

**City of Fayetteville Staff Review Form**

**2021-0027**

**Legistar File ID**

**2/2/2021**

City Council Meeting Date - Agenda Item Only  
N/A for Non-Agenda Item

Keith Macedo

1/12/2021

INFORMATION TECHNOLOGY (170)

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

Approve a three-year enterprise license agreement renewal with ESRI, INC. for the use of Geographic Information System (GIS) software, in the amount of \$165,000.00, and approve a 10% annual contingency to purchase additional software, software maintenance, or services as needed.

**Budget Impact:**

1010.170.1720.5416.00	General Fund																														
Account Number	Fund																														
Project Number	Project Title																														
<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;"><b>Budgeted Item?</b></td> <td style="width: 10%;"><u>Yes</u></td> <td style="width: 30%;">Current Budget</td> <td style="width: 10%; text-align: right;">\$</td> <td style="width: 10%; text-align: right;">55,665.00</td> </tr> <tr> <td></td> <td></td> <td>Funds Obligated</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td style="border-bottom: 1px solid black;">Current Balance</td> <td style="border-bottom: 1px solid black; text-align: right;">\$</td> <td style="border-bottom: 1px solid black; text-align: right; background-color: #f0f0f0;"><b>55,665.00</b></td> </tr> <tr> <td><b>Does item have a cost?</b></td> <td><u>Yes</u></td> <td>Item Cost</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">55,000.00</td> </tr> <tr> <td><b>Budget Adjustment Attached?</b></td> <td><u>NA</u></td> <td>Budget Adjustment</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td style="border-bottom: 1px solid black;">Remaining Budget</td> <td style="border-bottom: 1px solid black; text-align: right;">\$</td> <td style="border-bottom: 1px solid black; text-align: right; background-color: #f0f0f0;"><b>665.00</b></td> </tr> </table>	<b>Budgeted Item?</b>	<u>Yes</u>	Current Budget	\$	55,665.00			Funds Obligated					Current Balance	\$	<b>55,665.00</b>	<b>Does item have a cost?</b>	<u>Yes</u>	Item Cost	\$	55,000.00	<b>Budget Adjustment Attached?</b>	<u>NA</u>	Budget Adjustment					Remaining Budget	\$	<b>665.00</b>	
<b>Budgeted Item?</b>	<u>Yes</u>	Current Budget	\$	55,665.00																											
		Funds Obligated																													
		Current Balance	\$	<b>55,665.00</b>																											
<b>Does item have a cost?</b>	<u>Yes</u>	Item Cost	\$	55,000.00																											
<b>Budget Adjustment Attached?</b>	<u>NA</u>	Budget Adjustment																													
		Remaining Budget	\$	<b>665.00</b>																											

V20180321

**Purchase Order Number:** \_\_\_\_\_

**Previous Ordinance or Resolution #** 5737, 30-18

**Change Order Number:** \_\_\_\_\_

**Approval Date:** \_\_\_\_\_

**Original Contract Number:** \_\_\_\_\_

**Comments:**



**TO:** Mayor Lioneld Jordan and City Council

**THRU:** Susan Norton, Chief of Staff

**FROM:** Keith Macedo, Director of Information Technology  
Greg Resz, GIS Manager

**DATE:** January 12, 2021

**SUBJECT:** Approve a three-year enterprise license agreement renewal with ESRI, INC. for the use of Geographic Information System (GIS) software, in the amount of \$165,000.00, and approve a 10% annual contingency to purchase additional software, software maintenance, or services as needed.

---

**RECOMMENDATION:**

Staff recommends approving a three-year enterprise license agreement renewal with ESRI, INC. for the use of Geographic Information System (GIS) software, in the amount of \$165,000.00, and approve a 10% annual contingency to purchase additional software, software maintenance, or services as needed.

**BACKGROUND:**

The City has a robust City Geographic Information Systems (GIS) within the Information Technology Division that provides a wide variety of mapping and other geographic services to all City departments. This is accomplished by using software from ESRI, Inc. which is the world leader in this field. The City has utilized ESRI software since the City first established a GIS in 1998. For years the City purchased individual software licenses per user and paid annual maintenance on each user license. As the City's GIS expanded staff required additional software licenses to utilize new GIS data and applications. Due to the increased demand for GIS resources, to support our growing and dynamic community, the City needed a method to streamline the purchase of ESRI licenses and annual software maintenance. In 2014 GIS staff analyzed ESRI's Enterprise License Agreement (ELA), which provides a site license for GIS software and consolidates license and maintenance cost into a single annual cost. Staff determined that an ESRI ELA would provide the best value to the City to support the growing mapping and spatial analysis needs of the City. On January 16, 2018 the City Council approved a three-year enterprise license agreement renewal with ESRI in the amount of \$50,000.00 per year for a total agreement cost of \$150,000.00.

**DISCUSSION:**

By leveraging the ESRI ELA the City has continued to expand the City's GIS capabilities and take advantage of the latest ESRI software available. The current ELA expires on February 11, 2021 and staff is recommending approval of a new three-year ELA renewal that will expire on February 11, 2024. ESRI does offer some advanced GIS software and services that is not included within the ELA, due to this staff is requesting a 10% annual contingency to purchase future software, software maintenance, or services on an as needed basis. An example is the City recently purchased a specialized ESRI service called Business Analyst that will assist Economic Vitality staff with business site selection. Staff does not anticipate many additional

purchases due to the comprehensive software and services products that fall within the ELA offering.

**BUDGET/STAFF IMPACT:**

The State of Arkansas excludes software maintenance from competitive bid requirements. The proposed renewal agreement cost did increase from the 2018 agreement by \$5,000.00 per year. Staff recommends approving the attached three-year enterprise license agreement (ELA) with ESRI, INC., in the amount of \$55,000.00 per year, for a total of \$165,000.00, and approve a 10% annual contingency to purchase additional software, software maintenance, or services as needed. Funding for the ELA is available within the General Fund GIS division operating budget.

**Attachments:** Staff Review Form, Staff Review Memo, ESRI ELA quote



# Quotation # Q-432190

Date: January 4, 2021

Customer # 23472 Contract # ENTERPRISE AGREEMENT

City of Fayetteville  
Information Technology Dept  
113 W Mountain  
Fayetteville, AR 72701-6069

ATTENTION: Greg Resz  
PHONE: 479-444-3431  
EMAIL: gresz@fayetteville-ar.gov

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: 1/4/2021 To: 4/4/2021*

Material	Qty	Term	Unit Price	Total
168179	1	Year 1	\$55,000.00	\$55,000.00
Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement				
168179	1	Year 2	\$55,000.00	\$55,000.00
Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement				
168179	1	Year 3	\$55,000.00	\$55,000.00
Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement				

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

<b>For questions contact:</b> John Borisenko	<b>Email:</b> jborisenko@esri.com	<b>Phone:</b> (636) 949-6620 x8530
<p>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 <a href="https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf">https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf</a>, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at <a href="https://go.esri.com/MAPS">https://go.esri.com/MAPS</a> 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 <a href="https://www.esri.com/en-us/legal/terms/state-supplemental">https://www.esri.com/en-us/legal/terms/state-supplemental</a> 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.</p>		

**BORISENKO This offer is limited to the terms and conditions incorporated and attached herein.**



# Quotation # Q-432190

Date: January 4, 2021

Customer # 23472 Contract # ENTERPRISE AGREEMENT

City of Fayetteville  
Information Technology Dept  
113 W Mountain  
Fayetteville, AR 72701-6069

ATTENTION: Greg Resz  
PHONE: 479-444-3431  
EMAIL: gresz@fayetteville-ar.gov

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: 1/4/2021 To: 4/4/2021*

Subtotal:	\$165,000.00
Sales Tax:	\$0.00
Estimated Shipping and Handling (2 Day Delivery):	\$0.00
Contract Price Adjust:	\$0.00
<b>Total:</b>	<b>\$165,000.00</b>

\*Thank you for your interest in the products and services offered by Esri. I have provided a quotation per your request. Please review the attached "Terms and Conditions" guidelines prior to submitting your order. To place an order for the items referenced in this quote, please follow the instructions provided below:  
PURCHASE ORDER: Send your digital, faxed, or original signed purchase order to Esri Customer Service for processing. Faxes may be sent toll-free to (909) 307-3083.  
CREDIT CARD: If you would like to purchase the items on the quotation via credit card, please call (800) 447-9778 and reference this quotation.  
CHECK/MONEY ORDER: Please mail a copy of your quotation and payment to Esri, P.O. Box 741076, Los Angeles, CA 90074-1076.

If you have any questions regarding this quotation, please feel free to contact me. You will find my contact information at the bottom of the page. If you have questions following placement of your order such as order confirmation, ship date, etc., please contact Customer Service toll free at (888) 377-4575.

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

<b>For questions contact:</b> John Borisenko	<b>Email:</b> jborisenko@esri.com	<b>Phone:</b> (636) 949-6620 x8530
<p>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 <a href="https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf">https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf</a>, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at <a href="https://go.esri.com/MAPS">https://go.esri.com/MAPS</a> 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 <a href="https://www.esri.com/en-us/legal/terms/state-supplemental">https://www.esri.com/en-us/legal/terms/state-supplemental</a> 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.</p>		

BORISENKOJ

**This offer is limited to the terms and conditions incorporated and attached herein.**

**Esri Use Only:**

Cust. Name \_\_\_\_\_  
Cust. # \_\_\_\_\_  
PO # \_\_\_\_\_  
Esri Agreement # \_\_\_\_\_



**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  
ArcGIS Desktop Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager, ArcGIS Data Reviewer

**Enterprise Software and Extensions**

ArcGIS Enterprise and Workgroup (Advanced and Standard)  
ArcGIS Monitor  
ArcGIS Enterprise Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager

**Enterprise Additional Capability Servers**

ArcGIS Image Server

**Developer Tools**

ArcGIS Engine  
ArcGIS Engine Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Engine Geodatabase Update, ArcGIS Network Analyst, ArcGIS Schematics  
ArcGIS Runtime (Standard)  
ArcGIS Runtime Analysis Extension

**Limited Quantities**

One (1) Professional subscription to ArcGIS Developer  
Two (2) ArcGIS CityEngine Single Use Licenses  
250 ArcGIS Online Viewers  
250 ArcGIS Online Creators  
37,500 ArcGIS Online Service Credits  
250 ArcGIS Enterprise Creators  
5 ArcGIS Insights in ArcGIS Enterprise  
5 ArcGIS Insights in ArcGIS Online  
50 ArcGIS Tracker for ArcGIS Enterprise  
50 ArcGIS Tracker for ArcGIS Online  
4 ArcGIS Parcel Fabric User Type Extensions (Enterprise)  
4 ArcGIS Utility Network User Type Extensions (Enterprise)

**OTHER BENEFITS**

Number of Esri User Conference registrations provided annually	<b>4</b>
Number of Tier 1 Help Desk individuals authorized to call Esri	<b>4</b>
Maximum number of sets of backup media, if requested*	<b>2</b>
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement	

\*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:

City of Fayetteville AR

\_\_\_\_\_  
(Customer)

By: \_\_\_\_\_  
Authorized Signature

Printed Name: Lioneld Jordan

Title: Mayor

Date: \_\_\_\_\_

### CUSTOMER CONTACT INFORMATION

Contact: Greg Resz

Telephone: 479-444-3431

Address: 113 W Mountain St

Fax: \_\_\_\_\_

City, State, Postal Code: Fayetteville AR 72701

E-mail: gresz@fayetteville-ar.gov

Country: USA

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 <https://www.esri.com/en-us/legal/terms/full-master-agreement> 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 <https://support.esri.com/en/other-resources/product-life-cycle>. 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 <https://www.esri.com/en-us/legal/terms/maintenance>). 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.

### 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).

## 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 up to thirty (30) calendar days 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 reserves the right to suspend Customer's access to and use of Products if Customer fails to pay any undisputed amount owed on or before its due date. Esri may charge Customer interest at a monthly rate equal to the lesser of one percent (1.0%) per month or the maximum rate permitted by applicable law on any overdue fees plus all expenses of collection for any overdue balance that remains unpaid ten (10) days after Esri has notified Customer of the past-due balance.

- c. Esri's federal ID number is 95-2775-732.

- d. 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.

**8.2 Order Requirements.** Esri does not require Customer to issue a purchase order. Customer may submit a purchase order in accordance with its own process requirements, provided that if Customer issues a purchase order, Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.

- a. All orders pertaining to this Agreement will be processed through Customer's centralized point of contact.

- b. The following information will be included in each Ordering Document:

- (1) Customer name; Esri customer number, if known; and bill-to and ship-to addresses
- (2) Order number
- (3) Applicable annual payment due

## 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.