

BAY AREA REGIONAL GIS COUNCIL
MEMORANDUM OF UNDERSTANDING FOR DATA DISTRIBUTION
DRAFT 9 03/02/2004

This multi-participatory Agreement is between the Bay Area Regional GIS Council ("BAR-GC") Participating Agencies for the expressed purpose of building a regional geographic data set, under the stewardship of the Bay Area Regional GIS Council.

WITNESSETH:

WHEREAS the BAR-GC is a regional geographic information coordinating council, formed and recognized by the State of California's GIS Council and

WHEREAS one purpose of the BAR-GC is to establish an institutional method for enabling easy, convenient, and secure access to the region's digital geographic information, and

WHEREAS participating agencies who wish to share geographic data with each other, retain all rights to said data, and

WHEREAS the BAR-GC, as the steward to this shared data, may develop a regional data repository for enabling the sharing of said data;

NOW, THEREFORE, the Participating Agencies of the BAR-GC enter into the following Agreement.

1. Statement of Purpose

Participating Agency agrees to convey to the BAR-GC, as the data steward for this MOU, a copy of the requested data themes described in Appendix YY according to the terms, conditions, and restrictions of this MOU Agreement

2. Definitions

For the purpose of clarity in this Agreement, the following terms are defined:

Geospatial Data – the digital geographic information and related attribute records, data files, and metadata

Metadata – information describing geospatial data, including the contact person in the data owner's agency, the contents of the database, the data accuracy, projection, datum, currency (date of data capture), and format of each data theme in the database

Licensee – any entity, organization or individual that has been granted access to BAR-GC data and has agreed to the provisions of this document.

MOU –This Memorandum of Understanding

3. Licensee Categories – The following categories describe the types of licensees, ranked from most restrictive to least restrictive:

- o Emergency Service Provider (includes responders, planners, assessment and relief providers)
- o Government Agencies or their Delegated Agents
- o Other Public or Educational Institutions
- o Data Contributors – both public or private organizations that contribute data to the BAR-GC Repository
- o Others – includes private individuals and organizations

4. **Use Restrictions** – The following matrix identifies the User Type Restrictions (in the left-hand column) and Use Category Restrictions (in the top row) that the Participating Agency may specify for individual data layers, at the discretion of the Participating Agency.

		USE CATEGORY RESTRICTIONS			
		(1) Internal Use Only	(2) Internet/Web Based Display	(3) Distribution to Third Parties	(4) Third Party Distribution via Internet
USER TYPE RESTRICTIONS	(A) Emergency Service Provider	A1	A2	A3	A4
	(B) Government Agencies or Their Delegated Agents	B1	B2	B3	B4
	(C) Other Public or Educational Institutions	C1	C2	C3	C4
	(D) Data Contributors	D1	D2	D3	D4
	(E) All Others	E1	E2	E3	E4

Explanation of Use Category Restrictions

- o Internal Use Only – Geospatial Data may be used only by the Licensee or its designated agents to conduct the operations of the Licensee
- o Internet, Web-based Display – Geospatial Data may be displayed on the Licensee's internet website in a raster display format only, but not made available for download

The User Type Restrictions and Use Category Restrictions at each level are inclusive of all less-restrictive levels. For example, a C2 equates to the following:

- o Access granted to Emergency Service Providers (A), Government Agencies or Their Delegated Agents (B) and Other Public or Education Institutions (C), and
- o Access granted for the above users to use the data for Internal Use (1) and Internet/Web based display (2).

5. Ownership of Data

BAR-GC acts as the steward for the Geospatial Data in its possession. Ownership of the data remains with the Participating Agency that contributed the data to the repository. All title, ownership, and intellectual property rights that may exist or be created with the Geospatial Data shall remain with the Participating Agency.

This Agreement does not constitute the sale of any title, interest, or rights by either party other than those expressly granted by this Agreement. Any portion of the Geospatial Data, or its derivative products, that is modified or merged into another computer file by a Licensee, or is integrated with other data to form derivative products, shall continue to be subject to the provisions of the license agreements required by individual entities who contribute to the BAR-GC repository.

6. Copyright Notice

Copyright notices, if applicable, will be provided to the BAR-GC by all Participating Agencies who contribute Geospatial Data. The BAR-GC will distribute these notices along with the data and metadata to Licensees. All publications or public communications using any BAR-GC data for release to the public or to others within the Licensee's organization must include all Participating Agencies' copyright notices, if that Agency's data is used in the product.

All publications using geographic information derived from any BAR-GC data, used for release to the public or within a Licensee's organization must include the Participating Agency's copyright notice, if that Agency's derivative data is used in the product.

7. Data Update

Participating Agencies will provide updates of their respective Geospatial Data on an annual basis.

8. Metadata Maintenance

BAR-GC recognizes and endorses the tenants of the National Spatial Data Infrastructure, as promulgated by the U.S. Federal Geographic Data Committee.

- o Participating Agency will provide BAR-GC with metadata for each data theme stored in the repository; such metadata shall conform to NSDI metadata standards.
- o Participating Agency shall notify BAR-GC of any metadata changes, and submit updated files. Such updated metadata shall be delivered to BAR-GC in a timely manner along with the updated data.

9. Disclaimer of Liability

BAR-GC Geospatial Data is being collected and used by Participating Agencies for the express purposes of fulfilling their respective missions.

BAR-GC, as steward for the Geospatial Data contributed by Participating Agencies, accepts the Geospatial Data "as is", with no guarantee or warranty of accuracy, currency, completeness, or fitness for any use. No oral or written information, or advice given by Participating Agency, shall be construed as a warranty.

While all due efforts will be made to assure that the data conforms to documented specifications of accuracy and completeness, neither BAR-GC nor Owner will make demands on the other if errors or omissions are found.

Neither BAR-GC nor Participating Agency shall be liable for any occurrence or activity relating to the Geospatial Data, including but not exclusive to: lost profits, the fitness of the Geospatial Data for a particular purpose, the installation of the Geospatial Data, or the analysis derived from said Geospatial Data. This disclaimer shall survive the termination of this MOU Agreement.

In no event shall Participating Agency be liable for any of BAR-GC's incidental, consequential or special damages arising out of the use, or the inability to use Participating Agency's 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 BAR-GC by any third party.

10. Disclaimer Notice

Disclaimer notices, if applicable, will be provided to the BAR-GC by all Participating Agencies who contribute Geospatial Data. The BAR-GC will distribute these notices along with the data and metadata to Licensees. All publications or public communications using any BAR-GC data for release to the public or to others within the Licensee's organization must include all Participating Agency's disclaimer notices, if that Agency's data is used in the product.

11. Term of MOU

This MOU Agreement shall be effective from the date of signature by the Participating Agency. Agreement shall remain in force as long as its terms are not violated.

12. Termination of MOU

If a Participating Agency determines that a Licensee has violated the terms of this MOU or License Agreement (see Appendix A), Participating agency can terminate an individual MOU

relationship with Licensee. Once MOU is terminated, Licensee's access to the aforementioned Participating Agency's data is removed.

Upon termination of this Agreement, for any reason, BAR-GC shall remove all files from its computer systems, return all files, documentation, and copies thereof. BAR-GC shall not be responsible for copies of Owner's data that may be in possession of Licensees. However, BAR-GC will identify all licensed users of Owner's data to the Owner.

13. Governing Law

This MOU Agreement shall be governed by the laws of the State of California and any action related to the Agreement shall be located in Alameda County, California.

14. 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 BAR-GC:

*BAR-GC
Contact Person
Address
City, State, Zip
Phone, E-Mail*

Or to such other place as BAR-GC shall designate by written notice.

To Participating Agency:

*Participating Agency's Name
Contact Person
Address
City, State, Zip
Phone, E-Mail*

15. Entire Agreement

Participating Agency agree to all statements, terms and conditions stated herein this MOU Agreement.

Persons who sign this agreement hereby affirm that they are authorized to encumber their organizations with the provisions herein.

Owner

BAR-GC

Organization Name: _____
Date: _____
Signed: _____
Name: _____
Title: _____

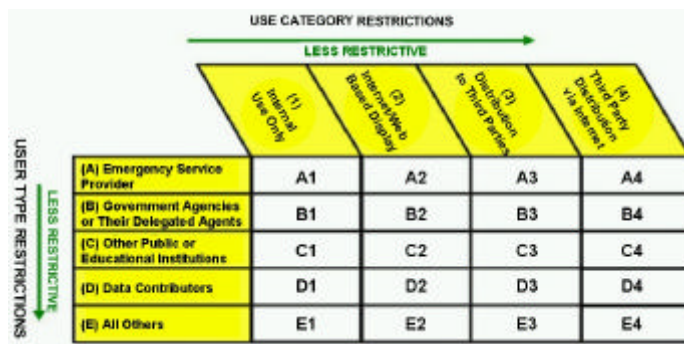
Date: _____
Signed: _____
Name: _____
Title: _____

APPENDIX YY SAMPLE

This Sample Appendix illustrates the types of Use Restrictions that the Participating Agency may specify for individual data layers, at the discretion of the Participating Agency. It is for illustrative purposes only – it is not intended to reflect the data layers and Use Restrictions that the Participating Agency must provide/specify.

Digital Geographic Data			
Layer Name	Layer Description	Use Restrictions	
		User Type Restrictions	Use Category Restrictions
PARCELS	Assessor Parcel Geometry with APN	B	1
CITY_BOUNDARIES	Cities and unincorporated areas	C	3
CONTOURS	Topographical lines with elevation values	D	4
COUNTY_BOUNDARY	County boundary	C	3
COASTLINE	Coast and Bay Line	E	4
HAZMAT	Storage facilities for hazardous materials	A	1
LAKES	Lakes, ponds and reservoirs	E	4
LANDMARKS	Public facilities, hospitals, etc.	B	1
RAILROAD	Railroad centerlines	C	4
ROW_LINES	Right of Way lines	B	2
STREAMS	Streams, creeks, and rivers	E	4
STREETS	Street centerlines with name data	C	3
STREETS_ALIAS	Streets with alternate names	C	3
Digital Tabular Data			
Table Name	Table Description	Use Restrictions	
		User Type Restrictions	Use Category Restrictions
ASSESSOR_OWNER_MAILING	Owner mailing addresses for tax parcels	B	1
ASSESSOR_SITUS_ADDRESS	Site addresses for tax parcels	B	1

KEY:



The User Type Restrictions and Use Category Restrictions at each level are inclusive of all less-restrictive levels. For example, a C2 equates to the following:

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- Access granted for the above users to use the data for Internal Use (1) and Internet/Web based display (2).