

INTERNET ACCESS AGREEMENT
Between the
METROPOLITAN PLANNING COMMISSION
and

THIS AGREEMENT is made and entered into on this ___ day of ____, ____, by and between the Metropolitan Planning Commission, an agency of The Metropolitan Government of Nashville and Davidson County, having as its principal address for purposes of this Agreement at 800 Second Avenue South, Nashville, Tennessee 37210 (hereinafter referred to as "METRO"), and _____ (hereinafter referred to as "USER").

WHEREAS, METRO has developed a Professional Access System to the Internet for the purpose of providing users with on-line access and download capability to data for a fee from the Metro Geographic Information System (hereinafter referred to as "Metro GIS"). The Metro GIS is composed of hardware, operating systems, proprietary GIS software and databases; and,

WHEREAS, USER wishes to obtain on-line access to download data for a fee from the Metro GIS, through the use of said Professional Access System; and,

WHEREAS, METRO is willing to permit on-line access and download capability to data in the Metro GIS through the use of said Professional Access System to USER, on the terms and conditions and for the express purposes herein stated, and has delegated administrative authority to charge a fee for data in the form of computer-generated maps to the Metropolitan Planning Commission;

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. Services Provided. USER shall have unlimited on-line access to the Metro GIS through the Professional Access System for inquiry to information and to download data in the form of computer-generated maps except during such periods of time when data or the server are being updated.
2. Term. The term of this Internet access user agreement is three years from the date it is executed by all parties.
3. Fees and Payments. USER shall pay a fee to METRO in the amount of seventy-five (\$75.00) dollars for digital map data of an area equivalent to the area of a standard map downloaded through the use of the Professional Access System. Metro will invoice User on a monthly basis for any incurred fees, which shall be due and payable by USER to METRO within 30 days of invoicing.

4. On-line Conduct. METRO, in its sole discretion, reserves the right to deny access to any USER who misuses or causes damage to the system, or fails to pay the USER fees set forth in paragraph 3 of this Agreement.
5. USER Delegation. - USER agrees to abide by all regulations of The Metropolitan Government of Nashville and Davidson County, the Metro Planning Commission and any amendments thereto. USER understands that the Professional Access System account only permits one (1) concurrent USER of the system. Employees and/or agents of USER may use the same USER name and password, but may not do so simultaneously (e.g. two or more USERS can use the account, but may not be logged on at the same time). Accounts showing simultaneous logins will be discontinued without further notice. USER also understands that information obtained from this site is the intellectual property of METRO and is not for resale.
6. No Warranties. – USER acknowledges that the Professional Access System is complex and that it may contain some nonconformity, defects or errors. METRO does not warrant or guarantee, expressly or implied, the connection time necessary to access the system, which can be affected by power failures, phone service, or other mechanical or electrical devices. METRO reserves the right to make adjustments and correct any problems, which might occur. USER understands that METRO makes no representations as to the accuracy of the information in the mapping data, but rather, USER accepts the Professional Access System “AS IS.”
7. Limitation of Liability. METRO shall not be liable under any circumstances for any lost profits, lost savings, or any other damage, which may arise from any use of the Professional Access System. METRO shall bear no liability if the System does not meet any particular purpose for which USER may use the System nor shall METRO be liable under any circumstances for any results obtained or damages resulting from the use of the System. Further, USER knowingly waives any and all claims for damages against METRO that may arise from the mapping data.
8. Indemnification. USER shall indemnify and hold harmless METRO against all losses, damage, claims, expenses or attorney’s fees, which may be sustained or asserted against METRO arising from or connected with any breach by USER of any provision of this Agreement or through the use of the System by the USER.
9. Termination/Cancellation. Should USER fail to fulfill in a timely and proper manner its obligations under this agreement or if it should violate any of the terms of this agreement, METRO shall have the right to immediately terminate the agreement. Such termination shall not relieve USER of any liability to METRO for damages sustained by virtue of any breach by USER.
10. Termination/Notice. METRO may terminate this agreement at any time for convenience upon thirty (30) days written notice to USER.
11. Revisions/Modifications. USER agrees that METRO has the right to modify or discontinue the Professional Access System at any time whatsoever, without prior written notice to USER.

- 12. Assignment. Neither this agreement nor any of the rights granted by it may be assigned or transferred by the USER without the express written permission of METRO. This restriction on assignments or 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.
- 13. Governing Law. This Agreement shall be governed by the laws of the State of Tennessee.
- 14. Venue. The exclusive venue for any lawsuit between the parties arising out of this Agreement shall be Davidson County, Tennessee.
- 15. Separate Provisions. If any provision of this Agreement is determined to be invalid or unenforceable, it shall be severed, and the remaining provisions of this Agreement shall continue to be valid and enforceable.
- 16. Taxes. USER shall be responsible for payment of all taxes, fees, assessments, or levies on the items covered by this Agreement or arising out of or imposed by reason of the transactions contemplated by this Agreement.
- 17. Miscellaneous. The foregoing Agreement must be filled out and signed by the prospective Professional Access System USER in order to have a client account established for the purpose of obtaining data from the METRO Geographic Information System on the internet. The completed form must be mailed to Mapping Manager, Metro Planning Commission, Metro Office Building, 800 Second Avenue South, Nashville, TN, 37201. The user name and password will be transmitted to USER via e-mail or phone.
- 18. Notices. Any notice required to be made pursuant to this Agreement shall be delivered by first class certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Metro Planning Commission
 Attention: Mapping Manager
 800 Second Avenue South
 Nashville, Tennessee 37201

To USER:

IN WITNESS THEREOF, the parties have executed this agreement on the date first written above.

THE METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON
COUNTY:

By:

Executive Director, Metropolitan Planning
Commission

APPROVED AS TO AVAILABILITY OF
FUNDS:

Director, Department of Finance

APPROVED AS TO FORM AND LEGALITY:

Metropolitan Attorney

FILED IN THE OFFICE OF THE
METROPOLITAN CLERK:

Metropolitan Clerk

Date Filed: _____

USER:

By: _____

Title: _____

Sworn to and subscribed to before
me, a Notary Public, this ____ day
of _____, 20__, by
_____ the
of USER and duly authorized to
execute this instrument on USER's
behalf.

Notary Public

My Commission Expires:
