



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

PLANNING DEPARTMENT

300 Sixth Street

Patsy Horton, GIS Coordinator
GIS Division
City web: www.ci.rapid-city.sd.us

Phone: 605-394-4120
Fax: 605-394-6636
e-mail: patsy.horton@ci.rapid-city.sd.us

MEMORANDUM

TO: Legal and Finance Committee

FROM: Patsy Horton, GIS Coordinator

DATE: January 24, 2001

RE: Interim GIS Data Disbursement Policy for City-sponsored projects

Attached please find a copy of an Interim Agreement for Use of GIS Product Files for City Projects. Currently, GeoAnalytics, Inc. of Madison, Wisconsin, is developing an Information Policy to address disbursing digital data, however, Staff is requesting approval of an interim Agreement for Use of GIS Product Files for **City Projects**. This agreement with consultants working on City projects will cut project costs when this digital data is a part of the project. The proposed Agreement is attached for your review.

Staff recommendation: Approve Interim Agreement for Use of GIS Product Files for City Projects.

AGREEMENT FOR USE OF GIS PRODUCT FILE(S) FOR CITY PROJECTS

CITY

PROJECT: _____

NAME OF

CONSULTANT: _____

COMPANY: _____

—
ADDRESS: _____

—
PHONE

NUMBER: _____

GIS PRODUCT

FILE(S): _____

The Consultant understands and acknowledges that the GIS Product File(s) listed above were created from GIS data files and developed for internal use only. The GIS data is subject to constant change and the accuracy and completeness cannot be guaranteed. The GIS data is provided “as is” without warranties or guarantees, either expressed or implied, as to the completeness, accuracy, or correctness of such GIS data, fitness for a particular purpose, or warranty that the information does not infringe the rights of others, nor accepts any liability arising from any incorrect, incomplete or misleading information contained therein. The City of Rapid City is not responsible for incidental, consequential, or special damages arising out of the use of the GIS data provided the Consultant. The Consultant agrees that the GIS Product File(s) shall be used and relied upon only at the risk of the Consultant. The Consultant agrees to indemnify and hold harmless the City of Rapid City, its officials, officers, employees and servants from any liability, claims, loss, damages, injury, costs and attorney fees arising out of procuring, compiling, collecting, interpreting, production, using or communicating the GIS Product File(s) or information contained therein.

No part of this digital information may be copied, reproduced or transmitted in any form or by any means whatsoever, including but not limited to electronic, mechanical, recording, scanning, or by any information or retrieval system for any purpose beyond the scope of the City Project identified above without the expressed written permission of the City of Rapid City. The Consultant shall not use, license, sub-license, assign, release, publish, transfer, sell or otherwise make available the GIS Product File(s) or portion thereof to a third party without the expressed written permission of the City of Rapid City. All GIS Product File(s) remain the property of the City of Rapid City and shall be used only for the identified City Project and returned to the City of Rapid City upon completion of the City Project. The Consultant agrees to recognize and honor in perpetuity the copyrights, and other proprietary claims for the GIS

Product File(s) established or produced by the City of Rapid City or the vendors furnishing said items to the City of Rapid City.

This Agreement embodies the entire agreement between the Consultant and the City of Rapid City. The parties shall not be bound by or liable for any statement, representation, promise, inducement, or understanding of any kind or motive not set forth herein. No additional amendments or modifications of any of the terms or conditions of the Agreement shall be valid unless reduced in writing and signed by the parties. Neither this Agreement or the rights granted by it shall be assigned or transferred by the Consultant under any circumstance whatsoever. This restriction on assignments and transfers shall apply to assignments or transfers by operation of law, as well as by contract, merger, or consolidation. Any attempted assignment or transfer in derogation of this prohibition is void. The Consultant will do or cause to be done all things necessary to preserve its rights and meet its obligations under this Agreement.

In the event the Consultant breaches any of the terms, conditions, covenants, or agreements contained in the Agreement, not only shall the license granted herein immediately cease, but the City of Rapid City shall thereupon have the right to any and all legal or equitable remedies, including but not limited to injunctive relief.

This Agreement shall be governed by the laws of the State of South Dakota and the parties hereby submit to the jurisdiction of the courts of the State of South Dakota. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof. This Agreement shall not be modified except in writing signed by the parties. Waiver of any breach of the terms and conditions in this Agreement shall not be deemed to constitute a waiver of any other or future breach.

Signature: _____ Date: _____
Title

Signature: _____ Date: _____
GIS Coordinator

Approved By: CITY ATTORNEY'S OFFICE
Initials: _____
Attorney Date