



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Purchase Order

PURCHASE ORDER NO.
MA05SW20

PAGE
1

BLANKET RELEASE
00

CORRECT PURCHASE ORDER NUMBER MUST APPEAR ON ALL PACKAGES, INVOICES, AND SHIPPING PAPERS. QUESTIONS CONCERNING THIS PURCHASE ORDER SHOULD BE DIRECTED TO THE BUYER AS NOTED BELOW.

CHANGE ORDER

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

INVOICE TO

ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

AGENCY COPY

VENDOR

*709070308 909-793-2853
 ENVIRONMENTAL SYSTEMS RESEARCH
 380 NEW YORK STREET
 REDLANDS CA 92373-8100

SHIP TO

ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

DATE PRINTED	TERMS OF SALE	FEIN/SSN	FUND		
10/27/2008	NET 30	952775732			
SHIP VIA	F.O.B.	FREIGHT TERMS	ACCOUNT NUMBER		
BEST WAY	DESTINATION	PREPAID	MUL-MUL		
LINE	QUANTITY	UOP	VENDOR ITEM NO	UNIT PRICE	AMOUNT
	DELIVERY DATE	CAT. NO.	ITEM NUMBER		
<p>BLANKET OPEN-END STATEWIDE CONTRACT</p> <p>TO ESTABLISH A MASTER TERMS AND CONDITIONS CONTRACT FOR USE BY ALL WEST VIRGINIA STATE AGENCIES AND POLITICAL SUBDIVISIONS.</p> <p>ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (ESRI) MASTER AGREEMENT NO. 2008MPA2666 PER THE ATTACHED EFFECTIVE DATE: OCTOBER 22, 2008.</p> <p>VENDOR'S CONTACT INFORMATION: PHONE: 888-377-4575 FAX: 909-793-4801 EMAIL: SERVICE@ESRI.COM</p> <p>INSTRUCTIONS FOR USAGE: UNDER THIS MASTER PURCHASE AGREEMENT (MPA), ALL QUOTES FOR ESRI SOFTWARE WILL BE AT THE PRICES LISTED IN THIS AGREEMENT CONTRACT WHETHER THE QUOTES COME FROM AN AUTHORIZED RESELLER OR DIRECTLY FROM ESRI.</p> <p>1. AGENCY WILL CONTACT ESRI OR AN AUTHORIZED RESELLER</p>					
				PURCHASING DIVISION CERTIFIED ENCUMBERED OCT 29 2008 <i>Beverly Toler</i>	
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input checked="" type="checkbox"/>				OPEN END	
				TOTAL	

APPROVED FOR
 ASSISTANT ATTORNEY GENERAL
[Signature]

APPROVED AS TO FORM BY
 ASSISTANT ATTORNEY GENERAL

BY *[Signature]* JO ANN ADKINS 304-558-8802
 PURCHASING DIVISION AUTHORIZED SIGNATURE

GENERAL TERMS & CONDITIONS PURCHASE ORDER/CONTRACT

1. **ACCEPTANCE:** Seller shall be bound by this order and its terms and conditions upon receipt of this order.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **NON-FUNDING:** All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the terms of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
4. **COMPLIANCE:** Seller shall comply with all Federal, State and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the WV Division of Labor.
5. **MODIFICATIONS:** This writing is the parties final expression of intent. No modification of this order shall be binding unless agreed to in writing by the Buyer.
6. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder may be assigned by the Seller without the Buyer's consent.
7. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this order will: {a} conform to the specifications, drawings, samples or other description furnished or specified by the Buyer; {b} be merchantable and fit for the purpose intended; and/or {c} be free from defect in material and workmanship.
8. **CANCELLATION:** The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
9. **SHIPPING, BILLING & PRICES:** Prices are those stated in this order. No price increase will be accepted without written authority from the Buyer. All goods or services shall be shipped on or before the date specified in this Order.
10. **LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the *West Virginia Code*.
11. **TAXES:** The State of West Virginia is exempt from Federal and State taxes and will not pay or reimburse such taxes.
12. **RENEWAL:** Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, this Contract may be deemed null and void, and terminated without further order.
14. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
15. **WEST VIRGINIA ALCOHOL & DRUG-FREE WORKPLACE ACT:** If this Contract constitutes a public improvement construction contract as set forth in Article 1D, Chapter 21 of the West Virginia Code ("The West Virginia Alcohol and Drug-Free Workplace Act"), then the following language shall hereby become part of this Contract: "The contractor and its subcontractors shall implement and maintain a written drug-free workplace policy in compliance with the West Virginia Alcohol and Drug-Free Workplace Act, as set forth in Article 1D, Chapter 21 of the West Virginia Code. The contractor and its subcontractors shall provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free work place policy in compliance with the West Virginia and Drug-Free Workplace Act. It is understood and agreed that this Contract shall be cancelled by the awarding authority if the Contractor: 1) Fails to implement its drug-free workplace policy; 2) Fails to provide information regarding implementation of the contractor's drug-free workplace policy at the request of the public authority; or 3) Provides to the public authority false information regarding the contractor's drug-free workplace policy."



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LINE	QUANTITY	UOP	VENDOR ITEM NO	UNIT PRICE	AMOUNT
	DELIVERY DATE	CAT NO	ITEM NUMBER		
<p>AND INDICATE SOFTWARE OR MAINTENANCE TO BE ACQUIRED. IF THE PARTY CONTACTS A RESELLER, THE RESELLER WILL DETERMINE IF THIS IS AN ITEM THAT THEY ARE AUTHORIZED TO RESELL OR IF THE ITEM MUST BE ACQUIRED DIRECTLY FROM ESRI. IF THE RESELLER CANNOT PROVIDE THE ITEM(S) IN QUESTION, THE AGENCY SHOULD CONTACT ESRI DIRECTLY.</p> <p>THE VENDOR WILL SEND THE AGENCY A QUOTATION THAT INCLUDES THE PRICE (AS PUT FORTH IN THE MPA PRICING SCHEDULE, MPA CONTRACT NUMBERS (2008MPA2666), THE PAGE NUMBER WHERE THE PRICING INFORMATION CAN BE FOUND IN THE MPA DOCUMENT, AND A SIGNATURE.</p> <p>**** PLEASE NOTE, UNDER NO CIRCUMSTANCES WILL THE VENDOR INCLUDE ANY ADDITIONAL TERMS AND CONDITIONS TO THE QUOTE. THE TERMS AND CONDITIONS HAVE BEEN NEGOTIATED BY THE MASTER PURCHASE AGREEMENT BETWEEN ESRI AND THE STATE OF WEST VIRGINIA.</p> <p>3. THE AGENCY WILL PREPARE THE PROPER PURCHASING DOCUMENT TO COMPLETE THE PROCUREMENT. ALL PROCUREMENTS ALL PROCUREMENTS SHALL REQUIRE THE AGENCIES COMPLETE THE RELEASE ORDER (WV-39), ATTACH THE VENDOR'S QUOTE, AND SEND IT DIRECTLY TO THE VENDOR.</p> <p>4. THE RELEASE ORDER (WV-35) MUST SHOW THE</p>					
<p>IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input type="checkbox"/></p>					TOTAL

APPROVED AS TO FORM BY
 ASSISTANT ATTORNEY GENERAL

BY _____
 PURCHASING DIVISION AUTHORIZED SIGNATURE



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	DELIVERY DATE	CAT. NO.	ITEM NUMBER				
0001	11/01/2008	JB	099-00-01-100		.00000		
LICENSEE (THE AGENCY), THE SHIP TO ADDRESS, THE PURCHASE ORDER NUMBER, THE QUANTITY, THE DESCRIPTION, THE UNIT PRICE, AND THE EXTENDED AMOUNT. ESRI REQUIRES THAT YOU ALSO PROVIDE THE END USER NAME AND CONTACT INFORMATION, ESRI CUSTOMER NUMBER IF KNOWN, AND ENSURE THAT THE MPA CONTRACT NUMBER IS LISTED CLEARLY ON THE ORDER.							
SOFTWARE, MASTER AGREEMENT 1							
EXHIBIT 3							
LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON OCTOBER 22, 2008 AND EXTENDS FOR A PERIOD OF TWO (2) YEARS. THE TERM MAY BE EXTENDED UPON MUTUAL WRITTEN AGREEMENT.							
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input type="checkbox"/>						TOTAL	

APPROVED AS TO FORM BY
 ASSISTANT ATTORNEY GENERAL

BY _____
 PURCHASING DIVISION AUTHORIZED SIGNATURE



MASTER PURCHASE AGREEMENT
West Virginia Contract No.
ESRI Agreement No. 2008MPA2666

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

This Master Purchase Agreement ("MPA" or "Agreement") is between the governmental body ("Customer") identified below and Environmental Systems Research Institute, Inc. ("ESRI"). The Agreement enables Customer to acquire ESRI geographic information system Software, Data, Web Services, Documentation, services, or hardware over a defined period of time.

This Agreement is comprised of the following documents:

- 1. Master Purchase Agreement signature page, E111M 11/06
2. State and Local MPA Terms and Conditions, E500M 11/06
3. General License Terms and Conditions, E200M 5/08
4. ESRI Exhibit 1, Scope of Use, E300 5/08C
5. ESRI MPA Price List
6. ESRI Client Site Training Terms and Conditions, E207M 1/08

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

This Agreement constitutes the sole and entire agreement of the parties as to the subject matter set forth herein and supersedes any previous agreements, understandings, and arrangements between the parties relating to such subject matter. Any modification(s) or amendment(s) to this Agreement must be in writing and signed by an authorized representative of each party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective as of the last date written below.

STATE OF WEST VIRGINIA
(Customer)

By: [Signature]
Authorized Signature

Printed Name: James A. Kirby, III
General Counsel

Title: Department of Administration

Date: 10/22/08

ENVIRONMENTAL SYSTEMS RESEARCH
INSTITUTE, INC.
(ESRI)

By: [Signature]
Authorized Signature

Printed Name: LAURA DANGERMOND
VICE PRESIDENT

Title:

Date: OCT 08 2008

Customer Contact Information

Contact: Nancy Baire

Telephone: 304-558-3826

Address: One Davis Square, P.O. Box 50110

Fax: 304-558-1351

City, State, ZIP: Charleston, WV 25305

E-mail: nancy.c.baire@wv.gov



STATE AND LOCAL MPA TERMS AND CONDITIONS (E500M 11/06)

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

ARTICLE 1—DEFINITIONS

All definitions in other parts of the MPA shall have the same meaning in this ESRI MPA Terms and Conditions. In addition, the following definitions apply to this MPA:

- a. **"Authorized Entity"** means a political subdivision of the governmental body authorized by Customer to order and acquire Software, Data, Web Services, Documentation, products, or services under this Agreement.
- b. **"License Agreement"** means the General License Terms and Conditions (E200M) and Exhibit 1, Scope of Use (E300).
- c. **"Licensee"** means the Customer or an Authorized Entity that places orders pursuant to this Agreement.

ARTICLE 2—TERM OF AGREEMENT

Licensee's right to purchase under this Agreement shall remain in effect for two (2) years from the effective date unless terminated earlier as set forth in Article 5—Termination; Cancellation. The term may be extended upon mutual written agreement. The term of any Software, Data, or Web Services licenses ordered through this Agreement shall be as stated in the License Agreement.

ARTICLE 3—PRODUCT OFFERINGS

3.1 Discontinued Items. ESRI may, at its sole discretion, discontinue offering any Software, Data, Web Services, Documentation, or other product and services included in this Agreement at any time upon reasonable written notice.

3.2 New Items. ESRI may, at its sole discretion, offer new Software, Data, Web Services, Documentation, services, or larger quantity discount pricing by providing written notice. ESRI may require additional license terms prior to use of new Software, Data, Web Services, Documentation, or services. Such additional terms shall become part of this Agreement upon the written agreement of both parties via an amendment to this Agreement.

ARTICLE 4—GRANT OF LICENSE AND SCOPE OF USE

The license grant and permitted uses specified in Article 3 and Article 4 of the License Agreement are restricted to use within the United States of America, its possessions, and territories. For Internet mapping Software, the server must be located within the United States of America, its possessions, and territories.

ARTICLE 5—TERMINATION; CANCELLATION

5.1 Termination

- a. **Termination for Convenience.** This Agreement may be terminated by either party upon thirty (30) days' written notice. ESRI, at its sole election, may terminate the right of any Authorized Entity to participate in this Agreement in accordance with this provision without terminating this Agreement with respect to Customer or any other Authorized Entity.
- b. **Termination for Breach.** Without prejudice to any other right or remedy available, this Agreement may be terminated for breach provided the breaching party is given forty-five days' written notice. Termination of this Agreement shall be effective upon written notice to Licensee if Licensee discloses any trade secret or other information proprietary to ESRI in breach of this Agreement.
- c. **Licensee Obligations Upon Termination.** On termination of this Agreement, all accounts and payments will be processed according to financial arrangements set forth herein for performance rendered to the date of termination. After termination, Licensee shall no longer be permitted to place orders under this Agreement.
- d. **License Survival.** Upon expiration of this Agreement or voluntary termination of this Agreement for the convenience of Licensee, Licensee may continue to retain and use such licensed Software, Data, Web Services, and Documentation in accordance with the License Agreement. Licensee may then directly and separately contract for Software maintenance.

5.2 Cancellation of an Order. Purchase orders, other than for the initial purchase, may be canceled by Licensee in whole or in part, upon thirty (30) days' written notice to ESRI. There will be no cancellation charge for canceled Software, Data, or Documentation unless such Software, Data, or Documentation has been delivered. If the Software, Data, or Documentation has been shipped, the cancellation will require Licensee payment of return shipping costs. There are no refunds for cancellation of a subscription or maintenance if the term for the subscription or maintenance has started.

ARTICLE 6—FUNDING; NO MINIMUM PURCHASE

6.1 Funding. Where the financial obligations of Licensee payable after the current fiscal year are contingent upon funds being appropriated, budgeted, or otherwise made available, and the funds are not appropriated or otherwise made available, this Agreement may be terminated as set forth in Article 5.

6.2 No Minimum Purchase. Licensee does not guarantee to purchase any certain quantity under this Agreement.

ARTICLE 7—ORDERS

7.1 Licensee Purchase Orders. Licensee shall issue purchase orders to ESRI for Software, Data, Web Services, Documentation, or services based on the pricing specified in this Agreement. The terms and conditions of this Agreement shall govern all orders issued by Licensee. Any additional or different terms included with an order shall require approval by ESRI via a written modification to this Agreement to be binding.

7.2 Purchase Order Requirements. The following information shall be included in each purchase order:

- a. Name or identification of Licensee, place of delivery, and the end user name and contact information
- b. Purchase order number
- c. Date delivery is requested (minimum thirty [30] days after ESRI receipt of order)
- d. Primary site for maintenance if primary maintenance is *not* ordered
- e. Quantity, description, and unit price
- f. On the face of the purchase order, print the following statement: "Subject to Master Purchase Agreement No. _____."

7.3 Additional Quotes. Licensee may request a quote for any new or unlisted Software, Data, Web Services, or services and issue a purchase order under this Agreement. ESRI may require additional license terms for use of the new or unlisted Software, Data, Web Services, or services that shall be agreed upon by a written amendment to this Agreement.

7.4 Authorized Entity. An Authorized Entity may order or acquire Software, Data, Web Services, Documentation, services, or maintenance subject to this Agreement. Authorized Entities will be required to assent to the terms of this Agreement. ESRI shall not fill any purchase orders that do not adequately provide the information identified in section 7.2.

7.5 Registration/Keycode Request. To activate Software subject to a License Manager, Licensee may be required to register or obtain a keycode through ESRI's Web site at myESRI.com or through ESRI's Customer Service Department.

ARTICLE 8—ESRI AUTHORIZED RESELLER ORDERS

8.1 Criteria to Order from Reseller. Licensee may purchase certain Software from an authorized ESRI reseller under the terms of this Agreement if the following requirements are satisfied:

- a. The quotation for Software and the selection of the ESRI reseller must comply with all applicable state and local public procurement laws and regulations;
- b. The ESRI reseller must be a member of the ESRI Business Partner Program in good standing at the time the ESRI reseller places the order with ESRI and be authorized to provide the Software ordered as defined at ESRI Web site <http://gis.esri.com/partners/index.html>. Select "Resellers" to view the authorized resellers and the Software they are authorized to provide; and
- c. The Licensee purchase order forwarded by the reseller to ESRI must list the information requested in section 7.2, the ESRI reseller name, and the Software MPA pricing. (Reseller must use MPA pricing to use this Agreement.)

8.2 Order Process. If all conditions of sale under this Agreement are met, ESRI will accept the order and the authorized reseller will receive a sales commission. ESRI will deliver the Software directly to Licensee, invoice, and receive payment

for any such order. If ESRI does not accept the order, Licensee may enter into a direct transaction with the ESRI reseller, and the order will not be processed under this Agreement.

8.3 ESRI Reseller List. Upon request, the ESRI regional office will provide Licensee with a list of authorized ESRI resellers in good standing that do business in Licensee's state.

ARTICLE 9—PRICING

9.1 Pricing. ESRI will provide Software, Data, Web Services, Documentation, maintenance, and support specified at the prices incorporated into this Agreement. The specified prices stated in the incorporated ESRI Price List are exclusive of shipping, and installation. ESRI may update the pricing no more than once each calendar quarter upon written notice to Customer.

9.2 Reserved

9.3 Training Services. Training will be provided in accordance with the policies defined under "Education and Training" at www.esri.com and the ESRI Client Site Training Terms and Conditions (E207M) incorporated herein. Training prices are subject to annual escalation, not to exceed seven and one-half percent (7.5%) in January of each year.

9.4 Freight. Freight terms are FOB Origin with freight charges prepaid and added to the invoice. Standard shipping is by two (2)-day air via UPS or equivalent carrier. Expedited express delivery for Software can be arranged. Shipping and handling charges may be confirmed in advance; the ESRI invoicing program will incorporate the current fees automatically. There may be periodic changes due to fluctuations in the transportation industry fees.

ARTICLE 10—MAINTENANCE

ESRI will provide maintenance, comprised of updates and technical support as specified in the latest software maintenance program found on the ESRI Web site at <http://esri.com/legal/maintenance>.

Maintenance is generally offered on an annual basis. Upon expiration of any complimentary maintenance year or any subsequent maintenance term, Licensee may issue a purchase order under this Agreement for renewal of maintenance at the terms and pricing then in effect. Upon acceptance of an ESRI quotation, the purchase order shall be issued in advance or no later than concurrent with the present maintenance term. If maintenance lapses, Licensee must pay back maintenance fees to reinstate maintenance.

ARTICLE 11—TERMS OF COMPENSATION AND ACCEPTANCE

11.1 Terms of Compensation. Software, Data, and Documentation will be invoiced one-hundred percent (100%) upon shipment. Web Services will be invoiced one-hundred percent (100%) upon issuance of access codes. Software installation and training services, as applicable, will be invoiced upon completion. Licensee agrees to pay each invoice in full within thirty (30) days of receipt of a valid invoice.

11.2 Acceptance. Unless rejected in writing, acceptance of any shipment of Software, Data, and Documentation shall be presumed to have occurred fifteen (15) days after shipment by ESRI. Acceptance of Web Services occurs upon issuance of access codes. If ESRI installation is ordered, acceptance occurs upon completion of ESRI Software installation and testing, unless rejected in writing.

11.3 Rejection of Order. ESRI may reject any purchase order if Licensee fails or refuses to pay any license or service fee due and payable.

11.4 All payment obligations shall be made in arrears in accordance with West Virginia State law, that is, upon receipt of Software, upon completion of Software installation and training services. Agencies may subscribe for maintenance support which may be paid in advance.

ARTICLE 12—RESERVED

ARTICLE 13—GENERAL PROVISIONS

13.1 Order of Precedence. The General Provisions and Limitations of Liability provisions of the License Agreement shall apply to the entire Agreement unless specifically stated otherwise and are supplemented by the provisions set forth in this Article 13. In the event of a conflict between the terms of documents in this Agreement, the documents will have the following precedence: (i) ESRI MPA Terms and Conditions (E500), (ii) the License Agreement, and (iii) the ESRI Client Site Training Terms and Conditions.

13.2 Notice. Notice required or contemplated by either party must be delivered in person or by courier, express mail, facsimile, or postage-prepaid certified or registered airmail addressed to the party for whom it is intended at the address specified herein. Either party may change its address by giving prompt written notice to the other party of the change.

Licensee Contact:

See signature page (E111M)

ESRI Contact:

Manager, Contracts and Legal Services
ESRI
380 New York Street
Redlands, CA 92373-8100
Phone: 909-793-2853
Fax: 909-307-3020

**ARTICLE 1—DEFINITIONS**

Definitions. The terms used are defined as follows:

- a. "Beta" means any alpha, beta, or prerelease Software, Data, Documentation, or Web Services.
- b. "Data" means any ESRI or third-party digital dataset(s) including, but not limited to, geographic vector data coordinates, raster, reports, or associated tabular attributes, licensed under this License Agreement.
- c. "Documentation" means all printed and digital materials including, but not limited to, help files, user reference documentation, training documentation, or technical information and briefings.
- d. "Samples" means sample code, sample applications, add-ons, or sample extensions of Software, Data, Documentation, or Web Services.
- e. "Software" means all or any portion of ESRI's proprietary software technology accessed or downloaded from an authorized ESRI Web site or delivered on any media in any format including backups, updates, service packs, patches, hot fixes, or permitted merged copies.
- f. "Term License" means licenses provided for use in a limited time period or on a subscription or transaction basis.
- g. "Web Services" means software services or ESRI or third-party data provided by ESRI that perform geographic information system (GIS) functions, tasks, or data services and are accessed over the Internet.

ARTICLE 2—INTELLECTUAL PROPERTY RIGHTS AND RESERVATION OF OWNERSHIP

Software, Data, Web Services, and Documentation are licensed and not sold. ESRI and its licensors own Software, Data, Web Services, and Documentation, which are protected by United States and applicable international laws, treaties, and conventions regarding intellectual property and proprietary rights including trade secrets. Licensee agrees to use reasonable means to protect Software, Data, Web Services, and Documentation from unauthorized use, reproduction, distribution, or publication. ESRI and its third-party licensors reserve all rights not specifically granted in this License Agreement including the right to change and improve Web Services.

ARTICLE 3—GRANT OF LICENSE

3.1 Grant of License. Subject to the terms of this License Agreement, ESRI grants to Licensee a personal, nonexclusive, nontransferable license solely to

- a. Use the type and number of copies of Software, Data, and Documentation and access Web Services (i) for which the applicable license fees have been paid, (ii) for Licensee's own internal use, and (iii) in accordance with Exhibit 1 and the licensed configuration on file as authorized by ESRI.
- b. Access and use any secure ESRI Web site resources made available to Licensee for Licensee's own internal use, provided that Licensee follows ESRI's terms of use policy specified therein. All password or controlled access information provided by ESRI shall be treated as ESRI confidential information.

3.2 Beta License. Licensee may be accepted into a current Beta Testing Program.

- a. If accepted into the Beta Testing Program, ESRI will provide to Licensee access to Beta and will grant Licensee a personal, nonexclusive, nontransferable, royalty-free license to use Beta at the authorized and identified test sites solely for the purpose of testing Beta as delivered, in accordance with the Beta Testing Program guidelines and the terms of this License Agreement. This grant of license is effective from the date accepted into the program or date of receipt of any Beta until the date of the commercial release of Software from ESRI Customer Service or the date of termination of the Beta Testing Program for the specific Beta, whichever is sooner.
- b. Licensee agrees to provide suggestions or comments regarding performance, usability or effectiveness, bug reports, test reports, or other feedback (collectively, "Feedback") to ESRI with respect to Beta. ESRI retains title to such comments and may freely use, disclose, reproduce, license, distribute, and otherwise commercialize any Feedback.
- c. Beta and Feedback contain confidential information and trade secrets that are proprietary to ESRI. Licensee agrees to use commercially reasonable means (at least as great as those used by Licensee for its own confidential information) to maintain the integrity, confidentiality, and ESRI proprietary rights in Beta and Feedback.

- d. Beta is subject to change prior to its commercial release or may never be commercially released. Licensee acknowledges that Beta is not suitable or licensed for full use in any production system and accepts all responsibility for use and any results generated.

3.3 Evaluation License. ESRI may from time to time offer Term License(s) for Software, Data, Web Services, or Documentation for Licensee's evaluation only.

3.4 Consultant or Contractor Access. Subject to Section 3.1, ESRI grants Licensee the right to provide access to and use of Software, Data, Web Services, or Documentation to any consultant or contractor of Licensee exclusively for the benefit of Licensee. Licensee shall be solely responsible for compliance by consultants and contractors with this License Agreement. Access to or use of Software, Data, Web Services, and Documentation by consultants or contractors not exclusively for the benefit of Licensee is prohibited.

3.5 Educational Use License. If Licensee has been qualified by ESRI to participate in an educational program, Licensee agrees to use Software, Data, Web Services, and Documentation solely for educational, research, and academic purposes that are noncommercial in nature. Licensee shall not use Software, Data, Web Services, and Documentation for any profit-generating activities.

ARTICLE 4—SCOPE OF USE

4.1 Permitted Uses

- a. Licensee may install and store Software, Data, and Documentation on electronic storage device(s).
- b. Licensee may make one (1) copy of Software, Data, and Documentation for archival purposes. Licensee may make routine computer backups.
- c. Licensee may customize Software using any (i) macro or scripting language, (ii) published application programming interface (API), or (iii) source or object code libraries, but only to the extent that such customization is described in Documentation.
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**EXHIBIT 1
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(E300 5/08C)**

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The scope of use for each ESRI Software identified below is described in the applicable footnotes listed in parentheses.

Desktop GIS

- ArcReader (20 and 25)
- ArcView (1 or 2 and 25 and 44)
- ArcEditor (1 or 2 and 25, 26 and 44)
- ArcInfo (2, 25, 26 and 44)
- ArcGIS Desktop Extensions (7)
- ArcView 3.x and Extensions (1, 7, and 17)

Server GIS

- ArcGIS Server and Extensions
 - Workgroup (either 3, or 5, and 8, 9, 25, 28, 29, 30, 32, 38, 39, 40 and 45)
 - Enterprise (either 3, 4, or 5, and 8, 9, 25, 27, 31, 38, 39, 40 and 45)
- ArcIMS
 - ArcIMS and Extensions (either 3, 4, or 5, and 8, 10, and 31)
 - ArcIMS ArcMap Server (either 3, 4, or 5, and 31)
- Tracking Server (5 and 31)
- ArcGIS Image Server (either 3, 4, or 5, and 8, 31, and 42)
 - ArcGIS Image Server Service Editor (1)
- RouteMAP IMS (either 3, 4, or 5, and 8, 25 and 31)
- ArcGIS Business Analyst Server (5, 8, 9, 21, 25, 28, 39, 40, and 45)

Mobile GIS

- ArcPad (1, 12, 13 and 25)
- ArcPad Application Builder (1 and 25)
- ArcGIS Mobile Deployments (1, 15, 16 and 25)

Developer GIS

- ESRI Developer Network (EDN) Software, Web Services, and Data (6, 7, 24, 25, 26, 33, 34, 35, and 36)
- ArcGIS Engine Developer Kit and Extensions (1 and 14, 15, 22, 25, 26 and 43)
- ArcGIS Engine Runtime and Extensions (1, 15, 22, 25 and 26)
- MapObjects—Windows Edition (1, 14, 15, 16, and 18)

- MapObjects—Java Edition (1, 5, 8, 15, 18, and 19)
- MapObjects LT (1, 14, and 16)
- NetEngine (1, 5, and 15)
- NetEngine Internet (5)

GIS Viewers and Connectors

- ArcExplorer—Java and Windows Editions (20 and 25)
- ArcGIS Explorer (20 and 25)
- ArcGIS For AutoCAD (1, 20 and 25)

Business GIS

- ArcGIS Business Analyst (1 or 2 and 25 and 45)
- BusinessMAP (1 and 25)
- ArcLogistics (either 1 or 2 and 25)
- ArcLogistics Server (5, 8, 9, 21, 25, 28, 39, 40, and 45)
- ArcLogistics Navigator Deployments (1, 15, and 16)

Cartographic Production

- Maplex (1)
- Production Line Tool Set (PLTS) for ArcGIS, GIS Data ReViewer, Map Production System-Atlas, Job Tracking for ArcGIS (JTX) (either 1 or 2), Job Tracking for ArcGIS Server (either 4 or 5, and 7)

Web Services

- ArcGIS Online (6, 25, 33, 34, and 35)

Data

- ESRI Data and Maps (either 1 or 5, and 23 and 37)
- Demographic Data (either 1, 2 or 5)
 - CommunityInfo
 - Retail Marketplace
 - Consumer Expenditure
- Community Tapestry Data (either 1, 2 or 5, and 21)
- Community Coder (either 1, 2, or 5, and 21)
- *Sourcebook•America* (1)
- ArcGIS Data Appliance—Server Bundle or Data Only (6, 23, and 25)
- StreetMap Premium (either 1, 2 or 5, and 23 and 25)

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TRAINING TERMS AND CONDITIONS

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

Whereas, the Client wishes to arrange for training of its employees, the following terms shall be followed as applicable.

I. SCOPE

ESRI agrees to conduct training courses pursuant to the terms contained herein. Training may be conducted at Client's site or at an ESRI Learning Center.

Course Description: The ESRI Software training course(s) to be conducted, the location, the dates during which the courses are to be conducted, the number of participants, and the prices to be paid to ESRI are as set forth in the ESRI Course Catalog or at ESRI's training Web site, which is incorporated by this reference. All courses shall be conducted in substantial conformity with the most current ESRI training course brochure(s). ESRI reserves the right to modify course content when necessary due to Software technical abilities or limitations.

ESRI's Responsibility: ESRI shall provide an instructor qualified to conduct the course(s), as well as all necessary training materials sufficient for the number of registered participants. ESRI will provide each student with a course manual.

ESRI's scheduling coordinator, through whom all course(s), dates, and locations shall be confirmed, can be contacted at 909-793-2853, extension 1523.

IIA. UNIQUE ESRI LEARNING CENTER TERMS

Where courses are to be conducted at ESRI facilities, the following restrictions and requirements apply:

- Seating is limited in some classes. Registrations are always processed using a standard student registration application, on a first-come, first-served basis. Waiting lists are used when necessary. Registration applications are attached to every course catalog or are available on the Web or from the Learning Center.
- Class schedules are widely disseminated by ESRI Marketing and the regional offices. The Redlands Learning Center or Scheduling Coordinator works with each Regional Training Coordinator to add classes to accommodate waiting lists where appropriate.
- All class registrants are asked to include proof of payment when they submit their registration application. Purchase Orders may be accepted from U.S. federal, state, and local government organizations, as well as universities.
- Some states have enacted an E-Procurement fee for State Government customers. ESRI may also add the E-Procurement fee to the cost of training classes where applicable.
- The tuition includes a \$110 data-processing fee, which is nonrefundable. This fee may be charged in cases of short-notice cancellations or due to multiple student transfers. Student substitutions, when a student's place in class is filled by another person from the same organization, are allowed, provided that the ESRI Learning Center is notified in advance. The tuition less the data processing fee will be refunded if the ESRI Learning Center receives notice of cancellation at least six (6) business days prior to the class start date. The full tuition will be charged to participants who cancel five (5) days or less before the class start date or who fail to appear for the class.
- The five (5)-seat volume discount cannot be combined with other discounts and is only applicable when all registrations are received at one time and all registrants attend the class. If a five (5)-seat volume discount registrant cannot attend the class, ESRI will allow student substitution or a transfer of such registrant to attend a future class; however, no refunds will be issued for such nonattendance or cancellation.
- Training classes are confirmed approximately ten (10) days prior to the start date.
- Travel is the registrant's responsibility. ESRI assumes no responsibility for nonrefundable travel arrangement losses resulting from course scheduling changes or cancellations. Even though ESRI strives to confirm all classes, class cancellations are sometimes unavoidable.

IIB. UNIQUE CLIENT SITE TERMS

Client's Responsibility: Where courses are to be conducted at Client's facilities, Client shall provide physical training facilities that meet the following minimum requirements or modifications as mutually agreed to by both parties:

- Client shall, where possible, provide a one (1)-room facility, sufficient for a training course for up to twelve (12) persons (or such other number as may be agreed to by ESRI's scheduling coordinator). The facility shall have appropriate climate control, lighting, and sufficient power and number of outlets to accommodate the required number of computers and other equipment to be used.
- Client shall supply all computer hardware for the training course. Computers must be platforms fully supported by ESRI. All computer hardware shall be configured with an appropriate release of an operating system to run the current release version of the ESRI required Software. There shall be a minimum of one (1) computer and color monitor for every participant. Other peripheral devices including, but not limited to, digitizers and plotters/printers, as required by the training course being conducted, shall be Class 1 supported.
- Client shall be responsible for providing one (1) high-resolution PC projector and screen as well as one (1) large writing board.
- Client shall limit the number of course participants to twelve (12) students per course. Additional students, up to a maximum of fifteen (15), may be added to some classes for an additional fee.
- Client agrees that all participants shall be regular employees of Client who meet the prerequisites set forth in the ESRI training brochure(s).
- Client shall issue a purchase order and pay invoices pursuant to the terms-set forth in Section IV below.
- Client shall complete and submit an ESRI Client Site Request form not less than four (4) weeks prior to the start of any course. Final schedule is subject to mutual agreement.

IIC. MOBILE LAB

When ESRI's mobile lab is provided for use by students as part of a training class delivered at Client's location, the following provisions apply:

- Client shall use its best efforts to protect the Mobile Classroom equipment from loss, damage, or theft while in Client's possession. Client should immediately report any damage or missing items upon receipt.
- Client shall keep the Mobile Classroom equipment in a secure, locked area between class sessions.
- Client shall make the Mobile Classroom equipment available for freight pick-up at the conclusion of the ESRI courses.
- Client shall ensure no one except ESRI students uses the Mobile Classroom equipment.
- Client shall be liable for loss or damage to ESRI's Mobile Classroom equipment as a result of Client's failure to comply with the requirements described above.
- Client warrants that it shall maintain sufficient insurance coverage to enable it to meet its obligations created by this agreement and by law.

III. SOFTWARE LICENSES

The terms of the ESRI license agreement shall be applicable to all Client course participants and for all Software and documentation licensed for use in any training course to be conducted. For on-site training, temporary Software licenses may be issued by ESRI where there is an insufficient number of Software licenses available at the training facility. Client shall uninstall the temporary Software licenses at the conclusion of the training course.

IV. PERFORMANCE AND PAYMENT

Upon completion of each training course, ESRI shall invoice Client and Client shall pay said invoice within thirty (30) days of receipt thereof.

V. EXPORT CONTROL REGULATIONS

ESRI's technology is subject to U.S. export control laws and regulations—ESRI's Software, data, documentation, and any underlying information or technology may not be exported, reexported, or provided in whole or in part to (i) any country to which the United States has embargoed goods; (ii) any person on the U.S. Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the U.S. Commerce Department's Table of Denial Orders; or (iv) any person or entity where such export, reexport, or provision violates any U.S. export control law or regulation.



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Purchase Order

PURCHASE ORDER NO.
 MA05SW20

PAGE
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BLANKET RELEASE
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CORRECT PURCHASE ORDER NUMBER
 MUST APPEAR ON ALL PACKAGES,
 INVOICES, AND SHIPPING PAPERS.
 QUESTIONS CONCERNING THIS PUR-
 CHASE ORDER SHOULD BE DIRECTED
 TO THE BUYER AS NOTED BELOW.

CHANGE ORDER
 []

SEE REVERSE SIDE FOR
 TERMS AND CONDITIONS

INVOICE TO
 ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

VENDOR FOR
 *709070308 909-793-2853
 ENVIRONMENTAL SYSTEMS RESEARCH
 380 NEW YORK STREET
 REDLANDS CA 92373-8100

SHIP TO
 ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

DATE PRINTED		TERMS OF SALE		FEIN/SSN		FUND	
10/27/2008		NET 30		952775732			
SHIP VIA		F.O.B.		FREIGHT TERMS		ACCOUNT NUMBER	
BEST WAY		DESTINATION		PREPAID		MUL-MUL	
LINE	QUANTITY	UOP	VENDOR ITEM NO	UNIT PRICE		AMOUNT	
	DELIVERY DATE	CAT.NO.	ITEM NUMBER				
RECEIPT TICKET FOR PURCHASE ORDER:						MA05SW20	
LINE	CATNO	ITEM NUMBER	DESCRIPTION		QTY	DATE	
0001		099-00-01-100	SOFTWARE, MASTER AGREEMENT 1		_____	_____	
SIGNATURE _____				DATE _____			
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input type="checkbox"/>						TOTAL	

APPROVED AS TO FORM BY
 ASSISTANT ATTORNEY GENERAL

BY _____
 PURCHASING DIVISION AUTHORIZED SIGNATURE