

PROPOSED SUBSTITUTE ORDINANCE AMENDMENT CHANGES TO COOK COUNTY ASSESSOR'S DATABASE FEE

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 2, ADMINISTRATION, Article IV, OFFICERS AND EMPLOYEES, DIVISION 7. - ASSESSOR, Sec. 2-315, Subsections (a) and (c) of the Cook County Code are hereby amended as Follows:

**Sec. 2-315. - Cook County Assessor's Office database fee.**

(a) *Definitions.* The following terms used in this Section shall have the meaning set forth below:

*Authorized Users* means:

- (1) In the case of commercial users organized as corporations, the commercial user's employees and third-party independent contractors who provide services exclusively to the corporations who execute a Joinder Agreement consenting to be bound by the terms of the database use Agreement ("Agreement") between the Cook County Assessor's Office and the commercial user, each of whom, in compliance with said Agreement;
- (2) In the case of commercial users organized as partnerships, the commercial user's employees and partners and third-party independent contractors who provide services exclusively to the partnerships who execute a Joinder Agreement consenting to be bound by the terms of the database use Agreement between the Cook County Assessor's Office and the commercial user, each of whom, in compliance with said Agreement; and
- (3) In the case of commercial users organized as limited liability companies, the commercial user's employees and members, each of whom, in compliance with this agreement and third-party independent contractors who provide services exclusively to the limited liability companies who execute a Joinder Agreement consenting to be bound by the terms of the database use Agreement between the Cook County Assessor's Office and the commercial user, each of whom, in compliance with said Agreement:
  - (a) Is covered by the applicable fee paid by the commercial user; and
  - (b) Has been issued a username and password.

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(c) *Agreement form.* To further carry out the intent of the section above, the County Assessor's Office may enter into agreements using a form of agreement similar to that outlined in Exhibit A.

Exhibit A

**DATABASE SUBSCRIPTION SERVICES**  
**AND LICENSE AGREEMENT**

This DATABASE SUBSCRIPTION SERVICES AND LICENSE AGREEMENT (this "Agreement") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between

(“Commercial User”) and THE COOK COUNTY ASSESSOR’S OFFICE (the “CCAO”).

**WITNESSETH:**

WHEREAS, the CCAO has developed a database which contains data (the “Data”) which it makes available on the internet and also makes available in compiled form (the “Database”) for a fee, as permitted by law; and

WHEREAS, the CCAO has developed a software program to access the Database (the “Software”); and

WHEREAS, Commercial User has requested access to and license to use certain portions of the Database and the Software for the consideration and on the terms set forth below, and the CCAO has agreed to provide the Database and the Software subject to the terms and representations set forth below.

NOW, THEREFORE, in consideration of the mutual promises and covenants and the terms and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**SECTION 1. INCORPORATION OF RECITALS.**

The foregoing recitals are incorporated into and made a part of this Agreement as if fully set forth herein.

**SECTION 2. SUBSCRIPTION AND LICENSE TO DATABASE.**

Subject to the terms set forth in this Agreement, the CCAO hereby grants to Commercial User a non-exclusive, non-transferable and limited license to use and access to the Database through one or more IP addresses designated by the CCAO by means of the Software. The Commercial User is authorized to download the Database, manipulate the data and use it internally. However, the CCAO is furnishing the Database with all rights reserved and the Commercial User acknowledges that the title, copyright and all other rights to the Database and the Software remain with the CCAO and/or Cook County.

Neither Commercial User nor any other Authorized User (as defined below) shall have any right, title or interest in the Database or the Software, except as provided herein. Except as provided above, neither Commercial User nor any Authorized User shall copy, reproduce, duplicate, publish, disclose, distribute, license, sub-license, relicense, use as the basis for a derivative database, assign, release, transfer, sell or otherwise make the Database or the Software available to any other organization or person in any form or manner whatsoever. The CCAO reserves the right to withdraw from the Data any item or part of an item for which it no longer retains ownership rights or which it has reasonable grounds to believe infringes copyright or is unlawful or otherwise objectionable or for which the CCAO reasonably believes that Commercial User has failed to adequately protect the CCAO’s or Cook County’s title, copyright and other rights.

**SECTION 3. COMMERCIAL USERS AUTHORIZED USERS AND LIMITED ACCESS.**

"Commercial User" means any individual, firm or organization accessing the Database for a commercial interest rather than a public, not for profit, or educational interest and may include a corporation, partnership, limited liability company, law firm or other business, organization that wishes to access the Database and/or utilize the Software.

"Authorized Users" means (i) in the case of Commercial Users organized as corporations, the Commercial User's employees and third-party independent contractors who provide services exclusively to the corporations who execute a Joinder Agreement consenting to be bound by the terms of the Agreement between the Cook County Assessor's Office and the commercial user, each of whom, in compliance with said agreement, (ii) the case of Commercial Users organized as partnerships, the Commercial User's employees and partners and third-party independent contractors who provide services exclusively to the partnerships who execute a Joinder Agreement consenting to be bound by the terms of the Agreement between the Cook County Assessor's Office and the commercial user, each of whom, in compliance with said agreement, and (iii) in the case of Commercial Users organized as limited liability companies, the Commercial User's employees and members, each of whom, in compliance with this agreement, and third-party independent contractors who provide services exclusively to the limited liability companies who execute a Joinder Agreement consenting to be bound by the terms of the Agreement between the Cook County Assessor's Office and the commercial user, each of whom, in compliance with said agreement (a) is covered by the applicable fee paid by the Commercial User and (b) has been issued a username and password.

"Limited Access" means access to that portion of the Database relating to those townships as specified below, which in no event shall exceed 13 townships:

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The Commercial User may permit only Authorized Users to access the Database and the Software. For purposes of this Agreement, Authorized Users shall mean only

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and no other persons whatsoever. This Agreement permits access to the Database by the Commercial User's Authorized Users only and shall not extend to any subsidiary or affiliated entity. Commercial User and each Authorized User shall be responsible for maintaining the secrecy of usernames and passwords. Commercial User and each Authorized User agrees to notify the CCAO if a username has been compromised.

The Authorized User shall access the Database via the CCAO's website through the use of a user ID and password. The Commercial User and Authorized User are responsible for establishing and providing its/their own connection to the CCAO website. No other services are provided under this Database Subscription Agreement.

The Commercial User and Authorized User are solely responsible for its use of the Database. The Commercial User and Authorized User agree that they will not use the Database for any illegal purpose, in infringement of copyright, trademark, intellectual property or propriety rights or laws, or in any manner of for any purpose that interferes with or disrupts other Commercial Users, Authorized Users, services or equipment, including CCAO users, services and equipment.

Commercial User and Authorized User acknowledge and agree that the CCAO website was developed by and is solely owned by the CCAO and that it will remain the exclusive property of the CCAO.

#### **SECTION 4. FEES.**

*In exchange for the agreements set forth herein, the Commercial User shall pay annually to the CCAO without billing from the CCAO, (i) in the case of a single Authorized User seeking access to the Database and the Software, \$5,000; (ii) in the case of more than one Authorized User but less than six Authorized Users seeking access to the Database and the Software, \$15,000 for up to 5 Authorized Users; (iii) in the case of more than five but less than 101 Authorized Users seeking unlimited access to the Database and the Software, \$30,000 for up to 100 Authorized Users; (iv) in the case of more than 100 Authorized Users but less than 1,000 users seeking unlimited access to the Database and the Software, \$60,000 for up to 1,000 Authorized Users; (v) in the case of more than 1,000 Authorized Users seeking unlimited access to the Database and the Software, \$100,000; or (vi) in the case of an unlimited number of Authorized Users seeking Limited Access. \$3,000 per requested township as set forth above.*

Payment shall be due upon execution of this Agreement. Past due payments shall be subject to a delinquency charge of 1.5% per month on the amount in arrears or the legal limit, whichever is less. Commercial user agrees to pay all costs of collection of any delinquency, including reasonable attorney's fees, as permitted by law.

#### **SECTION 5. SUBSCRIPTION PERIOD.**

The subscription period, license and rights granted to Commercial User by this Agreement shall be in effect for a period of twelve (12) months from the date of this Agreement. If Commercial User breaches any provision of this Agreement, in addition to any other rights or remedies it may be entitled to, the CCAO may suspend access under this Agreement, without prior notice.

#### **SECTION 6. DISCLAIMER OF WARRANTIES.**

The Data is provided "as is" without any warranty or representation whatsoever, including any representation as to accuracy, timeliness, completeness, non-infringement, copyright or trademark rights or disclosure of confidential information. All burdens, including any burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use, rests solely on Commercial User. The CCAO and Cook County, Illinois make no warranties, express or implied, with respect to the Database, the Software or any component thereof. There is no warranty to update any of the information provided hereunder. THE CCAO AND COOK COUNTY EXPRESSLY DISCLAIM ANY AND ALL REPRESENTATIONS OR

WARRANTIES (EXPRESS OR IMPLIED, ORAL OR WRITTEN) RELATING TO THE DATABASE AND THE SOFTWARE, INCLUDING BUT NOT LIMITED TO ANY AND ALL WARRANTIES (EXPRESS OR IMPLIED) OF QUALITY, PERFORMANCE, ACCURACY, COMPLETENESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. The Commercial User acknowledges and accepts responsibility for all use of the Database and the Software or any component thereof and recognizes that the Data may contain inaccuracies and is dynamic and in a constant state of maintenance, correction and update which will result in changes during the term of this Agreement. The CCAO shall operate and maintain the CCAO website, contingent upon the CCAO and County's network and equipment capacity, and connection availability. The Commercial User acknowledges and accepts that the CCAO and the County does not operate or control the Internet or the World Wide Web. The Commercial User further acknowledges and accepts that from time to time the CCAO website and Database may not be accessible due to maintenance.

#### **SECTION 7. RELEASE OF LIABILITY.**

THE COMMERCIAL USER EXPRESSLY AGREES THAT NO MEMBER, OFFICIAL, EMPLOYEE, REPRESENTATIVE OR AGENT OF THE CCAO OR COOK COUNTY, OR THEIR RESPECTIVE SUCCESSORS, HEIRS OR ASSIGNS, SHALL BE LIABLE, WHETHER INDIVIDUALLY OR PERSONALLY OR OTHERWISE, TO COMMERCIAL USER, ANY AUTHORIZED USER OR ANY OTHER PERSON OR ENTITY, OR THEIR RESPECTIVE SUCCESSORS, HEIRS OR ASSIGNS, FOR ANY LOSS OR CLAIM, INCLUDING BUT NOT LIMITED TO ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES RESULTING FROM THE COMMERCIAL USER'S OR ANY AUTHORIZED USER'S USE OF OR INABILITY TO ACCESS OR USE THE DATABASE, THE SOFTWARE OR ANY COMPONENT THEREOF OR ANY INACCURACY OF THE DATA.

#### **SECTION 8. COMMERCIAL USER INDEMNIFICATION.**

The Commercial User agrees to indemnify and hold the CCAO, Cook County and its Commissioners, officers, agents servants and employees and their respective heirs, successors and assigns, harmless from any and all claims, suits, losses, liabilities, costs and expenses, including attorneys' fees, which arise directly or indirectly out of or in connection with Commercial User's or any Authorized User's use of the Database, or which result from any violation of the provisions of this Agreement. The provisions of this Section shall survive the termination of this Agreement.

#### **SECTION 9. APPLICABLE LAW.**

This Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the State of Illinois, excluding any such laws that might direct the application of the laws of another jurisdiction. Venue shall be in a court of competent jurisdiction located within the County of Cook, Illinois. The CCAO and Commercial User each acknowledge the existence of state and other applicable law which may impose responsibilities upon either or both of them regarding real estate taxation and other governmental functions. No part of this Agreement has the effect of or is

intended to impact any applicable legal duty of either party under existing law, especially the Illinois Property Tax Code, 35 ILCS 200/1 et seq.

**SECTION 10. MISCELLANEOUS.**

- (a) This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, in relation to the matters dealt with herein. There are no representations, warranties, collateral agreements or conditions to this Agreement, except as expressly stated in this Agreement.
- (b) The section headings are for reference and information purposes only, and shall not affect in any way the meaning or interpretation of this Agreement. References to singular shall include the plural and to plural shall include the singular. References to a person shall include a corporate or government body. Words such as “including” and similar expressions shall not be read as words of limitation.
- (c) The CCAO and/or Cook County shall not be liable or deemed in default for any delays or failure in performance resulting directly or indirectly from any cause or circumstances beyond their reasonable control, including acts of God, war, embargoes, fire, flood, accidents, strikes, shortages of transportation facilities, telecommunications facilities or software programs. In the event of default by the CCAO and/or Cook County, damages shall be limited to the fees paid by Commercial User hereunder.
- (d) If any term or condition hereof is found by a court or administrative body to be invalid or unenforceable, the remaining terms and conditions hereof shall remain in full force to the maximum extent of the law.
- (e) This Agreement shall not be assignable by Commercial User, directly or indirectly, without the prior written consent of the CCAO.

\* \* \* \* \*

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective authorized representatives as of the date first written above.

**COOK COUNTY**  
**ASSESSOR’S OFFICE**

\_\_\_\_\_  
Chief Deputy Assessor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

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Company

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Title

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Telephone Number

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E-Mail

**Editor's note** — Exhibit A referenced above is not set out herein but is available for inspection in the office of the County Clerk.

Effective date: This ordinance shall go into effect immediately upon passage.