

# SAN MATEO COUNTY

## Digital Geographic Information License Agreement

This License Agreement (“Agreement”) is between San Mateo County (the "County") and \_\_\_\_\_ ("Licensee") for the use of a copy of the County's digital geographic information as stored and maintained in the County's Geographic Information System databases.

### 1. Definitions

For the purposes of this Agreement, the following terms are defined:

**dGI** The digital geographic information and related records and data files that are stored and maintained in the County's GIS databases.

**County data** or **County's data** A synonym for dGI.

**metadata** Information describing dGI, including the contact person in the data owner's agency, the contents of the database, and the data accuracy, projection, currency (date of data capture), and format of each data theme in the database.

### 2. Ownership of Data

County asserts full ownership of its digital geographic information. The arrangement of facts in its GIS Databases, the structure of the GIS Databases, the coding of the GIS Databases and the format of the GIS Databases are the proprietary property of the County. All title, ownership, and intellectual property rights which may exist or be created with the dGI shall remain with the County.

The County retains all rights, title and interest in its dGI, including the right to license the GIS Databases covered by this Agreement to other users.

Any portion of the dGI, or its derivative products, that is modified or merged into another computer file by the Licensee, or is integrated with other data to form derivative products, shall continue to be subject to the provisions of this Agreement.

### 3. Conditions of License

#### 3.1. Use of County Data by Licensee

For and in performance of the covenants and obligations of the Licensee hereunder, the County hereby conveys to the Licensee a non-exclusive license to use a copy of the County's data.

This License is available to Licensee, or its designated agents, for internal use by and for Licensee in conducting its own internal business activities only. This license does not permit Licensees to sell or redistribute County's data to third parties

except pursuant to the provisions contained in Paragraph 7. Licensee attests that it intends to use County data for its internal purposes only:

YES                       NO

If Licensee intends to sell or distribute County's data to third parties, then the "Data Resale or Redistribution Conditions and Fee" section of this Agreement (Paragraph 7) shall apply:

Licensee attests that it intends to sell or distribute County's data to third parties pursuant to paragraph 7 "Data Resale or Redistribution Conditions and Fee":

YES                       NO

If Licensee decides, after signing this Agreement, that it intends to sell or distribute County's data to third parties, Licensee shall notify County in writing that it agrees to the "Data Resale or Redistribution Conditions and Fee" section of this Agreement (Paragraph 7).

### 3.2. Distribution of County Data

Licensee may copy County data and otherwise distribute it within its organization, or to its designated agents, for the purpose of conducting Licensee's own business services.

Licensee may post County data on its websites, subject to the copyright and notification requirements of this License, provided Licensee posts in such a manner that a third party accessing the website cannot obtain a copy of the County's data.

Licensee may print and distribute hard copy representations of some or all of County data, subject to the copyright and notification requirements of this License.

### 3.3. Assignment of License

Licensee shall not have the right to assign its rights to third parties, except under the terms and conditions of the "Data Resale or Redistribution Conditions and Fee" section of this Agreement (Paragraph 7). Any such attempted assignment without consent shall be a breach of this Agreement and void this License immediately.

### 3.4. Term of License

This license shall be effective from the date of signature by Licensee. The license shall remain in force as long as the terms of the license are not violated, or until one or both parties terminate this Agreement.

### 3.5. Restrictions on Use and Distribution of Certain Data

Data that is licensed by the County from other parties is not owned by the County. Such data is not included in this Agreement, and may not be distributed to Licensee by the County. Such third party data includes:

- √ Digital orthophotography licensed from HJW Geospatial, Inc.
- √ Scanned Assessor map pages licensed from CD-Data

### 3.6. Demand for Data Owned by Others

If a demand is made to the County for data which is owned by a third party, then the County shall refer the requester to the data owner.

### 3.7. Data Update

The County makes no representations of any sort regarding the accuracy or completeness of its dGI. The County accepts no responsibility for any conflict with actual legal records or for information not transferred from legal records to its dGI.

Users of the County's dGI that detect errors in the data, or that correct or update the data, shall make these modifications available to the County. These data updates, additions, revisions, or corrections shall be provided in a format compatible with the format from which the data were received from the County.

Users of the County's dGI that create or modify additional themes, layers, features or data elements based on, or in reference to the County's data, shall make these additions available to the County, provided they are not the exclusive, proprietary, private interest of the data creator. These data additions shall be provided in a format compatible with the format from which the data were received from County.

Licensee agrees to assume full and total responsibility for continued maintenance of its own data.

Licensee assesses exchanges of data to be of equal value to both parties.

### 3.8. Metadata Maintenance

The County recognizes and endorses the tenants of the National Spatial Data Infrastructure, as promulgated by the U.S. Federal Geographic Data Committee.<sup>1</sup> It is the County's intent to compile and maintain metadata describing its dGI in a

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<sup>1</sup> For information on NSDI, see <http://nsdi.usgs.gov/nsdi> or <http://www.fgdc.gov>. The FGDC Metadata Standard may be downloaded from <ftp://fgdc.er.usgs.gov/fgdc/metadata>. The California Metadata Catalog at <http://ceres.ca.gov/catalog> is also pertinent.

format compatible with NSDI standards. The County's metadata will be made available through a Node in the network of NSDI metadata databases.

Licensee shall update and record any changes to metadata pertaining to data updates or additions for which it is responsible. This metadata shall be made available to the County in a format compatible with the County's metadata catalog database.

#### **4. Copyright Notice**

All publications using any of the County's data for release to the public or to others outside the Licensee's organization must include the following notice:

*"Copyright, 2002<sup>2</sup>, County of San Mateo, all rights reserved"*

All publications using geographic information derived from any of the County's data for release to the public or to others outside the Licensee's organization must include the following notice:

*"Derived from data that is Copyright, 2002, County of San Mateo, all rights reserved"*

#### **5. Disclaimer of Liability**

##### **5.1. Disclaimer of Liability**

The County's dGI has been compiled and is being used by the County for the express purposes of fulfilling its mandated duties. The County claims all privileges and immunities afforded under the law.

Licensee accepts the dGI "as is", with no guarantee or warranty of accuracy, currency, completeness, or fitness for any particular purpose. Licensee agrees to accept any and all data from the County on an "as is" basis. No oral or written information, or advice given by the County, shall create a warranty.

Neither party will make demands on the other if errors or omissions are found in the data. Licensee waives any and all responsibility of the County, explicit or implied, for any damage or liability caused through the use of this data in any way.

The County shall not be liable for any occurrence or activity relating to the dGI, including: lost profits, the fitness of the dGI for a particular purpose, the installation of the dGI, or the results obtained from use of the dGI.

This disclaimer shall survive the termination of the License Agreement.

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<sup>2</sup> Insert then-current year.

## 5.2. Disclaimer Notice

This disclaimer shall apply to any authorized or unauthorized transfer of all or any part of the dGI.

Licensee agrees to display the following note on printed maps, digital web pages, or other reproductions utilizing the dGI for both internal use and/or for distribution to third parties:

"This is not a survey product. The information is derived from the San Mateo County GIS Databases. San Mateo County does not assume any liability for damages arising from errors, omissions, or use of this data. Users of this data are advised to be aware of the locational accuracy, compilation dates, compilation methods, and cartographic format. Users are advised to use this data appropriately."

This disclaimer shall survive the termination of the License Agreement.

## 5.3. Indemnification from Damage Claims

Licensee agrees to defend and hold the County harmless for any damages of any kind which may be caused by or arise out of the use of the County data by Licensee or by any third party who obtained the data through Licensee. This paragraph shall survive the termination of the License Agreement.

## **6. Data Distribution Services & Fee**

### 6.1. Data Duplication Services and Fee

Copies or partial copies of Standard County Data, as designated in Appendix A, will be provided by the County according to staff availability. Such requests will be handled as one-time events, on a first-come/first-serve basis.

A Data Duplication fee will be charged for County costs expended to fulfill Licensee's request. The fee is payable in full before delivery of the data. The data distribution fee shall be comprised of:

- √ Staff time expended to fulfill the data request, to be billed at the fully-loaded rate which includes salary and indirect costs;
- √ Cost of all media or materials consumed in reproducing the data;
- √ Ancillary direct costs, such as shipping or handling to fulfill the request.

Additional custom service products or data formats, as designated in Appendix A, will be provided by the County on a first-come/first-serve basis as County staff are available for fulfillment. The data duplication service fee will also include County staff time expended to consult with the Licensee in order to specify, clarify, and

understand the data request, as well as other costs, including but not limited to, renting special equipment to fulfill the request. Any fee is payable in full before delivery of the data.

## 6.2. Update Subscriptions

Updates to Standard County Data, as designated in Appendix A, will be fulfilled for Licensees that subscribe to this optional service. For the consideration of an annual update subscription fee, the County will send updated versions of its dGI to Licensee on a monthly (twelve updates), quarterly (four updates) semi-annual (two updates), or annual (one update) basis, as noted for designated data sets described in Appendix A. The County will update all such data that have been changed in the County's database since the previous delivered version. Licensee does not have to make a request for data updates; the County will send them to Licensee when they are ready for delivery.

This annual fee shall be paid in advance of database update deliveries. If the County is late in its update cycle, the fee shall pertain to the next available update released by the County, until the designated number of updates has been fulfilled. Upon fulfillment of the designated quantity of updates, Licensee may renew its request for data updates by sending the County another annual fee payment.

The County reserves the right to change the fee for this optional service at any time prior to receipt of Licensee's annual fee. The County shall notify Licensee of such fee changes.

In addition, the Data Duplication fee shall also be charged for the County's costs.

At the County's discretion, the data updates will be delivered as a separate dataset, or as a revised copy of the entire GIS database.

## 7. **Data Resale or Redistribution Conditions and Fee**

This section pertains only to Licensees that intend to sell or redistribute the County's data to third parties.

For reasons of public safety and security, the County requires that all persons or organizations that obtain a copy of all or part of the County's data sign and agree to the terms of this License Agreement. Third parties shall agree to the same licensing terms as stated herein, and shall sign an additional License Agreement with the County. Licensee shall be responsible for third parties agreeing to and signing a copy of this Agreement.

The County may reject an applicant's request for data, for reasons of public safety, within the legally prescribed processes and notification.

For the consideration of a resale royalty fee, described in Appendix A, Licensee may distribute or sell the County's data to third parties. The resale royalty fee will be based on the Licensee's gross revenue derived from the sale, resale, transfer, assignment, or distribution of the County's data or of licenses to use the County's data.

Royalty fee payments shall be due quarterly, based on revenues collected by Licensee during the previous quarter. Licensee shall provide the County with a certified audit on an annual basis, or at the request of the County.

## **8. Miscellaneous Terms**

### **8.1. License Agreement Consideration**

With the payment of one hundred dollars to the County, the County and Licensee accept the terms of this Agreement.

### **8.2. Delivery and Installation of County Data**

Licensee understands and agrees that the County dGI is designed to operate only with specific computer equipment and software. Licensee is solely responsible for installation of the County's data on Licensee's computer equipment and for the use of the County's data on its equipment.

In the event that the County's data fails to operate in the Licensee's computer system, the County's total liability and Licensee's sole remedy shall be limited to replacement of the County's data or refund of any amounts paid for the License under this Agreement.

In no event shall the County be liable for any of Licensee's incidental, consequential or special damages arising out of the use, or the inability to use, the County data (including without limitation, loss of use, time or data, inconvenience, commercial loss, lost profits or savings, or the cost of computer equipment and software), or for any claim against Licensee by any third party. This paragraph shall survive the termination of the License Agreement.

### **8.3. Penalties for Breach of License**

Licensee acknowledges that any unauthorized distribution of the County data would

- 1) substantially diminish the value to the County of its copyrights and other proprietary interests that are the subject of this Agreement,
- 2) render the County's remedy at law for such unauthorized distribution inadequate, and
- 3) cause irreparable harm to the County.

If Licensee breaches any of its obligations with respect to the use of the County's data, the County shall be entitled to equitable relief to protect its interests therein,

including but not limited to preliminary and permanent injunctive relief, and Licensee waives any requirements that a bond be posted in connection therewith.

8.4. Termination of License

If Licensee violates the terms of this Agreement, the County may terminate the License. Termination shall occur within seven days of a written notice of violation of the terms of this Agreement.

Upon termination of this License, for any reason, Licensee shall remove all files from Licensee's computer systems, return all files, documentation, and copies thereof, and shall certify to the County that no other copies of the data reside on the Licensee's computer systems nor on those of any of its agents.

8.5. Governing Law

The License Agreement shall be governed by the laws of the State of California and any action related to the Agreement shall be venued in San Mateo County, California.

8.6. Notice

Any notice required to be given by either party, or which either party may wish to give, shall be in writing, addressed as follows:

To County:

GIS Manager - San Mateo County  
Pony ISD120, Information Services Department  
455 County Center, 3rd Floor  
Redwood City, CA 94063

Or to such other place as County shall designate by written notice.

To Licensee:

Licensee Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

8.7. Entire Agreement

This Agreement constitutes the sole and entire agreement between the parties and supersedes any previous agreements or representations, oral or written, related to the subject matter of this License.

Licensee agrees to all statements, terms and conditions stated herein.

**LICENSEE**

**COUNTY**

Licensee Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## APPENDIX A

### Standard County Data Included with this License Agreement

- GIS-based map themes/layers/features
- Tabular attribute information stored in the GIS-based database

The attached matrix contains a list of specific digital geographic data layers and digital tabular data sets data included with the delivery.

### Data Reproduction Fees

- \$100 per delivery

### Data Update Subscription Fee and Update Period for Specific Data Included with this License Agreement

- Updates shall be made available on a quarterly (3 month) cycle.
- Update Fee will be \$100 per delivery

**Licensee requests this optional service**    \_\_\_YES                    \_\_\_NO

### Data Resale Royalty Fee

- Resale Royalty shall be \_\_\_ percent of gross revenues derived from sale or distribution of County's data.

**Licensee requests this optional service**    \_\_\_YES                    \_\_\_NO

Layer Name	Layer Description	Data	Last
		Type	Updated
ACTIVE_PARCELS_APN	Assessor Parcel Geometry with APN data	Polygon	8/19/2008
CITY	Cities and unincorporated areas	Polygon	8/19/2008
COUNTY_BOUNDARY	County boundary	Polygon	8/19/2008
G200	Public Works 200-scale grid	Polygon	8/19/2008
G400	Public Works 400-scale grid	Polygon	8/19/2008
G800	Public Works 800-scale grid	Polygon	8/19/2008
LAKES	Lakes, and other bodies of water	Polygon	8/19/2008
LANDMARKS_AREA	Public facilities, hospitals, etc.	Polygon	8/19/2008
LANDMARKS_PT	Public facilities, hospitals, etc.	Point	8/19/2008
OCEAN_BAY	Ocean Bay	Polygon	8/19/2008
ROW_2006	Right of Way lines	Line	8/19/2008
SFO SCHEMATIC	Schematic of SFO Airport - cartography only	Any	8/19/2008
STREETS	Street centerlines with name data	Line	8/19/2008
ZIPCODES	Zipcodes	Polygon	8/19/2008