

The Data Sharing Agreement

This Agreement (Agreement) is a license and is made and entered into by and between the Licensor (CITY) and the Licensee (CONTRACTOR.)

1. DEFINITIONS

A. **Licensed Material** refers to the any form of data the CITY provides, including digital geospatial data, attribute data, and digital images. Licensed Material may be copied to CD-ROM or digital media, distributed via ftp sites, or in whatever manner the CITY and the CONTRACTOR agree to in this Agreement. Licensed Material may also refer to access, granted by the CITY to the CONTRACTOR, to software, databases, or other information.

B. **Internal Use** refers to the use of the Licensed Material to meet the business needs of Licensee. Examples of uses may include the production of printed maps, the production and distribution of digital maps in PDF or other static format, the conduct of analyses, the presentation of data on Intranet web sites, and other activities consistent with the conduct of its lawful business activity.

C. **Adapted Material** means material that is derived from or based upon the Licensed Material and in which the Licensed Material is translated, altered, arranged, transformed, or otherwise modified.

D. **Share** means to provide material to the public, or any other third party by any means or process in compliance with the Grant of License or Permitted Use, such as reproduction, public display, public performance, distribution, dissemination, communication, or importation, and to make material available to the public including in ways that members of the public may access the material from a place and at a time individually chosen by them.

2. GRANT OF LICENSE

A. Subject to the terms and conditions of this Public License, the CITY hereby grants CONTRACTOR a worldwide, royalty-free, non-sublicensable, non-exclusive, revocable license to exercise the Licensed Rights in the Licensed Material to:

- i. reproduce and Share the Licensed Material, in whole or in part; and
- ii. produce, reproduce, and Share Adapted Material.

B. The term of this Data Sharing Agreement is specified in Sections 4 and 6 of this agreement.

C. Media and formats; technical modifications allowed. The CITY authorizes CONTRACTOR to exercise the Licensed Rights in all media and formats whether now known or hereafter created, and to make technical modifications necessary to do so. The

CITY waives and/or agrees not to assert any right or authority to forbid CONTRACTOR from making technical modifications necessary to exercise the Licensed Rights. Simply making modifications authorized by this Section never produces Adapted Material.

3. LICENSE CONDITIONS

CONTRACTOR exercise of the Data Sharing Agreement is expressly made subject to the following conditions.

A. Attribution

i. If CONTRACTOR Shares the Licensed Material (including in modified form), CONTRACTOR must:

a. retain the following if it is supplied by the CITY with the Licensed Material:

1. identification of the creator(s) of the Licensed Material and any others designated to receive attribution, in any reasonable manner requested by the CITY (including by pseudonym if designated);
2. a notice that refers to the The

Program;

3. a notice that refers to the disclaimer of warranties;
4. a hyperlink to the Licensed Material to the extent

reasonably practicable and allowed under any further agreement between the CONTRACTOR and CITY;

b. indicate if CONTRACTOR modified the Licensed Material and retain an indication of any previous modifications; and

c. indicate the Licensed Material is licensed under the Innovation Partnership Program, and include the text of, or the URI or hyperlink to, the The Program.

ii. CONTRACTOR may satisfy the conditions in Sections 3 in any reasonable manner based on the medium, means, and context in which CONTRACTOR Shares the Licensed Material. For example, it may be reasonable to satisfy the conditions by providing a URI or hyperlink to a resource that includes the required information.

iii. If requested by the CITY, CONTRACTOR must remove any of the information required by Sections 3 to the extent reasonably practicable. If CONTRACTOR Shares Adapted Material CONTRACTOR produces, the Adapter's License CONTRACTOR applies must not prevent recipients of the Adapted Material from complying with the requirements of Section 3 this agreement.

4. USE OF LICENSED MATERIAL

A. Permitted Use. This license is granted for the sole purpose fulfilling the agreed to scope of work (Attachment 2). If the CITY agrees that an alteration in the

Permitted Use is necessary to adequately fulfill the scope of work, both parties may amend the the scope of work in writing to alter the Permitted Use..

B. Derivative Licensed Material. CONTRACTOR shall not use the Licensed Material except as specifically permitted as a Permitted Use. CONTRACTOR will establish adequate mechanisms to ensure, to the best of CONTRACTOR'S ability, that the Licensed Material will be used in full compliance with the Permitted Use and for no other purpose whatsoever. Merging or appending multiple files into a single geospatial theme shall not alter the Permitted Use of the Licensed Material.

C. Reserved Rights. Nothing in this Agreement transfers or is intended to transfer any rights, title, or interest CITY holds in the Licensed Material to CONTRACTOR, other than the rights set forth herein. CITY may license the Licensed Material covered by this license to other users so long as such licensing does not interfere with Licensee's rights under this Agreement.

5. DATA SECURITY

CONTRACTOR shall employ industry best practices, both technically and procedurally, to protect CITY data from unauthorized physical and electronic access. Methods employed are subject to review and approval by CITY.

A. Data Uses. Data shared with CONTRACTOR shall be limited to the uses specifically authorized by CITY under this Data Sharing Agreement or the Scope of Work. Under no circumstances shall CONTRACTOR collect, share or distribute any information classified as sensitive or confidential without the express written approval of CITY.

B. Confidential Data. Data classified as Confidential may be data that the City and CONTRACTOR must keep confidential according to various laws or regulations, such as the Health Insurance Portability and Accountability Act (HIPAA), state or federal laws regarding the use and storage of personal information, credit cards, social security numbers or other confidential information. Other data deemed Confidential may be data that the CITY has chosen to keep closed under various Missouri Sunshine Law exceptions.

C. Data Handling Requirements. Data handling requirements may vary depending on the classification of data shared with CONTRACTOR. However, it is anticipated that most data shared with CONTRACTOR will involve a mix of both Confidential Information and other information. Therefore, whenever data elements are aggregated for collection, transmission, or storage, the aggregate data shall be handled using the protocols that apply to the most sensitive data element.

(IF HIPAA APPLIES TO THIS AGREEMENT, CONTRACTOR MUST EXECUTE A BUSINESS ASSOCIATE AGREEMENT WITH THE CITY).

D. Network Security

i. **Internet Access.** Connections to CONTRACTOR computers utilizing the Internet, whether for client access or remote administration, must be protected using any of the following industry standard cryptographic technologies: SSL/TLS, IPSec, SSH/SCP, PGP.

ii. **Data Storage.** Regardless of the media employed (i.e., disk, tape, etc.), data must be stored in an encrypted format. Encryption algorithms shall AES-128 or better, or Triple-DES (3-DES). The use of other encryption algorithms for data storage must be approved in writing by CITY.

6. MAINTENANCE OF LICENSED MATERIAL

CITY shall provide Licensee with periodic updates of the Licensed Material without charge.

7. TERM AND TERMINATION

A. **Term.** This Agreement is effective as of the date of signing by both parties, and lasts for the entire duration of the Agreement and only the duration of the Agreement. No obligations or rights within this Agreement may be construed as surviving the end of the Term of this Agreement other than any term covering indemnification or disposal of licensed material.

B. **Termination.** This Agreement may be terminated by either party upon 30 days written notice to the other party.

C. **Disposal of Licensed Material.** Upon termination of this Agreement, CONTRACTOR shall immediately discontinue use of the Licensed Material, and either return all copies of the Licensed Material to the CITY upon request by CITY, or destroy all copies with permission of CITY and provide CITY with certification of such destruction.

8. DELIVERY

CITY shall deliver the Licensed Material to Licensee pursuant to the following conditions:

A. CITY shall package, ship and deliver the Licensed Material to CONTRACTOR, or make the Licensed Material accessible to CONTRACTOR by digital transfer technology.

B. Dates specified for delivery of the Licensed Material shall not apply to the extent that the delay is caused for reasons beyond CITY'S reasonable control.

9. WARRANTY

CITY warrants that:

A. CITY does not warrant the accuracy of Licensed Material originating from CITY's records or from other sources.

B. CONTRACTOR acknowledges that the Licensed Material provided by CITY may contain defects or errors and that some portion of the Licensed Material may be illegible, incomplete or unsuitable for a particular need or intended use. CONTRACTOR shall be responsible for independently verifying all data contained in the Licensed Material. CONTRACTOR shall inform all parties who are lawfully permitted to use the Licensed Material pursuant to this license of CITY'S limited warranty.

C. CITY does not warrant that the Licensed Material will meet the needs or expectations of CONTRACTOR, or that any defects or errors can or will be corrected, nor does CITY make any representation or warranty as to the accuracy of the Licensed Material, including, but not limited to, accuracy as to annotation, dimensions, property boundaries or placement or location of any structures or features. CITY shall use its best efforts to ensure that the Licensed Material are delivered free of physical defect.

10. ASSIGNMENT AND TRANSFER

CONTRACTOR shall not disclose, lease, sell, distribute, make, transfer or assign the Licensed Material or engage in any other transaction which has the effect of transferring the right of use or part of the Licensed Material outside of the rights identified in this Agreement. If distribution of the Licensed Material is allowed for in this Agreement and CONTRACTOR distributes the Licensed Material to other parties, CONTRACTOR shall indemnify and hold harmless CITY, against any liability arising from CONTRACTOR'S activity under this Agreement related to the distribution of the Licensed Material to those parties.

11. LIMITATION OF LIABILITY

CITY is not liable for any activity involving the Licensed Material with respect to the following:

A. Lost profits, lost savings or any other indirect, incidental, special or consequential damages, whether they are foreseeable or unforeseeable.

B. The fitness of the Licensed Material for a particular purpose.

C. The installation of the Licensed Material, its use or the results obtained.

12. Indemnification

Indemnification. CONTRACTOR shall defend, indemnify and hold harmless CITY, its employees, agents and assigns from and against any and all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees, the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, from any third-party claim against the CITY arising out of or resulting from the CONTRACTOR'S failure to comply with any of its obligations under this Agreement.

13. MISCELLANEOUS

A. Applicable Law: Venue. This license shall be constructed and interpreted under and pursuant to the laws of the state of Missouri and the City of Kansas City's Code of Ordinances. CONTRACTOR submits to jurisdiction in Jackson County, Kansas City, Missouri.

B. Invalidity. If any term or provision of this license or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this license shall be valid and enforced as written to the fullest extent permitted by law.

C. Entire Agreement. This Agreement and the The contains the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement or promise made by any party hereto, which is not contained herein, shall be binding or valid. If there is any conflict between the two regarding data usage, this Agreement shall prevail.

D. Amendment. No waiver, consent, modification or change in the terms of this Agreement shall bind either party unless in writing signed by both parties.