MEMORANDUM

TO: Public Works Committee
FROM: Angela Tallon, GIS Coordinator
DATE: October 23, 2019
RE: GIS Software Enterprise License Agreement

Staff requests City Council authorization for the Mayor and Finance Officer to sign a three-year contract with the Environmental Systems Research Institute, Inc. (ESRI) for an Enterprise License Agreement (ELA). This will be the fifth three-year ELA between the City and ESRI.

Before the ELA, individual licenses were purchased for each software installation and annual maintenance was paid for each license. Twelve years ago, ESRI developed the ELA program for small government units with populations less than 100,000. The GIS Division was the first organization to sign up for the program. Besides having unlimited access to software, we saved thousands of dollars per year on maintenance costs. Our annual maintenance and new software costs before the ELA were in the $60,000 range.

The 2010 census population for the county was 100,948, which put us above the limit for the program. However, ESRI set up a formula to allow those jurisdictions that exceed the population limit to continue in the program for a reasonable cost. For the next three-year period, the costs are set at $56,633.33, based on the projected population of the County. This works out to an increase of $3,389.33 per year.

The ESRI Company provides all of the GIS software used by the City and County except for the RapidMap interface, which requires ESRI server software to run. We currently have over 145 software installations on individual computers, several of which have software “extensions” which, if purchased separately, would add to the license cost. We have five separate web mapping installations which include the staff and public RapidMap sites, the building permit software site, a
database site at the County Highway Department, and a development site. The ELA also gives us access to technical support and free software upgrades. ESRI also provides a cloud-based mapping system that we are using for several public and internal web-mapping sites. The ELA provides $37,500 worth of data storage and processing time on the cloud servers.
September 20, 2019

Ms. Angela Tallon
City of Rapid City
300 6th St
Rapid City, SD 57701

Dear Angela,

The Esri Small Municipal and County Government Enterprise Agreement (EA) is a three-year agreement that will grant your organization access to Esri® term license software on an unlimited basis including maintenance on all software offered through the EA for the term of the agreement. The EA will be effective on the date executed and will require a firm, three-year commitment.

Based on Esri’s work with several organizations similar to yours, we know there is significant potential to apply geographic information system (GIS) technology in many operational and technical areas within your organization. For this reason, we believe that your organization will greatly benefit from an enterprise agreement.

An EA will provide your organization with numerous benefits including:

- A lower cost per unit for licensed software
- Substantially reduced administrative and procurement expenses
- Maintenance on all Esri software deployed under this agreement
- Complete flexibility to deploy software products when and where needed

The following business terms and conditions will apply:

- All current departments, employees, and in-house contractors of the organization will be eligible to use the software and services included in the EA.

- If your organization wishes to acquire and/or maintain any Esri software during the term of the agreement that is not included in the EA, it may do so separately at the Esri pricing that is generally available for your organization for software and maintenance.

- The organization will establish a single point of contact for orders and deliveries and will be responsible for redistribution to eligible users.

- The organization will establish a Tier 1 support center to field calls from internal users of Esri software. The organization may designate individuals as specified in the EA who may directly contact Esri for Tier 2 technical support.

- The organization will provide an annual report of installed Esri software to Esri.
- Esri software and updates that the organization is licensed to use will be automatically available for downloading.

- The fee and benefits offered in this EA proposal are contingent upon your acceptance of Esri’s Small Municipal and County Government EA terms and conditions.

- Licenses are valid for the term of the EA.

This program offer is valid for 90 days. To complete the agreement within this time frame, please contact me within the next seven days to work through any questions or concerns you may have. To expedite your acceptance of this EA offer:

1. Sign and return the EA contract with a Purchase Order or issue a Purchase Order that references this EA Quotation and includes the following statement on the face of the Purchase Order: "THIS PURCHASE ORDER IS GOVERNED BY THE TERMS AND CONDITIONS OF THE ESRI SMALL MUNICIPAL AND COUNTY GOVERNMENT EA, AND ADDITIONAL TERMS AND CONDITIONS IN THIS PURCHASE ORDER WILL NOT APPLY." Have it signed by an authorized representative of the organization.

2. On the first page of the EA, identify the central point of contact/agreement administrator. The agreement administrator is the party that will be the contact for management of the software, administration issues, and general operations. Information should include name, title (if applicable), address, phone number, and e-mail address.

3. In the purchase order, identify the "Ship to" and "Bill to" information for your organization.

4. Send the purchase order and agreement to the address, email or fax noted below:

   Esri  
   Attn: Customer Service SG-EA  
   380 New York Street  
   Redlands, CA 92373-8100

   e-mail: service@esri.com  
   fax documents to: 909-307-3083

I appreciate the opportunity to present you with this proposal, and I believe it will bring great benefits to your organization.

Thank you very much for your consideration.

Best Regards,

Jason Fetch
Quotation # Q-387099

Date: September 20, 2019

Customer # 140483  Contract # ENTERPRISE AGREEMENT

City of Rapid City
Public Works Dept
300 6th St
Rapid City, SD 57701

ATTENTION: Angela Tallon
PHONE: 605-716-3654
EMAIL: angela.tallon@rcgov.org

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Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement

ArcGIS Image Analyst for ArcGIS Pro Enterprise Term License

ArcPad License

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact:
Jason Fetch
Email: jfetch@esri.com
Phone: 651-454-0600 ext 2331 x2331

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use-e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri’s standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri’s GSA Federal Supply Schedule. Supplemental terms and conditions found at http://www.esri.com/en-us/legal/terms/state-supplemental apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri’s offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

FETCHJ  This offer is limited to the terms and conditions incorporated and attached herein.
Quotation # Q-387099

Date: September 20, 2019

Customer #: 140483 Contract #: ENTERPRISE AGREEMENT

City of Rapid City  
Public Works Dept  
300 6th St  
Rapid City, SD 57701

ATTENTION: Angela Tallon  
PHONE: 605-716-3654  
EMAIL: angela.tallon@rgov.org

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The purchase of a new ArcPad license includes 12 months of software maintenance. Maintenance includes technical support and software updates (visit http://www.esri.com/software/maintenance to learn more). There is an annual maintenance fee to continue support and upgrades. The estimated cost of annual maintenance for subsequent years has been included in the optional items section of this quote for your convenience.

The following items are optional items listed for your convenience. These items are not included in the totals of this quotation.

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ArcPad Maintenance

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact:  
Email: jfetch@esri.com  
Phone: 651-454-0600 ext 2331 x2331

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri’s standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri’s GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri’s offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

FETCHJ  
This offer is limited to the terms and conditions incorporated and attached herein.
Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853  Fax: (909) 307-3049
DUNS Number: 06-313-4175  CAGE Code: 0AMS3

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 9/20/2019 To: 12/19/2019

Quotation # Q-387099

Date: September 20, 2019
Customer # 140483  Contract # ENTERPRISE AGREEMENT

City of Rapid City
Public Works Dept
300 6th St
Rapid City, SD 57701

ATTENTION: Angela Tallon
PHONE: 605-716-3654
EMAIL: angela.tallon@rcgov.org

If you have made ANY alterations to the line items included in this quote and have chosen to sign the quote to indicate your acceptance, you must fax Esri the signed quote in its entirety in order for the quote to be accepted. You will be contacted by your Customer Service Representative if additional information is required to complete your request.

If your organization is a US Federal, state, or local government agency; an educational facility; or a company that will not pay an invoice without having issued a formal purchase order, a signed quotation will not be accepted unless it is accompanied by your purchase order.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy, GSA, BPA) on your ordering document.

BY SIGNING BELOW, YOU CONFIRM THAT YOU ARE AUTHORIZED TO OBLIGATE FUNDS FOR YOUR ORGANIZATION, AND YOU ARE AUTHORIZING ESRI TO ISSUE AN INVOICE FOR THE ITEMS INCLUDED IN THE ABOVE QUOTE IN THE AMOUNT OF $ , PLUS SALES TAXES IF APPLICABLE. DO NOT USE THIS FORM IF YOUR ORGANIZATION WILL NOT HONOR AND PAY ESRI’S INVOICE WITHOUT ADDITIONAL AUTHORIZING PAPERWORK.

Please check one of the following:

___ I agree to pay any applicable sales tax.
___ I am tax exempt, please contact me if exempt information is not currently on file with Esri.

Signature of Authorized Representative

Date

Name (Please Print)

Title

The quotation information is proprietary and may not be copied or released other than for the express purpose of system selection and purchase/license. This information may not be given to outside parties or used for any other purpose without consent from Environmental Systems Research Institute, Inc. (Esri).

Any estimated sales and/or use tax reflected on this quote has been calculated as of the date of this quotation and is merely provided as a convenience for your organization’s budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state tax directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state’s taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact: Jason Fetch
Email: jfetch@esri.com
Phone: 651-454-0600 ext 2331 x2331

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/o300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri’s standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri’s GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri’s offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

This offer is limited to the terms and conditions incorporated and attached herein.
SMALL ENTERPRISE AGREEMENT  
COUNTY AND MUNICIPALITY GOVERNMENT  
(E214-3)  

This Agreement is by and between the organization identified in the Quotation ("Customer") and Environmental Systems Research Institute, Inc. ("Esri").

This Agreement sets forth the terms for Customer's use of Products and incorporates by reference (i) the Quotation and (ii) the Master Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the Master Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Customer is located without reference to conflict of laws principles, and the United States of America federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

Table A  
List of Products

Uncapped Quantities  
Desktop Software and Extensions (Single Use)  
ArcGIS Desktop Advanced  
ArcGIS Desktop Standard  
ArcGIS Desktop Basic  

Developer Tools  
ArcGIS Engine  
ArcGIS Runtime (Standard)  
ArcGIS Runtime Analysis Extension  

Limited Quantities  
One (1) Professional subscription to ArcGIS Developer*  
Two (2) Esri CityEngine Advanced Single Use Licenses  
250 ArcGIS Online Viewers  
250 ArcGIS Online Creators  
37,500 ArcGIS Online Service Credits  
250 ArcGIS Enterprise Creators  
5 Insights for ArcGIS for use with ArcGIS Enterprise  
5 Insights for ArcGIS for use with ArcGIS Online  

Enterprise Software and Extensions  
ArcGIS Enterprise and Workgroup (Advanced and Standard)  

Enterprise Additional Capability Servers  
ArcGIS Image Server  

OTHER BENEFITS

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<tr>
<td>Number of Tier 1 Help Desk individuals authorized to call Esri</td>
<td>4</td>
</tr>
<tr>
<td>Maximum number of sets of backup media, if requested**</td>
<td>2</td>
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<tr>
<td>Self-Paced e-Learning</td>
<td>Uncapped</td>
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<tr>
<td>Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement (Discount does not apply to Small Enterprise Training Package)</td>
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* Maintenance is not provided for these items  
**Additional sets of backup media may be purchased for a fee
Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("Ordering Document"). ADDITIONAL OR CONFLICTING TERMS IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN. This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("Effective Date").

**Term of Agreement: Three (3) years**

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

________________________
(Customer)

By: _________________________
Authorized Signature

Printed Name: _______________________

Title: ____________________________

Date: ____________________________

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**CUSTOMER CONTACT INFORMATION**

Contact: ____________________________

Telephone: ____________________________

Address: ____________________________

Fax: ____________________________

City, State, Postal Code: ____________________________

E-mail: ____________________________

Country: ____________________________

Quotation Number (if applicable): ____________________________
1.0—ADDITIONAL DEFINITIONS

In addition to the definitions provided in the Master Agreement, the following definitions apply to this Agreement:

"Case" means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

"Deploy", "Deployed" and "Deployment" mean to redistribute and install the Products and related Authorization Codes within Customer's organization(s).

"Fee" means the fee set forth in the Quotation.

"Maintenance" means Tier 2 Support, Product updates, and Product patches provided to Customer during the Term of Agreement.

"Master Agreement" means the applicable master agreement for Esri Products incorporated by this reference that is (i) found at http://www.esri.com/legal/software-license and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed Esri master agreement or license agreement that supersedes such electronically acknowledged master agreement.

"Product(s)" means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

"Quotation" means the offer letter and quotation provided separately to Customer.

"Technical Support" means the technical assistance for attempting resolution of a reported Case through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

"Tier 1 Help Desk" means Customer's point of contact(s) to provide all Tier 1 Support within Customer's organization(s).

"Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk.

"Tier 2 Support" means the Esri Technical Support provided to the Tier 1 Help Desk when a Case cannot be resolved through Tier 1 Support.

2.0—ADDITIONAL GRANT OF LICENSE

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Esri grants to Customer a personal, nonexclusive, nontransferable license solely to use, copy, and Deploy quantities of the Products listed in Table A—List of Products for the Term of Agreement (i) for the applicable Fee and (ii) in accordance with the Master Agreement.

2.2 Consultant Access. Esri grants Customer the right to permit Customer's consultants or contractors to use the Products exclusively for Customer's benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of 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.

3.0—TERM, TERMINATION, AND EXPIRATION

3.1 Term. This Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified in the Term of Agreement, unless this Agreement is terminated earlier as provided herein. Customer is only authorized to use Products during the Term of Agreement. For an Agreement with a limited term, Esri does not grant Customer an indefinite or a perpetual license to Products.

3.2 No Use upon Agreement Expiration or Termination. All Product licenses, all Maintenance, and Esri User Conference registrations terminate upon expiration or termination of this Agreement.

3.3 Termination for a Material Breach. Either party may terminate this Agreement for a material breach by the other party. The breaching party will have thirty (30) days from the date of written notice to cure any material breach.

3.4 Termination for Lack of Funds. For an Agreement with government or government-owned entities, either party may terminate this Agreement before any subsequent year if
Customer is unable to secure funding through the legislative or governing body's approval process.

3.5 **Follow-on Term.** If the parties enter into another agreement substantially similar to this Agreement for an additional term, the effective date of the follow-on agreement will be the day after the expiration date of this Agreement.

**4.0—PRODUCT UPDATES**

4.1 **Future Updates.** Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Customer. Customer may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Customer via written notice for incorporation into the Products schedule at no additional charge. Customer’s use of new or updated Products requires Customer to adhere to applicable additional or revised terms and conditions in the Master Agreement.

4.2 **Product Life Cycle.** During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at [http://support.esri.com/en/content/productlifecyclecycles](http://support.esri.com/en/content/productlifecyclecycles). Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Customer will not be able to Deploy retired Products.

**5.0—MAINTENANCE**

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at [http://www.esri.com/legal](http://www.esri.com/legal)). At Esri’s sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

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**a. Tier 1 Support**

1. Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer’s authorized users.

2. The Tier 1 Help Desk will be fully trained in the Products.

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. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.

5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer’s organization.

6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

**b. Tier 2 Support**

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.

2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.

3. Tier 2 Support 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. Tier 2 Support will attempt to resolve the Case submitted by Tier 1 Help Desk.
5. When the Case is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

c. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Customer will pay any such sales or use tax associated with the receipt of tangible media.

6.0—ENDORSEMENT AND PUBLICITY

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Customer’s endorsement of Products. Either party may publicize the existence of this Agreement.

7.0—ADMINISTRATIVE REQUIREMENTS

7.1 OEM Licenses. Under Esri’s OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners’ business model, licensing terms and conditions, and pricing are independent of this Agreement. Customer will not seek any discount from the OEM partner or Esri based on the availability of Products under this Agreement. Customer will not decouple Esri products or services from the OEM partners’ application or service.

7.2 Annual Report of Deployments. At each anniversary date and ninety (90) calendar days prior to the expiration of this Agreement, Customer will provide Esri with a written report detailing all Deployments. Upon request, Customer will provide records sufficient to verify the accuracy of the annual report.

8.0—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

8.1 Orders, Delivery, and Deployment

a. Upon the Effective Date, Esri will invoice Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Customer to download, operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee before the annual anniversary date for each year.

b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri’s federal ID number is 95-2775-732.

9.0—MERGERS, ACQUISITIONS, OR DIVESTITURES

If Customer is a commercial entity, Customer will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Customer with or into another corporation or entity, (ii) Customer’s acquisition of another entity; or (iii) a transfer or sale of all or part of Customer’s organization (subsections i, ii, and iii, collectively referred to as "Ownership Change"). There will be no decrease in Fee as a result of any Ownership Change.

9.1 If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.

9.2 If an Ownership Change results in transfer or sale of a portion of Customer’s organization, that portion of Customer’s organization will transfer
the Products to Customer or uninstall, remove, and destroy all copies of the Products.

9.3 This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.
Master Agreement
Products and Services

Revised 10/12/2018
IMPORTANT—READ CAREFULLY

Unless superseded by a signed license agreement between you and Esri, Esri is willing to provide Esri Offerings and Services to you only if you accept all terms and conditions contained in this Agreement as the sole and final agreement of the parties regarding your acquisition of these Esri Offerings and Services. Please read the terms and conditions carefully. You may not use the Esri Offerings unless you agree to the terms and conditions of the Agreement. Your access and use of Esri Offerings, or Services, constitutes your acceptance of the terms and conditions of this Agreement. If you do not agree, contact your local sales representative prior to making your purchase.

This Master Agreement ("Agreement") is between you ("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.

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.

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 ArcGIS Online, which when embedded in a Value-Added Application allows the Value-Added Application to access and use Online Services.

c. "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.

d. "Deployment License" means a license to incorporate ArcGIS Runtime components in Value-Added Applications and distribute Value-Added Applications to Customer's end users.

e. "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.

f. "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.

g. "Development Use" means the right to install and use Products to build and test Value-Added Applications as described in the Documentation.

h. "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 computer as long as the Software is only used by a single individual at any time.

i. "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.

j. "Named User(s)" is Customer's employee, agent, consultant, or contractor to whom Customer has assigned a unique, secure logon 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.

k. "Named User Credential(s)" means an individual's login and associated password enabling that person to access and use Products.

l. "Named User License" means the right for a single Named User to use a specific Esri Offering.

m. "Online Services Subscription" means a limited-term subscription conveying the right for one or more Named Users to access and use Online Services.

n. "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.

o. "Server License" means a license to install and use Software on a server computer. 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.

p. "Service Credit(s)" means a unit of exchange for consumption of services that can be used with an Online Services Subscription.

q. "Sharing Tools" means publishing capabilities included with Online Services that allow Customer to make Customer Content and Value-Added Applications available to third parties or Anonymous Users.

r. "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.

s. "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 Software 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. Use server Software for Commercial ASP Use only if Customer has procured a Commercial ASP Use license or is a governmental or not-for-profit organization that operates a website or offers an Internet service 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.


2.4 Online Services Terms of Use

a. Online Services Descriptions. Esri publishes Online Services Subscription-specific terms of use at [http://www.esri.com/legal/scope-of-use](http://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 depreciation 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 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 or Online Services, Customer Content, ArcGIS Website, Documentation, or related materials. Customer's use of Sharing Tools is at Customer's sole risk.

d. Limits on Use of Online Services, Service Credits. Each Online Services Subscription includes Service Credits as described in the applicable Ordering Document. Each Service Credit entitles Customer to consume a set amount of Online Services, the amount varying depending on the Online Services that Customer is using. As Customer consumes Online Services, Service Credits are automatically debited from Customer's subscription, up to the maximum number of Service Credits available. Customer may purchase additional Service Credits as needed. Esri will notify Customer's subscription account administrator when Customer's Service Credit consumption reaches approximately 75 percent of the Service Credits allocated to Customer through Customer's subscription. Esri reserves the right to suspend Customer's access to Online Services that consume Service Credits when Customer has consumed all its Service Credits. Esri will promptly restore Customer's access to its Online Services once Customer has purchased additional Service Credits.
2.5 Named User Licenses. 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. 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's private data or content 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, content, or data that has been published for shared access by Anonymous Users through the use of Sharing Tools included with Customer’s authorized use of Software or Online Services.
4. Customer may not embed an App Login Credential into Value-Added Applications that enables access to Customer's private data or content. Value-Added Applications that enable access to Customer's private data or content 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.

c. Anonymous Users. Anonymous Users may only access Software or Online Services through Value-Added Applications that provide access to services, content, or data that has been published for shared access through the use of Sharing Tools included with Customer’s authorized use of Software or Online Services.

2.6 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 ArcGIS Online basemap content (e.g., raster map tiles, images, vector data) extracted from the ArcGIS Online basemap 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. Customer may include 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) for use 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 subject to restrictions set forth in this Agreement, 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.

c. Customer may take ArcGIS Online 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. Esri does not acquire any rights in Customer Content under this Agreement.

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

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. Esri MapStudio Data. Customer may create, publicly display, and distribute maps in hard-copy or static electronic format for news-reporting purposes only.
h. *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](http://www.esri.com/legal/third-party-data).

4.0 **MAINTENANCE**

4.1 **US Customers.** Esri will provide Maintenance for Software and Online Services in accordance with the Esri Maintenance and Support Program and this Agreement if Customer is in the United States.

4.2 **Customers outside the United States.** Customer may obtain maintenance services from their local Esri distributor under the distributor's own standard support policy.

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 title to any Inventions made or conceived solely by its 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. The parties will jointly own any Inventions made or conceived jointly by Inventors from both parties.

c. 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 Invention and the extent and scope of such protection and (ii) protecting and enforcing any patents issued on such 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 General Services Administration (GSA) website at https://www.gsa.gov. 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. "**EMCS Environment**" means the hardware, Software, Data, and network platform that Esri or its third-party supplier provides as part of Esri Managed Cloud Services (EMCS).

b. "**Hosting**" means the business of housing and making accessible Customer Content via the Internet.

6.2 **Provision of EMCS**

a. **General Terms.** Use of EMCS 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 EMCS 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 EMCS Environment. This paragraph does not apply to EMCS 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 EMCS 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 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.

c. "**Esri Training Event(s)**" means an Esri site class, Esri instructor-led online class, a Customer site/private class, workshop, or coaching services.

d. "**Esri Training Event Assistant**" means Customer's primary Esri liaison in organizing private Esri Training Events.

e. "**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.

f. "**Training Pass**" means a nonrefundable, nontransferable block of prepaid training days with a fixed price per day training price throughout the Term of the Training Pass.

#### 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 in Esri site classes with payment method information at least 15 business days before the scheduled start date;

d. Provide the Esri Training Event Assistant 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 is used, Customer will

1. Take delivery of the Esri Mobile Lab from the shipping agent, and keep it in a secure, locked area at all times;

2. Immediately report any previously damaged Esri Mobile Lab equipment to the Esri Training Event Assistant upon receipt of the shipment; and

3. Be financially responsible for loss of, damage to, or theft of Esri Mobile Lab 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 redemption rates are described at https://www.esri.com/training/training-for-organizations/.

This paragraph does not apply to Training provided under the Advantage Program.
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 the BPAP or the EEAP.

c. "Authorized Contact" means Customer's point of contact for the Advantage Program identified below.

d. "BPAP" means the Business Partner Advantage Program as described at www.esri.com/partners/bpap/components.

e. "EEAP" means the Esri Enterprise Advantage Program as described at www.esri.com/services/eeap/components.

f. "Learning and Services Credits" means a contracted unit of exchange that Customer may use to acquire Professional Services, Training, PSS, EMCS, or related travel expenses as described below.

g. "Premium Support Services" or "PSS" means a prioritized incident management and technical support program further described at http://support.esri.com/en/support/premium.

h. "Technical Advisor" means an Esri consultant assigned to work with Customer to provide Professional Services comprising advising Customer on GIS strategies, facilitating annual account planning, and developing and coordinating a collaborative technical work plan under the Advantage Program.

8.2 Advantage Program Description. The Advantage Program is provided on an order-by-order, annual subscription basis allowing access to Professional Services, Training, PSS, and EMCS offerings that provide Customer with the flexibility to select the offerings that best meet its needs with guidance from Technical Advisor. The Advantage Program may change from time to time. The Advantage Program includes the following:

a. Technical Advisor. Customer will receive up to the number of Technical Advisor hours ordered. Customer may elect to retain additional Technical Advisor hours for a supplemental price.

b. Annual Account Planning Session. A 1-day annual account planning and review meeting is included.

c. Technical 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, EMCS, 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 BPAP or EEAP website. Esri will provide a monthly report outlining usage of Learning and Services Credits to date to the Authorized Contact.

e. Quarterly Technology Webcast. Esri will provide an email invitation to the Authorized Contact for a quarterly webcast 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: ____________________________________________
Telephone: ________________________________________________
Address: ________________________________________________
City, State, ZIP: __________________________________________

Email: ________________________________________________
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 Technical 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 EMCS. The Activity Description for EMCS orders must include the following:

a. **The EMCS Term**—The time period in which Esri provides the EMCS to Customer. The EMCS 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 EMCS 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 EMCS 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 EMCS 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 General Services Administration (GSA) website at [https://www.gsa.gov](https://www.gsa.gov). 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 Technical 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 Technical 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 EMCS.

"Commercial ASP Use" means use as a commercial application service provider, that is, to generate revenue by providing access to Software or Online Services through a Value-Added Application, for example, by charging a subscription fee, service fee, or any other form of transaction fee or by generating more than incidental advertising revenue.

"Content" means data, images, photographs, animations, video, audio, text, maps, databases, data models, spreadsheets, user interfaces, graphics components, icons, software, and other resources.

"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" or "EMCS" 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 EMCS, Training, or Professional Services directly to Customer, then Services also include EMCS, 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 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 that require any part of the Esri Offering to be

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.

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

ARTICLE 2—TERM AND TERMINATION

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.

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.

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 3—LIMITED WARRANTIES AND DISCLAIMERS

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.

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.

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 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.

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 and www.arcgis.com. Providing links to third-party websites and resources does not imply an endorsement, affiliation, or sponsorship of any kind.

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 4—LIMITATION OF LIABILITY

4.1 Disclaimer of Liability. Neither Customer, Esri, nor any Esri distributor or 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.

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.

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.

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 5—INDEMNIFICATIONS

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.

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.

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.

5.4 Conditions for Indemnification. As conditions for indemnification, 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 Infringement Claim, and (iv) reasonably cooperate in the defense of the Infringement Claim at Esri's request and expense.
5.5 This section sets forth the entire obligation of Esri, its authorized distributor, and its licensors regarding any Claim for which Esri must indemnify Customer.

ARTICLE 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 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 7—SECURITY AND COMPLIANCE

7.1 Security. Esri publishes its security capabilities at http://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.

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.

7.3 Export Compliance. Each party will comply with all applicable export 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), 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 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 120.6, 120.9, and 120.10, 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.

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/privacy-gdpr
ARTICLE 8—CLOUD SERVICES

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

a. Spams, spoof, or phishing email; transmits junk 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 for competitive purposes.

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.

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 interoperability 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

   (i) 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

   (ii) 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.

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.

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’s content as described above.
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 9—GENERAL PROVISIONS

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. Customers outside the United States will pay the distributor's invoices in accordance with the distributor's payment terms.

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

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.

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.

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. For Customers outside the United States, the distributor may quote taxes or fees in accordance with its own policies.

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 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.

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.

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.

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 distributors are not Affiliates of Esri.
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."

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.


a. Government Entities. If Customer is a government entity, the applicable laws of Customer's jurisdiction govern this Agreement.

b. Nongovernment Entities. US federal law and the law of the State of California exclusively govern this Agreement, excluding their respective choice of law principles.

9.13 Dispute Resolution. The parties will use the following dispute resolution processes:

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. US Government Agencies. This Agreement is subject to the Contract Disputes Act of 1978, as amended (41 USC 601–613).

c. Other Government Entities. Esri will comply with mandatory dispute resolutions under applicable law.

d. Arbitration. Except as noted above, the parties will submit to binding arbitration to resolve any dispute arising out of or relating to this Agreement that cannot be settled through negotiation. If Customer is in the United States or one of its territories or outlying areas, the Commercial Arbitration Rules of the American Arbitration Association will govern the arbitration proceedings. If Customer is outside the United States, the Rules of Arbitration of the International Chamber of Commerce will govern the proceedings. The parties will select a single arbitrator in accordance with the applicable arbitration rules. The language of the arbitration will be English. Arbitration will be at an agreed-upon location. Either party will, at the request of the other, make available documents or witnesses relevant to the major aspects of the dispute.

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.

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.
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)

Signature: (sample only—do not sign) ____________

Printed Name: ______________________

Title: ______________________

Date: ______________________

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.
(Esri)

Signature: (sample only—do not sign) ____________

Printed Name: ______________________

Title: ______________________

Date: ______________________

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ATTACHMENT D
TIME AND MATERIALS RATE SCHEDULE

See Quotation for Pricing.
Product-Specific Terms of Use

The following list identifies additional terms of use that apply to specific Products. Each Product listing identifies one or more footnotes that apply to that Product. These footnotes supplement the terms of this Agreement. The definitions for each footnote follow the list. Unless otherwise noted in the applicable Ordering Document, extensions to a Product follow the same scope of use as that granted for the corresponding Product.

Desktop Products
- ArcGIS Desktop (Advanced, Standard, or Basic) (26)
- ArcGIS Earth (20; 65)
- ArcGIS Explorer Desktop (20)
- ArcGIS for AutoCAD (20)
- ArcPad (13)
- ArcReader (20)
- ArcGIS for Personal Use (3; 26)

Server Products
- ArcGIS Enterprise
  - Standard or Advanced (17; 21; 23; 31; 87)
  - Workgroup Standard or Advanced (21; 23; 28; 29; 30; 87)
  - ArcGIS GIS Server (Standard or Advanced) (31)
  - ArcGIS GIS Server Basic (31; 39)
  - ArcGIS GIS Server Workgroup (Standard or Advanced) (28; 29; 30)
  - ArcGIS GIS Server Workgroup Basic (39)
  - ArcGIS for Maritime: Server (2)
- ArcGIS Enterprise Optional Capability Servers:
- ArcGIS Enterprise Workgroup Optional Capability Servers:
- Esri Business Analyst for Server
  - Workgroup (28; 29; 30; 31; 39)
  - Enterprise (31; 39)
- World Geocoder for ArcGIS Basic (67)

Developer Tools
- AppStudio for ArcGIS Standard (11; 16; 19)
- ArcGIS Runtime SDK for Android, iOS, Java, macOS, .NET, Qt, or WPF (16; 19)
- ArcGIS Runtime for Android, iOS, Java, Mac OS X, .NET, Qt, or WPF
  - Lite (15)
  - Basic or Standard (1; 14; 15; 18)
  - Advanced (14; 15; 18)
- ArcGIS Engine Developer Kit and Extensions (16; 19; 22; 26)
- ArcGIS Engine for Windows/Linux and Extensions (15; 22; 26)
- ArcGIS Web API for JavaScript (16; 64)
- ArcGIS Developer Subscription (24; 26; 77)
- Esri CityEngine SDK and Procedural Runtime (19; 84)
- Esri File Geodatabase API (47)

Mobile
- Navigator for ArcGIS (14)
Other
• ArcGIS Hub (85)
• ArcGIS Indoors (86)
• ArcGIS Maps for Adobe Creative Cloud Complimentary user (74)
• Insights for ArcGIS (17)

Online Services
• ArcGIS Online Developer Deployment Subscription is available through the ArcGIS Developer Subscription:
  + Free Subscription (66; 68; 75; 76; 79; 81)
  + Paid Subscription (66; 68; 75; 76; 79)
  – Education Programs (Free or Paid Subscriptions) (66; 68; 70; 71; 75; 76; 79; 81)
  – NGO/NPO, Press/Media Programs (Free or Paid Subscription) (66; 68; 70; 71; 72; 75; 76; 79; 81)
• ArcGIS Online subscriptions are available through multiple Selling Programs:
  – Commercial Retail, EAs; and Government Programs (66; 68; 69; 70; 77; 78; 82)
  – Education Programs (66; 68; 69; 70; 71; 78; 81; 82)
  – Non-profit Programs (66; 68; 69; 70; 71; 78; 81; 82)
• Public Plan (66; 68; 74; 75; 76; 80; 81)
  Customers under the following categories have these additional rights:
  – Commercial Retail (72)
  – enterprise agreements (72)
  – Government (72)
  – NGO/NPO (72)
  – Press/Media Programs (72)
  – Education Programs (71)
• ArcGIS AEC Project Delivery Subscription (83)

Footnotes:
1. May not be used to edit an enterprise geodatabase via Direct Connect.
3. Licensed for personal, noncommercial use only.
4. – Limited to 1 four-core server.
   – Can be installed on a separate machine.
5–10. Reserved.
11. Applications built with AppStudio for ArcGIS Standard are subject to the terms of use for ArcGIS Runtime Standard Level.
12. Reserved.
13. Licensed as a Dual Use License.
14. May be used for navigational purposes.
15. Licensed as a Deployment License.
16. Customer may use the SDKs or APIs to create Value-Added Applications and distribute and license those Value-Added Applications to its end users to use anywhere not prohibited under export regulation.
17. Customer shall not redistribute Oracle JDBC Driver or its documentation that is included with this Product. Oracle is a third-party beneficiary of this Agreement with respect to the Oracle JDBC Driver.
18. The Deployment License is per Value-Added Application per computer for stand-alone applications.
19. License may not be used to develop Internet or server-based Value-Added Applications.
20. Licensed as a Redistribution License.
22. a. An end user must acquire a license in either ArcGIS Engine for Windows/Linux Software or other ArcGIS Desktop Software (Basic, Standard, or Advanced) to obtain the right to run an ArcGIS Engine application on 1 computer; and
   b. The ArcGIS Engine for Windows/Linux extensions shall not be used in combination with ArcGIS Desktop Software to run ArcGIS Engine Value-Added Applications. A single user can have multiple ArcGIS Engine Value-Added Applications installed on 1 computer for use only by that end user.
23. System to System Communication
   a. Customer may use a basic service login to enable one-way, read-only, system-to-system communications from ArcGIS Enterprise to other third-party, enterprise business system(s) in the customer's organization. Customer may use a Viewer Named User Credential or Level 1 Named User Credential as a basic service login until Esri implements an actual service login credential. A specific Viewer Named User Credential or Level 1 Named User Credential used as a basic service login credential may only be used for system-to-system integration purposes and may not also be used by a Named User to access the system.
   b. Customer may use a standard service login to enable two-way, read-write, system-to-system communications between ArcGIS Enterprise and other third-party, enterprise business system(s) in the customer's organization. Customer may use an Editor (or higher) Named User Credential or Level 2 Named User Credential as a standard service login until Esri implements an actual service login credential. A specific Editor (or higher) Named User Credential or Level 2 Named User Credential used as a standard service login credential may only be used for system-to-system integration purposes and may not also be used by a Named User to access the system.

24. Software may be used only for the purposes of development, testing, and demonstration of a prototype Value-Added Application and creating map caches. Customer may use Value-Added Applications and map caches with ArcGIS Enterprise Staging Server Licenses and Deployment Server Licenses. Software and Data may be installed on multiple computers for use by any ArcGIS Developer Subscribers with Builder or higher plan subscriptions; all other Software is licensed as a Single Use License.

25. Reserved.
26. The geodatabase is restricted to 10 gigabytes of Customer's data.
27. Reserved.
28. Use is limited to 10 concurrent end users of applications other than ArcGIS Enterprise Workgroup or ArcGIS GIS Server Workgroup applications. This restriction includes use of ArcGIS Desktop Software, ArcGIS Engine Software, and third-party applications that connect directly to any ArcGIS Enterprise Workgroup or ArcGIS GIS Server Workgroup geodatabase. There are no limitations on the number of connections from web applications.
29. Software requires a supported version of SQL Server Express. Supported versions are listed with the system requirements for the product on the Esri website.
30. Use is restricted to a maximum of 10 gigabytes of Customer's data. All components must be installed on a single server.
31. Includes a Failover License.
32. Reserved.
33–38. Reserved.
39. Any editing functionality included with ArcGIS GIS Server is not permitted for use with ArcGIS GIS Server Basic and ArcGIS GIS Server Workgroup Basic.
40–46. Reserved.
47. Customer may develop and distribute Value-Added Applications that use Esri File Geodatabase API to Customer's end users.
48–53. Reserved.
54. Reserved.
55–63. Reserved.
64. Value-Added Applications for web deployment must be used in conjunction with other Esri Products. Third-party technologies may also be used in conjunction with Value-Added Applications as long as the Value-Added Applications are always used in conjunction with other Esri Product(s).
65. May only be used in conjunction with other Esri Product(s). Third-party technologies may also be used in conjunction with ArcGIS Earth as long as ArcGIS Earth is always used in conjunction with other Esri Products.
66. Only Customers with an active ArcGIS Online subscription may store geocoded results generated by World Geocoding Service.
67. Limited to 250,000,000 geocodes per annual subscription.
68. Customer may use the data accessible through Infographics Service for display purposes only and may not save any data accessible through this service.
69. May be used for any business purpose of Customer's organization.
70. May be used for development and test purposes for Customer's organization.
71. May be used for teaching purposes in educational organizations.
72. May be used for the internal business purposes of Customer's organization.
73. Reserved.
74. May be used for personal use.
75. Customer may enable third-party use of Value-Added Applications only by publicly sharing the Value-Added Application(s) using Sharing Tools. Customer may not use this subscription to power a Value-Added Application for its own internal business use unless Customer is an educational institution using the Value-Added Application for teaching purposes only, a qualified NGO/NPO organization, or a media or press organization.
76. Customer is not permitted to create private groups or participate in any private groups.
77. Includes a Commercial App Deployment license, which enables Customer to make Value-Added Applications available to third parties for a fee.
78. Customer may use this subscription to create or participate in private groups.
79. Each subscription is limited to 1,000,000 geosearch transactions per month in conjunction with Customer's subscription. Transactions include both basemap data and geocode search transactions. One basemap data transaction is equivalent to eight 256x256 tile requests. One geocode search transaction is equivalent to one address or place. If the results are stored in any manner such as after batch geocoding, the stored results are not counted toward the transaction limit. However, storage does consume Service Credits.
80. May permit registered students of an education institution to directly access the Online Services and share a single subscription between more than 1 registered student for teaching purposes only.
81. Customer may not make Value-Added Applications available to third parties for a fee.
82. A Named User may embed its Named User Credential in an ArcGIS API for Python script solely for the purpose of automating a workflow to be used exclusively by the Named User whose Named User Credential is embedded in the script.
83. Customer must use a separate AEC Project Delivery Subscription for each Customer client ("Client"). Customer may (i) use the AEC Project delivery Subscription solely to collaborate on project work with its Client; and (ii) provide Client with Named User access to the AEC Project Delivery Subscription to enable Client to access the AEC Project Delivery Subscription to collaborate on project work that Customer performs for Client. Client may not use the Named User License for any other purpose. Customer is solely responsible for Client's compliance with these terms of use and will ensure that Client stops using the AEC Project Delivery Subscription when the project ends.
84. Does not include a Deployment License for commercial use. Does include a Deployment License for non-commercial or educational use.
85. Software licenses and subscriptions included with ArcGIS Hub may only be used to support the community initiatives enabled by ArcGIS Hub. Customer may allow 3rd parties to be Named Users of ArcGIS Hub for the sole purpose of engaging in community activities. Customers may allow employees, agents, consultants, or contractors to be Named Users of ArcGIS Hub for the sole purpose of administering, configuring, maintaining, and supporting community initiatives through ArcGIS Hub. No other use of software licenses and subscriptions included with ArcGIS Hub is permitted.
86. Customer may use the software licenses and subscriptions included with ArcGIS Indoors solely to enable the capabilities of ArcGIS Indoors as defined in the ArcGIS Indoors Documentation. No other use of software licenses and subscriptions included with ArcGIS Indoors is permitted.
87. Accessing Parcel Fabric services provided by ArcGIS Enterprise is prohibited except through ArcGIS Pro Standard and ArcGIS Pro Advanced.
Hi Angie,

I have heard back from our Contracts Team, here are their responses to your Attorney’s questions:

1. Esri can accept Net 45 terms. Customer Service has put this in their notes, but mention it when you submit the PO for the renewal.
2. Esri understands and acknowledges the documents will be attached to a public agenda. No further action is needed on this item.

Please let me know if you have any questions.

Thanks!

Jason Fetch | Account Manager | Local Government
Esri | 880 Blue Gentian Road, Suite 200 | St. Paul, MN 55121 | USA
T 651 454 0600 x2331 | M 701 391 8718 | Jfetch@esri.com | esri.com

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Hi Jason,

I have received the document back from our Attorneys office already. Attached is the memo they left me regarding it. Sounds like there really isn’t any major issue. She did point out 2 things about it. If you can let me know your thoughts on that I would appreciate it.

Thanks,
Angie Tallon
GIS Coordinator
Rapid City-Pennington County GIS
(605)716-3654

Thanks, let me know if you need anything else from me.