSD is solely for the internal use of the Licensee and not for the use by any other person, unless authorized specifically in writing by the Department. METADATA is provided in accordance with the Federal Geographic Data Committee (FGDC) standard. A digital copy of the METADATA shall be maintained by the Licensee with the DSD for citations of credit. Rights to future updates are not part of this license agreement.

2. PERMITTED USE

a. *Copies*. Licensee may copy licensed data only for use by the Licensee or for backup purposes and not for use by any other person. The licensed product can be used in more than one computer system at any time, provided the systems are owned, leased or controlled by the Licensee.

b. *Derived Products.* Graphic displays and printed tabular listings derived from licensed data may be used in publications and presentations, provided that credit is given to the Department as the custodian of the data.

3. PROHIBITED USE

a. *Unauthorized Distribution.* Any sale, distribution, trade, loan, or offer for use of DSD, in whole or in part, is strictly prohibited.

b. *Reproduction of Products.* The reproduction of hard copy products, as provided by the Department, with the intent to sell or distribute the reproduction for a profit, is strictly prohibited.

c. *Notice of unauthorized Use.* Licensee agrees to promptly notify the Department of any unauthorized use of DSD.

4. PAYMENT UPON DELIVERY. Licensee shall pay all license fees before or upon delivery of the product to Licensee by the Department.

5. NO ASSIGNMENT. Licensee shall not assign the license without the express prior written consent of the Department. The permitted assignee shall have all the rights and remedies of the original Licensee, insofar as the same are assignable. Assignment shall be only as a whole and not as a part. Any attempted assignment without the express prior written consent of the Department is invalid and of no force or effect.

6. INDEMNIFICATION. Licensee shall hold harmless and indemnify the Department, the County and all of its agents and employees from any claim, suit, or proceeding arising out of the use of the licensed data in accordance with this agreement.

7. WARRANTIES AND LIABILITIES. The Department, the County, and the originator of DSD make no warranty, express or implied, as to the use or appropriateness of licensed DSD. The information contained in the licensed DSD is from publicly available sources, but no representation is made as to its accuracy or completeness. The licensed DSD is not provided as a substitute for the work of a registered land surveyor or engineer; property lines are not survey accurate and shall not be used as a legal description of any property. The Licensee covenants and agrees that it will not hold the Department or the County liable for human error, defect, or failure of machines, or any material used in the connection with the machines, including tapes, disks, and energy. The Department or the County shall not be liable for any lost profits, consequential damages or claims against the Licensee by third parties. The liability of the Department or the County for damages, regardless of the form of the action, shall not exceed the licensee fee paid for the DSD.

8. TERMINATION. This agreement shall terminate and the Licensee shall have no further right to licensed DSD if the Licensee attempts to assign its rights without the express prior written consent of the Department, delivers or attempts to deliver the

DSD to another person or entity, or fails to faithfully perform its obligations under this agreement. Termination by the Department shall not release the Licensee from its obligation to pay any fees required.

9. **DISCLAIMER.** The Department uses reasonable care in the preparation of DSD and distribution data disks for public requests. Distributed data is in “raw” format and is not a finished map product as seen in any publication of the Department. Data is provided “as is.” No assurance is given of suitability for any particular purpose. The County disclaims all liability for any problems, financial loss, or loss of business as a result of errors, inaccuracies, or invalid data. Licensee acknowledges this disclaimer and releases the Department, the County, the Washington County Planning Commission, and any and all agents and employees from any and all liability.

LICENSEE ACKNOWLEDGES AND AGREES THAT THERE ARE NO WARRANTIES, GUARANTEES, COVENANTS OR REPRESENTATIONS BY LICENSOR AS THE MARKETABILITY, FITNESS FOR PARTICULAR PURPOSE OR OTHER ATTRIBUTES, WHETHER EXPRESS OR IMPLIED (IN LAW OR IN FACT), ORAL OR WRITTEN.

10. **REMEDIES.** In the event of a breach or threatened breach of any of the provisions of this agreement by the Licensee or any employee, representative, or agent of the Licensee, the Department shall be entitled to preliminary and permanent injunctive relief to enforce the provisions hereof, but nothing shall preclude the Department from pursuing any action or other remedy, including damages for any breach or threatened breach of this agreement, all of which shall be cumulative.

11. MISCELLANEOUS PROVISIONS

a. *Applicable law.* This agreement shall be governed by the laws, and the parties shall be subject to the jurisdiction of the courts of the State of Maryland.

b. *Entire agreement.* This agreement represents the entire agreement between the parties and may not be modified, except in writing signed by the parties.

c. *Waiver.* Waiver of any breach of the terms and conditions in this agreement shall not be deemed to constitute a waiver of any other or future breach.

d. *Authority.* Persons whose signatures appear as or for the Licensee below represent that they are authorized to execute this agreement on behalf of the Licensee and further represent that the agreement is a legal, valid and binding obligation as to Licensee and enforceable in accordance with its terms.

e. *Acknowledgement.* Persons executing this agreement on behalf of the Licensee acknowledge having read this agreement and agree that Licensee shall be bound by its terms.

f. *Successors Bound.* This agreement shall bind, and the rights, benefits and advantages shall inure to, the successors and permitted assigns of each of the parties.

g. *Severability.* The invalidity of any section, subsection, clause or provision of this agreement shall not affect the validity of the remaining articles, sections, subsections, clauses or provisions hereof.

h. *City of Hagerstown Data.* The City of Hagerstown has provided digital parcel data that is incorporated into the DSD. This data covers the corporate area of Hagerstown. Credit shall be given to the City as required in section 2.b. The licensee agrees to the same disclaimer in respect to the city as stated above for the County.

Licensee signature

Date

Printed name of Licensee and Title

Name of Company or Organization

By: _____
John E. Gudmundson, GIS Manager
Washington County GIS Office
Information Technology Department

Date