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County of Allegan **GIS DATA LICENSE AGREEMENT**

This GIS Data License Agreement is made as of _____ between the County of Allegan, the principal business address of which is 113 Chestnut St., Allegan, MI 49010 (the "County"),

AND

_____, the principal business address of which is _____
(the "Licensee").

RECITALS

1. The County, with support from local units of government has invested significant resources into developing a Geographic Information System and the County has the right to license the use of certain Geographic Information System Data (the "GIS Data") described as follows:

2. The Licensee desires use of this GIS Data.
3. The County desires to allow the Licensee limited use of the GIS Data under the terms and conditions of this Agreement.
4. **The use of the described GIS Data by the Licensee indicates acceptance of the terms and conditions listed below.**

TERMS AND CONDITIONS

Therefore, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. **License.** Subject to the terms of this agreement, the County grants to the Licensee, and the Licensee accepts, a non sub-licensable, non-assignable, non-transferable, non-exclusive license to use the GIS Data. No ownership interest in the GIS Data is conferred to the Licensee pursuant to this Agreement.
2. **Restrictions on Use.** The Licensee shall:
 - (a) not assign this agreement or transfer, sell, lease, distribute, market, export or grant a sublease of GIS Data or the license contained herein to any person;
 - (b) take all reasonable precautions to prevent unauthorized third parties or persons from accessing or using GIS Data in a way that would constitute a breach of this agreement including, without limitation, such precautions as Licensee would take to protect its own proprietary software, hardware or information; and
 - (c) not utilize the GIS Data for any purpose or project other than the permitted use(s) as set forth in this agreement.
3. **Permitted Uses.** The Licensee may use the GIS Data as needed for only the following permitted use(s):

4. **Duration.** This Agreement is effective on the day the Licensee receives the GIS Data and shall continue in effect until the project referred to in Section 3 is complete or until this Agreement is otherwise terminated. If the Licensee fails to comply with any provision of this Agreement, the license granted by this Agreement is automatically terminated, without notice from the County and without the necessity for recourse to any judicial authority. However, the Licensee's obligations under this agreement shall survive termination until fully performed.
5. **Data Credit.** The Licensee agrees to list Allegan County Land Information Services as the source for the GIS Data on all products (including maps, reports, displays) where the GIS Data listed is used.

6. WARRANTY AND DISCLAIMERS. THE COUNTY GIVES NO EXPRESSED OR IMPLIED WARRANTIES, REPRESENTATIONS, OR CONDITIONS OF ANY KIND, WITH RESPECT TO THE GIS DATA, THE GIS DATA'S CONTENT, ACCURACY, CURRENCY OR COMPLETENESS, OR CONCERNING THE RESULTS TO BE OBTAINED FROM QUERIES OR USE OF THE GIS DATA, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE. ALL GIS DATA IS EXPRESSLY PROVIDED AS IS AND WITH ALL FAULTS. THE LICENSEE IS RESPONSIBLE FOR ENSURING THE ACCURACY, CURRENCY AND OTHER QUALITIES OF ALL PRODUCTS (INCLUDING MAPS, REPORTS, DISPLAYS AND ANALYSIS) PRODUCED FROM OR IN CONNECTION WITH THE GIS DATA. THE LICENSEE SHALL HAVE NO REMEDY AGAINST THE COUNTY IF THE DATA PROVIDED IS DEFECTIVE IN ANY WAY. THIS SECTION SURVIVES THE TERMINATION OF THIS AGREEMENT.
7. Hardware and Software. The Licensee, at its own expense, shall provide all necessary hardware, software and equipment needed to access and use the GIS Data
8. Ownership of Intellectual Property. The Licensee acknowledges that it has no intellectual property rights or proprietary interests in the GIS Data, or in any modification or derived work or work in progress relating to the GIS Data, including without limitation any written materials, logos, trademarks, trade names, copyrights, patent applications, patents, know-how, trade secrets or moral rights. Nothing in this agreement shall be deemed to constitute a partnership or joint venture between the parties.
9. Termination and Data Retention. Without limiting other remedies available in law or equity, the County may terminate this Agreement at any time, with or without cause. Upon termination, all copies of the GIS Data shall be returned to the County and no copies shall be retained by the Licensee.
10. Remedies. In the event of a breach or threatened breach of this Agreement by the Licensee or any employee, representative or agent of the Licensee, the County shall be entitled to injunctive relief to enforce this Agreement. The County may also pursue other remedies, at law or in equity, all of which shall be cumulative. The parties agree that for any action brought pursuant to or to enforce any provision of this Agreement, to the extent not otherwise prohibited by law, jurisdiction and venue shall be solely in the state courts in Allegan County, Michigan, and the prevailing party will, in addition to any other remedies, be entitled to recover its actual costs, including, without limitation, actual reasonable attorney's fees and other legal expenses incurred to bring, maintain or defend any such action from its first accrual or notice thereof through any appellate proceedings and collection proceedings.
11. Interpretation. This is the entire agreement between the parties to it. No oral or written, prior or contemporaneous agreement shall have any effect, nor shall any subsequent agreements have any force or effect unless made in writing and signed by both parties. This Agreement was made in and shall be interpreted and performed pursuant to the laws of the State of Michigan.
12. Other Parties. No third party shall be a beneficiary of any provision of this Agreement. However, the terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

Statement of Permitted Uses

Date: May 5th, 2005

Participants: Allegan County Land Information Services (ACLIS) on behalf of Allegan County;
Michigan Center for Geographic Information (MCGI) on behalf of the State of Michigan

Under this data sharing agreement, ACLIS will provide MCGI a copy of the 6-inch-pixel resolution black and white digital orthoimagery of Allegan County that was acquired by the county on April 24th, 2004. The State of Michigan will have the following rights and restrictions on the use of this data:

The State of Michigan Terms of Use

The State of Michigan (including any department at the State level) will own a copy of, and may use without restriction: the black and white 2-foot-pixel resolution orthoimagery purchased from Allegan County in any image format as individual image tiles or any mosaicked derivative thereof. The only exception includes the State of Michigan, which may display the black and white 6-inch-pixel resolution orthoimagery from Allegan County on any internet application, as long as the imagery is view-only, and cannot be downloaded.

MCGI agrees not to redistribute better than two foot resolution digital orthophotos to any person or organization outside of state government. MCGI is granted permission to distribute through any media format (online, softcopy, hardcopy) any product generated from the digital orthophotos that has a pixel resolution of 2 feet or greater. ACLIS also extends permission to MCGI to manipulate the orthophoto imagery (resample, color, classify, etc.) as needed through it's normal business practices and distribute said products if the pixel size is 2 feet or greater. Distribution of better than 2-foot pixel size products to agencies outside of state government would require a separate data sharing agreement.

It is also understood, that any metadata generated for the 2004 orthoimagery will indicate that ACLIS is the originator of said data and that the data are being used by permission under the auspices of the Allegan County Enhanced Data Access Policy as adopted on July 15th, 2001. Where feasible, hardcopy and print materials, online PDF files or internet pages should indicate the source of the data as ACLIS and that these data are used by permission and under the auspices of the Allegan County Enhanced Data Access Policy.

Valdis Kalnins
Director
Allegan County Land Information Services
Allegan County

Eric Swanson
Director
Michigan Center for Geographic Information
State of Michigan

