



City of Santa Fe, New Mexico

Memorandum



DATE: 24 April 2024

TO: John Blair, City Manager JB

VIA: Brian Williams, Director of Emergency Management

FROM: Kyle Morgan, Emergency Management Specialist

ACTION:

Request for Approval of a Professional Services Contract with Environmental Systems Research Institute, Inc. (ESRI) in a Total Amount of \$64,047.00 inclusive of New Mexico Gross Receipts Tax for the Purchase of a Small Government and Local Utility EA ESRI Advantage Program Subscription Service for One (1) year. Kyle Morgan, Emergency Management Specialist, klmorgan@santafenm.gov, 505-955-6704.

BACKGROUND AND SUMMARY:

The City of Santa Fe applied for and received funding for this effort under the 2023 State Homeland Security Grant Program from the Federal Emergency Management Agency, administered by the New Mexico Department of Homeland Security and Emergency Management.

The goal of this purchase is to strategically plan and support the creation of applications for Emergency Management to support the protection of property and the environment and meet basic human needs in the aftermath of catastrophic incidents. This will be done through the configuration of an ArcGIS Solution that will communicate public information and provide situational awareness during an emergency or incident.

The ESRI Advantage Program is an annual subscription service designed to provide enterprise-wide visioning and geospatial enablement through technical advisory, an annual planning meeting, a collaboratively developed technical work plan, and access to exclusive quarterly technology webcasts. The program also provides access to a combination of consulting, premium support, and training services.

This configuration includes:

- A one-day annual planning session.
- Up to 50 Advisor hours, which can be utilized for technical consulting towards accomplishing goals identified in the planning session, and/or premium support not covered by the City of Santa Fe's Small Government Enterprise Agreement Annual Subscription.
- Quarterly Technology Webcasts to be made available by the Contractor.
- 50 Learning and Services Credits.

The City of Santa Fe applied for and received funding for this effort under the 2023 State Homeland Security Grant Program from the Federal Emergency Management Agency, administered by the New Mexico Department of Homeland Security and Emergency Management. The reimbursable grant is 100% federally funded with no local share.

PROCUREMENT METHOD:

Sole Source.

FUNDING SOURCE:

FY State Homeland Security Grant Program (FY24 Munis Contract Number 3204413)

The funding source is:

Project Ledger ID: OEM2422105

Fund Name/Number: Emergency Mngt./Fund 221

Munis Org Name/Number: Office of Emergency Mngt./2212850

Munis Object Name/Number: Capital Outlay Software/570850

CONTRACT NUMBER:

The FY24 Munis Contract Number is 3204413

ATTACHMENTS:

- Contract
- Sole Source Packet

CITY OF SANTA FE PROCUREMENT CHECKLIST



Contractor Name: Environmental Systems Research Institute Inc. (ESRI)

Procurement/contract Title: Advantage Program

Procurement Method/Vehicle: Sole Source State Price Agreement/Existing
 Cooperative Request For Proposals(RFP) Invitation To Bid (ITB) Exempt: 13-1-98
 Small Purchase (Contract Under \$60,000) Other: _____

Requesting Department: Emergency Management **Staff Name:** Kyle Morgan

Procurement Requirements:

Procurement files shall be maintained for all purchases and contracts, regardless of the method of procurement. The procurement files shall contain the basis on which the awards are made, all submitted bids/proposals, all evaluation materials (bid tabs or Evaluation Committee Reports), scoresheets, quotations, and all other documentation related to or prepared in conjunction with evaluations, negotiations, and the award processes. The procurements shall contain written determinations from the Requesting Departments, signed by the Chief Procurement Officers (this document), setting forth the reasoning for the contract award decisions before submitting them to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING (CPD)

YES	N/A		YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Written Determination (srvs)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Quote(s) (3 Valid & Current for Over 20k)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	RFP - Confidential info to be provided to GB by CPD Buyer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	ITB (include bid tab)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Certificate of Insurance (srvs)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cooperative Agreements and GSAs and Statewide Price Agreements (include the cover page to show valid date, s page, and items to be purchased)			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Horizon Declination or Screenshot of horizonsofnewmexico.org/services.html (srvs)			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contract (only on contracts)			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Current Santa Fe Business Registration (or Exemption if no tax)			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Executed Contract or Price Agreement (legal and contractor must sign before purchasing approves)			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Chief Procurement Officer (or designee) Approval for Exempt from Procurement (use memo on our site)			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Evaluation Committee Report (RFPs only)			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Signed Sole Source Determination, Vendor Written Quote, SS Letter from Contractors, and 30 Days Email			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	>20k = Memo addressed to City Manager (Under 150K) Committees/City Council (Over 150K)			

<u>Kyle Morgan</u>	<u>Emergency Management Specialist</u>	<u>5/1/2024</u>
Department Point of Contact	Title	Date
<u>Brian Williams</u>		
Department Director		Date
<i>JoAnn Lovato Montano</i>		<u>Jun 17, 2024</u>
Chief Procurement Officer		Date
_____	_____	_____
ITT Representative	Title	Date



City of Santa Fe

Summary of Contract, Agreement, Amendment & Lease

All applicable fields to be completed by department (complete 1.b only if you are processing an amendment):

1.a Munis Contract: 304413 Procurement # (RFP/ITB# If any):

Contractor: Environmental Systems Research Institute Inc. (ESRI)

Procurement Method/Vehicle: Small Purchase RFP ITB Sole Source GSA Cooperative Exempt SWPA/Existing

Description/Title: Purchase of a Small Government and Local Utility EA ESRI Advantage Program Subscription Service for One (1) year

Contract: Agreement: Lease/Rent: Amendment:

Term Start Date: When Signed Term End Date: 12/31/2025 Total Contract Amount: \$64,047

Approved by Council (If over the City Manager's approval threshold, you must go through GB) _____

Contract / Lease: Contract

1.b Amendment #: N/A to the Original Contract/Lease # _____

Increase/(Decrease) Amount \$: _____

Extend Expiration Date to: _____

Approved by Council (If the original went through GB, all amendments must go through GB regardless of the amendment reason) Date: _____

Amendment is for: _____

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)

N/A

3. **Procurement History:** _____

JoAnn Lovato Montano

Purchasing Officer Review: _____

Jun 17, 2024

Date: _____

Comment & Exceptions: SS posted 30 days without protest

4. **Funding Source:** Emergency Mngt

Andy Hopkins

Budget Officer Approval: _____

Org / Object: 2212850/570850

Jun 12, 2024

Date: _____

Comment & Exceptions: _____

5. **Grant History (if applicable):** _____

Grants Administrator Approval: *M. Bonifer*
(M. Bonifer (Jun 17, 2024 12:20 MDT))

Date Jun 17, 2024

Staff Contact who Completed This Form: Justin Gonzales

Phone #: 505-955-6752

To be recorded by City Clerk: _____

Clerk # _____ Email: jmgonzales@santafenm.gov

Date of Execution: _____

ITT Representative (attesting that all information is reviewed)

Title

Date



City of Santa Fe New Mexico

Finance Department



Project Ledger Request Form

Date of Request: 10/23/23

Project Title: 2023 SHSGP-P5 ESRIGISAdvantage

Project Type: CIP Grant Internal tracking

Department: CH&S-Emergency Management Project Manager: Brian Williams Ext: 6537

Project Date Range: 10/1/23 to 12/31/25 Create Fixed Asset

Multi-Funding (complete all funding sources, should equal 100%)

Funding Source: US DHS - NM DHSEM % of Funding: 100

MUNIS Org: 2212850 MUNIS Object: _____ Awarded Amount: \$61,194.00

Funding Source: _____ % of Funding: _____

MUNIS Org: _____ MUNIS Object: _____ Awarded Amount: _____

Expense String Phase

A project must have at least one phase identified, this can be used as an additional level of tracking, for example, CIP - design, start-up cost, etc. For grants can be used as reimbursable types, such as transportation, salaries.

(You can create more than one phase and you can default MUNIS Orgs and Objects, optional)

Phase: 1 MUNIS Org: 2212850 MUNIS Object: 570850

Phase: _____ MUNIS Org: _____ MUNIS Object: _____

Phase: _____ MUNIS Org: _____ MUNIS Object: _____

Grants Only (list all grants if applicable)

Grantor Name: NM DHSEM Awarded Amount: \$61,194.00

AR Charge Code: 490610

Grant funds multiple projects
(Complete a form for each project)

Grantor Id: _____ Federal CFDA (if applicable) 97.067

Grantor Name: _____ Awarded Amount: _____

AR Charge Code: _____

Grant funds multiple projects
(Complete a form for each project)

Grantor Id: _____ Federal CFDA (if applicable) _____

(If grants please provide all grant award documents with form) Attached to Grant



City of Santa Fe, New Mexico



V2 2023

SOLE SOURCE REQUEST AND DETERMINATION FORM

This form **must** be submitted to the City of Santa Fe, Purchasing Division for authorization, determination, and processing by the Chief Procurement Officer (CPO).

Please ensure to complete this form in its entirety.

Date: 01/25/2024

Prepared By: Kyle Morgan Title: Emergency Mgmt. Specialist

Vendor Name: Environmental Systems Research Institute, Inc. (ESRI)

Address: 380 New York Street

City: Redlands State: CA Zip Code: 92373

Short Description of Goods/Services to be procured:

Esri Advantage Program (1 year)

Estimated Extended Cost: \$59,200.00 + tax Term of Contract: 1 year

Tax is subject to change.

One (1) to Four (4) years from date of award

Sole Source Request Justification Questions 1-3:

- 1. Explain the purpose/need of purchase. Ensure to include a thorough scope of work for the services (the SOW cannot differ on the resultant contract/purchase documents), construction or items of tangible personal property (if this is an amendment request to an existing contract, attach current contract).

Annual subscription designed to provide enterprise-wide visioning and geospatial enablement through technical advisory, an annual planning meeting, a collaboratively developed technical work plan, and access to exclusive quarterly technology webcasts. The program also provides access to a combination of consulting, premium support, and training services. This configuration includes a one day annual planning session; up to 50 Technical Advisor hours; Quarterly Technology Webcasts and 50 Learning and Services Credits.

The overall goal of this Advantage Program is to strategically plan and support the creation of applications for Emergency Management to support the protection property and the environment, and meet basic human needs in the aftermath of catastrophic incidents. This will be done through the configuration of an ArcGIS Solution that will communicate public information and provide situational awareness during an emergency or unplanned event.

2. Provide a detailed explanation of the criteria developed and specified by the department as necessary to perform and/or fulfill the contract.

The contractor has affirmed sole source for the services, construction or items of tangible personal property (*Attach memo from vendor*). Provide documentation of due diligence for other possible vendors/contractors to provide the requested services/goods proved unsuccessful; or

Other: explanation of the reasons, qualifications, proprietary rights or unique capabilities (*unique and how this uniqueness is substantially related to the intended purpose of the contract*) of the prospective contractor that makes the prospective contractor *the one source* capable of providing the required professional service, service, construction or item(s) of tangible personal property. (Please do not state the source is the “best” source or the “least costly” source. Those factors do not justify a “sole source.”) *Unique and how this uniqueness is substantially related to the intended purpose of the contract.*

3. Explain why other similar professional services, services, construction or item(s) of tangible personal property *cannot* meet the intended purpose of the contract.

The City of Santa Fe maintains a citywide enterprise account with ERSI for a majority our geospatial needs, utilizing a variety of ESRI’s proprietary Geospatial Information Systems (GIS) solutions, web applications, etc. While some training and services are available through other vendors, ESRI is the only source for a packaged broad-based support program of this type.

This purchase is funded by the 2023 State Homeland Security Grant Program as awarded by the Federal Emergency Management Agency, with New Mexico Department of Homeland Security acting as fiscal agent. These entities have awarded funding based on the specific request to utilize funding for an ESRI-based emergency operations center intelligence and information sharing solution to be utilized by many different departments of city government, as well as agency partners outside of the city, most of whom utilize ESRI for a majority of their geospatial needs.

Approvals:

Based on the above facts, the City of Santa Fe Purchasing Officer has made the determination that the justification for a Sole Source procurement is in accordance with NMSA 1978, § 13-1-126 and shall be posted for a 30-day period prior to award.



Travis Dutton-Leyda, CPO for the City of Santa Fe

Date: Jan 29, 2024

Department Approval by:



Brian Williams, City of Santa Fe Director of Emergency Management

Date: Jan 26, 2024

Pursuant to NMSA 1978, § 13-1-126 Sole Source Procurement, the 30-day posting period of the Notice of Intent to Award this Sole Source request was met and no obligation to the award to the above referenced contractor were received. *This Sole Source determination will be valid for the term stated on the first page of this document.*



Travis Dutton-Leyda, CPO for the City of Santa Fe

Date: Mar 4, 2024

Required Attachments:

****Letter from Contractor acknowledging they are the only source (on their business letterhead and signed by the head of business or financial operations),***

****Quote from sole source Contractor***

****Agenda Item to be presented to City Council if over \$60,000 for Professional Services and \$60,000 for Goods and Non-Professional Services***

SOLE SOURCE LETTER

Environmental Systems Research Institute, Inc. (Esri)
380 New York Street
Redlands, CA 92373



DATE: January 24, 2024
TO: City of Santa Fe
FROM: Jackie Ricks, Esri Contracts Specialist I
RE: **Sole Source Justification for Advantage Program (AP)**

This letter confirms Esri is the sole-source provider of all U.S. domestic based Advantage Programs (AP). The program offers customers focused account and technical management, a flexible spending program for Esri services support, and other exclusive advantages. While some training and services are available through value-added resellers on a unit priced basis, Esri is the only source for a packaged broad-based support program of this type.

If you have further questions, please feel free to call me at Contracts and Legal Services Department at 909-793-2853, extension 1990.



Jackie Ricks

From: [PADILLA, LEONARD P.](#)
To: [ITT E-Review](#); [MORGAN, KYLE L.](#); [LOVATO, JOANN D.](#); [Purchasing](#)
Subject: Re: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)
Date: Friday, January 12, 2024 10:40:11 AM
Attachments: [image004.png](#)
[image001.png](#)

We are good/ok with things at our end in the GIS office, Kyle is good with moving forward

Get [Outlook for iOS](#)

From: ITT E-Review <ereview@santafenm.gov>
Sent: Friday, January 12, 2024 10:29:53 AM
To: MORGAN, KYLE L. <klmorgan@santafenm.gov>; LOVATO, JOANN D. <jdlovato@santafenm.gov>; Purchasing <purchasing@santafenm.gov>; ITT E-Review <ereview@santafenm.gov>
Cc: PADILLA, LEONARD P. <lppadilla@santafenm.gov>
Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Good morning, Kyle,

I'll wait for Leonard's response; please send your contract for review when it's completed. If you have any questions, feel free to reach out.

Thanks,
Bernadette

Bernadette Jaramillo
Project Manager, Information Technology & Telecommunications
Mouton Hall, Midtown
Cell – 505-629-6082
Office: 955-5514
bmjaramillo@santafenm.gov



From: MORGAN, KYLE L. <klmorgan@santafenm.gov>
Sent: Friday, January 12, 2024 9:37 AM
To: LOVATO, JOANN D. <jdlovato@santafenm.gov>; Purchasing <purchasing@santafenm.gov>; ITT E-Review <ereview@santafenm.gov>
Cc: PADILLA, LEONARD P. <lppadilla@santafenm.gov>
Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Thanks Joann! I'll work on getting a contract approved ASAP.

ITT/Leonard, please advise if there's anything specific I need to do for you all as part of the contract development process.

Kyle Morgan
Emergency Management Specialist
City of Santa Fe Office of Emergency Management
505-629-2539 (cell) / 505-955-6704 (desk)
klmorgan@santafenm.gov

From: LOVATO, JOANN D. <jdlovato@santafenm.gov>
Sent: Friday, January 12, 2024 9:28 AM
To: MORGAN, KYLE L. <klmorgan@santafenm.gov>; Purchasing <purchasing@santafenm.gov>; ITT E-Review <ereview@santafenm.gov>
Cc: PADILLA, LEONARD P. <lppadilla@santafenm.gov>
Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Hi Kyle,

You can utilize a valid/current SWPA as your procurement method. Since you're using that SWPA, you will not need to get additional quotes. State Purchasing already went through the solicitation process and awarded the vendor(s) so they did all the leg work for you! As long as the SWPA covers your needs, whether it be goods or services and it is current, you can use it as your procurement avenue. You will need to get a contract in place before the SWPA expires however.

Thank you.

JoAnn D. Lovato Montañó, CPO
Contracts Supervisor
c: (505) 469-6045



From: MORGAN, KYLE L. <klmorgan@santafenm.gov>
Sent: Friday, January 12, 2024 9:01 AM
To: Purchasing <purchasing@santafenm.gov>; ITT E-Review <ereview@santafenm.gov>
Cc: PADILLA, LEONARD P. <lppadilla@santafenm.gov>
Subject: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Good morning,

OEM received a grant from FEMA that will fund the deployment of some customized GIS solutions utilizing the city's existing enterprise ArcGIS/ESRI account. The purchase would be for services included in the "Advantage program" which ESRI does offer through the NM State Price Agreement (see attached... FYI it's 500 pages long). However, the current iteration of this agreement expires in February 2024. I assume it will be updated going forward to 2026 as many local and state agencies are utilizing ESRI products in a variety of ways.

Since this includes ITT components, I'm CCing the e-review team for situational awareness.

Questions:

1. Our quote from ESRI is for sub-\$60K before taxes, but over \$60K after taxes. In the past we have been able to gather quotes rather than going to ITB, but please confirm that is still the case currently.
2. Since this is covered by SPA, please confirm that we can utilize that as our procurement method as far as City procurement is concerned.
 - a. If we execute a contract before the end of February, please confirm that we are able to utilize the current SPA agreement.

Please advise on any other points you think I need to know as we move forward with this.

Kyle Morgan
Emergency Management Specialist
City of Santa Fe Office of Emergency Management
505-629-2539 (cell) / 505-955-6704 (desk)
klmorgan@santafenm.gov

From: [JAMES, CHERYL A.](#)
To: [MORGAN, KYLE L.](#)
Cc: [MIERA, KRISTY A.](#); [WILLIAMS, BRIAN G.](#)
Subject: RE: OEM Sole Source Grant Purchase(s)
Date: Friday, January 26, 2024 2:11:42 PM
Attachments: [image001.png](#)

Kyle,
This is approved.

Cheryl James, MNM, CPO, NMPPP
Grant Manager
City of Santa Fe
O: 505.955.6171
cajames@santafenm.gov



From: MORGAN, KYLE L. <klmorgan@santafenm.gov>
Sent: Friday, January 26, 2024 2:07 PM
To: JAMES, CHERYL A. <cajames@santafenm.gov>
Cc: MIERA, KRISTY A. <kamiera@santafenm.gov>; WILLIAMS, BRIAN G. <bgwilliams@santafenm.gov>
Subject: OEM Sole Source Grant Purchase(s)

Cheryl,

Procurement is requesting your written approval (by email) of OEM pursuing sole source purchasing for two purchases under the 2023 State Homeland Security Grant Program.

1. ESRI Advantage Program for developing Emergency Operations GIS solutions + training. The City maintains an enterprise account with ESRI for all of our geospatial needs, and in order to maintain interoperability with all of that data, we need to stay within an ESRI framework here.
2. Replacement chemical identification device + training for SFFD. Highly specialized equipment needed to maintain interoperability with other existing chemical detection/identification equipment that the hazardous materials team utilizes.

Sole source letters and current quotes for both purchases are linked here. The approved SGA identifying these projects specifically is linked below as well.

[\\file-svr-3\EmergencyManagement\2. Finances\2. SHSGP\2023\SGA\CSF_2023_SHSGP_SGA_Signed.pdf](#)

Thank you!

Kyle Morgan
Emergency Management Specialist
City of Santa Fe Office of Emergency Management
505-629-2539 (cell) / 505-955-6704 (desk)
klmorgan@santafenm.gov






CSF_OEM_ESRI_Sole_Source_V3

Final Audit Report

2024-01-26

Created:	2024-01-26
By:	Kyle Morgan (klmorgan@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA40BGQB6Ua3QV6SE51DpSGCIzaBS7SqrD

"CSF_OEM_ESRI_Sole_Source_V3" History

-  Document created by Kyle Morgan (klmorgan@ci.santa-fe.nm.us)
2024-01-26 - 10:36:18 PM GMT
-  Document emailed to Brian Williams (bgwilliams@ci.santa-fe.nm.us) for signature
2024-01-26 - 10:36:35 PM GMT
-  Email viewed by Brian Williams (bgwilliams@ci.santa-fe.nm.us)
2024-01-26 - 11:24:51 PM GMT
-  Document e-signed by Brian Williams (bgwilliams@ci.santa-fe.nm.us)
Signature Date: 2024-01-26 - 11:25:08 PM GMT - Time Source: server
-  Agreement completed.
2024-01-26 - 11:25:08 PM GMT




CSF_OEM_ESRI_Sole_Source_V3

Final Audit Report

2024-01-29

Created:	2024-01-29
By:	Kristy Miera (kamiera@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAxAAGbQg0kupviyj8LVhkr3mBg7lxFsKkg

"CSF_OEM_ESRI_Sole_Source_V3" History

-  Document created by Kristy Miera (kamiera@santafenm.gov)
2024-01-29 - 3:37:36 PM GMT
-  Document emailed to Travis Dutton-Leyda (tkduttonleyda@santafenm.gov) for signature
2024-01-29 - 3:44:00 PM GMT
-  Email viewed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
2024-01-29 - 4:10:09 PM GMT
-  Document e-signed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
Signature Date: 2024-01-29 - 6:58:29 PM GMT - Time Source: server
-  Agreement completed.
2024-01-29 - 6:58:29 PM GMT

From: GSD.SPInfo@state.nm.us
To: [MIERA, KRISTY A.](#)
Subject: Sole Source #40-M0087-24-CP018 - 30 Days
Date: Friday, March 1, 2024 12:01:10 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Your Sole Source #**40-M0087-24-CP018** notice of intent to award has been posted for 30 days **without protest.**

The status has been changed from "Pending" to "No Protest."

Passing the 30-day posting period does *not* mean your contractor can begin work. It *only* means the procurement method has been approved.

GSD/SPD State Purchasing Division

GSD.SPInfo@state.nm.us

\$ASSIGNEDNAMES\$

\$ASSIGNEDEMAIL\$



Advantage Program Agreement

Agreement No. 00331513.0

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

This Agreement sets forth the terms under which Esri provides the Advantage Program to the Customer. This Agreement does not apply to Software, Online Services, Data, or Maintenance, or to development Professional Services. The terms of use for these Esri Offerings are set forth in the applicable signed master agreement or, if the Customer has no such agreement, the terms of Esri's Master Agreement found at <https://www.esri.com/en-us/legal/terms/full-master-agreement>.

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

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

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

CITY OF SANTA FE

Office of Emergency Management

(Customer)

Legal Address: 200 Lincoln Ave Santa Fe NM 87501.

By: BRIAN WILLIAMS
BRIAN WILLIAMS (Jun 25, 2024 07:12 MDT)

Authorized Signature

Printed Name: Brian Williams _____

Title: Director, Emergency Management _____

Date: Jun 25, 2024 _____

ENVIRONMENTAL SYSTEMS RESEARCH
INSTITUTE, INC. (Esri)

380 New York Street, Redlands, CA 92373-8100

By: Stacy McEwan

Authorized Signature

Printed Name: Stacy McEwan _____

Title: Associate Director - PS Contracts _____

Date: Jun 3, 2024 _____

Customer Contact Information

Contact: Kyle Morgan _____

Telephone: 505-955-6704 _____

Address: 1600 Saint Michaels Dr _____

Fax: N/A _____

City, State, ZIP: Santa Fe, NM 87505 _____

Email: klmorgan@santafenm.gov

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

1.0 GENERAL GRANT OF RIGHTS AND RESTRICTIONS

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

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

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

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

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

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

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

2.0 OWNERSHIP OF DELIVERABLES. Esri and its licensors own and retain ownership of Deliverables.

2.1 System and Data Access. Each Activity Description will specify any requirement for Customer to give Esri personnel access to Customer's systems or data.

3.0 ESRI MANAGED CLOUD SERVICES

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

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

3.2 Provision of Esri Managed Cloud Services.

- a. **General Terms.** Use of Esri Managed Cloud Services is subject to the Cloud Services terms found in Attachment B of this Agreement.
- b. **Requirements Planning.** It is Customer's responsibility to plan for and address with Esri changes to Customer's requirements, such as the need for additional capacity, the update of an application or dataset, or increased level of system availability.

- c. **Compensation and Expenses.** Esri will invoice Customer for the one-time setup fee upon Activity Description. Thereafter, Esri deduct Learning and Service Credits monthly for the Esri Managed Cloud Services to be provided the following month. Customer is responsible for any shipping or temporary storage costs incurred during the delivery of Customer Content to Esri or removal of Customer Content from the Esri Managed Cloud Services Environment.
- d. **Risk of Loss.** Risk of loss for all Customer Content shall at all times remain with Customer, and it is Customer's sole responsibility to maintain regular backups of Customer Content. Risk of loss for the Esri Managed Cloud Services Environment shall at all times remain with Esri.
- e. **Personally Identifiable Information.** Prior to providing any Customer Content under this Agreement, Customer shall notify Esri if Customer Content includes personally identifiable information.
- f. **Public Software.** Customer may not use, and may not authorize its end users or contractors to combine or use any Esri Offerings with any software (including any underlying dependencies), documentation, or other material distributed under an open source or other similar licensing or distribution model that requires as a condition of such model that any component of the Esri Offering to be (1) disclosed or distributed in source code form, (2) made available free of charge to third parties, or (3) modifiable without restriction by third parties.
- g. **Monitoring.** Customer will provide information and other materials related to its Customer Content as reasonably requested by Esri or its Hosting partner to verify Esri's or Customer's compliance with this Agreement. Esri or its Hosting partner, as applicable, may browse, index, or otherwise monitor the external interfaces of any Customer Content solely for the purpose of verifying compliance with this Agreement.

4.0 TRAINING

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

- a. **"Customer-Supplied Training Data"** means any digital dataset(s) including, but not limited to, geographic vector data, coordinates, raster data reports, or associated tabular attributes supplied by Customer for use in training.
- b. **"Esri Academy LMS Integration Subscription"** means an optional term-limited subscription to Esri Academy enabling a specific number of unique Customer student(s) access to Self-Paced E-Learning through the customer's Learning Management System.
- c. **"Esri E-Learning Content (SCORM Format) License"** means an optional term-limited license that provides Esri customers with Esri's e-learning content in SCORM (Shareable Content Object Reference Model) format to import into their Learning Management System.
- d. **"Esri Mobile Lab"** means a service in which Esri will deliver and set up a training environment at the Customer's site for use in conjunction with scheduled Esri Training Events only. The Esri Mobile Lab will include certain hardware, software, power cords, and network switches necessary for the instructor to set up the environment.
- e. **"Esri Training Event(s)"** means an Esri site class, Esri instructor-led online class, a Customer site/private class, workshop, or coaching services.
- f. **"Esri Training Representative"** means Customer's primary Esri liaison in organizing private Esri Training Events.
- g. **"Student(s)"** means a Customer employee or agent who is a registered participant in a specific Esri Training Event or Training-related services. If Customer is an individual, then Student means Customer.
- h. **"Training Pass"** means a nonrefundable, nontransferable block of prepaid training days with a fixed price per day throughout the Term of the Training Pass.
- i. **"Esri Mobile Router"** means a service in which Esri will deliver and setup a mobile router at the Customer's site for use in conjunction with a scheduled Esri Training Event only. The mobile router provides high-speed wireless internet access needed to run the Esri Training Event.
- j. **"Learning Management System" or "LMS"** shall mean third-party software acquired separately by Customer that allows Customer to consume E-Learning Content (SCORM Format) for the purpose of re-serving it to the Customer's internal employees.

4.2 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.

4.3 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.

4.4 Customer's Responsibilities.

Customer will

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

4.5 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.

4.6 Compensation.

- a. Esri will deduct Customer Learning and Service Credits upon completion of the Esri Training Event or on purchase of a Training Pass.

4.7 Availability and General Provision of Wireless Service

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

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

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

5.0 ADVANTAGE PROGRAM

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

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

5.2 Advantage Program Description. The Advantage Program is provided on an order-by-order, annual subscription basis and provides strategy and planning support in addition to a menu of items including

Professional Services, Training, PSS, and Esri Managed Cloud Services that Customer can select to best meet its needs with guidance from Advisor. The Advantage Program may change from time to time. The Advantage Program includes the following:

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

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

(to be completed by Customer):

Contact Name: Kyle Morgan _____
Address: 1600 Saint Michaels Dr. Bldg. 2 _____
City, State, ZIP: Santa Fe, NM 87505 _____

Email: klmorgan@santafenm.gov _____
Telephone: 505-955-6704 _____
Fax: N/A _____

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

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

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

- a. **The Esri Managed Cloud Services Term.** The time period in which Esri provides the Esri Managed Cloud Services to Customer. The Esri Managed Cloud Services term does not begin until setup and deployment of the data and application are complete.
- b. **Targeted System Availability.** The minimum percentage of time that Customer has external access to the application and associated Customer Content through the Internet. Examples of supported levels of system availability are 95 percent, 99 percent, and 99.9 percent. Not all Esri Managed Cloud Services offerings include a Targeted System Availability.
- c. **Number of Anticipated Requests.** A The number of requests made by an end user through a client (e.g., desktop computer, web application, mobile device) and sent to a server(s) that is set up in the Esri Managed Cloud Services Environment by Esri and performs computational tasks on behalf of the end user. An example

of a common request used in a GIS is a map request. A map request is made every time a user pans, zooms, or queries a map service.

- d. **Amount of Data Storage.** The storage capacity required to retain digital data, which is to be used and consumed in Customer GIS applications or Cloud Services.
- e. **Learning and Services Credits Consumption.** The price for the Esri Managed Cloud Services in Learning and Services Credits.

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

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

5.8 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.

5.9 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.

5.10 Invoicing.

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

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

- a. Services will end as of the expiration or termination date stated, which is one year from the execution of the agreement; 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 Esri Managed Cloud Services.

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

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

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

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

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

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

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

"Esri Offering(s)" means Training or Professional Services directly to Customer, including 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, 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 Esri Managed Cloud Services, Training, or Professional Services directly to Customer, then Services also include Esri Managed Cloud Services, Training, and Professional Services.

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

"Specification(s)" means (i) the scope of work set forth in any Activity Description, or (iii) Esri's published course descriptions for Training.

"Subscription" means a license for use of an Esri Offering for a limited time period or a right to receive Services for a limited time period.

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

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

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

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

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

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

ATTACHMENT B GENERAL TERMS AND CONDITIONS

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

ARTICLE B.1—GENERAL USE RESTRICTIONS

Except as expressly permitted in this Agreement, Customer will not

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

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

ARTICLE B.2—TERM AND TERMINATION

B.2.1 Customer may terminate this Agreement or any Esri Offerings license or subscription at any time upon written notice to Esri, but in no event shall the Agreement exceed the time permitted by NMSA 1978, sec. 13-1-150. Termination without cause does not entitle Customer to receive any refund of fees paid. Any right to terminate pending Services engagements for convenience is set forth in the applicable section in the body of this Agreement. Either party may terminate this Agreement or any license or subscription for a material breach that is not cured within 30 days of written notice to the breaching party. Upon any termination of this Agreement for breach, Esri will stop providing Services. Any licenses in Esri Offerings that survive termination of this Agreement continue under the terms of this Agreement.

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

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

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

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

ARTICLE B.3—LIMITED WARRANTIES AND DISCLAIMERS

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

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

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

B.3.4 Disclaimers.

- a. **Internet Disclaimer.** Neither party will be liable for damages under any theory of law related to the performance or discontinuance of operation of the Internet or to regulation of the Internet that might restrict or prohibit the operation of Cloud Services.
- b. **Third-Party Websites; Third-Party Content.** Esri is not responsible for any third-party website or Third-Party Content that appears in or is referenced by Esri Offerings or Esri websites, including www.esri.com, developers.arcgis.com, livingatlas.arcgis.com and www.arcgis.com. Providing links to third-party websites and resources does not imply an endorsement, affiliation, or sponsorship of any kind.
- c. **Artificial Intelligence (AI)/Machine Learning (ML) Disclaimer.** As specified in the Documentation, certain Esri Offerings may integrate third-party AI/ML software libraries and third-party or Esri created pre-trained AI/ML models for various tasks including, but not limited to, object detection, image obfuscation, image classification, or text or speech recognition. Customer may use these capabilities at its option and such AI/ML capabilities are delivered "as is" and without warranty of any kind. In certain cases, the Esri Offering may provide Customers the ability to configure their own custom

AI/ML models to meet Customer's unique requirements, which except for the express warranties contained in this Agreement, shall be at Customer's own risk.

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

ARTICLE B.4—LIMITATION OF LIABILITY

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

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

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

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

ARTICLE B.5—INDEMNIFICATIONS

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

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

B.5.2 Infringement Indemnity.

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

specifications; or (iv) use of Esri Offerings or Services after Esri either provides a modified version to avoid infringement or terminates Customer's right to use the Esri Offerings or Services.

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

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

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

ARTICLE B.6—INSURANCE

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

- a. Commercial General Liability insurance shall be written on an occurrence basis and be as broad as ISO Form CG 00 01 with limits not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said Certificate of Insurance shall include broad form Contractual Liability coverage and name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.
- b. Workers' compensation insurance, with waiver of subrogation, in an amount that complies with statutory limits.

ARTICLE B.7—SECURITY AND COMPLIANCE

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

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

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

Customer Content that (i) has an Export Control Classification Number (ECCN) other than EAR99 or (ii) is controlled for export from the United States under ITAR. Customer will notify Esri in advance if Esri's performance of any Services or provision of any Esri Offerings is related to any defense article, defense service, or technical data, as defined under the ITAR Sections 120.31, 120.32, and 120.33, respectively; Esri will not perform any such Services or provide any such Esri Offerings until Esri obtains any necessary export license from the US government. Customer will reasonably assist Esri in applying for and obtaining an export license if needed.

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

ARTICLE B.8—CLOUD SERVICES

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

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

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

B.8.3 Customer Content.

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

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

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

B.8.5 Service Suspension. Esri may suspend access to Cloud Services (i) if Customer materially breaches this Agreement and fails to timely cure the breach; (ii) if Esri reasonably believes that Customer's use of Cloud

Services will subject Esri to immediate liability or adversely affect the integrity, functionality, or usability of the Cloud Services; (iii) for scheduled maintenance; (iv) to enjoin a threat or attack on Cloud Services; or (v) if Cloud Services become prohibited by law or regulated to a degree that continuing to provide them would impose a commercial hardship. When feasible, Esri will notify Customer of any Cloud Services suspension beforehand and give Customer reasonable opportunity to take remedial action.

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

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

ARTICLE B.9—GENERAL PROVISIONS

B.9.1 Payment. Customer will pay each correct invoice no later than 30 days after receipt and will remit payment to the address stated on the invoice. Customers outside the United States will pay the authorized distributor's invoices in accordance with the authorized distributor's payment terms.

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

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

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

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

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

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

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

B.9.9 Successor and Assigns. Customer will not assign, sublicense, or transfer Customer's rights or delegate Customer's obligations under this Agreement without Esri's and its authorized distributor's prior written consent, and any attempt to do so without consent will be void. This Agreement will be binding on the respective

successors and assigns of the parties to this Agreement. Notwithstanding, a contractor under contract to the government to deliver Products may assign this Agreement and Products acquired for delivery to its government customer upon written notice to Esri, provided the government customer assents to the terms of this Agreement. Upon mutual agreement, Esri's Affiliates may provide Services under the terms of this Agreement; in such cases, the Ordering Documents will identify the Affiliate as the party that provides the Services. Esri's authorized distributors are not Affiliates of Esri.

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

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

B.9.12 Governing Law. This Agreement is not subject to the United Nations Convention on Contracts for the International Sale of Goods.

- a. **Government Entities.** The applicable laws of Customer's jurisdiction govern this Agreement ESRI shall abide by all applicable federal and state laws and regulations. In any action, suit or legal dispute arising from this Agreement, ESRI agrees that the laws of the State of New Mexico shall govern. Venue shall be in the state of the plaintiff, but the defending party does not waive its rights to contest venue.
- b.

B.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.

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

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

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

Environmental Systems Research Institute, Inc.

Attn.: Contracts and Legal Department

380 New York Street

Redlands, CA 92373-8100

USA

Tel.: 909-793-2853

Email: LegalNotices@esri.com

City of Santa Fe ADDENDUM

This agreement incorporates the additional terms and conditions in the addendum between Environmental Systems Research Institute, Inc. (“Esri”) (Contractor) and the CITY OF SANTA FE (City).

NEW MEXICO TORT CLAIMS ACT

Any liability incurred by CITY in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. CITY and its “public employees” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by CITY for the performance of this Agreement. If sufficient appropriations and authorization are not made by CITY, this Agreement shall terminate upon written notice being given by CITY to CONTRACTOR in accordance with **Article B.2—Term and Termination** of the Agreement. The CITY’s decision as to whether sufficient appropriations are available shall be accepted by CONTRACTOR and shall be final.

Signature Lines required:

City of Santa Fe:

John Blair
John Blair (Jun 21, 2024 11:07 CDT)

John Blair, City Manager

Date: Jun 21, 2024

CONTRACTOR:

Environmental Systems Research Institute, Inc.

Stacy McEwan

Stacy McEwan, Associate Director, Professional Services Contracts

Date: Jun 3, 2024

Attest:

[Signature]
Geraldyn Cardenas, Interim City Clerk

City Attorney’s Office: ^{xiv}
Marcos Martinez
Marcos Martinez (Jun 3, 2024 13:52 MDT)
Senior Assistant City Attorney

Approved for Finances:
Emily K. Oster
Emily Oster, Finance Director





Sole Source #40-M0087-24-CP018 - 30 Days - Final

Final Audit Report

2024-03-04

Created:	2024-03-04
By:	Kristy Miera (kamiera@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAnXd-O8MHleMT1wed4F2nE-d6wQM_Mj5f

"Sole Source #40-M0087-24-CP018 - 30 Days - Final" History

-  Document created by Kristy Miera (kamiera@santafenm.gov)
2024-03-04 - 4:00:43 PM GMT
-  Document emailed to Travis Dutton-Leyda (tkduttonleyda@santafenm.gov) for signature
2024-03-04 - 4:01:58 PM GMT
-  Email viewed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
2024-03-04 - 4:44:25 PM GMT
-  Document e-signed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
Signature Date: 2024-03-04 - 4:44:44 PM GMT - Time Source: server
-  Agreement completed.
2024-03-04 - 4:44:44 PM GMT



City of Santa Fe

Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: ENVIRONMENTAL SYSTEMS
RESEARCH INSTITUTE INC
DBA: ENVIRONMENTAL SYSTEMS
RESEARCH INSTITUTE INC

Business Location: PO BOX 7661
REDLANDS, CA 92373

Owner: JACK DANGEMOND

License Number: 222760

Issued Date: March 15, 2024

Expiration Date: March 15, 2025

CRS Number: 02-087119-008

License Type: Business License - Renewable

Classification: Out of Jurisdiction Business License

Fees Paid: \$10.00

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE
PO BOX 7661
REDLANDS , CA 92373

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT.
APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY
OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO
COMMENCEMENT OF ANY CONSTRUCTION OR THE
INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERABLE TO
OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE



Our Members' Services

Workers with disabilities have their rightful place as members of the labor force. In fact, many employers find they prefer Horizons of New Mexico-trained personnel for their dependability and positive attitude.

Horizons of New Mexico is proud of its workers who receive training in a wide variety of service careers, going on to perform their specialties for clients throughout the state with great success. Please call us to discuss existing or new services you might require.

Services Providers

If you do not see a service listed below that you are interested in providing, please contact Horizons of New Mexico to discuss its possible addition.

Approved

These services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities and are available through Horizons of New Mexico.

Please note that the Council is in the process of reviewing and adding services that are suitable for State Use and services may be added or removed from this list in the future.

- ADA Accessibility Consulting Services
- Auctioneering Services
- Bulk Mailing and Sorting
- Botanical Services
- Call Center Services
- Car Washing
- Clerical Data Entry
- Computer Refurbishing

A- A+ Reset Read This to Me



- Document Imaging
- Document Shredding
- Envelope Stuffing
- Event Planning
- General Labor
- Greeting Services
- Hard Drive Destruction
- Janitorial and Housekeeping Services - Including COVID-19 Disinfecting and other Disinfecting Services
- Kit Assembly
- Landscape Irrigation
- Landscaping
- Lobby Attendant
- Mailing Services
- Management of an Assistive Technology Reuse and Recycling Program
- Medical Waste Disposal
- Meeting Minute Preparation Services
- Moving Services
- Pest Control and Extermination Services
- Plant Rental Services
- Printing Services
- Receptionist, Filing and Clerical Services
- Recycling Services
- Rest Area Maintenance
- Screen Printing
- Shelf Stocking and Restocking
- Snow Removal
- Transcription Services
- Transportation
- Wildlife Services Management
- Yard, Grounds, and Lawn Maintenance

Excluded

A- A+ Reset Read This to Me



- Landscape Architects
- Lawyer Services
- Remediation – Wall Repair
- Survey Services
- Surveyors

Permissive

The services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities as permissible for sale under the State Use Act through Horizons of New Mexico. While the Council recognizes that certain Horizons of New Mexico members are capable of performing the services listed below, said services are considered permissive and excluded from the mandatory aspect of the State Use Program. Any procurement of the below services through Horizons of New Mexico is at the discretion of the purchasing agent and will be considered by the Council on a case-by-case basis.

- Administrative Reports
- Archeologists
- Certified Public Accountants
- Corporate and Personal Background Checks
- General Accounting
- Graphic Design
- Graphic Design - Logo Design
- IT – Enterprise Application
- IT – IV & V
- IT Network and Database Management
- IT – Project Management
- IT Security Services
- IT Support
- IT – Web Design
- IT – Web Programmer
- Marketing
- Private Investigation Services
- Public Relations
- Training Services



Albuquerque, NM 87110
 P: (505) 345-1540
 E: (505) 345-2303
 Send all procurements to:
 Matt Loezman:
mloehman@horizonsofnewmexico.org

[View Our Council Member List](#)

Important Tax Info

Horizons NM ID Numbers

Federal ID: 74-1976051
 Vendor #0000099739
 Tax ID: 03-143403-00-7

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- [Member Services](#)
- [Documents & Forms](#)
- [About Us](#)
- [News & Events](#)
- [Council Meetings and Information](#)
- [Contact](#)

From: [DUTTON-LEYDA, TRAVIS K.](#)
To: [MORGAN, KYLE L.](#)
Cc: [WILLIAMS, BRIAN G.](#); [Purchasing DET](#)
Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)
Date: Wednesday, February 14, 2024 10:47:30 PM
Attachments: [image001.png](#)
[image002.png](#)

Greetings,

The scope of work as written would be Professional Services. This determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, the Procurement Manual, and state statutes.

Please note:

- Save this email as a PDF and upload it into the corresponding Munis records.
- Check with WorkQuest dba Horizons of New Mexico (mloehman@horizonsofnewmexico.org) if this service appears on their approved list.
- If any of your request include anything that needs to be reviewed and preapproved by another city Department/Division, please send your SOW to the corresponding email address, and provide their response to this office when you submit your procurement request for processing.
 - IT components - ereview@santafenm.gov
 - Vehicles – dmjaramillo@santafenm.gov
 - Grants - cajames@santafenm.gov
 - Facilities, Furniture, Fixture, Equipment - jsburnett@santafenm.gov
- Ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented [procedures/laws/rules](#) are followed. _
- > \$20k per year, when processing this procurement, please ensure the procurement number issued by Munis and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is => \$60k, per NMSA 1978, Section 13-1-102, if you aren't using a cooperative or existing contract, you must process an RFP.
- < \$20k per year, one quote is acceptable.
- From \$20k to \$60k per year, if you aren't using a cooperative or existing contract, you'll need to provide 3 quotes in your req. Must use the Munis Bid Module after 12/21/2023.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper

documents and language are used, it is important to identify the funding source for the subsequent contract. For instance, if federal funds are involved, the procurement request and subsequent contract must include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.

- Review the pages linked below to determine whether any of the existing price agreements/contracts or cooperative agreements are applicable to this request. You might be able to use an existing price agreement/contract to save time and money.
 - <https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/> (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
 - <https://naspo.valuepoint.org/categories/>
 - <https://www.omniapartners.com/publicsector/contracts>
 - <https://www.buyboard.com/home.aspx>
 - <https://www.h-gac.com/Home>
 - <https://www.gsaelibrary.gsa.gov/>
 - <https://www.sourcewell-mn.gov/contract-search>

- Submit or send your request to the appropriate MS Teams channel or email address:
 - RFPs requests to <https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f>
 - ITBs requests to <https://teams.microsoft.com/l/channel/19%3a48e1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f>
 - Determination requests to purchasing_det@santafenm.gov
 - And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

<https://santafenm.gov/finance-2/purchasing-1>

Vision without action is merely a dream.
Action without vision passes the time.
Vision with action can change the world. ~ Joel A. Barker

From: MORGAN, KYLE L. <klmorgan@santafenm.gov>
Sent: Wednesday, February 14, 2024 8:12 AM
To: Purchasing <purchasing@santafenm.gov>
Cc: WILLIAMS, BRIAN G. <bgwilliams@santafenm.gov>
Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Good morning,

The sole source posting for this contract has been up for 14 days with no disputes, as such I'd like to get started on the contract so it's ready to go at the end of the month. Could you confirm whether this would be for a general service or a professional service so I can be sure to use the right contract template? Fairly certain it's a professional service in this case.

Thank you,

Kyle Morgan
Emergency Management Specialist
City of Santa Fe Office of Emergency Management
505-629-2539 (cell) / 505-955-6704 (desk)
klmorgan@santafenm.gov

From: MORGAN, KYLE L.
Sent: Tuesday, January 30, 2024 1:31 PM
To: Purchasing <purchasing@santafenm.gov>
Cc: DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>; WILLIAMS, BRIAN G. <bgwilliams@santafenm.gov>
Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Good afternoon,

Can I please get a determination on whether this project will be a General Services or Professional Services agreement? This is for a 1 year contract with a software company for specialized ITT contracting. This is not the purchase of the software itself, the city already maintains an citywide enterprise account with ESRI.

Thank you,

Kyle Morgan
Emergency Management Specialist
City of Santa Fe Office of Emergency Management
505-629-2539 (cell) / 505-955-6704 (desk)
klmorgan@santafenm.gov

From: ITT E-Review <ereview@santafenm.gov>
Sent: Friday, January 12, 2024 11:00 AM
To: PADILLA, LEONARD P. <lppadilla@santafenm.gov>; ITT E-Review <ereview@santafenm.gov>; MORGAN, KYLE L. <klmorgan@santafenm.gov>; LOVATO, JOANN D. <jdlovato@santafenm.gov>; Purchasing <purchasing@santafenm.gov>
Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Thank you!

Bernadette Jaramillo
Project Manager, Information Technology & Telecommunications
Mouton Hall, Midtown
Cell – 505-629-6082
Office: 955-5514
bmjaramillo@santafenm.gov



From: PADILLA, LEONARD P. <lppadilla@santafenm.gov>
Sent: Friday, January 12, 2024 10:40 AM
To: ITT E-Review <ereview@santafenm.gov>; MORGAN, KYLE L. <klmorgan@santafenm.gov>; LOVATO, JOANN D. <jdlovato@santafenm.gov>; Purchasing <purchasing@santafenm.gov>
Subject: Re: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

We are good/ok with things at our end in the GIS office, Kyle is good with moving forward

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From: ITT E-Review <ereview@santafenm.gov>
Sent: Friday, January 12, 2024 10:29:53 AM
To: MORGAN, KYLE L. <klmorgan@santafenm.gov>; LOVATO, JOANN D. <jdlovato@santafenm.gov>; Purchasing <purchasing@santafenm.gov>; ITT E-Review <ereview@santafenm.gov>
Cc: PADILLA, LEONARD P. <lppadilla@santafenm.gov>

Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Good morning, Kyle,

I'll wait for Leonard's response; please send your contract for review when it's completed. If you have any questions, feel free to reach out.

Thanks,

Bernadette

Bernadette Jaramillo

Project Manager, Information Technology & Telecommunications

Mouton Hall, Midtown

Cell – 505-629-6082

Office: 955-5514

bmjaramillo@santafenm.gov



From: MORGAN, KYLE L. <klmorgan@santafenm.gov>

Sent: Friday, January 12, 2024 9:37 AM

To: LOVATO, JOANN D. <jdllovato@santafenm.gov>; Purchasing <purchasing@santafenm.gov>; ITT E-Review <ereview@santafenm.gov>

Cc: PADILLA, LEONARD P. <lppadilla@santafenm.gov>

Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Thanks Joann! I'll work on getting a contract approved ASAP.

ITT/Leonard, please advise if there's anything specific I need to do for you all as part of the contract development process.

Kyle Morgan

Emergency Management Specialist

City of Santa Fe Office of Emergency Management

505-629-2539 (cell) / 505-955-6704 (desk)

klmorgan@santafenm.gov

From: LOVATO, JOANN D. <jdllovato@santafenm.gov>

Sent: Friday, January 12, 2024 9:28 AM

To: MORGAN, KYLE L. <klmorgan@santafenm.gov>; Purchasing <purchasing@santafenm.gov>; ITT E-Review <ereview@santafenm.gov>

Cc: PADILLA, LEONARD P. <lppadilla@santafenm.gov>

Subject: RE: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Hi Kyle,

You can utilize a valid/current SWPA as your procurement method. Since you're using that SWPA, you will not need to get additional quotes. State Purchasing already went through the solicitation process and awarded the vendor(s) so they did all the leg work for you! As long as the SWPA covers your needs, whether it be goods or services and it is current, you can use it as your procurement avenue. You will need to get a contract in place before the SWPA expires however.

Thank you.

JoAnn D. Lovato Montaña, CPO

Contracts Supervisor

c: (505) 469-6045



From: MORGAN, KYLE L. <klmorgan@santafenm.gov>

Sent: Friday, January 12, 2024 9:01 AM

To: Purchasing <purchasing@santafenm.gov>; ITT E-Review <ereview@santafenm.gov>

Cc: PADILLA, LEONARD P. <lppadilla@santafenm.gov>

Subject: Pre-procurement determination (ESRI Advantage Program for Office of Emergency Management)

Good morning,

OEM received a grant from FEMA that will fund the deployment of some customized GIS solutions utilizing the city's existing enterprise ArcGIS/ESRI account. The purchase would be for services included in the "Advantage program" which ESRI does offer through the NM State Price Agreement (see attached... FYI it's 500 pages long). However, the current iteration of this agreement expires in February 2024. I assume it will be updated going forward to 2026 as many local and state agencies are utilizing ESRI products in a variety of ways.

Since this includes ITT components, I'm CCing the e-review team for situational awareness.

Questions:

1. Our quote from ESRI is for sub-\$60K before taxes, but over \$60K after taxes. In the past we have been able to gather quotes rather than going to ITB, but please confirm that is still the

case currently.

2. Since this is covered by SPA, please confirm that we can utilize that as our procurement method as far as City procurement is concerned.
 - a. If we execute a contract before the end of February, please confirm that we are able to utilize the current SPA agreement.

Please advise on any other points you think I need to know as we move forward with this.

Kyle Morgan
Emergency Management Specialist
City of Santa Fe Office of Emergency Management
505-629-2539 (cell) / 505-955-6704 (desk)
klmorgan@santafenm.gov

ESRI_Vendor_Packet


Final Audit Report


2024-06-21


Created:	2024-06-12
By:	Kristy Miera (kamiera@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAADMYQqW1b3f-GfIMBCFj3L9lv9G9R_7ZJ


"ESRI_Vendor_Packet" History


-  Document created by Kristy Miera (kamiera@santafenm.gov)
2024-06-12 - 10:27:09 PM GMT- IP address: 216.147.121.140
-  Document emailed to ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature
2024-06-12 - 10:34:44 PM GMT
-  Email viewed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
2024-06-12 - 10:38:39 PM GMT- IP address: 104.47.65.254
-  Document e-signed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
Signature Date: 2024-06-12 - 10:40:02 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to M.Bonifer (mtbonifer@santafenm.gov) for signature
2024-06-12 - 10:40:06 PM GMT
-  Email viewed by M.Bonifer (mtbonifer@santafenm.gov)
2024-06-17 - 6:18:31 PM GMT- IP address: 104.47.64.254
-  Document e-signed by M.Bonifer (mtbonifer@santafenm.gov)
Signature Date: 2024-06-17 - 6:20:14 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document sent to JoAnn Lovato (jdlovato@santafenm.gov) and Travis Dutton-Leyda (tkduttonleyda@santafenm.gov) for signature. One of them to sign
2024-06-17 - 6:20:19 PM GMT
-  Email viewed by JoAnn Lovato (jdlovato@santafenm.gov)
2024-06-17 - 6:52:55 PM GMT- IP address: 73.26.90.12
-  Document e-signed by JoAnn Lovato (jdlovato@santafenm.gov)
Signature Date: 2024-06-17 - 6:56:37 PM GMT - Time Source: server- IP address: 73.26.90.12


 Document emailed to EMILY OSTER (ekoster@santafenm.gov) for signature
2024-06-17 - 6:56:42 PM GMT


 Email viewed by EMILY OSTER (ekoster@santafenm.gov)
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 Document e-signed by EMILY OSTER (ekoster@santafenm.gov)
Signature Date: 2024-06-20 - 6:59:00 PM GMT - Time Source: server- IP address: 63.232.20.2

 Document emailed to jwblair@santafenm.gov for signature
2024-06-20 - 6:59:08 PM GMT

 Email viewed by jwblair@santafenm.gov
2024-06-20 - 9:57:52 PM GMT- IP address: 166.137.83.15

 Signer jwblair@santafenm.gov entered name at signing as John Blair
2024-06-21 - 4:07:34 PM GMT- IP address: 74.85.99.28

 Document e-signed by John Blair (jwblair@santafenm.gov)
Signature Date: 2024-06-21 - 4:07:36 PM GMT - Time Source: server- IP address: 74.85.99.28

 Agreement completed.
2024-06-21 - 4:07:36 PM GMT






ESRI_Vendor_Packet (1)

Final Audit Report

2024-06-25

Created:	2024-06-24
By:	KYLE MORGAN (klmorgan@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAjZF-SgkCxurnjcUwfTIPcHFiu_bWAbKA

"ESRI_Vendor_Packet (1)" History

-  Document created by KYLE MORGAN (klmorgan@santafenm.gov)
2024-06-24 - 8:41:59 PM GMT- IP address: 63.232.20.2
-  Document emailed to BRIAN WILLIAMS (bgwilliams@santafenm.gov) for signature
2024-06-24 - 8:44:55 PM GMT
-  Email viewed by BRIAN WILLIAMS (bgwilliams@santafenm.gov)
2024-06-24 - 10:35:45 PM GMT- IP address: 174.240.18.178
-  Document e-signed by BRIAN WILLIAMS (bgwilliams@santafenm.gov)
Signature Date: 2024-06-25 - 1:12:13 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2024-06-25 - 1:12:13 PM GMT

Signature: 
XAVIER VIGIL (Jun 25, 2024 08:59 MDT)

Email: xivigil@santafenm.gov










24-0409 Environmental Systems Research Institute, Inc.

Final Audit Report

2024-06-25

Created:	2024-06-25
By:	XAVIER VIGIL (xivigil@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAARmiC8DTESYM0x-3v1RIPCK4yhDf3N9Le

"24-0409 Environmental Systems Research Institute, Inc." History

-  Document created by XAVIER VIGIL (xivigil@santafenm.gov)
2024-06-25 - 2:55:10 PM GMT- IP address: 63.232.20.2
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Signature Date: 2024-06-25 - 2:59:37 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to GERALYN CARDENAS (gfcardenas@santafenm.gov) for signature
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2024-06-25 - 5:26:11 PM GMT- IP address: 104.47.64.254
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