

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

207



FROM: Fire and Sheriff-Coroner-PA

SUBMITTAL DATE:
March 1, 2011

SUBJECT: APPROVE THE SECOND CONTRACT AMENDMENT OF THE (EAP) ENTERPRISE ADVANTAGE PROGRAM WITH ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (ESRI).

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and execute the EAP amendment for one year with ESRI, which contains an option to renew the agreement for two additional one-year periods for:
 - a. Fire Department \$87,500 annually,
 - b. Sheriff Department \$87,500 annually; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to exercise the renewal option, based on the availability of fiscal funding, and to sign amendments that do not change the substantive terms of the agreement, including amendments to the compensation provision that do not exceed the annual CPI rates; and
3. Direct the Clerk of the Board to return 3 original signed amendments to County Fire.

BACKGROUND: The Riverside County Fire and Sheriff departments use the integrated collection of proprietary software products developed by ESRI to meet the emergency service delivery mission, aid in management decisions, the Geographical Information Systems (GIS) displays and use the proprietary software to enhance the prior public safety mechanisms established.

(Continued on Page 2)

[Signatures]
 JOHN R. HAWKINS
County Fire Chief
 STANLEY L. SNIFF, JR.
Sheriff-Coroner-PA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 175,000	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 112,500	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 135,000	For Fiscal Year:	10/11

SOURCE OF FUNDS: General Fund 75%, Contract City Revenue 5%, Task Force Funds 20%	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *[Signature]*
Robert Tremaine

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
 Nays: None
 Absent: None
 Date: April 12, 2011
 xc: Fire, Sheriff, Purchasing

Kecia Harper-Ihem
Clerk of the Board
By: *[Signature]*
Deputy

Prev. Agn. Ref.: 3.20 10/24/06, & District: All Agenda Number: **3.15**
 3.14 03/02/10

**ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD**

Purchasing: *[Signature]* Billy Cornett, Purchasing Manager
 Departmental Concurrence
 FORM APPROVED COUNTY COUNSEL
 BY: *[Signature]* NEAL R. KIPNIS DATE: _____
 Dep't Recomm.: Consent Policy
 Per Exec. Ofc.: Consent Policy
 Form 11 (Rev 06/2003)



BOARD OF SUPERVISORS

**FORM 11: APPROVE THE SECOND CONTRACT AMENDMENT OF THE (EAP)
ENTERPRISE ADVANTAGE PROGRAM WITH ENVIRONMENTAL SYSTEMS
RESEARCH INSTITUTE, INC. (ESRI).**

PAGE 2

BACKGROUND (Continued)

The proprietary products include ArcGIS, dispatch, mobile computing, incident, and planning efforts, public safety street records, and support and training.

PRICE REASONABLENESS:

Under the current agreement the Riverside County Fire Department will pay \$106,201 for fiscal year 2010-2011 and \$119,085 for fiscal year 2011-2012. If the motion is approved the new rate will be \$87,500 for both fiscal years which will result in a savings of \$18,701 for fiscal year 2010-2011, and a \$31,585 savings for fiscal year 2011-2012.

Currently the Sheriff department pays almost \$30,000 a year in software maintenance costs to ESRI for 24 ArcView 9.3 licenses with only 1 extension and 1 ArcGIS 9.3 Server License. This software is in use by Crime Analysts, 911 Street Address Guide Coordinators, and the GIS unit with the Technical Services Bureau to support law enforcement operations throughout the county. The Central Crime Analysis Unit has attempted to obtain additional extensions (Spatial Analyst and 3D Analyst) for all their licensed software for many years; however the cost per license extension of 20 @ \$4,000 per license or \$80,000 plus the original \$30,000 maintenance contract fee for a total of \$110,000, which is cost prohibitive. To participate in this EAP with Fire, County Sheriff would be obligated for 50% of the agreement cost or \$87,500

The Inland Narcotics Clearing House (INCH Task Force) has agreed to pay \$35,000 per year for the life of this agreement since participation will provide the Sheriff with the software and support previously quoted at a reduced price. The remaining \$22,500 portion of sheriff's share will be offset by additional reductions within support budget, for a total of the \$87,500.

Both departments will have unlimited access to licenses for the software listed in Table A-1 on page 7 of Amendment No. 2.

REVIEW/APPROVAL: Purchasing and County Counsel concurs with this request.





**AMENDMENT NO. 2
TO
COUNTY OF RIVERSIDE
CONTRACT NO. FPARC-92045-001-07/10
(ESRI CONTRACT 2003MLA3571)**

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY
to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

This Amendment No. 2 is between **County of Riverside ("County")** and **Environmental Systems Research Institute, Inc. ("Esri")**, and is effective as of the last date of County's signature to this Amendment ("Effective Date"). This Amendment changes County of Riverside Contract No. FPARC-92045-001-07/10 (Esri Contract No. 2003MLA3571) as follows:

1. **Enterprise License Agreement.** Esri's Enterprise License Agreement No 2011ELA1733 (ELA) is added to Contract No. FPARC-92045-001-07/10, a copy of which is attached to this Amendment and incorporated herein by this reference. It provides for the licensing and deployment of unlimited quantities of selected Esri Software, two EDN software annual subscription licenses, delivery of ELA maintenance, one Enterprise Advantage Program (EAP) annual subscription, and additional services as specified in the ELA for a fixed fee, three year duration. The ELA is limited to County Fire Department and County Sheriff's Department. No other County departments may participate in the ELA.

2. **General License Terms and Conditions (E200).**

2.1. **Article 12— Limited Price Offer.** County has paid to Esri the fees for Period of Performance 2009-2010 and 2010-2011 found described in the table of Article 12— Limited Price Offer. The fee for 2011-2012 has not been paid. A credit will be issued for County's prepaid 2010-2011 Software and Maintenance Fee covering an overlapping term; prorated from the Effective Date of the ELA to September 30, 2011. The credit will be applied by Esri to the Year 1 - 2011 ELA Fee (described in Appendix B of the ELA). As a result of these changes the table in Article 12 is deleted and in its place the following is inserted:

Period of Performance (October 1 to September 30)	EAP Fee	Software Maintenance Fee	Estimated Total Fee	Payment Status
2009-2010	\$65,000.00	\$38,505.34	\$103,505.34 plus tax	Received
*2010-2011	\$65,000.00	\$41,200.71	\$106,200.71 plus tax	Received
2011-2012	Deleted. See ELA Fee described in Appendix B of the ELA.			

*The Period of Performance for the 2010-2011 EAP Fee is extended from September 30, 2011 to the end date of ELA Year 1.

3. **Enterprise Advantage Program (EAP) Agreement (2009EAP3571).**

3.1 **Article 2—Enterprise Advantage Program.** Section 2.1 d (4) of Article 2 is deleted and in its place the following new sub-section (4) is inserted:

(4) Learning and Services Credit may be exchanged as follows:

Technical Consulting Services Support consisting of review of technology strategy, systems design, prototyping, and other general technical consulting services support activities (Any project-related activities requiring a deliverable other than consulting time will be scoped, budgeted, and scheduled through a separate agreement.)	1 credit = 2 hours
Annual Premium Support Limited	15 credits = 5 Incidents
Annual Premium Support Limited	22 credits = 10 Incidents
Annual Premium Support Unlimited	75 credits = Unlimited Incidents
Instructor-led Training for one person at an Esri Facility or Virtual Classroom	1 credit = 1 day
Client-site or Private Esri-site Training (up to 12 people)	9 credits = 1 day
Additional Student	0.75 credit = 1 day

APR 12 2011 3:15

Coaching Services (up to 15 people)
Virtual Campus Dollars
Related Esri travel and per diem expenses

9 credits = 1 day
1 credit = 480 Virtual Campus dollars
as quoted

Note: Offerings above may be added or removed from time to time in conformance with the EAP requirements.

3.2 **Article 6—Compensation.** Sections 6.1 and 6.2 are changed as follows:

6.1 The fees for the EAP are included in the ELA Fees (described in Appendix B of the ELA). Fees for additional Learning and Services Credits or Technical Advisor Services will be invoiced upon receipt of Licensee's order. Licensee shall pay Esri within thirty (30) calendar days of receipt of invoice.

6.2 Pricing for new Esri service offerings will be in accordance with Esri's most current price schedule at the time of purchase.

3.3 **Article 7—Term and Termination.** Sections 7.1 through 7.4 of the EAP are deleted in their entirety and replaced with the following single paragraph:

The term of this EAP shall run concurrent with the term of the ELA (2011ELA1733). Termination of the ELA shall automatically terminate this EAP.

All other terms and conditions of County Contract No. FPARC-92045-001-07/10 shall remain the same.

ACCEPTED AND AGREED:

COUNTY OF RIVERSIDE
(County)

By: Bob Buster
Authorized Signature

Printed Name: BOB BUSTER

Title: CHAIRMAN, BOARD OF SUPERVISORS

Date: APR 12 2011

Approved as to Form
By: Neal R. Kipnis
Neal R. Kipnis, Deputy County Counsel

Date: 3/23/11

Attest:
By: Kecia Harper-Ihem deputy
Kecia Harper-Ihem, Deputy Clerk

Date: APR 12 2011

ENVIRONMENTAL SYSTEMS
RESEARCH INSTITUTE, INC.
(Esri)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

APR 12 2011 3.15



ENTERPRISE LICENSE AGREEMENT
(E119G 06/2009)

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

Agreement No. 2011ELA1733

This ELA is comprised of the following documents which are incorporated herein by reference:

1. Enterprise License Agreement introduction page, E119G
2. Enterprise License Terms and Conditions, E512M, including;
 - Appendix A, Software and Deployment Schedule
 - Appendix B, Enterprise License Fee Schedule
 - Appendix C, County Annual Deployment Report
 - Appendix D, ELA Points of Contact
 - Appendix E, Tier 1 Help Desk Authorized Individuals
3. License Agreement—Agreement No. 2003MLA3571
 - General License Terms and Conditions, E200
 - Esri Exhibit 1, Scope of Use, E300Note: Licensee is defined on first page of item 2 above.
4. Esri Enterprise Advantage Program ELA Addendum—EAP Agreement No. 2009EAP3571.

The parties acknowledge that they have read and understand this ELA and agree to be bound by the terms and conditions contained herein.

This ELA constitutes the sole and entire agreement of the parties as to the subject matter set forth herein and supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to such subject matter. Any modifications or amendments to this ELA must be in writing and signed by an authorized representative of each party.



ARTICLE 1—DEFINITIONS

All definitions in other parts of the ELA will have the same meaning in this Enterprise License Terms and Conditions. In addition, the following definitions apply to the ELA:

- "Deploy," "Deployment," or "Deployed" means to redistribute, or the redistribution of, the Enterprise License Software (and its related keycodes/registration files), or its having been redistributed, by County, during the term of this ELA for installation and use on Licensee's hardware.
- "ELA Fee" means the fee set forth in Appendix B, ELA Fee Schedule.
- "ELA Maintenance" means Tier 2 Support, updates, and patches provided by Esri for Enterprise License Software and Rolled-In Software.
- "Effective Date" is identified on page one of Amendment 2 to County of Riverside Contract No. FPARC-92045-001-07/10.
- "Enterprise License Software" means the Software (including Data, Web Services, and Documentation provided with the particular item) identified in Table A-1 and Table A-2 of Appendix A, Software and Deployment Schedule. Enterprise License Software does not include unit-priced item(s) or Esri technology that may be embedded in third-party products purchased by Licensee.
- "Incident" means a failure of the Software to operate according to the Documentation where such failure substantially impacts operational or functional performance.
- "License Agreement" means the General License Terms and Conditions (E200) and Exhibit 1, Scope of Use (E300), referenced on the signature page of this ELA.
- "Licensee" means County Fire Department and County Sheriff's Department. For avoidance of doubt, the definition of Licensee will not include consultants or contractors.
- "Rolled-In Software" means Software of the same type as Enterprise License Software that Licensee acquired for use prior to the Effective Date that is current on paid maintenance (as shown in Esri's customer service records) and that receives ELA Maintenance during the term of the ELA.
- "Technical Support" means a process to attempt to resolve reported Incidents through error correction, patches, hot fixes, and workarounds; replacement deliveries; or any other type of Software, Data, or Documentation corrections or modifications specified in the most current applicable Esri U.S. Software Maintenance Program.
- "Tier 1 Help Desk" means County point of contact from which all Tier 1 Support will be given to Licensee.
- "Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk as the primary contact to Licensee in its attempted resolution of reported Incidents.
- "Tier 2 Support" means the Technical Support provided by Esri to the Tier 1 Help Desk when the Incident cannot be resolved through Tier 1 Support.

ARTICLE 2—GRANT OF LICENSE

2.1 Grant of License. Licensee's use of the Enterprise License Software is subject to the License Agreement and any additional terms set forth in this Article 2 and in Article 3 below. Rolled-In Software will be licensed in accordance with the License Agreement.

- a. Installation and/or use of Enterprise License Software is limited to County of Riverside Fire Department and Sheriff's Department (Licensees). No other County departments, divisions, boards, commissions, or agencies may participate in this ELA or use Enterprise License Software.

2.2 Beta License. Beta licenses are not available under this ELA. Therefore, Section 3.2, Beta License, in the License Agreement is deleted in its entirety.

2.3 Consultant Access. Section 3.4, Consultant Access, of the General Terms and Conditions—E200 in the License Agreement is modified to add the restriction that access to and use of any Enterprise License Software is restricted to use by consultants and contractors for the sole benefit of Licensee while (i) working on-site at Licensee's facilities; (ii) remotely accessing or using Enterprise License Software from Licensee's on-site computers or machines; or (iii) remotely using/accessing Enterprise License Software from a third party's computers or machines under contract to Licensee. Licensee shall require consultant or contractor to discontinue access to and use of Enterprise Software upon completion of work for Licensee.

2.4 County Responsibility. County shall remain primarily responsible to Esri for compliance by Licensees (including their users) with the terms and conditions of this ELA.

ARTICLE 3—SCOPE OF USE

There are Additional Restrictions, Permitted Uses, and Uses Not Permitted for County and Licensee incorporated into this ELA. The Permitted Uses and Uses Not Permitted sections of the General License Terms and Conditions portion of the License Agreement, are modified by Sections 3.1 and 3.2 as follows:

3.1 Additional Permitted Uses. The following additional Permitted Uses are hereby granted to County for the Enterprise License Software:

For the term of the ELA, County may copy and Deploy the Enterprise License Software to Licensees up to the quantities of licenses granted in Appendix A. No other Licensee has a right to copy (except as permitted in the License Agreement) or Deploy the Enterprise License Software.

3.2 Uses Not Permitted. In addition to the restrictions set forth in the License Agreement, the following Uses Not Permitted apply to the Enterprise License Software:

- a. County shall not transfer, redistribute, or Deploy the Enterprise License Software outside the United States or its territories or possessions without the prior written permission of Esri and agreement on additional fees, if any.
- b. Licensee shall not use the Enterprise License Software outside the United States or its territories or possessions without the prior written permission of Esri and agreement on additional fees, if any. Any such export will be subject to U.S. Export Control Regulation requirements of the License Agreement.
- c. Hard-copy Documentation may not be copied.
- d. Licensee shall not transfer, redistribute, or assign Enterprise License Software to County departments, divisions, boards, commissions, agencies, or to any third party without prior Esri written permission.

3.3 Additional Restrictions Applicable to ELA and License Agreement. A new or additional County department, division, board, commission or agency may not be added as an ELA participant or Licensee without the express prior written approval of Esri. Addition of a County department, division, board, commission or agency may result in an increase in the ELA Fee.

ARTICLE 4—MAINTENANCE

4.1 ELA Maintenance. ELA Maintenance is included in the ELA Fee. Rolled-In Software and Enterprise License Software will receive ELA Maintenance, provided that standard maintenance is available for each item. ELA Maintenance includes benefits specified in the most current applicable Esri U.S. Software Maintenance Program document (found at www.esri.com/legal) as modified by this Section 4.1.

a. Tier 1 Support Provided by County

- (1) Tier 1 Help Desk will provide Tier 1 Support to all Licensees.
- (2) The Tier 1 Help Desk will use analysts fully trained in the Software they are supporting.
- (3) At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
- (4) Tier 1 Support analysts will be the initial points of contact for all questions and Incidents. Tier 1 Support analysts shall obtain a full description of each reported Incident and the system configuration from the Licensee.

This may include obtaining any customizations, code samples, or data involved in the Incident. The analyst may also use any other information and databases that may be developed to satisfactorily resolve Incidents.

- (5) If the Tier 1 Help Desk cannot resolve the Incident, an authorized Tier 1 Help Desk individual may contact Esri for Tier 2 Support. The Tier 1 Help Desk shall provide support in such a way as to minimize repeat calls and make solutions to problems available to Licensee.
- (6) County may assign up to the quantity of named Tier 1 Help Desk individuals listed in Appendix B. These individuals will be identified in Appendix E and are the only individuals (callers) authorized to contact Esri directly for Tier 2 Support.

b. Tier 2 Support Provided by Esri

- (1) Esri shall log the calls received from the Tier 1 Help Desk individuals.
- (2) Esri shall review all information collected by and received from Tier 1 Help Desk individuals including preliminary documented troubleshooting provided by Tier 1 Help Desk when Tier 2 Support is required.
- (3) Esri may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.
- (4) Esri shall attempt to resolve the Incidents submitted by Tier 1 Help Desk by assisting the Tier 1 Help Desk individuals and not the Licensees.
- (5) When the Incident is resolved, Esri shall communicate the information to the Tier 1 Help Desk individuals, and the Tier 1 Help Desk shall disseminate the resolution to the Licensee.
- (6) Esri may, at Esri's sole discretion, make patches, hot fixes, or updates available for downloading from Esri's Web site or deliver them on media.

ARTICLE 5—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT REPORT

5.1 Purchase Orders, Delivery, and Deployment

- a. County shall issue a purchase order upon execution of the ELA and annually thereafter in accordance with the fee schedule in Appendix B. These fees will be due and payable within thirty (30) days of the anniversary date of the ELA, with the initial payment due within thirty (30) days of execution of the ELA.
- b. Upon receipt of the initial purchase order from County, Esri shall deliver the number of sets of media listed in Appendix B that contain the Enterprise License Software to County for County's Deployment to Licensees. Esri shall ship the media to the ship-to address identified in Appendix D, ELA Points of Contact, FOB destination with shipping charges prepaid. County may purchase additional media sets at the prices in effect at the time of purchase.
- c. Esri shall provide County with hardware keys ordered on an as-required basis. The maximum cumulative total of hardware keys provided will not exceed the number listed in Appendix B. Additional hardware keys may be ordered at the prices in effect at the time of purchase.
- d. Esri shall provide registration numbers or keycodes, as applicable, to activate the nondestructive copy protection program that enables the Enterprise License Software to operate.
- e. County shall Deploy, install, configure, and track the Deployment status of Enterprise License Software.

5.2 Purchase Order Requirements

- a. Any purchase orders issued by County will reference, incorporate, and be subject to the terms and conditions of this ELA. No additional, conflicting, or different terms contained in a purchase order or ordering document will be binding. All orders and deliveries pertaining to this ELA will be processed through County's centralized point of contact.
- b. The following information will be included in each purchase order:
 - (1) Esri customer number and the ship-to address as identified in Appendix D.
 - (2) Purchase order number.
 - (3) Applicable annual payment due.
 - (4) On the face of the purchase order, print the following statement: "Governed by and subject to Enterprise License Agreement No. 2011ELA1733."

5.3 Annual Report of Deployments. At each anniversary date and ninety (90) days prior to the expiration date of this ELA, County shall provide a written report, as set forth in Appendix C, to Esri detailing all Deployments made. The report will be subject to audit by an authorized representative of Esri.

5.4 Esri International User Conference Registration. Esri shall provide Esri International User Conference registrations to County annually during the term of this ELA in the quantities set forth in Appendix B. County is responsible for distributing the registrations to Licensees. Third parties may not represent or attend on behalf of County at any Esri International User Conference.

ARTICLE 6—POINTS OF CONTACT; NOTICES

6.1 Points of Contact. Each party shall identify points of contact for administrative and technical issues in Appendix D.

6.2 Notices. Except as set forth in Section 6.1, any notice, report, demand, or other communication will be properly given when made in writing in English and sent by courier; registered or certified airmail; or facsimile or other electronic transmission, and confirmed by courier or by registered or certified airmail, properly addressed to the appropriate party at the address set forth above, until changed by notice in writing by either party hereto. If sent by courier or airmail, notice will be effective seven (7) days from the date of deposit with the courier service or post office. If sent by electronic transmission, notice will be effective upon receipt, provided confirmation is given as specified herein. Notices will be given at the following addresses:

To: Esri
380 New York Street
Redlands, CA 92373-8100
Attn.: Manager, Contracts and Legal Services

To: County
as listed in Appendix D

ARTICLE 7—TERM, TERMINATION, AND EXPIRATION

7.1 Term. The term of the ELA will be for the period listed in Appendix B, commencing on the Effective Date unless this ELA is terminated earlier as provided herein.

7.2 Termination for a Material Breach. Either party may terminate this ELA for a material breach by the other party. The breaching party will be given a period of ten (10) days from date of written notice to cure any material breach. Upon termination of this ELA by Esri for a material breach, all licenses Deployed will also terminate, and the full amount of unpaid ELA Fees will be due and payable by County within thirty (30) days from the date of termination. Licensees shall uninstall, remove, and destroy all Enterprise License Software; training materials; and any whole or partial copies, modifications, or merged portions in any form. County shall deliver evidence of such destruction to Esri, which evidence will be in a form acceptable to Esri. Licensee may continue to use Rolled-In Software, provided Licensee complies with the terms and conditions of the License Agreement. Further, Esri agrees that Licensee is not required to pay a maintenance reinstatement fee for lapsed maintenance for Rolled-In Software if Licensee orders maintenance at time of ELA termination. Other items that may be included in this ELA such as EAP, Virtual Campus annual user license, access codes, Virtual Campus dollar credits, and User Conference registrations, will also terminate if this ELA is terminated.

7.3 License Term and Use upon Expiration of ELA Term. Upon full payment of the ELA Fee and expiration of this ELA, the License Agreement will survive, and Licensee may continue to use the Deployed Enterprise License Software and Rolled-In Software in accordance with the terms and conditions set forth in the License Agreement. Licensee may order standard maintenance upon expiration of ELA Term for Rolled-In Software for the next year without paying a maintenance reinstatement fee for lapsed maintenance. Licensee shall notify Esri of the quantity and type of licenses for which Licensee elects to purchase standard maintenance. If maintenance is not ordered for Rolled-In Software or Enterprise License Software upon expiration of the ELA, it lapses. If, at a later date, Licensee decides to reinstate maintenance, Licensee must pay maintenance fees from the date of ELA expiration (e.g., back maintenance fees). County shall not Deploy additional copies of the Enterprise License Software beyond the quantities in use upon termination or as of the date of expiration.

7.5 Termination for Non-Appropriation of Funds or Lack of Funds. County's obligation to pay the amounts due for following fiscal years is contingent upon appropriation of funds for this ELA. County or Esri may terminate this ELA in the event such funding is not made available ("Lack of Funds"). If either party terminates for Lack of Funds, it will give the other

party written notice of termination prior to the ELA anniversary date. In all cases, the effective date of the termination will be the last day of that payment period immediately prior to the annual anniversary date for the next payment.

Under no circumstances may County deploy additional copies of the Software, Data, or Documentation upon termination of the ELA for Lack of Funds.

In the event that the ELA is terminated for Lack of Funds the following conditions will apply:

- a. Licensee must uninstall, remove, and destroy all Deployed Software, Data, or Documentation and any whole or partial copies identified in Appendix A, Table A-2, however Licensee(s) may continue to use Rolled-In Software, subject to its compliance with the License Agreement;
- b. Licensee may continue to use Deployed Enterprise License Software, Data, or Documentation identified in Appendix A, Table A-1, provided:
 - i. Licensee shall report the quantity and types of Deployed Enterprise License Software identified in Appendix A, Table A-1, and Esri shall determine the quantity and type of Software, Data, or Documentation that Licensee may continue to use under the License Agreement terms. This determination will be based on multiplying the commercial list price of the Deployed Enterprise License Software identified in Table A-1 by the reported quantity and types and subtracting that amount from a portion of the ELA Fee amounts paid (portion of ELA Fee applicable to Enterprise License Software licenses identified in Table A-1 hereinafter referred to as "Offset Amount"). Licensee shall uninstall, remove, and destroy Deployed Enterprise License Software valued in excess of the Offset Amount to reach an authorized quantity and type level. The remaining authorized quantities and types of software ("Remaining Software") will be licensed in accordance with the License Agreement; and
 - ii. Rolled-In Software licenses of the type identified in Table A-1 will not terminate and may be used at the version level they have been upgraded to at the time of termination. Use and licensing of Rolled-In Software licenses will be in accordance with the License Agreement.
- c. No refund will be provided to Licensee for payments made prior to termination.

Within thirty (30) days of termination of the ELA for Lack of Funds, County will document in writing to Esri the total quantity and type (e.g., Product) of Remaining Software and Rolled-In Software for which County desires to obtain maintenance, if any. Payment of maintenance fees for such Remaining Software and Rolled-In Software for which County wishes to have maintenance, if any, will be effective from the date of the ELA termination, provided that County allocates appropriate funds. Maintenance reinstatement fees will not be required for maintenance on Rolled-In Software that lapsed during the term of the ELA. Other items that may be included in this ELA such as EAP, Virtual Campus training access/VC dollar credits, and User Conference Registrations will also terminate if this ELA is terminated for Lack of Funds.

ARTICLE 8—CONFIDENTIALITY

8.1 Esri Confidential Information. Certain terms and conditions of this ELA are confidential and proprietary information of Esri. Except as provided herein, County shall not publish or disclose the ELA (or contents) to any third party without Esri's prior written consent. Disclosure may be made only to those County employees and advisers of County (e.g., outside counsel or accountants) who have a need to know to perform their duties and have an obligation of confidentiality. County may only disclose the License Agreement and restrictions contained in the ELA to a contractor or consultant who has a need to know such information to perform work on behalf of County. No other portions of the ELA may be disclosed to a contractor or consultant. To the extent that any such disclosures may be required by law (such as an open/public records request), County shall inform Esri of the requested disclosure, with a reasonable description of the requested disclosure and identification of the requestor, in sufficient time for Esri to assert any objection Esri may have to such disclosure with the appropriate administrative or judicial body.

ARTICLE 9—RELATIONSHIP OF THE PARTIES

The ELA does not constitute a partnership, joint venture, or agency between Esri and County. Neither Esri nor County will hold itself out as such, nor shall Esri or County be bound or become liable because of any representation, action, or omission of the other.

ARTICLE 10—FORCE MAJEURE

If the performance of any obligation under this ELA is prevented, restricted, or interfered with by reason of fire, flood, earthquake, explosion, or other casualty or accident; strikes or labor disputes; inability to procure or obtain delivery of parts, supplies, or power; war, threat of or actual terrorist act, cyberattack, or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any government agency; or any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the other party, will be provided a temporary extension for a period of time as may be reasonably necessary to allow for such delay, prevention, interference, or restriction.

ARTICLE 11—GIS STANDARD

County shall officially name Esri as its GIS standard and act as a reference for other Esri customers and potential customers as long as the ELA remains in effect. This ELA will not be construed or interpreted as an exclusive dealings agreement, and County reserves the right to purchase from third parties any of their requirements for GIS software, or related services.

County agrees that Esri may publicize the existence of the ELA.

ARTICLE 12—ADMINISTRATIVE REQUIREMENTS

12.1 OEM Licenses. If Licensee obtains Software, Data, Web Services, or any component thereof as part of an original equipment manufacturer (OEM) software program or product developed and licensed by an OEM business partner of Esri, Licensee will not be entitled to or seek any discount from the OEM business partner or Esri, directly or indirectly, as a result of or based upon the availability of such Software, Data, or Web Services, as Enterprise License Software under this ELA. In addition, such Software, Data, Web Services, or any component thereof included in the OEM software program or product will be licensed through the license agreement provided by the OEM business partner and not through this ELA.

12.2 Conversion of Enterprise License Software—Limited Quantity or Unit-Priced Item. Newer or updated Enterprise License Software may contain or be developed with (i) newly acquired technology obtained through a significant investment or (ii) third-party intellectual property that requires a unit-based royalty fee or prohibits Deployment under a site or enterprise license. Esri reserves the right to exclude such newer or updated versions of the Enterprise License Software from the list of items eligible to be Deployed in unlimited quantities. Such items can be made available to County on a limited quantity basis or as unit-priced item(s). In such event, Licensee may continue to use the older (previous) version Deployed, and Esri will provide Technical Support in accordance with the Esri Product Life Cycle Support Policy.

12.3 Obsolescence. During the term of this Agreement, some of the items listed in Appendix A may become obsolete or will no longer be commercially offered or may no longer be available for Deployment. Licensee may continue to use Enterprise License Software that has been Deployed, but support and upgrades for older items may not be available. ELA Maintenance and maintenance and availability of Enterprise License Software identified in Appendix A will be subject to each item's Life Cycle Support Status, which can be found at <http://support.esri.com/index.cfm?fa=knowledgebase.productlifecycles.gateway> by selecting the product type and clicking the Product Life Cycle link for specific product plans. Esri's Product Life Cycle Support Policy, available at <http://support.esri.com/knowledgebase/relatedDocs/ProductLifeCycle.pdf>, defines the support phases and overall support plans.

ARTICLE 13—GENERAL PROVISIONS

13.1 The General Provisions and Limitations of Liability of the License Agreement will apply to the entire ELA. If there is a conflict among any of the other terms and conditions in the various documents, the order of descending precedence will be as follows: (1) E119 Introduction Page, (2) E512 ELA Terms and Conditions, (3) E300 Scope of Use, and (4) E200 General License Terms and Conditions. The terms and conditions of the Enterprise Advantage Program Addendum will take precedence over the provision of the ELA with respect to the Enterprise Advantage Program. Except as otherwise expressly provided herein, any amendment to this ELA must be in writing and signed by an authorized representative of each party.

13.2 Survival of Certain ELA Clauses. The provisions of Articles 7.4 and 8 of this Enterprise License Terms and Conditions document (E512) will survive the expiration or termination of this ELA.

**APPENDIX A
SOFTWARE AND DEPLOYMENT SCHEDULE**

County may Deploy the Enterprise License Software up to the total quantity of licenses indicated below to Licensees. The quantities identified are the cumulative quantities available in any given year for the term of this ELA.

**Table A-1
Enterprise License Software—Unlimited Quantities**

Product	Total Qty/Seats
Desktop Software (Single and Concurrent Use)	
ArcInfo	Unlimited
ArcEditor	Unlimited
ArcView	Unlimited
Desktop Extension Software (Single and Concurrent Use)	
ArcGIS Spatial Analyst	Unlimited
ArcGIS 3D Analyst	Unlimited
ArcGIS Geostatistical Analyst	Unlimited
ArcGIS Network Analyst	Unlimited
ArcGIS Publisher	Unlimited
ArcGIS Schematics	Unlimited
ArcScan for ArcGIS	Unlimited
Maplex for ArcGIS	Unlimited
Server Software and Extensions	
ArcGIS Server Workgroup and Enterprise (Advanced, Standard, Basic)	Unlimited
ArcGIS Server Extensions – 3D Analyst, Network Analyst, Spatial Analyst, Geostatistical, Schematics, ArcGIS Workflow Manager, Image Extension	Unlimited
Development Tool	
ArcGIS Engine Runtime	Unlimited
ArcGIS Engine Runtime Extensions (3D Analyst, Spatial Analyst, Geodatabase Update, Network Analyst, Arc Schematics, Maplex)	Unlimited

**Table A-2
Enterprise License Software—Limited Quantities**

Item	Total Qty./Seats to Be Deployed
ESRI Developer Network (EDN) annual subscription	2

**APPENDIX B
ELA FEE SCHEDULE**

The ELA Fee is \$460,000.00. The ELA Fee is in consideration of the Enterprise License Software, ELA Maintenance, Esri International User Conference registrations, and Enterprise Advantage Program.

	*Year 1 2011	Year 2 2012	Year 3 2013	ELA Fee
Payments	\$110,000	\$175,000	\$175,000	\$460,000
Annual subscription to Esri Enterprise Advantage Program (includes 100 EAP Learning & Services credits and 100 Technical Advisory hours, per year)	**0	1 subscription	1 subscription	
Number of Esri International User Conference Registrations per Year	8	8	8	
Number of Tier 1 Help Desk Individuals	4	4	4	
Number of Sets of Media	2	2	2	
Maximum Number of Hardware Keys	100	100	100	

*The 2010-2011 Software and Maintenance Fee paid by County (described in Article 12—Limited Price Offer of the General License Terms and Conditions) shall be applied to the Year 1 - 2011 ELA Fee invoice in an amount prorated from the Effective Date of the ELA to September 30, 2011.

**County shall receive an EAP subscription for Year 1. Year 1 ELA Fee does not include the EAP fee. Instead the EAP fee has already been paid by the County pursuant to Article 12—Limited Price Offer of the General License Terms and Conditions and the EAP will carry over into ELA Year 1.

Term of ELA pursuant to Section 7.1	Three (3) Years
--	------------------------

**APPENDIX C
COUNTY ANNUAL DEPLOYMENT REPORT**

SAMPLE REPORT—This report will be provided to Esri as an Excel spreadsheet or comparable format.

ENTERPRISE LICENSE COUNTS

	Unlimited Qty. Licenses								Limited Qty. Licenses			
Licensee and Location												

Licenses will be counted by product and location annually.

**APPENDIX D
ELA POINTS OF CONTACT**

Either party may change its point of contact by written notice to the other party.

1. Esri point of contact for order processing issues:

Name: Customer Service
Esri Redlands
380 New York Street
Redlands, CA 92373-8100
E-mail: service@esri.com
Phone: 888-377-4575
Fax: 909-307-3083

2. Esri contact for Tier 2 Support issues:

E-mail: support@esri.com
Phone: 909-793-3774 (domestic U.S. only)
Fax: 909-792-0960
Web: support@esri.com

3. County centralized point of contact for order release and administrative issues:

Name: _____
E-mail: _____
Phone: _____
Fax: _____

4. All deliverables to County will be shipped to the address listed below:

County Office: _____
Name: _____
Address: _____

5. All notices to County will be mailed to the address listed below:

County Office: _____
Name: _____
Address: _____

APPENDIX E
TIER 1 HELP DESK AUTHORIZED INDIVIDUALS

Below are named Tier 1 Help Desk individuals authorized to seek Tier 2 Support from Esri. Substitutes/Changes to Tier 1 Help Desk authorized individuals may be made by written notice to Esri.

1. Name: _____
Address: _____

Phone: _____
Fax: _____
E-mail: _____

2. Name: _____
Address: _____

Phone: _____
Fax: _____
E-mail: _____

3. Name: _____
Address: _____

Phone: _____
Fax: _____
E-mail: _____

4. Name: _____
Address: _____

Phone: _____
Fax: _____
E-mail: _____

5. Name: _____
Address: _____

Phone: _____
Fax: _____
E-mail: _____