

GIS DATA DISTRIBUTION POLICY

- A. Itasca County will distribute its GIS data to entities requesting such information in accordance with the county's fee schedule.
- B. Itasca County reserves the right to deny distribution of trade-secret data or any other protected data to any entity, public or private.
- C. Any applicable fees will be waived if the requesting agency is an incorporated Itasca County municipality or organized Itasca County Township.
- D. In cases where data is released to Municipalities or Townships, users of the data will be limited to personnel that represent or are directly employed by the Township or municipality.
- E. Itasca County shall require a signed license agreement before release of GIS data to any entity.
- F. Itasca County will distribute updates to recipients of the county's GIS data at the request of the recipient for a fee set forth in the County's fee schedule.
- G. Either the Itasca County Surveyor or GIS Coordinator can execute license agreements on behalf of the County Board if the value of the data being distributed is less than \$5000. If the value of the data exceeds \$5000, the County Board will act on the request. The chairman of the County Board will sign the license agreement if the board decides to release data that has a value in excess of \$5000.
- H. Either the Itasca County Surveyor or GIS Coordinator can waive fees as set forth in the County's fee schedule in cases where the County trades its data for data that is deemed to be of equal or greater value. If the Itasca County data involved in the trade exceeds \$5000 in value, County Board approval must be obtained. If the County Board approves the trade, the chairman of the County Board must sign the license agreement. The trade and justification for the trade must be documented by the GIS Coordinator.
- I. Fees for public corporations (as used MS 471.85) such as the Itasca County Housing & Redevelopment Authority, Joint Powers Boards, the Mississippi Headwaters Board and Itasca County Soil & Water District shall be considered by the County Board after a recommendation by TLM Staff, the County Surveyor, and/or the GIS Coordinator. Some of the options available to the County Board include:
 - Waive any applicable fees and grant the requester use of the data
 - Waive any applicable fees and perform requester's project in-house
 - Follow the fee schedule as indicated



ITASCA COUNTY GIS DATA LICENSE AGREEMENT

This AGREEMENT is made and entered into between Itasca County, 123 NE 4th street, Grand Rapids, MN 55744, hereinafter "County" and _____, hereinafter "Licensee". The parties agree to the following:

RECITALS

WHEREAS, a Geographic Database was developed by the County and is being developed with a significant expenditure of public funds; and,
WHEREAS, the Geographic Database has commercial value; and,
WHEREAS, the County claims proprietary ownership and copyright interest in the Geographic Database.
NOW THEREFORE, in consideration of the mutual promises and agreements contained herein, the parties agree as follows:

ARTICLE I - General Provisions

- 1.1 The purpose of this Agreement is to define the right and obligations of the parties with respect to the granting by the County of a License to Licensee for the use of the County's Geographic Database or a portion thereof.
- 1.2 Regardless of the date of signatures hereunder, this Agreement shall be in effect from the date of Licensee's receipt, in digital form, of any portion of the County's Geographic Database until the return or certified destruction of the Geographic Database by Licensee, unless earlier terminated by law or according to the terms herein
- 1.3 The recitals set forth above are incorporated by reference as if fully set forth herein.

ARTICLE II - Definitions

For the purpose of this Contract, unless the language or context clearly indicates that a different meaning is intended, the words, terms or phrases stated below, when capitalized, shall be defined as follows:

2.1 The Geographic Database: An organized collection of spatial data representing geographic features and their associated attributes in Itasca County.

2.2 Project: _____

ARTICLE III - Ownership/Confidentiality

- 3.1 The Geographic Database is the **exclusive** property of Itasca County and the County reserves all rights of ownership, title and control to the Geographic Database under federal copyright law or other law relating to confidential and/or trade secret information. The parties agree that the development of the Geographic Database required the skilled efforts of professionals in its design and compilation and that the end result is the original work of the county, its employees and agents. Pursuant of Minn. Stat. 13.03 Subd. 5 (1991), the Geographic Database is a trade secret of the County and may only be used as authorized herein.
- 3.2 Licensee acknowledges and agrees that the County reserves all rights of ownership, title and control of the Geographic Database. Licensee agrees that it will treat the Geographic Database as confidential and trade secret information. Licensee will not under any circumstances disclose or disseminate the Geographic Database or any portion thereof to 1) any other person, firm, entity or organization except as expressly authorized herein or 2) any employee of Licensee who does not need access thereto in connection with Licensee's exercise of its rights under this Agreement. Licensee will use its best efforts to keep and maintain the Geographic Database in a Secure manner so as to preclude unauthorized use, dissemination or disclosure.
- 3.3 At the request of the County and expense of the Licensee, Licensee shall use good faith and reasonable efforts to assist the County in identifying any use, copying, or disclosure of the Geographic Database by any current or former Licensee personnel - or anyone else who may have come in possession of said Geographic Database while the same was in Licensee's possession - in any manner that is contrary to the provisions of this Agreement so long as the County shall have provided Licensee with information reasonably justifying the conclusion of the County that such contrary use may have occurred.
- 3.4 Licensee's obligations respecting confidentiality of the Geographic Database shall survive termination of this Agreement.
- 3.5 Licensee acknowledges and agrees that disclosure or use of the Geographic Database in breach of this Agreement could cause irreparable harm and significant injury to the County, which may be difficult to measure with certainty or to compensate through damages. Accordingly, Licensee agrees that the County may seek and obtain against Licensee and/or any other person or entity, injunctive relief against the breach or threatened breach of the forgoing undertakings, in addition to any other equitable or legal remedies which may be available.

ARTICLE IV - License

4.1 The County hereby grants to Licensee a non-exclusive, non-transferable license to use the Geographic Database in accordance with the provisions stated in this Agreement.

A. Licensee may use the Geographic Database only in connection with the project.

B. If Licensee transfers possession of any copy, modification or merged portion of the Geographic Database to another party, the

rights granted under the terms of this Agreement are automatically terminated.

- C. Licensee shall not, in whole or in part, assign, sublease, extend, absorb or otherwise transfer this license Agreement, or any right granted under this Agreement.
 - D. Licensee shall keep a record of the location of each copy.
 - E. If indicated here _____ by the initials of the Itasca County Surveyor, or the Itasca County GIS Coordinator, Licensee may make [NUMBER OF COPIES ALLOWED] copy(ies), **OF THE GEOGRAPHIC DATABASE FOR USE BY ITS OWN PERSONNEL.**
- 4.2 Licensee shall affix the following notice on all copies of the Geographic Database in such a manner and location to give notice:
“Copyright 1991- [CURRENT YEAR] by Itasca County. All rights reserved. No part of this Geographic Database, may be copied, reproduced, or transmitted in any form or by any means whether graphic, electronic, or mechanical, including photocopying, recording, or by an information storage and retrieval system, without written permission from Itasca County.
- 4.3 Upon termination of this Agreement, Licensee shall, within five (5) days, return the Geographic Database **and all copies thereof**, with any additions and modifications, to the county and shall certify, in writing, that all other copies thereof have been destroyed.
- 4.4 The terms of this Agreement shall apply to Licensee's receipt of the Geographic Database or any portion thereof, whether prior to, concurrent with or subsequent to the date of execution. Portions of the Geographic Database received after execution of this Agreement shall be covered the same as if originally included herein.

ARTICLE V - Payment

- 5.1 For said license of the Geographic Database, **Licensee** shall pay the fee determined under County's fee schedule, as it may from time to time be amended. The full amount of the fee shall be paid before data is released.
- 5.2 Nothing herein shall be interpreted to preclude or affect the right of the County to charge for additions or updates to the Geographic Database whether or not such additions or updates contain the same or all of the Geographic Database previously licensed.
- 5.3 The county will provide the licensee updates to the Geographic Database for fees set forth in the County's fee schedule at the request of the licensee.

ARTICLE VI - Limit on Liability

- 6.1 **AS IS. THE COUNTY FURNISHES THIS GEOGRAPHIC DATABASE "AS IS", WITHOUT ANY SUPPORT WHATSOEVER, AND WITHOUT REPRESENTATION OR WARRANTY, INCLUDING BUT NOT IN ANY MANNER LIMITED TO, FITNESS, MERCHANTABILITY OR THE ACCURACY AND COMPLETENESS OR THE GEOGRAPHIC DATABASE.**
- 6.2 The Geographic Database is neither a legally recorded map or a survey and is not intended to be used as one. The Geographic Database is a compilation of records, information and data from various sources with varying accuracies and should be used for references only. Verification of the data by qualified field survey or any other process is the sole responsibility of the licensee. No representation is made that data and features presented, accurately reflects true location of the data and features. Neither Itasca County nor any other entity from whom the Geographic Database data was obtained assumes any liability whatsoever for any errors or omissions herein. If discrepancies are found, please contact the Itasca County Department of Surveying and Mapping.
- 6.3 Because the Geographic Database is inherently complex and may not be completely free of errors, Licensee is hereby advised to verify its work. In no event will the County be liable for direct, indirect, special, incidental or consequential damages arising out of the use of or inability to use the Geographic Database even if advised of the possibility of such damages included, but not limited to, damages resulting from loss of profits or revenues, loss of data, expenses to recover the Geographic Database or portions thereof, substitute program acquisition expenses, claims by third parties or for damages of any other type whatsoever.
- 6.4 The county's sole liability and Licensee's exclusive remedy for any substantial defect which impairs the use of the Geographic Database for the purpose stated herein shall be the right to terminate this Agreement.
- 6.5 Licensee agrees to indemnify and hold harmless the County from any and all claims, actions, suits, or damages including but not limited to, the cost of Attorney's fees in the defense of any claims, arising from licensee's use or dissemination of the Geographic Database herein licensed.

ARTICLE VII - Miscellaneous

- 7.1 This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principles of conflict of laws. All proceedings related to this Agreement shall be venued in the County of Itasca in the State of Minnesota.
- 7.2 It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of agents, partners, joint ventures or associates between the parties hereto or as consulting Licensee as the employee of the County for any purpose or in any manner whatsoever.
- 7.3 All remedies available to either party under the terms of this Agreement or by law are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 7.4 The waiver of any default by either party, or the failure to give notice of any default, shall not constitute a waiver or any subsequent default or be deemed to be a failure to give such notice with respect to any subsequent default. Waiver of breach of any provision of this Agreement shall not be construed to be modification for the terms of this Agreement unless stated to be such in writing and signed by authorized representatives of the County and Licensee.
- 7.5 Any Alterations, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have

been reduced to writing, signed by Authorized Representatives of the County and Licensee.

7.6 The following named persons are designated the authorized representatives of the parties for purposes of this Agreement. These persons have authority to bind the party they represent and to consent to modifications and subcontracts, except that, as to the County, the authorized representative shall have only the authority specifically or generally granted by the County Board. Notification required to be provided pursuant to this Agreement shall be provided to the following named persons and addresses unless otherwise stated in this Agreement, or any modification of this Agreement:

NOTICES TO CONTRACTOR:

Name: _____
Title: _____
Address: _____
Ph#: _____
FAX#: _____

NOTICES TO COUNTY:

Name: _____
Title: _____
Itasca County Courthouse
123 NE 4th Street
Grand Rapids, MN 55744
Ph#: _____
FAX#: _____

7.7 FINAL AGREEMENT: This agreement is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon, and shall supersede all prior negotiations, understandings or agreements. There are no representations, warranties or stipulations, either oral or written, not herein contained.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

CONTRACTOR
by _____
Title: _____
Dated: _____

Individual

This instrument was acknowledged before me on _____, 2____, by _____, who, being duly sworn, represents and warrants that he/she/they is/are authorized by law to execute this agreement, intending to be legally bound thereon.

Notary Public

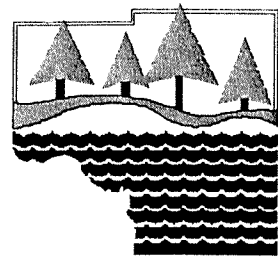
ITASCA COUNTY
by _____
Title: _____
Dated: _____

Corporation/Organization

This instrument was acknowledged before me on _____, 2____, by _____, (title) _____, of (company name) _____, who, being duly sworn, represents and warrants that he/she/they is/are authorized by law and all necessary board action to execute this agreement on behalf of the corporation/organization, intending this agreement to be a legally binding obligation of the corporation/organization.

Notary Public

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ITASCA COUNTY

REQUEST FOR BOARD ACTION

Date: November 9th, 2006

RBA No.:

Requested Board Date: November 14th, 2006

Flexibility: yes

Originating Department:

Surveying/ GIS

Item: Approval of "updated" GIS License Agreement, Fee Schedule and Data Distribution Policy.

Presenter: Tim Wotzka/ Dave Bily

Estimated Time: 5 minutes

Board Action Requested:

Approval of 1) GIS License Agreement 2) Fee Schedule for GIS Data 3) GIS Data distribution policy.

As of 11/16/06 I have revised fee schedule and GIS distribution policy.

This was referred to TLM (11/20/06) by the county board on 11/07/06

Background:

Background: Itasca County has been charging \$250/megabyte for its GIS data for about 14 years. An informal survey conducted this past winter indicates that we are grossly over-charging the public for GIS data. Other counties across the state are charging, on average, about 10% of our current rate for GIS Data. Therefore the Department of Surveying and Mapping is recommending a reduction to \$25.00/megabyte for its GIS data and blanket authority to distribute data in its day to day operations.

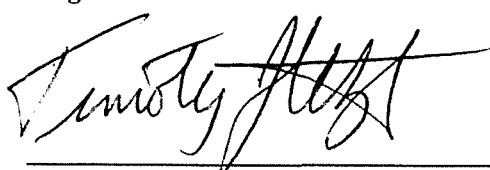
Attachments: and Exhibit A .

Alternate Action:

Administrative/Public Works Division Recommendation:

- Consent Agenda
- Regular Agenda
- Refer to
- Table until
- Other

Supporting Documents:	<input checked="" type="checkbox"/> Attached	<input type="checkbox"/> None
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Signature/Date:


Distribution/Date: November 9, 2006
 Dave Christy
 Jack Muhar

Recommended for Consent Agenda:
 Yes No
 ON 11/20/06

Clerk of Board Comments:

Signature/Date:

Board Action:

Approved as Requested: 11/29/06

Denied: _____

Tabled: _____

Other: Referred to TLM on 11/20/06

Distribution / Filing Instructions: 11/30/06

Tim Wotzka
 Dave Christy
 Jack Muhar
 Carri Falls - Policy Manual