

LFUCG PRODUCT LICENSE AGREEMENT

WHEREAS, the Lexington-Fayette Urban County Government, Department of Finance, Computer Services Division (hereafter, LFUCG) having a business address of 200 East Main Street, Lexington, Kentucky 40507, hereinafter also referred to as "licensor", hereby provides geographic information system products and services as specifically defined in the attached Product Description;

WHEREAS, [REDACTED] having a place of business in Lexington, KY [REDACTED] and a business address of [REDACTED] hereinafter the "licensee" has an interest in obtaining a license to use LFUCG Products;

WHEREAS, Licensor is willing to grant to Licensee a non-exclusive license to use LFUCG Products pursuant to KRS 61, Ordinance No. 37-95, and other express and implied authority of local government, subject to the terms and conditions set forth below;

NOW THEREFORE in accordance with their mutual interest and for good and valuable consideration, the receipt of which is hereby acknowledged, the Licensor and Licensee enter into the following agreement:

1. Scope of License

Licensor hereby grants to Licensee a non-exclusive license to use the LFUCG Products upon the execution of this Agreement by Licensor and Licensee and the delivery of the LFUCG Products by Licensor to the Licensee. To the extent any such identifiable information is determined to be government records, dissemination will be according to the Kentucky Open Records Act. The non-exclusive license granted by Licensor authorizes the Licensee to make personal or, in the case of an organization, internal use of the licensed LFUCG Product as follows:

- A. Licensee may analyze, process, and display the licensed LFUCG Products and may make such derivative products and the results of such analysis or processing available to employees of the Licensee.
- B. If the LFUCG Products are provided in fixed media form, Licensee shall not make any copies in any media of the Products without prior express written consent of Licensor. In the event such consent is given, Licensee shall take all necessary steps to ensure that the copyright and source notice is affixed to any such copies.
- C. If the LFUCG Products are provided in digital form, Licensee may make a back up digital copy of the LFUCG Products; however, this copy is for protection purposes only. Licensee agrees not to use or allow others to use the copy for any purpose other than to replace the original LFUCG Products if lost or damaged. Licensee may make additional digital copies of the LFUCG Products only as may be required for general internal use, provided that all copies include the copyright notice affixed to the original LFUCG Products. Licensee may create print copies of the digital LFUCG Products for market development purposes provided the Licensee has obtained the express written consent of Licensor to make and distribute copies and provided that the copyright notice is affixed to any such prints. However, Licensee shall not sell any copies made by Licensee for such market development purposes.
- D. Licensee may make the licensed LFUCG Products available to contractors, consultants, and existing joint ventures that are not employees of Licensee, but only for use by such agent acting on behalf of Licensee that agrees:
 - (i) to be bound by the same limitations on use as apply to Licensee, and
 - (ii) to return to Licensee all LFUCG Products upon completion of the contracting, consulting or joint venture, or upon termination of this Agreement
- E. Licensee may prepare textual reports and other non-image materials based upon the licensed LFUCG Products and publish, sell or distribute such materials, but only if such materials do not reproduce in any way the licensed LFUCG Products without direct written permission from Licensor.
- F. Licensee may prepare image materials based upon the licensed LFUCG Products and publish or distribute such materials in hard copy or pdf formats, but only if such materials do not reproduce in any way the licensed LFUCG Products without direct written permission from Licensor.
- G. Licensee may not copy or externally distribute licensed LFUCG Products in any way not expressly authorized by this license. Without limiting the generality of the foregoing, no license is granted to commercially reproduce and/or distribute any LFUCG Products or products derived therefrom unless specifically provided in an addendum hereto. Licensee acknowledges that the LFUCG Products, in whole or in part, are subject to copyright protection, and agrees to affix notice of copyright to any copies of the LFUCG Products. A copyright and source acknowledgment notice is considered to be a material term of this agreement and all agreements entered into by Licensee with any third party (if approved by LFUCG). It is the obligation of the Licensee to strictly adhere to this notice provisions and to ensure that any approved third party be given notice of and agree to abide by the terms of this Section.
- H. Licensee may not, without the prior written consent of LFUCG, transfer its rights or delegate its duties under any License Agreement provision to any other person or organization.

2. License Fees

The fee for any license granted in accordance with this Agreement will be determined on the basis of the attached addendum entitled "Fee Schedule". Payment terms will be in accordance with those specified in the Fee Schedule.

3. Delivery

Licensee will be charged for shipping and delivery of all media containing LFUCG Products. Licensor shall bear liability for all risk of loss or damage to the media containing LFUCG Products suffered before acceptance by Licensee. If Licensee has not returned the LFUCG Products to Licensor within three months of receipt, or other time period specified in this Agreement, Licensee shall bear liability for all risk of loss or damage to the LFUCG Products.

4. Limited Warranty and Limitation of Liability

- A. Licensor will use its best efforts to ensure that any LFUCG Products provided to Licensee conform to the LFUCG Products requested and that the medium in which the LFUCG Products are delivered is free of physical defect. If any data or media do not meet the foregoing standards, Licensee's sole and exclusive remedy will be to return such LFUCG Products or media to Licensor within ninety (90) days of Licensee's receipt thereof.; If Licensee returns LFUCG Products or media within such period and if Licensor and the Licensee reasonably agree that such data or media, at the time they were delivered to Licensee, failed to meet such standards, Licensor will, at its discretion, either:
 - (i) retain LFUCG Products or media and refund the applicable licensee fee paid with respect to them, or
 - (ii) replace or repair the LFUCG Products and return them to Licensee.
 - (iii) renegotiate the delivery, price, coverage, etc. to the satisfaction of both parties.
- B. EXCEPT AS PROVIDED IN THE PRECEDING PARAGRAPH, ANY LFUCG PRODUCTS LICENSED PURSUANT TO THIS AGREEMENT ARE PROVIDED WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Even if Licensor is advised of a particular application or purpose, Licensor's liability with respect to any such Products will be limited to a refund of the license fee paid for such products. In no event will Licensor be liable to Licensee for any special or consequential damages, including lost profits resulting from any defect in any LFUCG Products or any delay in delivery.

5. Lawful Use

Licensee represents and warrants that it will not use any LFUCG Products licensed pursuant to this Agreement or any addendum hereto in any way that is unlawful or in breach of the legal rights of any third party. Licensee further agrees to be responsible (in the manner and to the extent permitted by law) for all lawfully proven claims, losses, actions and expenses (including legal expenses), including claims against LFUCG arising from the negligent performance of this agreement by the Licensee but excepting any such claims, losses, causes of action and expenses arising out of or the result of fault on the part of LFUCG, its officers, agents and employees. The Licensee is not responsible for the negligent acts of LFUCG, its officers, agents and employees.

6. Non exclusivity

No license governed by the terms and conditions of this Agreement will be an exclusive license, and Licensor may grant to other licensees non-exclusive licenses for any or all of the LFUCG Products licensed pursuant hereto, exclusive or non-exclusive licenses for the commercial reproduction and distribution of such LFUCG Products. No such exclusive license, however, will diminish the rights of Licensee under this Agreement.

7. General

- A. This Agreement supersedes all previous oral or written agreements or representations concerning the subject matter of this Agreement.
- B. Either party may terminate this Agreement by providing written notice thirty (30) days in advance to the other party. In the event of termination of this Agreement for any reason, Licensee may retain LFUCG products, but the provisions of paragraph 5 above will survive and Licensee agrees to be bound by its provisions following such termination.
- C. All changes to this Agreement shall be in writing and shall have no force and effect unless agreed to in writing by Licensee and Licensor.
- D. If any provision of this Agreement is held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions will not be in any way affected or impaired.
- E. This Agreement will be governed by the laws of the Commonwealth of Kentucky.
- F. The Licensee hereby submits to the jurisdiction of any competent state or federal court in Kentucky with respect to any dispute or claim relating to this Agreement,
- G. No provision of this Agreement is in conflict with any other agreement to which Licensor is a party and there is nothing to prevent or restrict in any manner Licensor from granting the rights, title, and other interests granted by Licensor under this Agreement.

IN WITNESS HERETO, the Licensee have affixed their respective signatures.
 LICENSEE

By: _____

Print Name: _____

Title: _____

Date: _____

LFUCG PRODUCT LICENSE AGREEMENT

04/06/2011

ATTACHMENT A

PRODUCT DESCRIPTION:

The following LFUCG electronic products and services are licensed or provided under this Agreement between LFUCG and [REDACTED] dated 04/06/2011 3:52:42 PM. The following services, data layers and geographic coverage's within Fayette County are hereby licensed to Licensee subject to the terms of this Agreement.

LAYER

County Boundary

Voting Precincts

Council Districts

Reproduction of LFUCG Products, creation of derivative works and dissemination activities (including a definition of "internal use" limitations) expressly authorized by this License include:

- a) Electronic backup copies for archival purposes.

LFUCG PRODUCT LICENSE AGREEMENT

04/06/2011

ATTACHMENT B

FEE SCHEDULE:

The following fee schedule and payment terms shall apply to delivery and use of LFUCG products licensed or provided pursuant to this Agreement between LFUCG and [REDACTED] dated 04/06/2011.

LAYER	PRICE/UNIT	TOTAL/ITEM
County Boundary	1 FWP @ "no charge"	\$0.00
Voting Precincts	1 @ 25.00	\$25.00
Council Districts	1 @ 10.00	\$10.00
GIS Specialist Time	0 @ 36.00/Hour	\$0.00
Total:		\$35.00