



City of Newburgh – GIS

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GIS Data License Agreement

Licensee Name / Entity (LICENSEE):

Address:

Licensed Geographic Information System Datasets / Information Requested (GIS DATA):

THIS GIS DATA LICENSE AGREEMENT (“License Agreement”) is made and entered into by and between the City of Newburgh (“City”), a municipal corporation of New York State, having its principal office at 83 Broadway, Newburgh, New York 12550, and the individual or entity identified above as “Licensee.”

WHEREAS, the City represents that the geographic information system datasets (“GIS Data”) identified above are public government data that have commercial value and were developed with significant expenditures of public funds by the City; and

WHEREAS, pursuant to Resolution 39 adopted by the City Council on March 26, 2007 concerning Chapter 163 of the City Code, entitle “Fees”, the City is authorized to charge a reasonable fee for the GIS Data to recover actual development costs as well as the costs of making, certifying and compiling copies of the GIS Data; and

WHEREAS, the purpose of this License Agreement is to make public government data accessible to the public and protect the public’s interest in recovering the significant expenditures of public funds used to develop the commercially valuable GIS Data.

NOW THEREFORE, in consideration of the mutual terms and conditions stated in this License Agreement, the City and Licensee agree as follows:

- I. Term: This License Agreement shall continue for as long as Licensee uses the files for his or her intended purpose. However, if Licensee fails to comply with any of the terms or conditions set out in this document the License will terminate. Licensee agrees, upon termination, to destroy all copies of any files or documents obtained as part of this agreement. The Limitations of Warranties and Liability set out below shall continue in force even after any termination.

- II. Limitation: Licensee agrees not to:
 - a) Rent, lease, assign, or transfer the GIS Data
 - b) Use GIS Data in published works for commercial use and / or sale
 - c) Redistribute, sell or publish the GIS Data

- III. Warranty: The GIS Data are made available to Licensee subject to the following limitations and restrictions:
 - a) The City will use its best efforts to ensure the GIS Data are delivered free from physical defect at the time of delivery. Licensee is responsible for the installation and use of the GIS Data and the results or consequences obtained from Licensee's uses of the GIS Data
 - b) The City does not warrant that the GIS Data are error free. The GIS Data were developed for the City's own internal business purposes and the City does not represent that the GIS Data 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) The City disclaims any other warranties, express, or implied, respecting this License Agreement or the GIS Data. The GIS Data and associated 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 GIS Data is assumed by Licensee.

- IV. Payment: Licensee shall pay the City the fees set forth on the attached GIS Fee Schedule.

- V. Authorized Use: Licensee is granted a perpetual, non-exclusive right to have and use the GIS Data, provided Licensee is complying with the terms and conditions of this License Agreement. Licensee may use the GIS Data in the form provided by the City for Licensee's own internal business or organizational purposes.

- VI. Ownership of Material: This License Agreement does not constitute a transfer of title or interest in the GIS Data. Any portion of the GIS data that is modified or converted into another digital file or computer program by the Licensee, or is integrated with other programs or Data to form derivative products, shall continue to be subject to the provisions of this License Agreement. Licensee shall not remove or obscure any City copyright, proprietary, or trademark notices, if any.

- VII. Distribution of data: The data is to be solely retained by the Licensee. In no instance is the Data to be copied, sold, leased, published, sub-licensed, loaned, or transferred, in whole or part. Licensee shall protect the Data from unauthorized use, reproduction, distribution, or publication.

- VIII. Request for data: Licensee agrees to forward any requests for GIS Data to the City, unless disclosure of Licensee's records containing such data is otherwise required by law; and, in such latter case, Licensee agrees to notify the City of such disclosure.

- IX. Confidentiality: All information and data relating to the Data operations shall be treated as confidential by Licensee and shall not, unless otherwise required by law, be disclosed to any other person or entity without the prior written consent of the City.

- X. Licensee Responsibility and Information: Licensee shall be solely responsible for its actions and the actions of its officers, employees, agents, or other representatives with regard to the performance of this License Agreement.
- XI. Consultant: Should the Licensee utilize the services of a consultant, said consultant must execute a separate agreement with the City prior to receiving any copies of the Data.
- XII. Independent Contractor: The parties to this Agreement are independent contractors. Neither party is an agent, representative, or partner of the other party. Neither party shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or constructed to create an association, agency, joint venture or partnership between the parties or to impose any liability attributable to such a relationship upon either party. The Licensee, as an independent contractor agrees that its employees or agent will not hold itself / themselves out as, nor claim to be an employee or agent of City, and that its employees or agents will not make claim, demand or application to or for any right or privilege applicable to an officer or employee of City.
- XIII. No Assignment: Licensee shall not assign, sublet, or transfer this License Agreement in whole or in part, without the prior written consent of the City. Any attempt to assign, sublet or transfer this License agreement without prior written consent shall be void and of no force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written.

Licensee Name / Entity:

City of Newburgh

Signature of Authorized Person:

By:

Name of Authorized Person:

Title:

Date:

Date: