

Public Party Regional Parcel Dataset License
(2009-2011 REGIONAL PARCEL DATA SHARING AND DISTRIBUTION AGREEMENT)
(*Includes 3 clerical changes made on March 6, 2009 +email addresses for Licensees)

APPLICANT: PLEASE CHECK APPLICABLE USER CATEGORY(IES):	
____PUBLIC PARTY’S Name: _____	License No: _____
____THIRD PARTY USER’S NAME: _____	License No: _____
Public Party Department and Mailing Address: _____	<i>(To be completed by Metropolitan Council)</i>

THIS LICENSE governs access to and use of the Regional Parcel Dataset or subset thereof as distributed by the Metropolitan Council (“Council”), as Licensor, on behalf of Anoka, Carver, Dakota, Ramsey, Hennepin, Scott and Washington counties (collectively referred to as “Counties”). This License is made by and between the Council, as Licensor, and the Public Party or Third Party User identified above, the Licensed User.

WHEREAS, the Counties have independently developed with a significant expenditure of public funds their own county-based Parcel Data; and

WHEREAS, certain of the Counties’ Parcel Data available in the Regional Parcel Dataset have commercial value and have been maintained by the Counties as trade secrets and/or non-public information as provided by applicable State and Federal law; and

WHEREAS, the Counties have made the Parcel Data available subject to licensing and copyright restrictions and have authorized the Council to distribute the Regional Parcel Dataset to Licensed Users, subject to the terms and conditions contained in this License; and

NOW THEREFORE, in consideration of the Counties’ agreement to waive their cost-recovery fees for Public Parties and the Council’s agreement to distribute the Regional Parcel Dataset, the Licensed User agrees to use the Regional Parcel Dataset subject to the following terms and conditions:

I. DEFINITIONS

- 1.01** “*Academic Interest*” means a college or university or any other accredited institution of higher education in the United States.
- 1.02** “*Counties*” means Anoka, Carver, Dakota, Ramsey, Hennepin, Scott and Washington Counties.
- 1.03** “*DataFinder*” means an Internet-based application (www.datafinder.org), supported by the Council on behalf of the MetroGIS community.

- 1.04** *“Endorsed Regional Dataset”* means a geospatial dataset that provides a standardized solution to one or more common geospatial information needs of the MetroGIS community, which has been endorsed by MetroGIS.
- 1.05** *“Geospatial Data”* means electronic data used in a GIS which exist in one of three forms: (1) graphic data (e.g., parcel boundaries, street centerlines and planimetric data captured from aerial imagery such as building footprints, curb lines and contour elevations); (2) non-graphic or attribute data (e.g., tabular records that can be associated with graphic data); or (3) digital imagery or raster data.
- 1.06** *“Governmental Interest”* means all local, regional, state and federal governmental jurisdictions including their respective political subdivisions in the United States.
- 1.07** *“Internet Mapping Application”* means a computer application that enables a user of the Internet to view spatial and attribute data directly over the web via web-based clients.
- 1.08** *“Parcel Data”* means a form of Geospatial Data created and maintained by the Counties comprised of parcel boundary and associated parcel attribute data that are components of the Regional Parcel Dataset.
- 1.09** *“License”* means this Public Party Regional Parcel Dataset License.
- 1.10** *“Licensed User”* means a Public Party or Third Party User that has properly executed the License.
- 1.11** *“Licensor”* means the Metropolitan Council.
- 1.12** *“MetroGIS”* means a regional geographic information systems initiative serving the seven-county Minneapolis-St. Paul (Minnesota) metropolitan area. It provides a regional forum to promote and facilitate widespread sharing of geospatial data. MetroGIS is a voluntary collaboration of local and regional governments, with partners in state and federal government, academic institutions, nonprofit organizations, and businesses
- 1.13** *“Public Party”* means a Governmental Interest or Academic Interest.
- 1.14** *“Regional Parcel Dataset”* means an Endorsed Regional Dataset or subset thereof comprised of Parcel Data provided by the Counties and distributed to Licensed Users by the Council. Policies governing the Regional Parcel Dataset are published at <http://www.metrogis.org/data/datasets/parcels/index.shtml#standards>.
- 1.15** *“Third Party User”* is a separately licensed third party authorized on behalf of the Public Party to have access to the Regional Parcel Dataset for the Public Party’s internal business or organizational purposes.

- 1.16 **“View-Only Access”** means a mechanism making geospatial data accessible by non-licensees via an Internet Mapping Application where such access does not permit the source data to be downloaded in its native format (e.g. shapefile) but rather viewed online or downloaded only as an image for which there are no restrictions on its use.

II. LICENSED DATA DISTRIBUTION

- 2.01. **Authorized Distribution.** The Council is authorized as Licensor on behalf of the Counties to distribute the Regional Parcel Dataset to each Licensed User. Following receipt of Parcel Data updates from the Counties, the Council periodically may make an updated Regional Parcel Dataset available to each Licensed User.

III. USE OF LICENSED DATA

- 3.01 **Authorized Uses.** Licensed User is granted a limited, nonexclusive right to have and use the Regional Parcel Dataset provided Licensed User is complying with all of the terms and conditions of this License. Licensed User may use the Regional Parcel Dataset in the form provided by the Council for Public Party’s own internal business or organizational purposes and for no other purpose. Under no circumstances may the Licensed User disclose or disseminate the Regional Parcel Dataset or subset thereof to any other entity or individual. Licensed User may modify the Regional Parcel Dataset or merge the Regional Parcel Dataset into other databases for Public Party’s own use. Licensed User may have and use the Regional Parcel Dataset on a corporate-wide basis and may use the Regional Parcel Dataset on an unlimited number of Licensed User sites, provided the central processing units on which the Regional Parcel Dataset is maintained supports only equipment operated by the Licensed User and the Regional Parcel Dataset is used only for the conduct of the Public Party’s internal business. A Third Party User is granted a limited, nonexclusive right to have and use the Regional Parcel Dataset solely to assist the Public Party with the Public Party’s business needs and for no other purpose.

The Licensed User is granted the right to host Internet Mapping Applications that incorporate the Regional Parcel Dataset so long as the Licensed User restricts users of such applications to View Only Access.

- 3.02 **Unauthorized Uses.** The Licensed User shall not use the Regional Parcel Dataset on behalf of, and shall not copy or disclose it to, any other individual, organization, corporation, government entity or any other party. The Licensed User acknowledges and understands that the Regional Parcel Dataset and the data provided by the Counties constitutes trade secret or confidential information and that the Counties have all rights and remedies available under applicable state and federal law if a potential user obtains a copy of the Regional Parcel Dataset from a Licensed User or from any source other than the Counties or the Council. In the event that the Licensed User provides unauthorized access of the Regional Parcel Dataset to a third party, the Licensed User’s License shall terminate. Any future

access by such Licensed User to the Regional Parcel Dataset shall not include a fee waiver or DataFinder access. In addition to termination of the License, a Public Party shall be responsible for its own errors, acts or omissions to the extent permitted by law. With the exception of the State of Minnesota, which is governed by Minnesota Statutes Section 3.736, all other Public Parties' liability shall be governed by Minnesota Statutes, Chapter 466 or by other applicable state or federal law, rule or regulation. In addition to termination, a Third Party User shall be responsible for any costs incurred by the Counties in enforcing their rights to recovery of the data, the value of the data, and user fees, including but not limited to reasonable attorney fees and for any costs incurred by the Council or Counties in enforcing the License for unauthorized access to the Regional Parcel Dataset by or through a Third Party User.

- 3.03 *Regional Parcel Dataset Security.*** The Licensed User agrees to implement appropriate security procedures to prevent unauthorized disclosure of the Regional Parcel Dataset including, but not limited to, providing physical security for copies of the Regional Parcel Dataset and all steps it takes to protect information or data of its own that it regards as proprietary, confidential or nonpublic. All employees of the Licensed User having access to the Regional Parcel Dataset shall be informed of the requirements contained in Sections 3.01 through 3.05 of this License. The Regional Parcel Dataset shall be kept in a secure location and maintained in a manner so as to reasonably preclude unauthorized persons from having access to it. The Licensed User agrees to promptly notify the Council pursuant to Section 6.04 of this License if the Licensed User becomes aware of any unauthorized duplication, sale or other disclosure.
- 3.04 *Reservation of Rights.*** The Counties shall retain all rights, title and interest in their respective Parcel Data incorporated into the Regional Parcel Dataset, including the right to license to other users their own individual parcel datasets.
- 3.05 *Unauthorized Disclosure.*** It is agreed that unauthorized disclosure or use of the Regional Parcel Dataset or any part thereof could cause irreparable harm and significant injury to the Council or the Counties, which may be difficult to measure with certainty or to compensate through damages. Accordingly, it is agreed that the Council and the Counties may seek, in appropriate circumstances, injunctive relief against the breach or threatened breach of the undertakings in this License, in addition to any other equitable or legal remedies, which may be available consistent with Section 3.02 above.

IV. LICENSE TERM, MODIFICATION AND TERMINATION

- 4.01 *Term.*** The term of this License shall commence upon execution of this License by the Public Party and, if applicable, the Public Party's Third Party User and shall remain in effect for the Public Party/Third Party User until December 31, 2011, unless sooner terminated pursuant to the provisions of this License.
- 4.02 *Modification of License Terms.*** This License may be updated periodically as needed at the sole discretion of Licensor. Notice will be sent of the same to the

Licensed User and the Licensed User shall be deemed to have accepted the terms of the modified license if they continue to use the Regional Parcel Dataset after the date such notice is received.

- 4.03 Termination.** The Council retains the right to terminate this License and discontinue provision of Regional Parcel Data under this License at its sole discretion and at any time. This License shall terminate if the Licensed User fails to comply with the terms and conditions of this License. Once a Licensed User no longer has the right to use the Regional Parcel Dataset, all of the Regional Parcel Dataset must be deleted from the Licensed User's computers and destroyed. The Third Party User's right to use the Regional Parcel Dataset, unless earlier terminated by the provisions of this License, shall terminate at such time the work the Third Party User is performing for the Public Party related to the use of the Regional Parcel Dataset is complete, or at such time as the authorizing Public Party's License terminates. The Public Party shall notify the Council in writing of the completion of the Third Party User's work on behalf of the Public Party.

It is agreed that any right or remedy provided for in this License to the Council or the Counties shall not be considered as the exclusive right or remedy but shall be considered to be in addition to any other right or remedy allowed by law, equity or statute. The failure to insist on strict performance of any covenant, agreement or stipulation of this License or to exercise any right contained herein shall not be a waiver or relinquishment of such covenant, agreement, stipulation or right, unless stipulated to by the parties in writing.

In the event the Council or Counties terminate the Regional Parcel Data Sharing and Distribution Agreement for Public Parties, the Licensed User has the right to use the Regional Parcel Dataset already received and the terms and conditions of this License shall continue to be honored.

V. DISCLAIMERS

- 5.01 Limited Warranty.** The Regional Parcel Dataset is made available to the Licensed User subject to the following limitations and restrictions:

- (a) The Council will take reasonable steps to ensure DataFinder on which the Regional Parcel Dataset is provided is operating correctly. The Licensed User is responsible for the installation and use of the Regional Parcel Dataset and the results or consequences obtained from such installation or use of the Regional Parcel Dataset. The Council is not responsible for any downloading or transmission problems a Licensed User may experience related to the availability, reliability or operation of the Internet.
- (b) The Counties and the Council do not warrant that their respective Parcel Data or the Regional Parcel Dataset are error-free. Parcel Data used in the Regional Parcel Dataset were developed for the Counties' own internal business purposes and neither the Counties nor the Council represents that the Regional Parcel Dataset can be used for navigational, tracking or any

other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features.

- (c) **ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, RESPECTING THIS LICENSE, THE PARCEL DATA OR REGIONAL PARCEL DATASET ARE DISCLAIMED.**
- (d) **THE PARCEL DATA AND REGIONAL PARCEL DATASET AND ANY ASSOCIATED MANUALS, REFERENCE MATERIALS AND TECHNICAL DOCUMENTATION (IF ANY) ARE PROVIDED “AS IS” WITHOUT ANY SUPPORT WHATSOEVER AND WITHOUT WARRANTY AS TO THEIR PERFORMANCE, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. THE ENTIRE RISK AS TO THE RESULTS AND PERFORMANCE OF THE REGIONAL PARCEL DATASET IS ASSUMED BY LICENSED USER.**
- (e) **THE COUNTIES AND THE COUNCIL SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, COMPENSATORY OR CONSEQUENTIAL DAMAGES OR ANY THIRD PARTY CLAIMS WHICH MAY RESULT FROM THE USE OF THE REGIONAL PARCEL DATASET BY LICENSED USERS, EVEN IF THE COUNTIES OR THE COUNCIL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE, AND**
- (f) **THE SOLE REMEDY AVAILABLE AGAINST THE COUNCIL OR THE COUNTIES SHALL BE THE RIGHT TO TERMINATE THIS LICENSE.**

5.02 *Liability.* Except for the limitations under the warranty provisions of Section 5.01, the Counties’ and the Council’s liability is governed by Minnesota Statutes Chapter 466 and Section 471.59 Subd 1a and other applicable law. Nothing in this License shall be construed as a waiver on the part of the Counties or the Council of any immunities or limits on liability provided by Minnesota Statutes Chapter 466, section 471.59 Subd. 1a or other applicable state or federal law, rule or regulation.

VI. GENERAL TERMS AND CONDITIONS

6.01 *Invalidity and Severability.* If any term or provision of this License or the application of this License or its provisions to any person or circumstance shall to any extent be declared or found invalid or unenforceable, the remainder of this License shall remain in effect and enforceable.

6.02 *Governing Law.* This License shall be governed by and interpreted pursuant to the laws of the State of Minnesota without giving effect to principles of conflict of

law, and venue for all judicial proceedings relating to this License shall be in the state and federal courts with competent jurisdiction that are located within the seven-county metropolitan area surrounding Minneapolis and Saint Paul, Minnesota.

6.03 *Assignment.* Licensed User shall not assign, transfer, sublicense or pledge this License in whole or in part.

6.04 *Correspondence.* Correspondence regarding this License or the Regional Parcel Dataset shall be directed to the Council in writing at the following:

Metropolitan Council
Attn: MetroGIS Staff Coordinator
390 Robert Street North
St. Paul, Minnesota 55101-1805
E-Mail: randy.johnson@metc.state.mn.us

6.05 *Audit.* Licensed User's books, records, documents and accounting procedures and practices relevant to this License are subject to examination by the Counties or the Council for a minimum of six (6) years.

6.06 *Merger and Modification.* It is understood and agreed that the entire License is contained herein and that this License supersedes all oral agreements or negotiations between the parties relating to the subject matter hereof. All items referred to in the License are incorporated or attached are deemed to be part of this License.

6.07 *Government Data Practices Act.* The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, applies to this License. Applicable provisions of the Act supersede any contrary or inconsistent provisions in this License.

6.08 *Whereas Clauses.* The matters set forth in the "Whereas" clauses on page one of this License are incorporated into and made a part hereof by this reference.

6.09 *Survival of Provisions and Obligations.* It is expressly understood and agreed that the obligations and warranties which by their sense and context are intended to survive the performance and termination of this License shall so survive the expiration, termination or cancellation of this License. Obligations respecting confidentiality of the Regional Parcel Dataset shall survive termination of this License for any reason and shall remain in effect for as long as the Licensed User continues to possess or control the Regional Parcel Dataset, and the Council and the Counties shall remain entitled to enforce their rights and interests in the Regional Parcel Dataset

6.10 *No Agency.* Nothing in this License shall be construed to create an agency joint venture, partnership or other form of business association between the Licensed User and the Counties or between the Licensed User and the Council.

Metropolitan Council

By _____

Name _____

Title _____

Date _____

Public Party [check appropriate box(es)]

ث I certify that the Public Party is a Governmental Interest or Academic Interest pursuant to the definitions herein and that in executing this License on behalf of the Public Party I represent that I am duly authorized to execute this License on behalf of the Governmental Interest or Academic Interest and represent and warrant that this License is a legal, valid and binding obligation and is enforceable in accordance with its terms.

ث I certify that the below signed _____ (Third Party User) is authorized by the Public Party as a Third Party User pursuant to the definitions herein until _____ (date), unless modified by the Public Party in writing to the Council. As the authorized Third Party User, the Public Party shall indemnify, to the extent permitted by law, the Council and Counties for any costs, including legal costs incurred by the Council or the Counties in the event the Third Party User violates any terms or conditions of the License.

By: _____
(authorized signature) on Behalf of the Public Party Identified Above

(printed name)

Title: _____

Date: _____

Contact Person for the Public Party:

Name: _____

Title: _____

Phone Number: _____

Email: _____

Third Party User:

I am duly authorized by _____, the Public Party, to execute this License as the Public Party's Third Party User and I certify that in executing this License on behalf of the Third Party User I represent that I am duly authorized to execute this License on behalf of Third Party User and represent and warrant that this License is a legal, valid and binding obligation and is enforceable in accordance with its terms.

By: _____
(*authorized signature*) **on Behalf of the Third Party User**

(*printed name*)

Title: _____

Date: _____

Contact Person for the Third Party User:

Name: _____

Title: _____

Phone Number: _____

Email: _____

Public Party: _____