

**123326**
LA-864**LIMITED LICENSE TO USE COPYRIGHTED MATERIAL**

This LICENSE is issued by the State of Minnesota, by and through its Department of Natural Resources, hereinafter referred to as the "DNR", as licensor, to:

LICENSEE: City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

License Coordinator:
Tim Gladhill, Community Development Director

The DNR hereby grants to the LICENSEE a non-exclusive, paid up, non-transferrable (except to such sublicensees as authorized herein), limited LICENSE to use the database described in Section 1 of this LICENSE. This database is voluntarily provided to the LICENSEE upon the following terms and conditions:

1. LICENSED MATERIAL

- A. The DNR's proprietary Natural Heritage Information System consists of electronic data of rare feature locations (endangered, threatened, special concern plants and animals, native plant communities, animal aggregation sites, and geological features and processes) and associated metadata collected within the state of Minnesota. The LICENSEE is licensed to use the following subset of the Natural Heritage Information System: Distributed Rare Features Data within the City of Ramsey, Minnesota. Said subset, including any portions thereof, are hereinafter referred to as "RARE FEATURES DATA," and is considered "specific location data" under *Minnesota Statutes*, section 84.0872. The RARE FEATURES DATA is also of economic and commercial value, and is deemed by the DNR to be trade secret information under the federal Freedom of Information Act.
- B. The RARE FEATURES DATA will be delivered to the LICENSEE in the following formats:
- 1) Distributed Rare Features Data Polygon Shapefile – In this shapefile the rare features are represented as polygons that incorporate the extent and/or uncertainty of the location of the rare feature.
 - 2) Distributed Rare Features Data Point Shapefile – This shapefile represents the center point of each polygon in the Polygon Shapefile. This shapefile should only be used in conjunction with the Polygon Shapefile to aid in labeling and/or viewing overlapping polygons. The use of the Point Shapefile as a stand-alone layer may produce misleading results and inaccurate interpretation of the RARE FEATURES DATA.

2. RESTRICTIONS ON USE

- A. The RARE FEATURES DATA shall be used by the LICENSEE only for environmental review, natural resources management, and conservation planning purposes. No other use shall be made of the RARE FEATURES DATA, except with prior written permission of the DNR.
- B. Access to the RARE FEATURES DATA shall only be granted to employees of the LICENSEE, and employees of the sublicensee(s) identified in Section 4, who have

viewed the NHIS External Training PowerPoint Presentation, which will be delivered with the data.

- C. The LICENSEE shall not edit the RARE FEATURES DATA, except to add or delete fields.
- D. The LICENSEE shall not create any GIS-generated web products using the RARE FEATURES DATA or derivative data. Products, for the purpose of this LICENSE, are hereinafter defined as and include hard-copy or digital versions of studies, summaries, reports, maps, proposals, plans, analyses, interpretations, derivative works, and compilations containing data from the RARE FEATURES DATA.

Maps of the RARE FEATURES DATA shall not be included in any publicly distributed environmental review documents, except with the prior written consent of the DNR. In all other Products for external distribution or use, in order to protect rare features from exploitation or destruction, the LICENSEE shall mask either the identity or the specific location of a rare species. This shall be done as follows:

- 1) The identity of the species shall be masked by using an identifier more general than the species' scientific genus or common name. For example, use of the term "rare species" would be preferable, or
- 2) The specific location of the species shall be masked by using either a text description that is precise to no more than the section, or a map that depicts each rare feature as a polygon that is no less than one square mile.

Exception to this restriction will be allowed when providing information to landowners about features which occur on or directly adjacent to their own land, if the provision of the information will promote protection of the resource.

3. ASSIGNMENT OR TRANSFER OF LICENSE

The LICENSEE may not assign, delegate, sublicense or otherwise transfer this LICENSE or any rights or obligations under this LICENSE to any other party, except with the prior written consent of the DNR. This LICENSE shall be binding upon the LICENSEE's respective contractors, sublicensees, assignees, and transferees.

4. ACCESS TO AND TRANSFER OF THE DATABASE

The LICENSEE shall not permit access to the RARE FEATURES DATA by any other party, nor transfer the RARE FEATURES DATA to any other party or location, without prior written consent of the DNR. Any requests for access to or use of the RARE FEATURES DATA should be referred directly to the DNR.

Authority to limit access to the RARE FEATURES DATA is exercised under the Minnesota Data Practices Act (*Minnesota Statutes*, section 13.7931 subd. 1(a)), since the disclosure of the specific locations of the rare features described in the RARE FEATURES DATA may hinder the conservation of these rare features. Access is granted in this license to promote a public benefit specified in *Minnesota Statutes*, section 84.0872, subd. 3.

The LICENSEE must comply with the *Minnesota Statutes*, chapter 13, as it applies to all data collected, received, stored, used, maintained, or disseminated by the LICENSEE in accordance with this LICENSE. The civil remedies of *Minnesota Statutes*, section 13.08, apply to the release of the RARE FEATURES DATA by either the LICENSEE or the DNR.

5. LICENSE LOCATION

The LICENSEE may use the RARE FEATURES DATA, subject to the restrictions contained in this LICENSE, only on the LICENSEE's secure computer facilities located at 7550 Sunwood Drive NW, Ramsey, MN 55303. Access to the RARE FEATURES DATA must be limited to individuals who meet the requirement(s) identified in Section 2B of this LICENSE.

6. COPYRIGHT NOTICE

The LICENSEE shall protect the DNR's copyright interest in the RARE FEATURES DATA by including in any Product an appropriate copyright notice in the name of the DNR or the LICENSEE. The copyright notice shall state "Copyright (*year*) (*name*)" or a substantially similar copyright notice. (For example, "Copyright 2016 State of Minnesota, Department of Natural Resources".) The LICENSEE shall cooperate with the DNR in enforcing any infringement of copyright for Products produced by the LICENSEE under this LICENSE.

7. ACKNOWLEDGMENT

The LICENSEE, when using the RARE FEATURES DATA, shall acknowledge DNR's Division of Ecological and Water Resources as the source of the information. This shall be done by printing the following or a substantially equivalent statement on any Product containing the RARE FEATURES DATA:

"Data included here were provided by the Division of Ecological and Water Resources, Minnesota Department of Natural Resources (DNR), and were current as of (*date delivered*). These data are not based on an exhaustive inventory of the state. The lack of data for any geographic area shall not be construed to mean that no significant features are present."

8. DNR LOGOS

This LICENSE does not authorize the LICENSEE to use DNR logos, trademarks or other identification marks or symbols, except with the prior written consent of the DNR.

9. ENDORSEMENT OF PRODUCTS

The LICENSEE shall not state or imply that the DNR endorses, approves, or is responsible for any Product derived by the LICENSEE from the RARE FEATURES DATA, unless the DNR provides express written consent prior to release of the Product.

10. DATA UPDATES AND TERMINATION OF AGREEMENT

- A. The LICENSEE is entitled to request an updated RARE FEATURES DATA on or near the one-year anniversary of this LICENSE. The DNR will attempt to provide the LICENSEE an updated RARE FEATURES DATA, subject to the availability of staff and funds. The LICENSEE agrees to use this updated RARE FEATURES DATA, if provided by the DNR, to replace the current dataset on any computer on which it resides within two weeks of receipt.
- B. This LICENSE is granted for two years and shall terminate on the anniversary of the date of the final required signature on page 5.
- C. Upon termination of this LICENSE, the LICENSEE shall purge the RARE FEATURES DATA from any computer or storage medium on which it resided, including those of any sublicensees to the extent authorized by applicable law.
- D. Either party may terminate, without cause, this LICENSE thirty (30) days after providing written notice to the other party at any time.

11. DISCLAIMER

THE RARE FEATURES DATA IS MADE AVAILABLE ON AN "AS IS" BASIS, WITHOUT EXPRESS OR IMPLIED WARRANTY OF ANY SORT INCLUDING, SPECIFICALLY, ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES OF MERCHANTABILITY, OR WARRANTIES RELATING TO THE ACCURACY OR COMPLETENESS OF THE RARE FEATURES DATA.

12. PRODUCTS PRODUCED

The LICENSEE shall notify DNR of any significant Product produced using all or part of the RARE FEATURES DATA, and at DNR's request, provide one copy of any such Product produced, free of charge to the State Representative (identified in Section 14).

13. NOTIFICATION TO THE DNR

The LICENSEE shall notify the State Representative identified in Section 14 of any activities or actions that have the potential to impact state-listed threatened or endangered species. Minnesota's endangered species law (*Minnesota Statutes*, section 84.0895) and associated rules (*Minnesota Rules*, part 6212.1800 to 6212.2300 and 6134) prohibit the taking of threatened or endangered species without a permit.

The LICENSEE shall notify the State Representative identified in Section 14 in writing of any errors found, any new data obtained, or any other needed corrections or modifications to the RARE FEATURES DATA. Notification shall take place a minimum of two times, once before the data update and again just prior to the expiration of the LICENSE. The LICENSEE hereby grants to DNR a perpetual, irrevocable, non-exclusive, royalty-free LICENSE to use said data.

14. STATE REPRESENTATIVE

Questions regarding the administration of this LICENSE or use of the RARE FEATURES DATA should be referred to:

Lisa Joyal, NHIS Data Distribution Coordinator
Division of Ecological and Water Resources
Minnesota Department of Natural Resources
500 Lafayette Road, Box 25
St. Paul, MN 55155
Phone: 651-259-5109
E-mail: lisa.joyal@state.mn.us

15. VENUE AND JURISDICTION

This LICENSE shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this LICENSE, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

16. OTHER APPLICABLE LAWS AND SEVERABILITY

Nothing herein shall be construed to violate any Federal or State law or regulation. If a provision of this LICENSE is found by administrative proceedings or a court of proper jurisdiction to be in violation of Federal or State law or regulation, this LICENSE shall be immediately terminated, unless DNR gives the LICENSEE written notice that this LICENSE is not terminated.

17. STATE AUDITS

The books, records, documents, and accounting procedures and practices of the LICENSEE relevant to this LICENSE shall be subject to examination by the DNR and state and legislative auditors, and shall be kept by the LICENSEE for a minimum of six (6) years after the expiration or termination of this LICENSE.

18. AUTHORIZATION

The persons executing this LICENSE for the LICENSEE represent and warrant that they are duly authorized to execute this LICENSE on behalf of the requesting party or entity, and to legally bind the LICENSEES.

19. CONSIDERATION OF PAYMENT

There are no fees associated with this LICENSE.

IN WITNESS WHEREOF, the parties have caused this LICENSE to be duly executed intending to be legally bound thereby.

CITY OF RAMSEY, LICENSEE

By: _____
Kurt Ulrich

By: _____
John LeTourneau

Title: City Administrator

Title: Mayor Pro Tem

Date: _____

Date: _____

STATE OF MINNESOTA, DEPARTMENT OF NATURAL RESOURCES

By: _____
Luke Skinner

Title: Director, Division of Ecological and Water Resources

Date: _____

STATE OF MINNESOTA, DEPARTMENT OF ADMINISTRATION

By: _____

Title: _____

Date: _____

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4/10/2017
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