

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



ITEM: 3.23
(ID # 20391)

MEETING DATE:

Tuesday, November 08, 2022

FROM : RIVERSIDE COUNTY INFORMATION TECHNOLOGY:

SUBJECT: RIVERSIDE COUNTY INFORMATION TECHNOLOGY: Approve the Master Agreement No. 00313012.0 and the Enterprise Agreement No. 00311680.0 with Environmental Systems Research Institute, Inc. (ESRI) for their proprietary Geographic Information System (GIS) Enterprise Software License and support services effective from November 27, 2022 through November 26, 2027 for the total aggregate amount of \$4,900,000; All Districts. [Total aggregate cost - \$4,900,000, additional compensation not to exceed \$375,000 - RCIT Budget - 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Master Agreement No. 00313012.0 and the Enterprise Agreement No. 00311680.0 with Environmental Systems Research Institute, Inc. (ESRI) for their proprietary Geographic Information System (GIS) Enterprise Software License and support services effective from November 27, 2022 through November 26, 2027 for the total aggregate amount of \$4,900,000, authorize the Chairperson of the Board to sign three (3) copies of the same on behalf of the County;
2. Authorize the Purchasing Agent, based on the availability of fiscal funding and as approved as to form by County Counsel, a) to sign amendments that stay within the intent of the Agreements, and b) to increase the compensation not to exceed \$375,000 through the term of the Agreements; and
3. Direct the Clerk of the Board to retain one (1) copy of the Master Agreement No. 00313012.0 and the Enterprise Agreement No. 00311680.0 and return two (2) copies of the same to Riverside County Information Technology for distribution.

ACTION:Policy

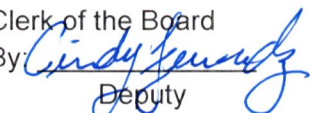

Jim Smith, Chief Information Officer 10/19/2022

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Hewitt, and Perez
Nays: None
Absent: None
Date: November 8, 2022
xc: RCIT

Kecia R. Harper
Clerk of the Board

By 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 930,000	\$ 970,000	\$ 4,900,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: RCIT Budget -100%			Budget Adjustment: No	
			For Fiscal Year: 22/23 – 26/27	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The request before the Board is for the approval of the Master Agreement No. 00313012.0 and the Enterprise Agreement (EA) No. 00311680.0 with Environmental Systems Research Institute, Inc. (ESRI) for the County to continue using ESRI Geographic Information System (GIS) Software. ESRI is the sole distributor for their proprietary software, which the County has utilized since 1988.

On December 8, 2015, (Minute Order 3.48), the Board approved a five-year EA for the county to continue using ESRI Geographic Information System (GIS) Software. On October 6, 2020, (Minute Order 3.11), the Board approved a two-year extension for the county to continue using ESRI ArcGIS.

ESRI enterprise license enables public safety, social services, behavioral and public health services, land use, and nearly all County departments to visualize, analyze and communicate their data on maps and in dashboards. This mapping capability is a core business requirement and a vital tool to serve County stakeholders and the general public. Spatial technology has continued to successfully support essential business operations within the Assessor-County-Clerk- Recorder, Sheriff, Fire, Transportation and Land Management, Emergency Management, Flood Control, Public Health, Social Services and other County departments.

The Enterprise Agreement (EA) allows unlimited deployment of ESRI software throughout the County and allows departments to access new and expanding tool sets offered by ESRI. The RCIT Geographic Information Services division (GIS) has the capacity to support those departments that have a need for GIS, but not the resources to create a GIS program of their own, and as a result enables all County departments access to these powerful analytic, decision making and communication tools. The EA offers numerous benefits including:

- A lower cost per unit for licensed software
- Substantially reduced administrative and procurement expenses
- Maintenance on all ESRI software identified in the agreement and deployed within the organization
- Complete flexibility to deploy software products when and where needed

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- Enabling County departments continued use of GIS tools, production of maps, reports, and analysis of large volumes of data for internal and external customers

Impact on Residents and Businesses

There is no negative impact on residents and businesses in the County of Riverside. ESRI GIS tools support the essential services County residents and businesses expect and rely upon. This software license provides spatially enabled data, multiple years of aerial imagery, and maps to county residents and businesses through our open data portal at <https://data.countyofriverside.us>. Additionally, these GIS tools enable and support our emergency response to critical events including the pandemic, fires, and floods, as well as ongoing efforts such as the annual count of homeless residents and management of open spaces for endangered species.

Additional Fiscal Information

The total EA Fee is \$4,900,000 for five years. Below is the cost allocation:

	FY 22/23 (Year 1)	FY 23/24 (Year 2)	FY 24/25 (Year 3)	FY 25/26 (Year 4)	FY 26/27 (Year 5)	Total
Annual EA Cost	\$930,000	\$970,000	\$1,000,000	\$1,000,000	\$1,000,000	\$4,900,000
Additional compensation for future requests not to exceed total aggregate amount for the term of the Agreement.						\$375,000

Contract History and Price Reasonableness

ESRI is the sole source for their proprietary software, which the County has utilized since 1988. On December 8, 2015, (Minute Order 3.48), the Board approved a five-year EA for the County to continue using ESRI Geographic Information System (GIS) Software. The Board of Supervisors approved a two-year Enterprise License Agreement (ELA) with ESRI on October 6, 2020 (Minute Order 3.11), to continue the support of essential business operations within County departments. RCIT negotiated with ESRI for a new Enterprise Agreement (EA) and agreed to the current ESRI Agreement No. 00311680.0 for a five-year term. As a result, the County realized a cost savings of \$2,600,000 over the term of this agreement.

Attachment:

- A. Master Agreement No. 00313012.0
- B. Enterprise Agreement (EA) No. 00311680.0
- C. Sole Source Justification No. 163879657

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Suzanna Hackley, Assistant Director of Purchasing and Fleet Service 11/1/2022


Meghan Hahn, Senior Management Analyst 11/1/2022


Kristine Bell-Valdez, Supervising Deputy County Counsel 11/1/2022

Master Agreement Product and Services

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY

to Riverside County Clerk of the Board, Stop #1010
Post Office Box 1010, Riverside, CA 92502-8147
Thank you.  SCIENCE
WHERE

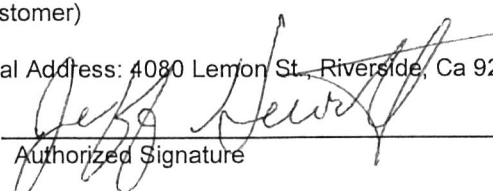
Agreement No. 00313012.0

This Master Agreement ("**Agreement**") is between the entity shown below ("**Customer**") and **Environmental Systems Research Institute, Inc. ("Esri")**, a California corporation with a place of business at 380 New York Street, Redlands, California 92373-8100 USA.

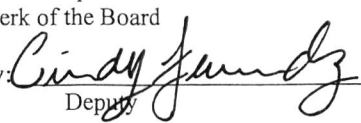
This Agreement is the sole and entire agreement of the parties as to the subject matter of this Agreement and supersedes any previous agreements, understandings, and arrangements relating to such subject matter. Neither party has relied on any statement, representation, or warranty not expressly stated in this Agreement. This Agreement comprises this signature page, the terms and conditions that begin on the following page, and all referenced attachments. Except for Product or Service descriptions, quantities, pricing, and delivery instructions, or as agreed in an Ordering Document signed by both parties, all terms included in any Ordering Document are void and of no effect. Any modification(s) or amendment(s) to this Agreement must be in writing and signed by both parties.

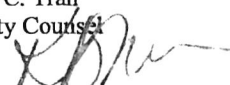
The parties may sign this Agreement in counterparts or via electronic signatures; such execution is valid even if an original paper document bearing both parties' original signatures is not delivered. This Agreement is executed and effective as of the last date signed below.

The authorized representatives of each party accept and agree to the terms of this Agreement by signing below:

COUNTY OF RIVERSIDE
(Customer)
Legal Address: 4080 Lemon St., Riverside, Ca 92501
By: 
Authorized Signature
Printed Name: Jeff Hewitt
Title: Chairperson, Board of Supervisors
Date: 11/08/2022

ENVIRONMENTAL SYSTEMS RESEARCH
INSTITUTE, INC. (Esri)
380 New York Street, Redlands, CA 92373-8100
By: _____
Authorized Signature
Printed Name: _____
Title: _____
Date: _____

ATTEST:
Kecia Harper
Clerk of the Board
By: 
Deputy

APPROVED AS TO FORM:
Minh C. Tran
County Counsel
By: 
Kristine Valdez,
Supervising Deputy County Counsel
Dated: 10/26/22

NOV 8 2022 3:23

Customer Contact Information

Contact: _____

Telephone: _____

Address: _____

Fax: _____

City, State, ZIP: _____

Email: _____

Attachment A contains definitions of capitalized terms used throughout this Agreement. Each section of this Agreement may include additional definitions that are used exclusively within that section.

1.0 GENERAL GRANT OF RIGHTS AND RESTRICTIONS

1.1 Grant of Rights. In consideration of Customer's payment of all applicable fees and in accordance with this Agreement, Esri

- a. Provides Services as set forth in this Agreement;
- b. Grants to Customer a nonexclusive, nontransferable right and license or subscription to access and use Esri Offerings as set forth in the Specifications and applicable Ordering Documents; and
- c. Authorizes Customer to copy and make derivative works of the Documentation for Customer's own internal use in conjunction with Customer's authorized use of Esri Offerings. Customer will include the following copyright attribution notice acknowledging the proprietary rights of Esri and its licensors in any derivative work:

"Portions of this document include intellectual property of Esri and its licensors and are used under license. Copyright © [*Customer will insert the actual copyright date(s) from the source materials.*] Esri and its licensors. All rights reserved."

The grants of rights in this section (i) continue for the duration of the subscription or applicable Term or perpetually if no Term is applicable or identified in the Ordering Documents and (ii) are subject to additional rights and restrictions in this Agreement including Attachment B.

1.2 Consultant or Contractor Access. Customer may authorize its consultants or contractors to (i) host Esri Offerings for Customer's benefit and (ii) use Esri Offerings exclusively for Customer's benefit. Customer will be solely responsible for its consultants' and contractors' compliance with this Agreement and will ensure that each consultant or contractor discontinues use of Esri Offerings upon completion of work for Customer. Access to or use of Esri Offerings by consultants or contractors that is not exclusively for Customer's benefit is prohibited.

1.3 Reservation of Rights. All Esri Offerings are the copyrighted works of Esri or its licensors; all rights not specifically granted in this Agreement are reserved.

1.4 Customer Content. Esri does not acquire any rights in Customer Content under this Agreement other than as needed to provide Esri Offerings and Services to Customer.

2.0 SOFTWARE AND ONLINE SERVICES

2.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. **"Anonymous Users"** means all who have public access (i.e., without having to provide a Named User Credential) to any part of Customer Content or Customer's Value-Added Applications.
- b. **"App Login Credential(s)"** means a system-generated application login and associated password, provided when registering a Value-Added Application with Online Services, which when embedded in a Value-Added Application allows the Value-Added Application to access and use Online Services.
- c. **"Commercial App Deployment License"** means a license to distribute Value-Added Applications to third parties for a fee.
- d. **"Concurrent Use License"** means a license to install and use Software on computer(s) on a network, provided that the number of simultaneous users may not exceed the number of licenses acquired. A Concurrent Use License includes the right to run passive failover instances of Concurrent Use License management software in a separate operating system environment for temporary failover support.
- e. **"Deployment License"** means a license to incorporate ArcGIS Runtime components in Value-Added Applications and distribute Value-Added Applications to Customer's end users.
- f. **"Deployment Server License"** means a license to use Software under a Server License for all uses permitted in this Agreement and as described in the Documentation.
- g. **"Development Server License"** means a license to use Software under a Server License only to build and test Value-Added Applications as described in the Documentation.

- h. **"Development Use"** means the right to install and use Products to build and test Value-Added Applications as described in the Documentation.
- i. **"Dual Use License"** means the right to install Software on a desktop computer and use it simultaneously with either a personal digital assistant (PDA) or handheld mobile device as long as the Software is only used by a single individual at any time.
- j. **"Failover License"** means a license to install Software on redundant systems for failover operations, but the redundantly installed Software may be operational only during the period the primary site is nonoperational. Except for system maintenance and updating of databases, the redundant Software installation(s) will remain dormant while the primary site (or any other redundant site) is operational.
- k. **"Named User(s)"** is Customer's employee, agent, consultant, or contractor to whom Customer has assigned a unique, secure login credential (identity) enabling access to a Product that requires such identity in order to access identity-managed capabilities within a Product for Customer's exclusive benefit. For educational use, Named Users may include registered students.
- l. **"Named User Credential(s)"** means an individual person's login and associated password enabling that person to access and use Products.
- m. **"Named User License"** means the right for a single Named User to use a specific Esri Offering.
- n. **"Online Services Subscription"** means a limited-term subscription conveying the right for one or more Named Users to access and use Online Services.
- o. **"Redistribution License"** means a license to reproduce and distribute Software provided that
 1. Customer reproduces and distributes the Software in its entirety;
 2. A license agreement that protects the Software to the same extent as this Agreement accompanies each copy of the Software, and the recipient agrees to the terms and conditions of the license agreement;
 3. Customer reproduces all copyright and trademark attributions and notices; and
 4. Customer does not charge a fee to others for the use of the Software.
- p. **"Server License"** means a license to install and use Software on any computer being used as a server. Server Licenses may be subject to a limited number of server cores or distributed deployment on multiple servers as described in the Ordering Documents or Documentation. If the Software description includes failover use rights, each Server License includes a Failover License.
- q. **"Service Credit(s)"** means a unit of exchange for consumption of services that can be used with an Online Services Subscription.
- r. **"Sharing Tools"** means publishing capabilities included with Customer's authorized use of Online Services or ArcGIS Enterprise that allow Customer to make Customer Content and Value-Added Applications available to third parties or Anonymous Users.
- s. **"Single Use License"** means a license for a single authorized end user to install and use Software on a single computer. The single authorized end user may also install a second copy for the end user's exclusive use on a second computer as long as only 1 copy of Software is in use at any time. No other end user may use Software under the same license at the same time for any other purpose.
- t. **"Staging Server License"** means a license to use Software under a Server License to build and test Value-Added Applications and map caches; conduct user acceptance, performance, and load testing of other third-party software; stage new commercial data updates; and conduct training activities as described in the Documentation. Customer may use Value-Added Applications and map caches with Development and Deployment Server Licenses.

2.2 License and Subscription Types. Esri provides Products under one or more of the license or subscription types identified in the definitions above. The Documentation and Ordering Documents identify which license or subscription type(s) applies to the ordered Products.

2.3 Software Terms of Use.

- a. Customer may
 1. Install, access, or store Software and Data on electronic storage device(s);
 2. Make archival copies and routine computer backups;

3. Install and use a newer version of Software concurrently with the version to be replaced during a reasonable transition period not to exceed 6 months, provided that the deployment of either version does not exceed Customer's licensed quantity; thereafter, Customer will not use more Software in the aggregate than Customer's total licensed quantity. This concurrent use right does not apply to Software licensed for Development Use;
 4. Move Software in the licensed configuration to a replacement computer;
 5. Distribute Software and any associated Authorization Codes required for use of a Deployment License to third parties; and
 6. Governmental or not-for-profit organizations that operate a website or offer Internet services may use server Software for revenue-generating purposes on a cost-recovery basis and not for profit.
- b. Customer may customize Software using any macro or scripting language, APIs, or source or object code libraries but only to the extent that such customization is described in the Documentation.
 - c. Customer may use all fonts provided with Software for any authorized use of the Software. Customer may also use Esri fonts separately to print any output created by the Software. Any use restrictions for third-party fonts included with the Software are set forth in the font file itself.
 - d. Esri publishes Product-specific Software terms of use at <https://www.esri.com/legal/scope-of-use>.

2.4 Online Services Terms of Use.

- a. **Online Services Descriptions.** Esri publishes Online Services Subscription-specific terms of use at <https://www.esri.com/legal/scope-of-use>. Use of Online Services is also subject to the Cloud Services terms found in [Attachment B](#).
- b. **Modifications of Online Services.** Esri may change Online Services and associated APIs at any time, subject to 30 days' notice of material changes and 90 days' notice for deprecations. If any modification, discontinuation, or deprecation of Online Services causes a material, adverse impact to Customer's operations, Esri may, at its discretion, attempt to repair, correct, or provide a workaround for Online Services. If a viable solution is not commercially reasonable, Customer may cancel its subscription to Online Services, and when applicable, Esri will issue a prorated refund.
- c. **Sharing Customer Content.** Sharing Customer Content using Sharing Tools enables third parties to use, store, cache, copy, reproduce, (re)distribute, and (re)transmit Customer Content through Online Services. Esri is not responsible for any loss, deletion, modification, or disclosure of Customer Content resulting from use or misuse of Sharing Tools. Customer's use of Sharing Tools is at Customer's sole risk.

2.5 Named User Licenses. Except as expressly set forth in this Agreement, the following terms apply to Software and Online Services for which Customer acquires Named User Licenses.

- a. **Named Users.**
 1. Named User login credentials are for designated users only and may not be shared with other individuals.
 2. Customer may reassign a Named User License to another user if the former user no longer requires access to the Software or Online Services.
 3. Customer may not add third parties as Named Users, other than third parties included within the definition of Named Users.
- b. **Anonymous Users.** Anonymous Users may only access Software or Online Services through Value-Added Applications that provide access to services or Content, that has been published for shared access through the use of Sharing Tools.

2.6 Value-Added Applications.

1. Customer is responsible for the development, operation, and technical support of Customer Content and Value-Added Applications.
2. Customer may not embed a Named User Credential into Value-Added Applications. Value-Added Applications that enable access to Customer Content that is not publicly shared through the use of

Sharing Tools must require individual users to log in to the application(s) with their unique Named User login credentials.

3. Customer may embed an App Login Credential into Value-Added Applications that provide access by Anonymous Users to services or Content, that has been published for shared access by Anonymous Users through the use of Sharing Tools.
4. Customer may not embed an App Login Credential into Value-Added Applications that enables access to Customer Content that is not publicly shared through the use of Sharing Tools. Value-Added Applications that enable access to Customer Content that is not publicly shared through the use of Sharing Tools must require individual users to log in to the application(s) with their unique Named User login credentials.
5. Customer may not provide a third party, other than third parties included within the definition of Named Users, with access to Software or Online Services, other than through Customer's Value-Added Application(s).
6. Customer may transfer Value-Added Applications to any third party for use in conjunction with the third party's own Software license or Online Services Subscription.

2.7 Limited-Use Programs.

- a. **Trial, Evaluation, and Beta Programs.** Products acquired under a trial, evaluation, or Beta program are licensed for evaluation and testing purposes only and not for commercial use. Any such use is at Customer's own risk, and the Products do not qualify for Maintenance. If Customer does not convert to a purchased license or subscription prior to the expiration of the trial, evaluation, or Beta license, Customer may lose any Customer Content and customizations made during the license term. If Customer does not wish to purchase a license or subscription, Customer should export such Customer Content before the license expires.
- b. **Educational Programs.** Customer agrees to use Products provided under an educational program solely for educational purposes during the educational use Term. Customer shall not use Products for any Administrative Use unless Customer has acquired an Administrative Use license. "Administrative Use" means administrative activities that are not directly related to instruction or education, such as asset mapping, facilities management, demographic analysis, routing, campus safety, and accessibility analysis. Customer shall not use Products for revenue-generating or for-profit purposes.
- c. **Grant Programs.** Customer may use Products provided under a grant program for noncommercial purposes only. Except for cost recovery of using and operating the Products, Customer shall not use Products for revenue-generating or for-profit purposes.
- d. **Other Esri Limited-Use Programs.** If Customer acquires Products under any limited-use program not listed above, Customer's use of the Products may be subject to the terms set forth in the applicable launching page or enrollment form or as described on Esri's website in addition to the nonconflicting terms of this Agreement.

3.0 DATA

3.1 Definitions. The following definitions supplement the definitions provided in [Attachment A](#):

- a. **"Business Listing Data"** means any dataset that includes a list of businesses and may include other associated business attributes.
- b. **"Esri Content Package(s)"** means a digital file containing Online Services basemap Data extracted from the Online Services.
- c. **"Street Data"** means Data that includes or depicts information about roads, streets, and related features.

3.2 Permitted Uses.

- a. Unless otherwise authorized in writing, Customer may only use Data with the Products for which Esri has provided the Data.

- b. Subject to the restrictions set forth in this Agreement and provided that Customer affixes an attribution statement to the Data representations acknowledging Esri or its applicable licensor(s) as the source of the portion(s) of the Data used for the Data representation, Customer may:
 - 1. Create representations of Data in hard-copy or static, electronic format (e.g., PDF, GIF, JPEG, HTML); in ArcGIS Web Maps; or in Esri Story Maps apps for the purposes of visualizing Data (including basic interactions such as panning, zooming, and identifying map features with simple pop-ups); and
 - 2. Use and include such representations of Data in presentation packages, marketing studies, or other reports or documents containing map images or data summaries derived from the use of Esri Products to third parties.
- c. Customer may take Online Services basemaps offline through Esri Content Packages and subsequently deliver (transfer) them to any device for use with licensed ArcGIS Runtime applications and ArcGIS Desktop. Customer may not otherwise scrape, download, or store Data.
- d. Customer may make any internal use of geocoded results that are obtained and stored in compliance with this Agreement. Customer may not redistribute geocoded results except to (i) use and/or display on a map in connection with Customer's public, non-revenue generating website(s), (ii) permit access to third-parties for the purposes of Customer's business, or (iii) deliver to third parties, on a noncommercial/non-revenue generating basis, static results, static output or static base map renderings.

3.3 Use Restrictions.

- a. Customer may not act directly or authorize its customers to cobrand Data, use Data in any unauthorized service or product, or offer Data through or on behalf of any third party.
- b. Customer may not use or allow third parties to use Data, for the purpose of compiling, enhancing, verifying, supplementing, adding to, or deleting from compilation of information that is sold, rented, published, furnished, or in any manner provided to a third party.
- c. *Business Listing Data.* Unless authorized in writing, Customer may not use Business Listing Data for any direct marketing purposes, resale publication, or distribution to any third party as part of any mailing list, directory, classified advertising, or other compilation of information.
- d. *Street Data.* Customer may use Street Data for mapping, geocoding, routing, and transportation network analysis purposes. Unless otherwise authorized in writing, Customer may not use Street Data for
 - 1. Real-time navigational guidance, including alerting a user about upcoming maneuvers, such as warning of an upcoming turn or calculating an alternate route if a turn is missed;
 - 2. Synchronized multivehicle routing; or
 - 3. Synchronized route optimization.
- e. *Business Analyst Data.* Customer may cache Data provided with ArcGIS Business Analyst Mobile App on a mobile device for use in conjunction with its use of ArcGIS Business Analyst Server. Customer may not otherwise cache or download such Data.
- f. *Partial Dataset Licenses:* If Customer orders a subset of a dataset (e.g., a country, region, state, or local portion of a global database), Customer may use only the licensed subset, not any other portion of the full dataset.
- g. *Michael Bauer Research International Boundaries Data ("MBR Data").* Customer's right to use data downloaded to Customer's premises (e.g., MBR Data stored in ArcGIS Enterprise, ArcGIS Desktop) terminates 2 years after download.

3.4 Supplemental Terms and Conditions for Data. Certain Data licensors require Esri to flow down additional attribution requirements and terms of use to Customer. These terms supplement and amend the terms of this Agreement and are available at www.esri.com/legal/third-party-data.

4.0 MAINTENANCE

4.1 Esri will provide Maintenance for Software and Online Services in accordance with the Esri Maintenance and Support Program and this Agreement

5.0 PROFESSIONAL SERVICES

5.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. **"Invention(s)"** means a patentable invention, discovery, innovation, or improvement, excluding Deliverables, relating to the subject matter of a Task Order.
- b. **"Inventor(s)"** means a party's principal, employee, consultant, or independent contractor that solely or jointly develops Inventions during Esri's performance under a Task Order.
- c. **"Professional Service Package(s)"** means a predefined unit of Professional Services, including travel-related expenses, provided at a firm fixed price.

5.2 Permitted Uses. Customer may use, copy, and modify Deliverables solely in conjunction with Customer's authorized use of Products.

5.3 Task Orders and Project Schedule.

- a. Esri will provide Professional Services and Deliverables as specified in the Task Order.
- b. Each Task Order will reference this Agreement and specify the commencement date and, if known, the period of performance.
- c. Task Orders may have the format shown in Attachment C or any other agreed-upon format.
- d. Each party will identify, in writing, the project manager who is responsible for Professional Services and Deliverables described in Task Orders. By written notice to the other party's technical administrator, either party may replace the project manager at any time with a similarly qualified person.
- e. Other than pricing and descriptions of Professional Services to be performed, terms and conditions in a Task Order are not binding unless both parties have signed the Task Order. The terms of a signed Task Order take precedence over conflicting terms in this Agreement.

5.4 Ownership of Deliverables and Inventions.

- a. Esri or its licensors own and retain ownership of Deliverables.
- b. Each party will retain all rights, title and ownership to any Inventions made or conceived solely by the respective Party's Inventors during the term of this Agreement, including, but not limited to, such Inventions that Esri's Inventors solely make or conceive while providing technical assistance pursuant to this Agreement.
- c. The parties will jointly own any Inventions made or conceived jointly by Inventors from both Parties. The Parties will negotiate in good faith and cooperate reasonably in (i) deciding whether or not to seek or maintain, or to continue to seek or maintain, patent protection in any country on any joint Invention and the extent and scope of such protection and (ii) protecting and enforcing any patents issued on such joint Invention.

5.5 Acceptance.

- a. **For Firm Fixed Price Task Orders.** Customer will complete its acceptance review within 10 working days of receiving each Deliverable and classify the Deliverables as follows:
 1. "DELIVERABLE ACCEPTED" means a Deliverable conforming to the applicable Task Order with no more than minor nonconformities.
 2. "DELIVERABLE ACCEPTED WITH REWORK" means a Deliverable substantially conforming to the applicable Task Order but having a significant number of identified nonconformities and accepted subject to rework by Esri. Esri will rework the Deliverable for the identified nonconformities and resubmit it within 30 days. Customer will rerun its acceptance review for the nonconformities detected in the initial review within 10 working days of such resubmission and will reclassify the Deliverable as either DELIVERABLE ACCEPTED or DELIVERABLE REJECTED.
 3. "DELIVERABLE REJECTED" means a Deliverable that fails to substantially conform to applicable Task Order(s). Esri will rework the Deliverable and resubmit it to Customer within 30 days, at which time

Customer will have 10 working days to rerun its acceptance review and reclassify the deliverable as either DELIVERABLE ACCEPTED or DELIVERABLE REJECTED.

Customer may not use any Deliverable in its business operations before acceptance as described in a.1 or a.2. If Customer does not notify Esri in writing within 10 working days after delivery that it has classified the Deliverable as ACCEPTED WITH REWORK or REJECTED in accordance with a.2 or a.3, or if Customer uses the Deliverable in its business operations, the Deliverable will be deemed, as of the first of either of these events to occur, to have been accepted.

- b. **For Task Orders with Professional Service Packages.** Professional Services that Esri performs under Professional Service Packages will be deemed accepted unless Customer notifies Esri within 10 days after performance. Customer may purchase additional Professional Service Packages as needed to complete Customer's work requirements.
- c. **For Time and Materials Task Orders.** Professional Services are provided strictly on a time and materials basis subject to the Task Order not-to-exceed funding limit. The Professional Services provided will be deemed accepted and in compliance with the professional and technical standards of the software industry unless Customer notifies Esri within 10 days after performance. Deliverables produced under a time and materials Task Order will not be subject to acceptance testing.

5.6 Warranty for Deliverables. Esri warrants to Customer that firm fixed price Deliverables materially comply with Specifications for a period of 90 days from acceptance, subject to the limitations and disclaimers of liability set forth in the "Limited Warranties and Disclaimers" section of Attachment B.

5.7 Changes. The parties may make changes within the general scope of a Task Order by mutual agreement. To document any agreed-to scope changes within the general scope of the Task Order that affects the cost or time required to provide a Deliverable, the parties will jointly sign a written amendment to the Task Order that includes an equitable adjustment in the price, schedule, or both.

5.8 Customer Termination for Convenience. Customer may terminate any Task Order at any time upon 30 days' written notice to Esri and upon payment to Esri of all amounts due to date pursuant to this Agreement, including reasonable expenses incurred as a direct result of the termination and the pro rata contract price for the Task Orders affected.

5.9 Payment; Invoices.

- a. **For Firm Fixed Price Task Orders.** Unless otherwise specified in a Task Order, Esri will prepare and submit monthly invoices based on the percentage of completion for each Deliverable as of the end of the preceding month. Upon acceptance of all Deliverables under a Task Order, the unpaid balance of the total Task Order value is due.
- b. **For Professional Service Packages.** Esri will submit an invoice for Professional Service Packages on receipt of an agreed-upon Task Order. Esri may, at its sole discretion, stop work to avoid exceeding the total labor hours or number of days allotted in the applicable Professional Service Package description set forth in the applicable scope of work. Professional Service Packages expire if not used within 12 months of the Esri invoice date.
- c. **For Time and Materials Task Orders.**
 - 1. Esri will submit to Customer written monthly invoices to the Customer address provided in the Task Order. The invoices will include the payment due for work performed, including travel time, and any other direct costs (ODCs) incurred as authorized under a Task Order. The amount invoiced for labor will be equal to the number of hours expended during the previous month, multiplied by the applicable labor rates. Esri will invoice meals on a per diem basis in accordance with the full daily limits specified on the government Defense Travel website at <https://www.defensetravel.dod.mil/site/perdiemCalc.cfm>. Esri and Customer may include hourly labor rates in this Agreement; if the parties elect to do so, Attachment D will identify the hourly labor rates for each labor category. Esri may change hourly labor rates for Services; any increase in the first 5 years will not exceed 5 percent per year. Esri will invoice ODCs, including travel-related expenses incurred, plus a 15 percent burden.

2. Esri may reallocate the budget between activities, labor categories, and ODCs as necessary to facilitate the work effort, provided the overall price is not exceeded. If Esri reaches the funded not-to-exceed Task Order value and the activities are not completed, Customer may increase the order funding to allow additional work to be performed, or Esri may stop work without further obligation or liability.

5.10 System and Data Access. Each Task Order will specify any requirement for Customer to give Esri personnel access to Customer's systems or data.

6.0 ESRI MANAGED CLOUD SERVICES

6.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. **"Esri Managed Cloud Services Environment"** means the hardware, Software, Data, and network platform that Esri or its third-party supplier provides as part of Esri Managed Cloud Services.
- b. **"Hosting"** means the business of housing and making accessible Customer Content via the Internet.

6.2 Provision of Esri Managed Cloud Services.

- a. **General Terms.** Use of Esri Managed Cloud Services is subject to the Cloud Services terms found in Attachment B of this Agreement.
- b. **Requirements Planning.** It is Customer's responsibility to plan for and address with Esri changes to Customer's requirements, such as the need for additional capacity, the update of an application or dataset, or increased level of system availability.
- c. **Compensation and Expenses.** Esri will invoice Customer for the one-time setup fee upon Task Order execution. Thereafter, Esri will invoice Customer monthly for the Esri Managed Cloud Services to be provided the following month. Customer will pay invoices within 30 days of receipt. Customer is responsible for any shipping or temporary storage costs incurred during the delivery of Customer Content to Esri or removal of Customer Content from the Esri Managed Cloud Services Environment. This paragraph does not apply to Esri Managed Cloud Services provided under the Advantage Program (see the section entitled "Advantage Program" in this Agreement).
- d. **Risk of Loss.** Risk of loss for all Customer Content shall at all times remain with Customer, and it is Customer's sole responsibility to maintain regular backups of Customer Content. Risk of loss for the Esri Managed Cloud Services Environment shall at all times remain with Esri.
- e. **Personally Identifiable Information.** Prior to providing any Customer Content under this Agreement, Customer shall notify Esri if Customer Content includes personally identifiable information.
- f. **Public Software.** Customer may not use, and may not authorize its end users or contractors to combine or use any Esri Offerings with any software (including any underlying dependencies), documentation, or other material distributed under an open source or other similar licensing or distribution model that requires as a condition of such model that any component of the Esri Offering to be (1) disclosed or distributed in source code form, (2) made available free of charge to third parties, or (3) modifiable without restriction by third parties.
- g. **Monitoring.** Customer will provide information and other materials related to its Customer Content as reasonably requested by Esri or its Hosting partner to verify Esri's or Customer's compliance with this Agreement. Esri or its Hosting partner, as applicable, may browse, index, or otherwise monitor the external interfaces of any Customer Content solely for the purpose of verifying compliance with this Agreement.

7.0 TRAINING

7.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. **"Customer-Supplied Training Data"** means any digital dataset(s) including, but not limited to, geographic vector data, coordinates, raster data reports, or associated tabular attributes supplied by Customer for use in training.
- b. **"Esri Academy LMS Integration Subscription"** means an optional term-limited subscription to Esri Academy enabling a specific number of unique Customer student(s) access to Self-Paced E-Learning through the customer's Learning Management System.

- c. **"Esri E-Learning Content (SCORM Format) License"** means an optional term-limited license that provides Esri customers with Esri's e-learning content in SCORM (Shareable Content Object Reference Model) format to import into their Learning Management System.
- d. **"Esri Mobile Lab"** means a service in which Esri will deliver and set up a training environment at the Customer's site for use in conjunction with scheduled Esri Training Events only. The Esri Mobile Lab will include certain hardware, software, power cords, and network switches necessary for the instructor to set up the environment.
- e. **"Esri Training Event(s)"** means an Esri site class, Esri instructor-led online class, a Customer site/private class, workshop, or coaching services.
- f. **"Esri Training Representative"** means Customer's primary Esri liaison in organizing private Esri Training Events.
- g. **"Student(s)"** means a Customer employee or agent who is a registered participant in a specific Esri Training Event or Training-related services. If Customer is an individual, then Student means Customer.
- h. **"Training Pass"** means a nonrefundable, nontransferable block of prepaid training days with a fixed price per day throughout the Term of the Training Pass.
- i. **"Esri Mobile Router"** means a service in which Esri will deliver and setup a mobile router at the Customer's site for use in conjunction with a scheduled Esri Training Event only. The mobile router provides high-speed wireless internet access needed to run the Esri Training Event.
- j. **"Learning Management System" or "LMS"** shall mean third-party software acquired separately by Customer that allows Customer to consume E-Learning Content (SCORM Format) for the purpose of reserving it to the Customer's internal employees.

7.2 Permitted and Prohibited Uses.

- a. Esri provides Training Materials for Training purposes only and for the exclusive use of the Student who attends the Training course for which the Training Materials are provided.
- b. Customer may reproduce copies of Training Materials for registered Students.
- c. Customer may not and may not permit any Student to (i) separate the component parts of Training Materials for any use or (ii) use audio or video recording equipment during an Esri Training Event.
- d. Esri may issue temporary Product authorizations if Customer has an insufficient number of Products available for Training. Customer may use such Products as Training Materials under the terms of this Agreement. Customer will uninstall all deployed Products and return any media provided by Esri upon conclusion of the Esri Training Event.
- e. Customer will retain ownership of any Customer-Supplied Training Data.

7.3 Esri's Responsibilities.

Esri will

- a. Provide an instructor qualified to conduct Training;
- b. Provide all necessary Training Materials for Student; and
- c. Confirm Esri Training Events approximately 10 business days prior to the scheduled start date. Esri will only confirm Student registrations that include a payment method. Registrations without a confirmed payment method are placed on the reservation waiting list. All reservations on the waiting list are subject to availability. Customer site/Private class and coaching services confirmation is also dependent on receipt of the completed Customer site training request form.

7.4 Customer's Responsibilities.

Customer will

- a. Ensure that all Students have received confirmation from Esri to participate in an Esri Training Event. Esri reserves the right to disconnect any Student who permits unregistered student access to an online classroom Esri Training Event. In such case, the full Esri Training Event fee will be invoiced and payable;
- b. Ensure that all Students meet the minimum prerequisites for the applicable Esri Training Event as listed on Esri's training website;

- c. Submit Student registrations with payment method information at least 15 business days before the scheduled start date;
- d. Provide the Esri Training Representative with a list of names and email addresses of any Students who are to attend an Esri Training Event at least 3 business days before the scheduled start date, for compliance with the US embargoed country lists and the various US Government Lists of Parties of Concern or Specially Designated Nationals lists;
- e. For classes held at the Customer-designated facility, complete a client-site training request form; consult with Esri personnel to determine classroom, computer, and network requirements; and provide all such required classrooms, computers, and network access;
- f. Ensure that Student use of Training Materials provided by Esri complies with the terms of this Agreement; and
- g. Assume full liability and responsibility for Student attending Training course(s) under this Agreement.
- h. If the Esri Mobile Lab or Mobile Router is used, Customer will
 - 1. Take delivery of the Esri Mobile Lab or Mobile Router from the shipping agent, and keep it in a secure, locked area at all times;
 - 2. Immediately report any previously damaged Esri Mobile Lab or Mobile Router equipment to the Esri Training Representative upon receipt of the shipment; and
 - 3. Be financially responsible for loss of, damage to, or theft of Esri Mobile Lab or Mobile Router equipment while in Customer's possession.

7.5 Student Registration and Training Event Change Policy.

- a. Customer will provide advance written notice to Esri Customer Service at service@esri.com to reschedule or cancel any Esri Training Event or to substitute a student in a scheduled Esri Training Event.
- b. A replacement Student must be from the same Customer organization as the Student being replaced.
- c. If Customer reschedules an Esri Training Event three or fewer days before the scheduled start date, Esri will charge Customer 50 percent of the fee plus the cost of the rescheduled Esri Training Event.
- d. If Customer (i) cancels an Esri Training Event 3 or fewer days before the scheduled start date without concurrently rescheduling or (ii) is absent without notice from the Esri Training Event, Customer will be liable for the full Esri Training Event fee.
- e. If cancellation of an Esri Training Event is necessary due to causes beyond the party's reasonable control, the affected party may reschedule or cancel the Esri Training Event without incurring any liability.
- f. *Termination of Agreement.* Students who are currently registered for an Esri Training Event as of the date of termination of this Agreement may attend the scheduled Esri Training Event, subject to the terms and conditions of this Agreement.

7.6 Invoicing; Prepaid Fees.

- a. Esri will invoice Customer upon completion of the Esri Training Event or on purchase of a Training Pass. On Customer request, Esri will invoice in advance for an Esri Training Event.
- b. If Customer is invoiced and pays that invoice prior to the scheduled Esri Training Event, then Customer has 1 year from the date of the invoice to consume training days. For a multiyear order, training days must be consumed by the end date specified on the Esri quotation. Thereafter, all prepaid fees are forfeited.
- c. Training Pass policies and redemption rates are described at <https://www.esri.com/training/training-for-organizations/>.

This section 7.6 does not apply to Training provided under the Advantage Program.

7.7 Availability and General Provision of Wireless Service

- a. Esri will not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to wireless service interruptions or unavailability.

7.8 Esri E-Learning in the Customer's Learning Management System

- a. Esri E-Learning Content (SCORM format) License, specific terms of use incorporated by reference are found at <https://www.esri.com/content/dam/esrisites/en-us/media/legal/scorm-lms/scorm-terms-and-conditions.pdf>

- b. Esri Academy LMS Integration Subscription, specific terms of use incorporated by reference are found at <https://www.esri.com/content/dam/esrisites/en-us/media/legal/scorm-lms/lms-terms-and-conditions.pdf>

8.0 ADVANTAGE PROGRAM

8.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. **"Activity Description"** means a mutually agreed upon written statement that confirms the number of Learning and Services Credits that Esri estimates is required to perform an activity and authorizes Esri to begin work based on such estimate. The Activity Description serves as the Task Order for Services provided under the Advantage Program.
- b. **"Advantage Program"** means either Advantage Program, as described at www.esri.com/services/eeap/components, or the Advantage Program for Partners, as described at www.esri.com/partners/bpap/components.
- c. **"Authorized Contact"** means Customer's point of contact for the Advantage Program identified below.
- d. **"Learning and Services Credits"** means a contracted unit of exchange that Customer may use to acquire Professional Services, Training, PSS, Esri Managed Cloud Services, or related travel expenses as described below.
- e. **"Premium Support Services" or "PSS"** means a prioritized incident management and technical support program further described at <https://support.esri.com/en/support/premium>.
- f. **"Advisor"** means an Esri consultant assigned to work with Customer to provide Professional Services such as advising Customer on GIS strategies, facilitating annual planning, and developing and coordinating a collaborative work plan under the Advantage Program.

8.2 Advantage Program Description. The Advantage Program is provided on an order-by-order, annual subscription basis and provides strategy and planning support in addition to a menu of items including Professional Services, Training, PSS, and Esri Managed Cloud Services that Customer can select to best meet its needs with guidance from Advisor. The Advantage Program may change from time to time. The Advantage Program includes the following:

- a. **Advisor.** Customer will receive up to the number of Advisor hours ordered. Customer may elect to retain additional Advisor hours for a supplemental price.
- b. **Annual Planning Meeting.** A 1-day annual planning meeting is included.
- c. **Work Plan.** A collaboratively developed document is designed to drive the program's implementation through definition of Customer's GIS vision, goals, and objectives.
- d. **Learning and Services Credits.** Customer will receive the number of Learning and Services Credits ordered. Customer may use the credits toward any combination of Professional Services, Training, PSS, Esri Managed Cloud Services, or related travel expenses. Customer may order, for an additional price, additional Learning and Services Credits. Learning and Services Credits may be exchanged as described at the applicable Advantage Program website. Esri will provide a monthly report outlining usage of Learning and Services Credits to date to the Authorized Contact.
- e. **Technology Webcasts.** Esri will provide an email invitation to the Authorized Contact for webcasts presenting business and technical information related to enterprise GIS.
- f. **No Project Services.** The Advantage Program is not designed for Esri to provide project-specific Professional Services such as custom application or database development for solutions or applications. Esri will not provide these types of Professional Services under the Advantage Program and does not warrant that Deliverables provided under an Advantage Program will comply with Specifications.

8.3 Authorized Contact Information. Customer identifies the following person as its initial Authorized Contact.

(to be completed by Customer):

Contact Name: _____

Address: _____

City, State, ZIP: _____

Email: _____

Telephone: _____

Fax: _____

8.4 Current on Maintenance. Customer must remain current on standard Software Maintenance during the Advantage Program term.

8.5 Authorization of Learning and Services Credits Use. Customer will contact its account manager or Advisor to consume Learning and Services Credits for a particular request. Esri will submit an Activity Description by email to Customer for confirmation and authorization to use Learning and Services Credits. Customer may authorize the consumption of Learning and Services Credits by submitting an email. Esri will begin work and deduct the estimated credit amount stated in the Activity Description from the unused Learning and Services Credits available.

8.6 Activity Descriptions for Esri Managed Cloud Services. The Activity Description for Esri Managed Cloud Services orders must include the following:

- a. **The Esri Managed Cloud Services Term.** The time period in which Esri provides the Esri Managed Cloud Services to Customer. The Esri Managed Cloud Services term does not begin until setup and deployment of the data and application are complete.
- b. **Targeted System Availability.** The minimum percentage of time that Customer has external access to the application and associated Customer Content through the Internet. Examples of supported levels of system availability are 95 percent, 99 percent, and 99.9 percent. Not all Esri Managed Cloud Services offerings include a Targeted System Availability.
- c. **Number of Anticipated Requests.** A The number of requests made by an end user through a client (e.g., desktop computer, web application, mobile device) and sent to a server(s) that is set up in the Esri Managed Cloud Services Environment by Esri and performs computational tasks on behalf of the end user. An example of a common request used in a GIS is a map request. A map request is made every time a user pans, zooms, or queries a map service.
- d. **Amount of Data Storage.** The storage capacity required to retain digital data, which is to be used and consumed in Customer GIS applications or Cloud Services.
- e. **Learning and Services Credits Consumption.** The price for the Esri Managed Cloud Services in Learning and Services Credits.

The Data storage location may be defined in the Activity Description.

8.7 Travel and Per Diem Expenses. Any Esri travel and per diem expenses will be quoted separately. Travel expenses will include a 15 percent burden, and per diem will be determined in accordance with the full daily limits specified on the government Defense Travel website at <https://www.defensetravel.dod.mil/site/perdiemCalc.cfm>. Customer will use Learning and Services Credits for travel and per diem expenses.

8.8 Notification of Consumed Credits. Esri will notify Customer if the authorized Learning and Services Credits are consumed prior to completion of the requested work. Customer may elect to direct the use of additional Learning and Services Credits, if available; procure additional Learning and Services Credits; or notify Esri to stop work on such requested work. Esri reserves the right to stop work if Customer has consumed all its Learning and Services Credits.

8.9 Review of Proposed Activities. Any activities proposed to be completed under the Advantage Program will be subject to Esri's review and approval to ensure alignment with the intent of the program.

8.10 Invoicing.

- a. Esri shall invoice Customer as quoted for the Advantage Program subscription, additional Learning and Services Credits, or Advisor services upon receipt of Customer's order. Subsequently, Esri will invoice annually at least 30 days in advance of the Advantage Program subscription expiration date. Esri will extend the Advantage Program subscription for a subsequent annual term upon receipt of Customer's payment of the renewal invoice. Esri will invoice fees for additional Learning and Services Credits or Advisor services upon receipt of Customer's order.
- b. Pricing for program renewals and new or additional Services will be in accordance with Esri's standard pricing at the time of purchase or renewal.

8.11 Termination and Expiration. Upon termination or expiration of an Advantage Program subscription:

- a. Services will end as of the expiration or termination date stated; and
- b. Unless either party terminates the Advantage Program subscription for cause, Customer may apply any unused Learning and Services Credits toward any Professional Services, Training, PSS, or related travel expenses that are scheduled as of the termination or expiration date, provided that the Learning and Services Credits are used within 3 months after the termination or expiration date. Any other unused Learning and Services Credits will expire 30 days after the expiration or termination date; if Customer renews the Advantage Program subscription within this time period, any unused Learning and Services Credits will remain valid for up to 2 years from the purchase date or termination of this Agreement, whichever comes first.

ATTACHMENT A GLOSSARY OF TERMS

The following glossary of terms applies to all Esri Offerings and Services that Esri may provide to its customers. Certain Esri Offerings or Services may not be within the scope of this Agreement. Please disregard any terms that are not applicable to Esri Offerings or Services offered under this Agreement.

"Affiliate" means any entity that directly or indirectly (i) Controls; (ii) is Controlled by; or (iii) is under common Control with a party, where "Control" means having more than 50 percent of the voting stock or other voting interest in the Controlled entity.

"API" means application programming interface.

"ArcGIS Website" means www.arcgis.com and any related or successor websites.

"Authorization Code(s)" means any key, authorization number, enablement code, login credential, activation code, token, user name and password, or other mechanism required for use of Esri Offerings.

"Beta" means any alpha, beta, or other prerelease version of a Product.

"Cloud Services" means Online Services and Esri Managed Cloud Services.

"Content" means data, images, photographs, animations, video, audio, text, maps, databases, data models, spreadsheets, user interfaces, graphics components, icons, software, and other resources used in connection with Esri Offerings and Services.

"Control" means having more than 50 percent of the voting stock or other voting interest in the Controlled entity.

"Customer Content" means any Content that Customer provides, uses, or develops in connection with Customer's use of Esri Offerings or Services, including Value-Added Applications. Customer Content excludes any feedback, suggestions, or requests for improvements that Customer provides to Esri.

"Data" means any commercially available digital dataset(s) including, but not limited to, geographic vector data, raster data reports, or associated tabular attributes that Esri bundles with other Esri Offerings or delivers independently.

"Deliverables" means anything that Esri delivers to Customer as a result of performance of Professional Services.

"Documentation" means all user reference documentation that Esri provides with a Deliverable or an Esri Offering.

"Esri Managed Cloud Services" means a Customer-specific cloud infrastructure, Software, Data, and network platform that Esri hosts, manages, and makes available to Customer or Customer's end users via the Internet.

"Esri Offering(s)" means any Product or Documentation. If Esri provides Training or Professional Services directly to Customer, then Esri Offerings also include Deliverables and Training Materials. Esri Offerings exclude Services and Third-Party Content.

"GIS" means geographic information system.

"Maintenance" means a subscription program that Esri provides and that entitles Customer to Product updates and other benefits such as access to technical support and self-paced, web-based learning resources.

"Malicious Code" means software viruses; worms; time bombs; Trojan horses; or any other computer code, files, denial of service, or programs designed to interrupt, destroy, or limit the functionality of any computer software, hardware, or telecommunications equipment.

"Online Services" means any commercially available, Internet-based geospatial system that Esri provides, including applications and associated APIs for storing, managing, publishing, and using maps, data, and other information. Online Services exclude Data and Content.

"Ordering Document(s)" means a sales quotation, Maintenance renewal quote, purchase order, proposal, Task Order, or other document identifying Esri Offerings, updates, or Services that Customer orders.

"Perpetual License" means a license to use a version of the Esri Offering for which applicable license fees have been paid, indefinitely, unless terminated by Esri or Customer as authorized under this Agreement.

"Product(s)" means Software, Data, and Online Services.

"Professional Services" means any development or consulting services that Esri provides to Customer.

"Sample(s)" means sample code, sample applications, add-ons, or sample extensions of Products.

"Service(s)" means Maintenance. If Esri provides Esri Managed Cloud Services, Training, or Professional Services directly to Customer, then Services also include Esri Managed Cloud Services, Training, and Professional Services.

"Software" means any proprietary commercial off-the-shelf software, excluding Data, accessed or downloaded from an Esri-authorized website or that Esri delivers on any media in any format including backups, updates, service packs, patches, hot fixes, or permitted merged copies.

"Specification(s)" means (i) the Documentation for Software and Online Services, (ii) the scope of work set forth in any Task Order, or (iii) Esri's published course descriptions for Training.

"Task Order(s)" means an Ordering Document for Services.

"Term License" means a license for use of an Esri Offering for a limited time period ("**Term**").

"Third-Party Content" means any Content that Customer may obtain from a third-party website or that persons other than Esri employees, suppliers, or contractors may directly contribute to Esri's website.

"Training" means (i) Product training or (ii) related training that Esri provides under this Agreement.

"Training Materials" means digital or printed Content required to complete Training, which may include, but is not limited to, workbooks, data, concepts, exercises, assessments, and exams.

"Value-Added Application(s)" means an application developed by Customer for use in conjunction with the authorized use of any Software, Data, or Online Services.

**ATTACHMENT B
GENERAL TERMS AND CONDITIONS**

The following general terms and conditions apply to all Esri Offerings and Services that Esri may offer to its customers. Certain Esri Offerings or Services may not be available under this Agreement. Please disregard any terms that are not applicable to Esri Offerings or Services offered under this Agreement.

ARTICLE B.1—GENERAL USE RESTRICTIONS

Except as expressly permitted in this Agreement, Customer will not

- a. Sell, rent, lease, sublicense, distribute, lend, time-share, or assign Services or Esri Offerings;
- b. Distribute or provide direct access to Services or Esri Offerings to third parties, in whole or in part, including, but not limited to, extensions, components, or DLLs;
- c. Distribute Authorization Codes to third parties;
- d. Reverse engineer, decompile, or disassemble any Product or Deliverable delivered in compiled form;
- e. Make any attempt to circumvent the technological measure(s) that controls access to or use of Esri Offerings;
- f. Store, cache, use, upload, distribute, or sublicense Content or otherwise use Esri Offerings in violation of Esri's or a third-party's rights, including intellectual property rights, privacy rights, nondiscrimination laws, export laws, or any other applicable law or regulation;
- g. Remove or obscure any Esri or its licensors' patent, copyright, trademark, proprietary rights notices, or legends contained in or affixed to any Esri Offerings, output, metadata file, or online or hard-copy attribution page of any Data or Documentation;
- h. Unbundle or independently use individual or component parts of Esri Offerings;
- i. Incorporate any portion of Esri Offerings into a product or service for third-party use that competes with the Esri Offerings;
- j. Publish or in any other way communicate the results of benchmark tests run on Beta Products without the prior written permission of Esri and its licensors; or
- k. Use, incorporate, modify, distribute, provide access to, or combine any Esri Offerings in a manner that would subject any Esri Offering to open-source or open-database license terms (e.g. GPL) that require any part of the Esri Offering to be subject to additional terms, for example
 - 1. Disclosed in source code form to third parties;
 - 2. Licensed to third parties for the purpose of making derivative works; or
 - 3. Redistributable to third parties at no charge; or
- l. Generate revenue by providing access to Software or Online Services through a Value-Added Application.

These restrictions will not apply to the extent that they conflict with applicable law or regulation.

ARTICLE B.2—TERM AND TERMINATION

B.2.1 Customer may terminate this Agreement or any Esri Offerings license or subscription at any time upon written notice to Esri. Termination without cause does not entitle Customer to receive any refund of fees paid. Any right to terminate pending Services engagements for convenience is set forth in the applicable section in the body of this Agreement. Either party may terminate this Agreement or any license or subscription for a material breach that is not cured within 30 days of written notice to the breaching party. Upon any termination of this Agreement for breach, Esri will stop providing Services. Any licenses in Esri Offerings that survive termination of this Agreement continue under the terms of this Agreement.

B.2.2 If Esri terminates this Agreement following Customer's breach, then Esri may also, at its election, terminate Customer's licenses or subscriptions to Esri Offerings. If Customer terminates this Agreement for cause or convenience, then Customer may, at its election, also terminate Customer's licenses or subscriptions to Esri Offerings.

B.2.3 Upon any termination or expiration of a license or subscription, Customer will

- a. Stop accessing and using the terminated or expired Esri Offerings;
- b. Clear any client-side data cache derived from the terminated or expired Cloud Services; and
- c. Stop using and uninstall, remove, and destroy all copies of the terminated or expired Esri Offerings in Customer's possession or control, including any modified or merged portions thereof, in any form, and execute and deliver evidence of such actions to Esri or its authorized distributor.

Esri may stop performing Services immediately upon written notice to Customer if a bankruptcy or insolvency proceeding is commenced by or against Customer until the trustee cures any existing defaults and provides adequate assurance of future performance under this Agreement. This Agreement terminates upon the insolvency, liquidation, or dissolution of either party.

ARTICLE B.3—LIMITED WARRANTIES AND DISCLAIMERS

B.3.1 Limited Warranties. Except as disclaimed below, Esri warrants to Customer that (i) Products and Training will substantially comply with the applicable Specifications and (ii) Services will substantially conform to the professional and technical standards of the industry. The warranty period for Esri Offerings offered under a Perpetual License and for Services runs for 90 days from the date of delivery or from the date of acceptance if this Agreement provides an acceptance period. The warranty period for Esri Offerings offered under a subscription or Term License basis runs for the lesser of (i) the duration of the subscription or term or (ii) 90 days from delivery or acceptance if this Agreement provides an acceptance period.

B.3.2 Special Disclaimer. Third-Party Content; Data; Samples; hot fixes; patches; updates; Online Services provided at no charge; and trial, evaluation, and Beta Products are delivered "as is" and without warranty of any kind.

B.3.3 General Disclaimer. Except for the express limited warranties set forth in this Agreement, Esri disclaims all other warranties or conditions of any kind, whether express or implied, including, but not limited to, warranties or conditions of merchantability, fitness for a particular purpose, and noninfringement of intellectual property rights. Esri is not responsible for any nonconformities with Specifications or loss, deletion, modification, or disclosure of Customer Content caused by Customer's modification of any Esri Offering other than as specified in the Documentation. Esri does not warrant that Esri Offerings, or Customer's operation of the same, will be uninterrupted, error free, fault tolerant, or fail-safe or that all nonconformities can or will be corrected. Esri Offerings are not designed, manufactured, or intended for use in environments or applications that may lead to death, personal injury, or physical property or environmental damage. Customer should not follow any navigational route suggestions that appear to be hazardous, unsafe, or illegal. Any such uses will be at Customer's own risk and cost.

B.3.4 Disclaimers.

- a. **Internet Disclaimer.** Neither party will be liable for damages under any theory of law related to the performance or discontinuance of operation of the Internet or to regulation of the Internet that might restrict or prohibit the operation of Cloud Services.
- b. **Third-Party Websites; Third-Party Content.** Esri is not responsible for any third-party website or Third-Party Content that appears in or is referenced by Esri Offerings or Esri websites, including www.esri.com, developers.arcgis.com, livingatlas.arcgis.com and www.arcgis.com. Providing links to third-party websites and resources does not imply an endorsement, affiliation, or sponsorship of any kind.

B.3.5 Exclusive Remedy. Customer's exclusive remedy and Esri's entire liability for breach of the limited warranties in this section will be to replace any defective media and to (i) repair, correct, or provide a workaround for the applicable Esri Offering or Services or (ii) at Esri's election, terminate Customer's right to use and refund the fees paid for Esri Offerings or Services that do not meet Esri's limited warranties.

ARTICLE B.4—LIMITATION OF LIABILITY

B.4.1 Disclaimer of Liability. Neither Customer, Esri, nor any Esri authorized distributor or third party licensor will be liable for any indirect, special, incidental, or consequential damages; lost profits; lost sales; loss of goodwill; costs of procurement of substitute goods or services; or damages exceeding the applicable license fees, or current subscription fees, or Services fees paid or owed to Esri for the Esri Offerings or Services giving rise to the cause of action.

B.4.2 The limitations and exclusions of liability in the preceding paragraph do not apply to Customer's infringement, misuse, or misappropriation of Esri's or Esri's licensors' intellectual property rights, either party's indemnification obligations, gross negligence, willful misconduct, or violations of the Export Compliance clause of this Agreement or any applicable law or regulation.

B.4.3 Applicability of Disclaimers and Limitations. Esri or its authorized distributor has set its fees and entered into this Agreement in reliance on the disclaimers and limitations in this Agreement; the fees reflect an allocation of risk that is an essential basis of the bargain between the parties. **These limitations will apply whether or not a party is aware of the possibility of any damage and notwithstanding any failure of essential purpose of any exclusive, limited remedy.**

B.4.4 The foregoing disclaimers, limitations, and exclusions may be invalid in some jurisdictions and apply only to the extent permitted by applicable law or regulation in Customer's jurisdiction. Customer may have additional rights that may not be waived or disclaimed. Esri does not seek to limit Customer's warranty or remedies to any extent not permitted by law.

ARTICLE B.5—INDEMNIFICATIONS

B.5.1 Definitions. The following definitions supplement the definitions provided in [Attachment A](#):

- a. **"Claim"** means any claim, action, or demand by a third party.
- b. **"Indemnitees"** means Customer and its directors, officers, and employees.
- c. **"Infringement Claim(s)"** means any Claim alleging that Customer's use of or access to any Esri Offering or Service infringes a patent, copyright, trademark, or trade secret.
- d. **"Loss(es)"** means expenditure, damage award, settlement amount, cost, or expense, including awarded attorneys' fees.

B.5.2 Infringement Indemnity.

- a. Esri will defend, hold all Indemnitees harmless from, and indemnify any Loss arising out of an Infringement Claim.
- b. If Esri determines that an Infringement Claim is valid, Esri may, at its expense, either (i) obtain rights for Customer to continue using the Esri Offerings or Services or (ii) modify the Esri Offerings or Services while maintaining substantially similar functionality. If neither alternative is commercially reasonable, Esri may terminate Customer's right to use the Esri Offerings or Services and will refund any (a) license fees that Customer paid for the infringing Esri Offerings or Services acquired under a Perpetual License, prorated on a 5-year, straight-line depreciation basis beginning from the initial date of delivery or (b) unused portion of fees paid for Term Licenses, Subscriptions, and Maintenance.
- c. Esri has no obligation to defend an Infringement Claim or to indemnify Customer to the extent the Infringement Claim arises out of (i) the combination or integration of Esri Offerings or Services with a product, process, system, or element that Esri has not supplied or specified in the Specification; (ii) alteration of Esri Offerings or Services by anyone other than Esri or its subcontractors; (iii) compliance with Customer's specifications; or (iv) use of Esri Offerings or Services after Esri either provides a modified version to avoid infringement or terminates Customer's right to use the Esri Offerings or Services.

B.5.3 General Indemnity. Esri will defend and hold all Indemnitees harmless from, and indemnify any Loss arising out of, any Claim for bodily injury, death, or tangible or real property damage brought against any of the Indemnitees to the extent arising from any negligent act or omission or willful misconduct by Esri or its directors, officers, employees, or agents performing Services while on Customer's site.

B.5.4 Conditions for Indemnification. As conditions for indemnification, but for those defined as Infringement Claims (see B.5.2 c.), Indemnitee will (i) promptly notify Esri in writing of the Claim, (ii) provide all available documents describing the Claim, (iii) give Esri sole control of the defense of any action and negotiation related to the defense or settlement of any Claim, and (iv) reasonably cooperate in the defense of the Claim at Esri's request and expense.

B.5.5 This section sets forth the entire obligation of Esri, its authorized distributor, and its third party licensors regarding any Claim for which Esri must indemnify Customer.

ARTICLE B.6—INSURANCE

If Esri is providing Services, Esri will carry, at a minimum, the following coverage:

- a. Comprehensive general liability or commercial general liability with a minimum coverage of \$1,000,000.00 (US dollars) combined single limit per occurrence for bodily injury, including death, and property damage liability to include the following:
 1. Premises and operations;
 2. Blanket contractual liability;
 3. Broad form property damage;
 4. Independent contractors;
 5. Personal injury, with employee exclusion deleted; and
 6. Completed operations.
- b. Workers' compensation insurance, with waiver of subrogation, in an amount that complies with statutory limits.

ARTICLE B.7—SECURITY AND COMPLIANCE

B.7.1 Security. Esri publishes its security capabilities at <https://trust.arcgis.com>. Customer may give Esri personnel access to Customer systems or to Customer or third-party personal information, controlled information, or sensitive data if access is essential for Esri's performance of Services and if Esri expressly agrees to such access. Esri will use reasonable administrative, technical, and physical safeguards to protect such data and guard against unauthorized access. Customer bears responsibility to (i) confirm that Esri's published security and privacy controls meet all applicable legal requirements for protection of Customer Content and (ii) upload or share Customer Content through Cloud Services only when it is legal to do so. Esri is not responsible to review Customer Content to ensure compliance with applicable laws and regulations. Customer must contact Esri at securesupport@esri.com for further instruction before providing any Customer Content that requires security measures other than Esri's published security capabilities.

B.7.2 Malicious Code. Esri will use commercially reasonable efforts to ensure that Esri Offerings will not transmit any Malicious Code to Customer. Esri is not responsible for Malicious Code that Customer introduces to Esri Offerings or that is introduced through Third-Party Content.

B.7.3 Export Compliance. Each party will comply with all applicable export and trade sanctions laws and regulations, including the US Department of Commerce's Export Administration Regulations (EAR), the US Department of State's International Traffic in Arms Regulations (ITAR), the US Department of Treasury, Office of Foreign Assets Control (OFAC) Regulations, and other applicable export laws. Customer will not export, reexport, transfer, release, or otherwise dispose of, in whole or in part, or permit access to or transfer or use of Services or Esri Offerings to any United States embargoed countries currently including Iran, Syria, North Korea, Cuba, Crimea region of Ukraine, the Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR), or denied entities or persons except in accordance with all then-current applicable US government export laws and regulations. Customer will not export, reexport, transfer, or use Services or Esri Offerings for certain missile, nuclear, chemical, or biological activities or end uses without proper authorization from the US government. Customer shall immediately notify Esri in writing if any US government entity or agency denies, suspends, or revokes Customer's export privileges. Customer will not upload, store, or process in Cloud Services any Customer Content that (i) has an Export Control Classification Number (ECCN) other than EAR99 or (ii) is controlled for export from the United States under ITAR. Customer will notify Esri in advance if Esri's performance

of any Services or provision of any Esri Offerings is related to any defense article, defense service, or technical data, as defined under the ITAR Sections 120.31, 120.32, and 120.33, respectively; Esri will not perform any such Services or provide any such Esri Offerings until Esri obtains any necessary export license from the US government. Customer will reasonably assist Esri in applying for and obtaining an export license if needed.

B.7.4 Privacy. Esri will process personal data according to the terms of the Data Processing Addendum available at <https://www.esri.com/en-us/privacy/overview>.

ARTICLE B.8—CLOUD SERVICES

B.8.1 Prohibited Uses. Customer shall not provide Customer Content or otherwise access or use Cloud Services in a manner that

- a. Creates or transmits spam, spoofings, or phishing email or offensive or defamatory material; or stalks or makes threats of physical harm;
- b. Stores or transmits any Malicious Code;
- c. Violates any law or regulation;
- d. Infringes or misappropriates the rights of any third party;
- e. Probes, scans, or tests the vulnerability of Cloud Services or breach any security or authentication measures used by Cloud Services without written approval from Esri's Product Security Officer; or
- f. Benchmarks the availability, performance, or functionality of Cloud Services.

B.8.2 Service Interruption. System failures or other events beyond Esri's reasonable control may interrupt Customer's access to Cloud Services. Esri may not be able to provide advance notice of such interruptions.

B.8.3 Customer Content.

- a. Customer grants Esri and its subcontractors a nonexclusive, nontransferable, worldwide right to host, run, modify, and reproduce Customer Content as needed to provide Cloud Services to Customer. Esri will not access, use, or disclose Customer Content without Customer's written permission except as reasonably necessary to support Customer's use of Cloud Services. Except for the limited rights granted to Esri under this Agreement, Customer retains all its rights, title, and interest in the Customer Content.
- b. If Customer accesses Cloud Services with an application provided by a third party, Esri may disclose Customer Content to such third party as necessary to enable interoperation between the application, Cloud Services, and Customer Content.
- c. Esri may disclose Customer Content if required to do so by law or regulation or by order of a court or other government body, in which case Esri will reasonably attempt to limit the scope of disclosure.
- d. When Customer's use of Cloud Services ends, Esri will either
 1. Make Customer Content available to Customer for download for a period of 30 days unless Customer requests a shorter window of availability or Esri is legally prohibited from doing so; or
 2. Download all Customer Content in Esri's possession to a medium of Customer's choosing and deliver such Customer Content to Customer.

Esri will have no further obligations to store or return Customer Content at the conclusion of the Cloud Services.

B.8.4 Removal of Customer Content. Esri may remove or delete Customer Content if there is reason to believe that uploading Customer Content to or using it with Cloud Services materially violates this Agreement. If reasonable under these circumstances, Esri will notify Customer before removing Customer Content. Esri will respond to any Digital Millennium Copyright Act takedown notices in accordance with Esri's copyright policy, available at www.esri.com/legal/dmca_policy.

B.8.5 Service Suspension. Esri may suspend access to Cloud Services (i) if Customer materially breaches this Agreement and fails to timely cure the breach; (ii) if Esri reasonably believes that Customer's use of Cloud Services will subject Esri to immediate liability or adversely affect the integrity, functionality, or usability of the Cloud Services; (iii) for scheduled maintenance; (iv) to enjoin a threat or attack on Cloud Services; or (v) if Cloud

Services become prohibited by law or regulated to a degree that continuing to provide them would impose a commercial hardship. When feasible, Esri will notify Customer of any Cloud Services suspension beforehand and give Customer reasonable opportunity to take remedial action.

Esri is not responsible for any damages, liabilities, or losses that may result from any interruption or suspension of Cloud Services or removal of Customer Content as described above.

B.8.6 Notice to Esri. Customer will promptly notify Esri if Customer becomes aware of any unauthorized use of Customer's subscription or any other breach of security regarding Cloud Services.

ARTICLE B.9—GENERAL PROVISIONS

B.9.1 Payment. Customer will pay each correct invoice no later than 30 days after receipt and will remit payment to the address stated on the invoice.

B.9.2 Feedback. Esri may freely use any feedback, suggestions, or requests for Product improvement that Customer provides to Esri.

B.9.3 Patents. Customer may not seek, and may not permit any other user to seek, a patent or similar right worldwide that is based on or incorporates any Products. This express prohibition on patenting will not apply to Customer's software and technology except to the extent that Products, or any portion thereof, are part of any claim or preferred embodiment in a patent application or a similar application.

B.9.4 Restrictions on Solicitation. Neither party will solicit for hire any employee of the other party who is associated with the performance of Services during the performance of the Services and for a period of 1 year thereafter. This does not restrict either party from publicly advertising positions for hire in newspapers, professional magazines, or Internet postings.

B.9.5 Taxes and Fees; Shipping Charges. Pricing of Esri Offerings and Services that Esri quotes to Customer is exclusive of any and all applicable taxes or fees including, but not limited to, sales tax, use tax, or value-added tax (VAT); customs, duties, or tariffs; shipping and handling charges; and vendor enrollment fees. Esri will add any fees that it is required to pay to the total amount of its invoice to Customer. Esri may include estimated taxes and shipping and handling charges in its quotations but may adjust these fees on invoicing.

B.9.6 Compliance Review. Customer will keep accurate and complete records and accounts pertaining to its compliance with its obligations under this Agreement. Esri or its authorized distributor may conduct a compliance review of these records and accounts with no less than 14 business days' written notice or may appoint an independent third party to conduct such a compliance review on its behalf. Customer will promptly correct any noncompliance identified during the compliance review. Neither Esri nor Esri's authorized distributor may conduct a compliance review of Customer within 12 months after the conclusion of any prior compliance review that does not reveal any material Customer noncompliance.

B.9.7 No Implied Waivers. The failure of either party to enforce any provision of this Agreement is not a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

B.9.8 Severability. If any provision of this Agreement is held to be unenforceable for any reason, (i) such provision will be reformed only to the extent necessary to make the intent of the language enforceable, and (ii) all other provisions of this Agreement will remain in effect.

B.9.9 Successor and Assigns. Customer will not assign, sublicense, or transfer Customer's rights or delegate Customer's obligations under this Agreement without Esri's and its authorized distributor's prior written consent, and any attempt to do so without consent will be void. This Agreement will be binding on the respective successors and assigns of the parties to this Agreement. Notwithstanding, a contractor under contract to the government to deliver Products may assign this Agreement and Products acquired for delivery to its government customer upon written notice to Esri, provided the government customer assents to the terms of this Agreement. Upon mutual agreement, Esri's Affiliates may provide Services under the terms of this Agreement; in such cases,

the Ordering Documents will identify the Affiliate as the party that provides the Services. Esri's authorized distributors are not Affiliates of Esri.

B.9.10 Survival of Terms. The Glossary of Terms and provisions of the following Articles of these General Terms and Conditions will survive the expiration or termination of this Agreement: "Limited Warranties and Disclaimers," "Limitation of Liability," "Indemnifications," and "General Provisions."

B.9.11 US Government Customer. The Products are commercial items, developed at private expense, provided to Customer under this Agreement. If Customer is a US government entity or US government contractor, Esri licenses or provides subscriptions to Customer in accordance with this Agreement under FAR Subparts 12.211/12.212 or DFARS Subpart 227.7202. Esri Data and Online Services are licensed or subscribed under the same DFARS Subpart 227.7202 policy as commercial computer software for acquisitions made under DFARS. Products are subject to restrictions, and this Agreement strictly governs Customer's use, modification, performance, reproduction, release, display, or disclosure of Products. Agreement provisions that are inconsistent with federal law regulation will not apply. A US government Customer may transfer Software to any of its facilities to which it transfers the computer(s) on which it has installed such Software. If any court, arbitrator, or board holds that a US government Customer has greater rights to any portion of Products under applicable public procurement law, such rights will extend only to the portions affected. ArcGIS Online has been granted FedRAMP tailored low authorization but does not meet higher security requirements including those found in DFARS 252.239-7010.

B.9.12 Governing Law. This Agreement is not subject to the United Nations Convention on Contracts for the International Sale of Goods. The applicable laws of Customer's jurisdiction govern this Agreement.

B.9.13 Dispute Resolution. Esri will comply with mandatory dispute resolutions under applicable law.

- a. **Equitable Relief.** Either party will have the right to seek an injunction, specific performance, or other equitable relief in any court of competent jurisdiction without the requirement of posting a bond or proving injury as a condition for relief.

B.9.14 Force Majeure. A party will not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond the party's reasonable control. Such causes may include, but are not limited to, acts of God, war, strikes, labor disputes, cyber attacks, laws, regulations, government orders, or any other force majeure event.

B.9.15 Independent Contractor. Esri is and at all times will be an independent contractor. Nothing in this Agreement creates an employer/employee, principal/agent, or joint venture relationship between Esri or its authorized distributor and Customer. No party has any authority to enter into contracts on behalf of another party or otherwise act on behalf of another party.

B.9.16 Notice. Customer may send notices required under this Agreement to Esri at the following address:

Environmental Systems Research Institute, Inc.
Attn.: Contracts and Legal Department
380 New York Street
Redlands, CA 92373-8100
USA
Tel.: 909-793-2853
Email: LegalNotices@esri.com

ATTACHMENT C
SAMPLE TASK ORDER
 Esri Agreement No. _____
 Task Order No. _____

In accordance with the terms and conditions of the above-referenced Agreement between Environmental Systems Research Institute, Inc. ("**Esri**"), and _____ ("**Customer**"), _____ ("**Customer Address**"), this Task Order authorizes preparation and provision of the Deliverables described and in accordance with the terms, schedule, and start/end date(s) specified below.

1. Scope of Work: *[As applicable, specifically identify and describe Deliverables including custom code, map data, technical data (including technical assistance), and the resources to be provided by Customer (including Customer-supplied personnel, software, hardware, and digital or hard-copy data) and place of delivery and location where technical assistance will be provided.]*

In addition to the foregoing, Customer agrees that its employees, representatives, and subcontractors will cooperate and communicate with Esri during performance of this Task Order. Without cost to Esri, Customer shall provide, allow access to, or assist Esri in obtaining all data Esri requests for performance of this Task Order, including, but not limited to, (1) copies of previously prepared reports, maps, plans, surveys, records, and other documents in the control or possession of Customer and (2) copies of ordinances, codes, regulations, or other governmental documents.

2. Contract Type: *[Firm Fixed Price (FFP) or Time and Materials (T&M)]*:
3. Total Task Order Value (if FFP) or Not-to-Exceed Value (if T&M):
4. Customer Address for the Receipt of Esri Invoices:
5. Delivery Schedule or Start/End Date(s) for Each Deliverable:
6. Special Considerations:
7. Esri Project Manager: *[insert name, telephone, fax, and email address]*
 Esri Senior Contract Administrator: *[insert name, telephone, fax, and email address]*
 Customer Project Manager: *[insert name, telephone, fax, and email address]*
 Customer Senior Contract Administrator: *[insert name, telephone, fax, and email address]*
 Customer Accounts Payable Contact: *[insert name, telephone, fax, and email address]*

ACCEPTED AND AGREED:

[sample only—do not sign]
 (Customer)

ENVIRONMENTAL SYSTEMS
 RESEARCH INSTITUTE, INC.
 (Esri)

Signature: [sample only—do not sign]

Signature: [sample only—do not sign]

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**ATTACHMENT D
TIME AND MATERIALS RATE SCHEDULE**

See Quotation for Pricing.



ENTERPRISE AGREEMENT

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

Agreement No. 00311680.0

This Enterprise Agreement, including the documents listed below (collectively, "EA"), is between County of Riverside ("Customer"), with its main offices located at 4080 S. Lemon St., Riverside, CA 92501, and Environmental Systems Research Institute, Inc. ("Esri"), with an effective date of November 27, 2022 ("Effective Date"). This EA provides for the licensing and Deployment of certain Esri Products, delivery of EA Maintenance, Advantage Program, Premium Support Services as well as the provision of registrations to Esri's User Conference and any additional services as specified herein.

This EA is composed of the following documents, which are incorporated herein by reference:

1. Enterprise Agreement signature page(s), E512G
2. Enterprise License Terms and Conditions, E512G, including
 - Appendix A—Products and Deployment Schedule
 - Appendix B—EA Fee Schedule
 - Appendix C—EA Points of Contact
 - Appendix D—Tier 1 Help Desk Authorized Individuals
 - Appendix E—County of Riverside Internal Departments
3. Master Agreement No. 00313012.0

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

This EA 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 EA must be in writing and signed by an authorized representative of each party.

The parties may sign this Agreement in counterparts or via electronic signatures; such execution is valid even if an original paper document bearing both parties' original signatures is not delivered. This Agreement is executed and effective as of November 27, 2022.

The authorized representatives of each party accept and agree to the terms of this Agreement by signing below:

COUNTY OF RIVERSIDE a political subdivision
Of the State of California (Customer)

By: *Jeff Hewitt*
Authorized Signature

Printed Name: Jeff Hewitt

Title: Chairperson, Board of Supervisors

Date: 11/08/2022

ENVIRONMENTAL SYSTEMS
RESEARCH INSTITUTE, INC.
(Esri)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

ATTEST:

NOV 8 2022 3:23

Kecia Harper
Clerk of the Board

By: Cindy Jannet
Deputy

APPROVED AS TO FORM:

Minh C. Tran
County Counsel

By: KB
Kristine Valdez,
Supervising Deputy County Counsel

Dated: 10/26/2022

ENTERPRISE LICENSE TERMS AND CONDITIONS

ARTICLE 1—DEFINITIONS

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

- "Deploy," "Deployment," or "Deployed" means to redistribute, or the redistribution of, the EA Products (and their related keycodes/registration files), or their having been redistributed, by Customer during the term of this EA for installation and use by Customer.
- "EA Fee(s)" means the fee set forth in Appendix B—EA Fee Schedule.
- "EA Maintenance" means Tier 2 Support, updates, and patches provided by Esri for EA Products and Rolled-In Software.
- "EA Products" means the Products identified in Tables A-1 and A-2 of Appendix A—Products and Deployment Schedule. EA Products do not include unit-priced item(s) or Esri technology that may be embedded in third-party products purchased by Customer.
- "Effective Date" means the date the EA commences and the start date for all licenses.
- "Incident(s)" means a failure of Products to operate according to the Documentation where such failure substantially impacts operational or functional performance.
- "Master Agreement" means Master Agreement, Products and Services (E204) contract number 00313012.0. The Advantage Program terms and conditions are included in the Master Agreement.
- "Customer" means County of Riverside including its internal departments found listed in Appendix E. For avoidance of doubt, the definition of Customer will not include consultants or contractors. Customer must not include persons or entities ineligible to receive or have access to Esri products or services by operation of law, including US export control laws, decrees, orders, rules, regulations, policies, riders, conditions, or provisos.
- "Rolled-In Software" means Products of the same type as EA Products that Customer acquired for use prior to the Effective Date, that are current on paid maintenance (as shown in Esri's customer service records), and that receive EA Maintenance during the term of the EA.
- "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 Product corrections or modifications specified in the most current applicable Esri US Software Maintenance Program.
- "Tier 1 Help Desk" means Customer's point of contact from which all Tier 1 Support will be given to Customer.
- "Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk as the primary contact to Customer in the attempted resolution of reported Incidents.
- "Tier 2 Support" means the Technical Support provided by Esri to the Tier 1 Help Desk when an Incident cannot be resolved through Tier 1 Support.
- "Unit-Priced Item(s)" means separately orderable Products or maintenance that is available subject to a per-unit license fee, subscription fee, or maintenance fee.

ARTICLE 2—GRANT OF LICENSE

2.1 Grant of License. During the term of this EA, Customer's use of the EA Products is subject to the Master Agreement and any additional terms set forth in this EA. Unit-Priced Items, if acquired, and Rolled-In Software will be licensed in accordance with the Master Agreement.

2.2 Beta License. Beta licenses are not available under this EA as EA Products. If a beta license is requested and provided, it will be licensed separately and individually under the terms of the Master Agreement only. No other benefits, grants, or rights provided in this EA shall apply or be provided/granted.

2.3 Consultant Access. Esri grants Customer the right to permit Customer's consultants or contractors to use the EA Products exclusively for Customer's benefit. Customer shall be solely responsible for compliance by consultants and contractors with this EA and shall ensure that the consultant or contractor discontinues use of EA Products upon completion of work for Customer. Access to or use of EA Products by consultants or contractors not exclusively for Customer's benefit is prohibited. Customer may not permit its consultants or contractors to

install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations except for the purpose of hosting the Software or Data on Contractor Servers for the benefit of Customer. Consultant or contractors must not include persons or entities ineligible to receive or have access to Esri products or services by operation of law, including US export control laws, decrees, orders, rules, regulations, policies, riders, conditions, or provisos.

ARTICLE 3—SCOPE OF USE

The Permitted Uses and Uses Not Permitted sections of the General License Terms and Conditions portion of the Master Agreement are modified to include the additional term in Sections 3.1 and 3.2 below:

3.1 Additional Permitted Uses. For the term of the EA, Customer may copy and Deploy the EA Products up to the quantities of licenses granted in Appendix A.

3.2 Uses Not Permitted

- a. Customer shall not use, transfer, redistribute, or Deploy the EA Products 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 US Export Control Regulation requirements of the Master Agreement.
- b. Customer shall not transfer, redistribute, or assign EA Products to any third party without the prior written permission of Esri.

ARTICLE 4—MAINTENANCE

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

a. Tier 1 Support Provided by Customer

- (1) The Tier 1 Help Desk will provide Tier 1 Support to Customer.
- (2) The Tier 1 Help Desk will use analysts fully trained in the Products 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 Customer. 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 an 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 available to Customer.
- (6) Customer may assign named Tier 1 Help Desk individuals up to the quantity listed in Appendix B. These individuals will be identified in Appendix D and will be 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 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 the 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 Incident submitted by Tier 1 Help Desk by assisting the Tier 1 Help Desk individuals and not Customer.
- (5) When an 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 Customer.
- (6) Esri may, at its sole discretion, make patches, hot fixes, or updates available for downloading from Esri's website or, if requested, deliver them on media.

4.2 Maintenance for Unit-Priced Items. Annual maintenance fees for Unit-Priced Items are not included in the ELA Fee, and if ordered, additional fees will apply.

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

5.1 Purchase Orders, Delivery, and Deployment

- a. Esri does not require Customer to issue purchase orders and will invoice Customer for the initial payment upon the Effective Date of the EA. Subsequently, Esri may submit invoices up to thirty (30) days before (i) the payment date shown in Appendix B or, (ii) if no payment dates are shown, the anniversary dates of the EA. Customer may submit purchase orders in accordance with its own process requirements. If Customer issues purchase orders, then Customer will submit its initial purchase order upon execution of this EA and any subsequent purchase order at least thirty (30) days before the anniversary date. Invoices will be due and payable within thirty (30) days of invoice.
- b. Delivery of updates/new versions of EA Products will be made in the same manner. If requested by Customer, Esri will deliver a limited number of sets of backup media as provided in Appendix B to the ship-to address identified in Appendix C—EA Points of Contact, FOB destination with shipping charges prepaid. Customer may purchase additional backup media sets at the prices in effect at the time of purchase. Delivery or receipt of tangible media could cause prior and future license fees to be subject to taxes. Customer acknowledges that Esri has a right to invoice for and Customer agrees to pay any such sales or use tax associated with receipt of tangible media.
- c. Customer shall track the Deployment status of EA Products.

5.2 Purchase Order Requirements

- a. Any purchase orders issued by Customer will reference, incorporate, and be subject to the terms and conditions of this EA. No additional, conflicting, or different terms contained in a purchase order or ordering document will be binding. All orders and deliveries pertaining to this EA will be processed through Customer's centralized point of contact.
- b. The following information will be included in each purchase order:
 - (1) Esri customer number, the ship-to address, and bill-to address as identified in Appendix C
 - (2) Purchase order number
 - (3) Applicable annual payment due
 - (4) On the face of the purchase order, the following printed statement: "**Governed by and subject to Enterprise Agreement No. 00311680.0.**"

5.3 Annual Report of Deployments. At each anniversary date and ninety (90) days prior to the expiration date of this EA, Customer shall provide a written report to Esri detailing all Deployments made, including preexisting and Rolled-In Software. The report will be subject to audit by an authorized representative of Esri.

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

5.5 Esri reserves the right to suspend Customer's access to and use of EA Products if Customer fails to pay any undisputed amount owed on or before its due date. Esri may charge Customer interest at a monthly rate equal to the lesser of one percent (1.0%) per month or the maximum rate permitted by applicable law on any overdue fees plus all expenses of collection for any overdue balance that remains unpaid ten (10) days after Esri has notified Customer of the overdue balance.

ARTICLE 6—POINTS OF CONTACT; NOTICES

6.1 Points of Contact. In Appendix C, each party shall identify points of contact for administrative and technical issues.

6.2 Legal Notices. Except as otherwise set forth in this EA, any notice, report, demand, or other communication will be made in writing in English; sent by courier, registered or certified airmail, or facsimile or other electronic transmission; and confirmed when sent by courier or by registered or certified airmail, properly addressed to the appropriate party at the address set forth below, until changed by notice in writing by either party hereto. If sent by courier or airmail, notice will be effective upon the earlier of confirmed receipt or seven (7) days from the date of deposit with the courier service or post office. If sent by electronic transmission, notice will be effective one (1) business day from the date of transmission, provided confirmation of receipt is made. Notices will be given at the following addresses:

To: Esri
380 New York Street
Redlands, CA 92373-8100
Attn.: Manager, Contracts and Legal
Fax: 909-307-3020
E-mail: legalnotices@esri.com

To: Customer
as listed in Appendix C

ARTICLE 7—TERM, TERMINATION, AND EXPIRATION

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

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

7.3 Customer's Right to Terminate-Material Breach. Customer may terminate this EA, at Customer's discretion, for cause and without the payment of any termination fee or other charge, upon written notice to Esri by Customer, if Esri materially breaches any of its duties or obligations under this EA and does not cure such breach within thirty (30) days after written notice thereof.

7.4 Termination for Non-appropriation of funds. The Customer's obligation for payment of this EA beyond the current fiscal year end is contingent upon and limited by the availability of Customer funding from which payment can be made ("Lack of Funds"). No legal liability on the part of the Customer shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, Customer shall immediately notify Esri in writing; and this EA shall be deemed terminated and have no further force and effect.

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

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

- a. Customer 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 Customer may continue to use Rolled-In Software, subject to its compliance with the Master Agreement;
- b. Customer may continue to use Deployed Enterprise License Software, Data, or Documentation identified in Appendix A, Table A-1, provided:
 - i. Customer shall report the quantity and types of Deployed Enterprise License Software identified in Appendix A and Esri shall determine the quantity and type of Software, Data, or Documentation that Customer may continue to use under the Master 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 EA Fee amounts paid (portion of EA Fee applicable to Enterprise License Software licenses identified in Table A-1 hereinafter referred to as "Offset Amount"). Customer 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 Master 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 Master Agreement.
- c. No refund will be provided to Customer for payments made prior to termination.

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

7.5 License Term and Use upon Expiration of EA Term. Upon full payment of the EA Fee and expiration of this EA, the Master Agreement will survive, and Customer may continue to use the Deployed Enterprise License Software and Rolled-In Software in accordance with the terms and conditions set forth in the Master Agreement. Customer shall notify Esri of the quantity and type of licenses for which Customer elects to purchase standard maintenance. If maintenance is not ordered for Rolled-In Software or Enterprise License Software upon expiration of the EA, it lapses. If, at a later date, Customer decides to reinstate maintenance, Customer must pay maintenance reinstatement fees from the date of EA expiration (e.g., back maintenance fees). Customer shall not Deploy additional copies of the Enterprise License Software beyond the quantities in use upon termination or as of the date of expiration.

ARTICLE 8—CONFIDENTIALITY

8.1 Esri Confidential Information. Certain terms and conditions of this EA are confidential and proprietary information of Esri. Except as provided herein, Customer shall not publish or disclose the EA (or contents) to any third party without Esri's prior written consent. Disclosure may be made only to those Company or Affiliate employees, contractors, or consultants of Customer (e.g., outside counsel or accountants) who have a need to know to perform their duties or work on behalf of Customer, and have an obligation of confidentiality. No other portions of the EA 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), Customer shall inform Esri of the requested disclosure, with a reasonable description of the requested disclosure and identification of the requester, in sufficient time for Esri to assert any objection Esri may have to such disclosure with the appropriate administrative or judicial body.

8.2 Disclosure of Fees for Unit-Priced Item(s). If Unit-Priced Items are included in this EA, Esri gives permission to Customer to maintain Unit-Priced Item prices, fees, and discounts on Customer's intranet, subject to password protection accessible to Customer, to support potential procurements subject to the obligations provided above in Article 8.1.

ARTICLE 9—RELATIONSHIP OF THE PARTIES

The EA does not constitute a partnership, joint venture, or agency between Esri and Customer. Neither Esri nor Customer will hold itself out as such, nor shall Esri or Customer 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 EA 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, cyber attack, 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

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

Customer agrees that Esri may publicize the existence of the EA.

ARTICLE 12—ADMINISTRATIVE REQUIREMENTS

12.1 Esri Partner Original Equipment Manufacturer (OEM) Bundled or Embedded Items/Services. Certain Esri partners are authorized to either embed limited portions of Esri technology or bundle Esri products or services with the partner's application or service under Esri's OEM or Solution OEM programs. Partner pricing and product bundling is independent of this EA, and each partner markets under its own business model and pricing. Customer shall not be entitled to or seek any discount from the OEM partner or Esri, directly or indirectly, as a result of or based on the availability of such Products as EA Products under this EA. Customer shall not be entitled to or seek to decouple Esri's technology or products/services from the partner's bundle or solution. In addition, such Products or any component thereof included in the OEM software program or product, will be licensed through the license agreement provided by the OEM partner and not through this EA.

12.2 EA Products—Limited Quantity or Unit-Priced Items. Esri reserves the right to exclude new Products from uncapped Deployment. New Products 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. Such items can be made available to Customer on a limited-quantity basis or as unit-priced items.

12.3 Obsolescence. During the term of this EA, some of the items listed in Appendix A may become obsolete, will no longer be commercially offered, or may no longer be available for Deployment. Customer may continue to use EA Products that have been Deployed, but support and upgrades for older items may not be available. EA Maintenance and maintenance and availability of EA Products identified in Appendix A will be subject to each item's Product Life Cycle Support Status, which can be found at

<http://support.esri.com/en/content/productlifecycles> 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://help.arcgis.com/en/shared/product-life-cycle/ProductLifeCycle.pdf>, covers the support phases and overall support plans.

ARTICLE 13—GENERAL PROVISIONS

13.1 The General Provisions and Limitations of Liability of the Master Agreement will apply to the entire EA. 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) Signature Page, (2) E512G Enterprise License Terms and Conditions, (3) E300 Scope of Use, and (4) E204 General License Terms and Conditions. In the event this EA includes the Esri Enterprise Advantage Program, the terms and conditions of the Master Agreement will take precedence over the provision of the EA with respect to the Enterprise Advantage Program. Except as otherwise expressly provided herein, any amendment or Addendum to this EA must be in writing and signed by an authorized representative of each party.

13.2 Survival of Certain EA Clauses. The provisions of Section 7.5 and Article 8 of this Enterprise License Terms and Conditions document (E512G) will survive the expiration or termination of this EA.

13.3 Master Agreement Update: Delivery of version updates or new versions of EA Products or the supply of registration/authorization numbers or access codes may require additional or revised terms prior to installation and use/access by Customer. Delivery of such items may be delayed until the Master Agreement is amended with appropriate license changes customarily provided to all Customers for such new or updated EA Products.

APPENDIX A
PRODUCTS AND DEPLOYMENT SCHEDULE

Customer may Deploy the EA Products up to the total quantity of licenses indicated below during the term of this EA.

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

Product	Total Qty/Seats
ArcGIS Desktop: Advanced, Standard, Basic (Single and Concurrent Use)	Uncapped
ArcGIS Desktop Extensions: ArcGIS 3D Analyst, ArcGIS CityEngine, ArcGIS Data Reviewer, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Publisher, ArcGIS Schematics, ArcGIS Spatial Analyst, ArcGIS Tracking Analyst, and ArcGIS Workflow Manager (Single and Concurrent Use)	Uncapped
ArcGIS Enterprise: Enterprise (Advanced and Standard)	Uncapped
ArcGIS Enterprise Extensions: ArcGIS 3D Analyst, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Spatial Analyst, and ArcGIS Workflow Manager	Uncapped
ArcGIS GIS Server: Advanced, Standard, Basic	Uncapped
ArcGIS Enterprise Additional Capability Servers: ArcGIS Image Server, ArcGIS GeoEvent Server	Uncapped
ArcGIS Monitor	Uncapped
ArcGIS Runtime	Uncapped
ArcGIS Runtime Analysis Extensions	Uncapped
Mapping and Charting Solutions: Esri Production Mapping for Desktop	Uncapped

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

Product	Rolled-In Qty. (if applicable)	Qty./Seats to Be Deployed	Total
ArcGIS Data Interoperability Desktop Extension: Concurrent Use	4	—	4
ArcGIS Image Analyst Desktop Extension: Concurrent Use	4	2	6
ArcGIS Roads & Highways Desktop Extension: Concurrent Use	1	—	1
ArcGIS Mission Server	—	1	1
ArcGIS Mission Server: Staging	—	1	1

ArcGIS Mission Manager for ArcGIS Enterprise: Term License	—	2	2
ArcGIS Workforce for ArcGIS Enterprise: Single User, Perpetual License	—	5	5
ArcGIS Locate XT Desktop Extension: Concurrent Use	—	1	1
ArcGIS Business Analyst Web App Standard Online: Term License	—	5	5
ArcGIS Business Analyst Advanced Online Bundle: Term License	—	3	3
ArcGIS Insights in ArcGIS Online: Term License	—	10	10
ArcGIS Navigator for ArcGIS Online: Term License	—	3	3
ArcGIS Drone2Map for ArcGIS Online: Term License	—	2	2
ArcGIS Drone2Map for ArcGIS Online Advanced: Term License	—	2	2
ArcGIS Urban Suite: Term License	—	1	1
ArcGIS LocateXT for ArcGIS Pro Online: Term License	—	1	1
ArcGIS Enterprise GIS Professional Standard: Term License	—	10	10
ArcGIS Insights in ArcGIS Enterprise: Term License	—	10	10
ArcGIS Location Sharing for ArcGIS Enterprise: (previously ArcGIS Tracker)	—	0—Year1 0—Year2 50—Year3 50—Year4 50—Year5	50 for Years 3, 4 & 5
ArcGIS Workforce for ArcGIS Enterprise	—	0—Year1 0—Year2 150—Year3 150—Year4 150—Year5	150 for Years 3, 4 & 5
ArcGIS LocateXT for ArcGIS Pro Enterprise: Term License	—	1	1
Site Scan for ArcGIS Single Operator: Term License	—	1	1
Site Scan for ArcGIS Single Access: Term License	—	1	1
ArcGIS Indoors Maps: Term License	—	1	1
ArcGIS Indoors Spaces: Term License	—	1	1
StreetMap Premium for ArcGIS Desktop State of California: Concurrent License	—	1	1

Product	Number of Subscriptions	Total Number of Named Users	Annual Credits per Named User
ArcGIS Developer Subscription: Professional Level	8	n/a	n/a
ArcGIS Hub Premium Unlimited for Population Greater Than 1,000,000: Term License	1	n/a	n/a
ArcGIS Velocity US Region: Annual Advanced Subscription	1	n/a	n/a
ArcGIS Online Subscription: Organizational	1	500 Viewers	n/a
		350 Mobile Worker	250
		750 Creators	500
ArcGIS Online GIS Professional Standard User Type: Term License	n/a	10	500
ArcGIS Online Additional Service Credits: 1,000 per Block	n/a	10 Blocks	n/a
ArcGIS Online Subscription Continually Staffed Public Safety Environment	1	500 Mobile Worker—Year1 65 Creator—Year1	250 500
		1,500 Mobile Worker – Year2 65 Creator—Year2	250 500
		2,000 Mobile Worker – Year3 65 Creator—Year3	250 500
		2,000 Mobile Worker – Year4 65 Creator—Year4	250 500
		2,000 Mobile Worker – Year5 65 Creator—Year5	250 500
ArcGIS Enterprise User Type: Term License	n/a	100 Mobile Worker 650 Creators	n/a

APPENDIX B
EA FEE SCHEDULE

The EA Fee is **\$4,900,000**. The EA Fee is in consideration of the EA Products, EA Maintenance, Enterprise Advantage Program, Premium Support Services and Esri International User Conference registrations.

	Year—1 11/27/22—11/26/23	Year—2 11/27/23—11/26/24	Year—3 11/27/24—11/26/25	Year—4 11/27/25—11/26/26	Year—5 11/27/26—11/26/27	Total
EA Fee	\$930,000	\$970,000	\$1,000,000	\$1,000,000	\$1,000,000	\$4,900,000

Number of Esri International User Conference Registrations per Year	40
Number of Tier 1 Help Desk Callers That May Contact Esri for Tier 2 Support	20
Number of Sets of Backup Media (upon request)	2
Advantage Program: One (1) annual subscription that includes the following: <ul style="list-style-type: none"> • Up to 100 Advisor hours; • Annual one-day Planning Meeting; • Quarterly Technology Webcasts; • Learning and Services credits (LSC) for use: • Business & Technical Consulting • Training • Premium Support Services (PSS) • Esri Managed Cloud Services 	1 – Year 1 with 200 LSC 1 – Year 2 with 100 LSC 1 – Year 3 with 100 LSC 1 – Year 4 with 100 LSC 1 – Year 5 with 100 LSC
Esri Premium Support Services (PSS): One (1) annual PSS subscription that includes: <ul style="list-style-type: none"> • Total of two (2) authorized callers & up to ten (10) annual incidents; • Assigned Technical Account Manager; • 24/7/365 incident response & work clock; • Prioritized incident management; • One-hour response time for reported PSS issues; • Daily status updates for all PSS incidents; • Premium access to My Esri Portal; • Quarterly review of PSS incidents & service; and • <u>Other benefits</u> exclusive to PSS customers. 	0– Year 1 1 – Year 2 1 – Year 3 1 – Year 4 1 – Year 5
Term of EA	Five (5) Years from Effective Date 11/27/2022 through 11/26/2027

APPENDIX C
EA 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
380 New York Street
Redlands, CA 92373-8100
Email: service@esri.com
Phone: 888-377-4575
Fax: 909-307-3083

2. Esri contact for Tier 2 Support issues:

MyEsri: <https://my.esri.com>
Phone: 909-793-3774 (within the United States only)
Web: <https://support.esri.com>

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

Name: _____
Email: _____
Phone: _____
Fax: _____

3. Customer centralized point of contact for the copy and deployment of EA Products:

Name: _____
Email: _____
Phone: _____
Fax: _____

5. All invoices to Customer will be mailed to the address listed below:

Customer Office: _____
Name: _____
Address: _____

6. All deliverables to Customer will be shipped to the address listed below:

Customer Office: _____
Name: _____
Address: _____

7. All notices to Customer will be mailed to the address listed below:

Customer Office: _____
Name: _____
Address: _____

APPENDIX D
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: _____	7. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____
2. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____	8. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____
3. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____	9. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____
4. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____	10. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____
5. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____	11. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____
6. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____	12. Name: _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____

13. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____

17. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____

14. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____

18. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____

15. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____

19. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____

16. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____

20. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____

APPENDIX E
County of Riverside
Internal Departments

Agricultural Commissioner's	Superior Court-State of Calif.
Animal Services	Tax Collector
Assessor	Transportation
Auditor Controller	Transportation & Land Management
Board of Supervisors	Treasurer
Building & Safety	Veteran's Services
CAP Riverside	Waste Resources
Child Support Services	Weights and Measures
Clerk of the Board	Workforce Development
Code Enforcement	
Commission for Women	
Community Facilities	
Cooperative Extension	
Coroner's Office	
County Counsel	
District Attorney	
Economic Dev	
Elected Officials	
Emergency Management Department	
Environmental Health	
Environmental Programs Department	
Facilities Management	
Fire Department	
Flood Control	
Riverside County Film Commission	
Foreign Trade	
Grand Jury	
Housing Authority	
Human Resources	
Indian Gaming Committee	
Indigent Defense	
Information Technology	
Law Library	
Library System	
Mental Health	
Office on Aging	
Park & Open Space District	
Planning	
Probation	
PSEC	
Public Defender	
Public Guardian	
Public Health	
Public Social Services	
Purchasing & Fleet Services	
Recorder	
Regional Medical Center	
Registrar of Voters	
Sheriff	
Successor Agency	



Use this form to submit a single or sole source requisition for review by your Buyer and/or Procurement Contract Specialist. All procurements valued **\$5,000 or more** must seek competitive bids from a minimum of three suppliers, or the expectation that three or more suppliers will respond, or be justified by a Single/Sole Source. All purchases exceeding **\$50,000** require a formal public bid. Procurement's may not be artificially segregated to lesser dollar amounts for the purpose of bypassing this requirement.

Sole/Single Source service requests that are greater than **\$50,000** require additional Board of Supervisors approval.

Supplier Details

Vendor Environmental Systems Research Institute, Inc.
Fulfillment Address SCorp - Services EPAY: (preferred)
 380 New York Street
 Redlands, California 92373 United States
Vendor Phone +1 909-307-3082

Distribution Method

The system will distribute purchase orders using the method(s) indicated below:

Check this box to customize order distribution information. X

Fax +1 909-793-4801
Contract

Background Information

Please indicate if this is a single or sole source below

Sole Source

Have you previously requested and received approval for a sole/single source request for this vendor for your department?

Yes

If selected "yes", please provide the approved SSJ# below

SSJ# 135240657

If selected "yes", was the request approved for a different project?

No

Purchase Details

1. Supply/Service being requested:

Environmental Systems Research Institute (ESRI) Inc. Geographic Information System (GIS) Enterprise Software Licenses and Support Services.

2. Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:

ESRI is the sole source of their proprietary software and has been used by the County since 1988. ESRI enterprise license enables public safety, social services, behavioral and public health services, land use, and nearly all County departments to visualize, analyze and communicate their data on maps and in dashboards. This mapping capability is a core business requirement and a vital tool to serve County stakeholders and the general public. Spatial technology has continued to successfully support essential business operations within the Assessor Clerk-Recorder, Sheriff, Fire, Transportation and Land Management, Emergency Management, Flood Control, Public Health, Social Services, and other County departments.

Current Year Cost

6. Identify all costs for this requested purchase.

You do not need to include previous fiscal year amounts. If approval is for multiple years, ongoing costs must be identified below. If annual increases apply to ongoing costs such as CPI or other contract increases, provide the estimated annual cost for each consecutive year. If the annual increase may exceed the Purchasing Agent's authority, Board approval must be obtained.

Describe all current fiscal year costs associated with this procurement in the box below. Insert all one time costs associated with this project in the table below.

Annual Enterprise Agreement License and Support Service Fees

The Enterprise Agreement (EA) allows unlimited deployment of ESRI software throughout the County and allows departments to access new and expanding tool sets offered by ESRI. The RCIT Geographic Information Services division (GIS) has the capacity to support those departments that have a need for GIS, but not the resources to create a GIS program of their own, and as a result enables all County departments access to these powerful analytic, decision making and communication tools. The ELA offers numerous benefits including:

- A lower cost per unit for licensed software
- Substantially reduced administrative and procurement expenses
- Maintenance on all ESRI software identified in the agreement and deployed within the organization
- Complete flexibility to deploy software products when and where needed
- Enabling County departments continued use of GIS tools, production of maps, reports, and analysis of large volumes of data for internal and external customers

3. Reasons why my department requires these unique features and what benefit will accrue to the county:

ESRI GIS tools support the essential services County residents and businesses expect and rely upon. This software license provides spatially enabled data, multiple years of aerial imagery, and maps to county residents and businesses through our open data portal at <https://data.countyofriverside.us>. Additionally, these GIS tools enable and support our emergency response to critical events including the pandemic, fires, and floods, as well as ongoing efforts such as the annual count of homeless residents and management of open spaces for endangered species.

4. Period of Performance 11/27/2022

From:

Period of Performance To: 11/27/2027

Is this an annually renewable contract or is it fixed term?

Annually Renewable

5. Price Reasonableness:

RCIT negotiated with ESRI for a new Enterprise Agreement (EA) and agreed to the current ESRI Agreement No. 00311680.0 for a five-year term. As a result, the County realized a cost savings of \$2,600,000 over the term of this agreement.

Projected Board of Supervisor 11/8/2022

Date (if applicable):

Commodity Code 92045

Insert all current fiscal year costs in the table below. Label the 'description' as the item that is being purchased.

Current FY Costs

Description	Price
Annual Enterprise Agreement License and Support Service Fees	930,000.00

Enter all additional FY costs in the table below.

Only enter one fiscal year cost per line and identify the fiscal year that it pertains to. Fiscal year is from 7/1/00 to 6/30/00.. Example : FY 18/19 \$200

FY	FY 23/24 \$ 970,000
FY	FY 24/25 \$ 1,000,000
FY	FY 25/26 \$ 1,000,000
FY	FY 26/27 \$ 1,000,000

FY

Additional FY Cost

Describe all additional costs associated with this procurement in the box below. Include the dollar amounts for subsequent fiscal years if it differs from above.

None.

Current Year Cost Total: 930,000.00

Supporting Documentation

If this request is for professional services, attach the service agreement to this sole source request. The Purchasing Agent, or designee, is the signing authority for agreements unless the service is exempted by Ordinance 459, Board delegated authority or by State law.

Additional supporting documentation includes:

- Previously approved SSJ's
- other

For all other requests, attach the vendor's cost proposal

Internal Attachments

Purchasing Approval

Approved by

Date Approved

Sole Source Number

Approval
Conditions/Comments

**This section to be filled
out by Purchasing
Management only upon
approval.**

Total 930,000.00