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RESOLUTION NO. 13-2007

**A RESOLUTION ADOPTING A FORM
OF LICENSE AGREEMENT FOR DAUPHIN COUNTY GIS DATA**

WHEREAS, Dauphin County's Geographic Information System (GIS) is a group of interrelated technologies that combine geographic data such as, but not limited to, the locations of manmade and natural features of the earth's surface with other types of information such as, but not limited to, names, classifications, and addresses to generate visual maps and reports; and

WHEREAS, the purpose of GIS is to use geographic location to relate otherwise disparate data and provide a systematic way to collect and manage location-based information crucial to local government policy and decision-making; and

WHEREAS, the County has determined it is in the best interests of the citizens of Dauphin County to facilitate the dissemination of GIS data and improve access to computerized geographic data; and

WHEREAS, the County desires to be reimbursed for the reasonable costs associated with making said GIS data available and control the data via a "click-wrap" license agreement.

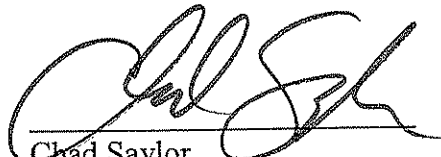
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF DAUPHIN COUNTY, PENNSYLVANIA AS FOLLOWS:

The GIS data license agreement attached hereto is incorporated herein by reference and hereby adopted accordingly.

ADOPTED AND RESOLVED, by the Board of Commissioners of Dauphin County, Pennsylvania, in lawful session duly assembled, on the 2nd Day of May 2007.

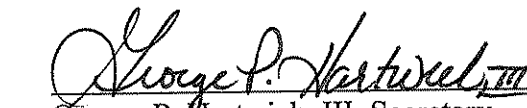
ATTEST:

**DAUPHIN COUNTY
BOARD OF COMMISSIONERS**

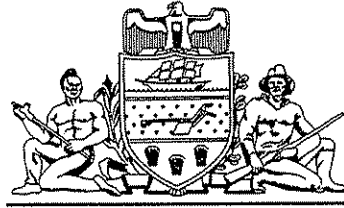

Chad Saylor
Chief Clerk/Chief of Staff


Jeffrey T. Haste, Chairman


Dominic D. DiFrancesco, II, Vice Chairman


George P. Hartwick, III, Secretary

(SEAL)



County of Dauphin, Commonwealth of Pennsylvania Geographic Information System Technology License

PLEASE READ THIS LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE USING THE GIS DATA CONTAINED ON THIS DISK. BY USING THE DATA, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT USE THE DATA AND CLICK "DISAGREE/DECLINE". IF YOU DO NOT AGREE TO THE TERMS OF THE LICENSE, YOU MAY RETURN THE DISK TO DAUPHIN COUNTY FOR A REFUND.

IMPORTANT: This GIS Data is not intended for use in the operation of aircraft navigation, emergency communication systems, air traffic control systems, or any other equipment in which the failure or inaccuracy of the data could lead to death, personal injury, or severe physical or environmental damage.

1. General. The GIS data, documentation and any fonts accompanying this License, whether on disk, in read only memory, on any other media or in any other form (collectively the "GIS Data") are licensed, not sold, to you by Dauphin County for use only under the terms of this License, and Dauphin County reserves all rights not expressly granted to you. The rights granted herein are limited to Dauphin County and its licensors' intellectual property rights in the GIS Data and does not include any other patents or intellectual property rights. You own the media on which the GIS Data is recorded but Dauphin County retains ownership of the GIS Data itself. The terms of this License will govern any GIS Data upgrade provided by Dauphin County that replaces and/or supplements the original GIS Data, unless such upgrade is accompanied by a separate license in which case the terms of that license will govern.

2. Grant of License. This License allows you to install and use the GIS Data contained on this disk subject to the terms and conditions set forth in this Agreement. Dauphin County hereby grants to you during the Term of this License Agreement, and you hereby accept from Dauphin County, a revocable, limited, non-exclusive license to use that GIS Data as is contained on this disk. The licenses granted under this Agreement are specifically set forth herein, and no other licenses are granted by Dauphin County to you by implication or estoppel. At all times, the GIS Data shall remain the property of Dauphin County.

3. Permitted Uses: In addition to your own use of this GIS Data pursuant to the terms and conditions hereof, you may also (a) make derivative works from this GIS Data, (b) incorporate this GIS Data into another product, and (c) make a one-time permanent transfer of all of your license rights to the GIS Data to another party, provided that all of the terms of this license agreement, including but not limited to all of the restrictions, disclaimers of warranties, and limitations of liability set forth herein, are made to inure to any and all subsequent purchasers, users or licensees of said products or works which contain this GIS Data. You are responsible to insure that any third party receiving this GIS Data from you, in whole, in part, or apart of another application, must agree to accept the terms and conditions of this License.

4. Consent to Collection of User Data. You agree that Dauphin County may collect and use technical and related information, including but not limited to technical information about your computer, system and application software, and peripherals, that may be gathered periodically to facilitate the provision of software updates, product support and other services to you (if any) related to the GIS Data and to verify compliance with the terms of this License.

5. Reservation of Rights. Dauphin County reserves the right to change, suspend, remove, or disable access to any GIS Data at any time without notice. In no event will Dauphin County be liable for the removal of or disabling of access to any such GIS Data. Dauphin County may also impose limits on the use of or access to certain GIS Data, without notice or liability.

6. Termination. This License is effective until terminated. Dauphin County may terminate this License at any time without notice. Your rights under this License will terminate automatically without notice from Dauphin County if you fail to comply with any term(s) of this License. Upon the termination of this License, you shall cease all use of the GIS Data and destroy all copies, full or partial, of the GIS Data.

7. Disclaimer of Warranties. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE GIS DATA IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THIS GIS DATA IS PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND DAUPHIN COUNTY HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE GIS DATA, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. DAUPHIN COUNTY DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE GIS DATA, THAT THE FUNCTIONS CONTAINED IN THE GIS DATA WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE GIS DATA WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE GIS DATA WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY DAUPHIN COUNTY SHALL CREATE A WARRANTY. SHOULD THE GIS DATA PROVE DEFECTIVE, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION.

8. Limitation of Liability. TO THE FULLEST EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL DAUPHIN COUNTY BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE GIS DATA, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF DAUPHIN COUNTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL DAUPHIN COUNTY'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

9. Indemnification. You agree to indemnify and hold harmless Dauphin County, its Commissioners, administrators, directors, officers, employees, and agents from and against any and all claims, actions, or liabilities of any nature that may be asserted against Dauphin County by third parties in connection with the use or dissemination of the GIS Data licensed under this Agreement.

10. Export Control. You may not use or otherwise export or re-export this GIS Data except as authorized by United States law and the laws of the jurisdiction in which the GIS Data was obtained. In particular, but without limitation, the GIS Data may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the GIS Data, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use the GIS Data for any purposes prohibited by United States law, including, without limitation, the guidance, development, design, manufacture or production of missiles, or nuclear, chemical or biological weapons.

11. Controlling Law and Severability. This License will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, as applied to agreements entered into and to be performed entirely within Pennsylvania between Pennsylvania residents. This License shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If for any reason a court of competent jurisdiction finds any provision, or portion thereof, to be unenforceable, the remainder of this License shall continue in full force and effect.

12. Complete Agreement; Governing Language. This License constitutes the entire agreement between the parties with respect to the use of the GIS Data licensed hereunder and supersedes all prior or contemporaneous understandings regarding such subject matter. No amendment to or modification of this License will be binding unless in writing and signed by Dauphin County. Any translation of this License done by you for local requirements shall result in the event of a dispute between the English and any non-English versions, the English version of this License governing.

13. Notice of Data Discrepancies. Within thirty (30) days of discovery, you must notify Dauphin County, in writing, on the "Dauphin County GIS Discrepancy Form", of any discrepancies in the GIS Data. All discrepancies are subject to verification by Dauphin County prior to change in the GIS data set and Dauphin County shall have obligation to you or any other entity to resolve any such discrepancies.

14. Notification of Infringement. If you become aware of the unauthorized use, copying, or disclosure of the GIS Data, you must notify Dauphin County within three (3) business days and you shall assist Dauphin County, at Dauphin County's request and expense, in the investigation and prosecution of such unauthorized use, copying, or disclosure.

15. Technical Assistance. Dauphin County shall not be responsible or in any way obligated to provide technical support to you or any other party regarding the use of this GIS data.

16. Licensee Software.

You shall be solely responsible for the license, acquisition and/or maintenance of whatever software and computer hardware is necessary to utilize the GIS Data provided hereunder.

17. Remedies. It is further understood and agreed that money damages may not be a sufficient remedy for any breach of this Agreement by you and that Dauphin County shall also be entitled to specific performance as a remedy for any such breach. These remedies shall not be deemed to be the exclusive remedies for breach of this Agreement, but shall be in addition to all other remedies available at law or equity to Dauphin County.

18. Public Attribution. You agree that any written publications, including but not limited to brochures and newsletters, or any public pronouncement that focuses upon any GIS system that incorporates Dauphin County's GIS Data as licensed hereunder shall include an acknowledgement of Dauphin County and its role in the development and maintenance of the GIS Data.

19. Strict Enforcement. The delay or failure of Dauphin County to strictly enforce any provision of this Agreement will not bar Dauphin County from any subsequent enforcement of any right, remedy or legal cause of action.

ADOPTED May 2, 2007, by Dauphin County Resolution 13-2007.

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