

**CITY OF LAKE WORTH BEACH STANDARD ADDENDUM TO
SMALL ENTERPRISE AGREEMENT (COUNTY AND MUNICIPALITY
GOVERNMENT) No. 00334691.0
(GIS Software - ESRI)**

THIS ADDENDUM ("Addendum") is made as of the ____ day of _____, 2024, by and between the **City of Lake Worth Beach**, a Florida municipal corporation ("City") and **Environmental Systems Research Institute, Inc.**, a corporation registered to do business in the State of Florida ("ESRI").

WHEREAS, the City is in need of certain GIS software; and

WHEREAS, ESRI is a provider of the desired GIS software and submitted a quotation and Small Enterprise Agreement (County and Municipality Government) No. 00334691.0 (collectively the "ESRI Agreement") for the desired software; and

WHEREAS, the City and ESRI desire to enter this Addendum for the provision of the GIS software and related services consistent with the ESRI Agreement and this Addendum; and,

WHEREAS, the City finds the acceptance and execution of the ESRI Agreement and this Addendum serves a valid public purpose.

NOW THEREFORE, in consideration of the mutual promises contained within the ESRI Agreement and in this Addendum, (with this Addendum and the ESRI Agreement hereafter referred to as the "Contract Documents"), the City and ESRI agree as follows:

SECTION 1 -- RECITALS AND SOVEREIGN IMMUNITY

1.1 The foregoing recitals are incorporated into this Addendum as true and correct statements and made apart hereof.

1.2 Nothing in the Contract Documents shall be construed as a waiver of the City's right to sovereign immunity nor as consent to be sued by a third party.

SECTION 2 – ENFORCEMENT COSTS; JURY TRIAL WAIVER; AND THE LAW

2.1 If any legal action or other proceeding is brought for the enforcement of the Contract Documents, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of the Contract Documents, the parties agree that each party shall be responsible for its own attorney's fees. **Each party also agrees to waive any and all rights to a trial by jury for any and all disputes or claims which may be related to or arise out of the Contract Documents.**

2.2 The validity of the Contract Documents and of any terms or provisions, as well as the rights and duties of the parties under the Contract Documents, shall be governed by the laws of the State of Florida.

SECTION 3 - AUTHORITY TO PRACTICE

3.1 ESRI confirms that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner and in conformance with all applicable laws. Proof of such licenses and approvals shall be submitted to the City upon request.

SECTION 4 - PUBLIC ENTITY CRIMES, SCRUTINIZED COMPANIES, E-VERIFY AND HUMAN TRAFFICKING

4.1 As provided in Sections 287.132-133, Florida Statutes, as amended from time to time, by entering into the Contract Documents, ESRI certifies that it has not been placed on the convicted contractor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.

4.2 As provided in Section 287.135, Florida Statutes, as amended from time to time, by entering into the Contract Documents, ESRI certifies that it is not participating in a boycott of Israel. The City and ESRI agree that the City will have the right to terminate the Contract Documents if ESRI is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

4.3 ESRI shall comply with the E-Verify requirements of section 448.095, Florida Statutes, to the extent applicable.

4.4 By signing this Agreement as set forth below, ESRI's authorized representative attests that ESRI does not use coercion for labor or services as defined in section 787.06, Florida Statutes.

SECTION 5 - ENTIRETY OF CONTRACTUAL AGREEMENT

5.1 The City and ESRI agree that the ESRI Agreement and this Addendum are the only Contract Documents set forth the entire contract between the parties, and that there are no promises or understandings other than those stated in the Contract Documents. No other terms and conditions not stated in the ESRI Agreement and this Addendum shall apply to the parties. None of the provisions, terms and conditions contained in the Contract Documents may be added to, modified, superseded or otherwise altered by ESRI, except by written instrument executed by both parties hereto.

SECTION 6 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS

6.1 Wherever possible, the provisions of the Contract Documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

SECTION 7 - PUBLIC RECORDS LAW

7.1 Public Records: ESRI shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes (the "Public Records Act"), and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- a. Keep and maintain public records required by the City to perform the services.
- b. Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract Documents following completion of the Contract Documents if the ESRI does not transfer the records to the City.
- d. Upon completion of the Contract Documents, transfer, at no cost, to the City all public records in possession of ESRI or keep and maintain public records required by the City to perform

the service. If ESRI transfers all public records to the City upon completion of the Contract Documents, ESRI shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If ESRI keeps and maintains public records upon completion of the Contract Documents, ESRI shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF ESRI HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ESRI'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT DOCUMENTS, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF LAKE WORTH BEACH, ATTN: CITY CLERK AT (561) 586-1662, CITYCLERK@LAKEWORTHBEACH.GOV, 7 N. DIXIE HWY., LAKE WORTH BEACH, FL 33460.

SECTION 8 – EXECUTION, EFFECTIVENESS, AND SURVIVAL

8.1 The Contract Documents may be executed in counterparts, each of which shall be an original, but all of each such Contract Documents shall constitute one and the same document. The parties agree to accept the execution and delivery of the Contract Documents by electronic means (e.g., email, fax, etc.) and shall treat the same as an original.

8.2 The Contract Documents shall become effective upon the City's City Commission's approval and execution of the same.

8.3 Any provision of the Contract Documents which is of a continuing nature or imposes an obligation which extends beyond the term of the Contract Documents shall survive its expiration or earlier termination.

SECTION 9 - PREPARATION AND NON-EXCLUSIVE.

9.1 This Addendum shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive contractual arrangement between the City and ESRI. The City reserves the right to contract with individuals or firms to provide the same or similar services.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum (GIS Software - ESRI) to be executed as of the day and year set forth above.

CITY OF LAKE WORTH BEACH

ATTEST:

By: _____
Melissa Coyne, City Clerk

By: _____
Betty Resch, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director



ENVIRONMENTAL SYSTEMS
RESEARCH INSTITUTE, INC.

By: _____
Tamisa Greening

Print Name: Tamisa Greening

Print Position: Director, Contracts & Legal

[CORPORATE SEAL]

STATE OF _____)
COUNTY OF _____)

THE FOREGOING instrument was acknowledged before me by means of physical presence or online notarization on this ____ day of _____ 2024, by _____, as the _____ [title] of ESRI, who is personally known to me or who has produced _____ as identification, and who did take an oath that the facts stated with regard to section 787.09, Florida Statutes, are true and correct, and he or she is duly authorized to execute the foregoing instrument and bind ESRI to the same.

See attached, per CA State Law.

Notary Public Signature
Notary Seal:

CALIFORNIA ACKNOWLEDGMENT

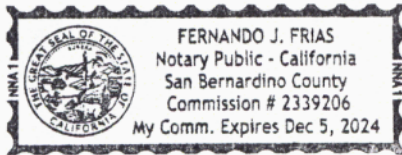
CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Bernardino }

On October 17, 2024 before me, Fernando J. Frias, Notary Public,
Date Here Insert Name and Title of the Officer
personally appeared Tamisa Greening
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature Fernando J. Frias
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

Esri Use Only:
 Cust. Name City of Lake Worth Beach, FL
 Cust. # 14515
 PO # _____
 Esri Agreement # 00334691.0



**SMALL ENTERPRISE AGREEMENT
 COUNTY AND MUNICIPALITY GOVERNMENT
 (E214-2)**

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

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

**Table A
 List of Products**

Uncapped Quantities

Desktop Software and Extensions (Single Use)

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

Enterprise Software and Extensions

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

Enterprise Additional Capability Servers

ArcGIS Image Server

Developer Tools

ArcGIS Runtime Standard
 ArcGIS Runtime Analysis Extension

Limited Quantities

One (1) Professional subscription to ArcGIS Developer
 Two (2) ArcGIS CityEngine Single Use Licenses
 100 ArcGIS Online Viewers
 100 ArcGIS Online Creators
 17,500 ArcGIS Online Service Credits
 100 ArcGIS Enterprise Creators
 3 ArcGIS Insights in ArcGIS Enterprise
 3 ArcGIS Insights in ArcGIS Online
 10 ArcGIS Location Sharing User Type Extension (Enterprise)
 10 ArcGIS Location Sharing User Type Extension (Online)
 9 ArcGIS Advanced Editing User Type Extension (Enterprise)

OTHER BENEFITS

Number of Esri User Conference registrations provided annually	3
Number of Tier 1 Help Desk individuals authorized to call Esri	3
Maximum number of sets of backup media, if requested*	2
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement	

*Additional sets of backup media may be purchased for a fee

Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("**Ordering Document**"). **ADDITIONAL OR CONFLICTING TERMS IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN.** This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("**Effective Date**").

Term of Agreement: Three (3) years

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

Accepted and Agreed:

City of Lake Worth Beach
(Customer)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

CUSTOMER CONTACT INFORMATION

Contact: _____

Telephone: _____

Address: _____

Fax: _____

City, State, Postal Code: _____

E-mail: _____

Country: _____

Quotation Number (if applicable): Q-528026

1.0—ADDITIONAL DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

2.0—ADDITIONAL GRANT OF LICENSE

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

2.2 Consultant Access. Esri grants Customer the right to permit Customer's consultants or contractors to use the Products exclusively for Customer's benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of Products by consultants or contractors not exclusively for Customer's benefit is prohibited. Customer may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor servers for the benefit of Customer.

3.0—TERM, TERMINATION, AND EXPIRATION

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

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

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

3.4 Termination for Lack of Funds. For an Agreement with government or government-

owned entities, either party may terminate this Agreement before any subsequent year if Customer is unable to secure funding through the legislative or governing body's approval process.

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

4.0—PRODUCT UPDATES

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

4.2 Product Life Cycle. During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at <https://support.esri.com/en/other-resources/product-life-cycle>. Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Customer will not be able to Deploy retired Products.

5.0—MAINTENANCE

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at <https://www.esri.com/en-us/legal/terms/maintenance>). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other

than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

a. Tier 1 Support

1. Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer's authorized users.
2. The Tier 1 Help Desk will be fully trained in the Products.
3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
4. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.
5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer's organization.
6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.
2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.
3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to

supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.

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

6.0—ENDORSEMENT AND PUBLICITY

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

7.0—ADMINISTRATIVE REQUIREMENTS

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

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

8.0—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

8.1 Orders, Delivery, and Deployment

- a. Upon the Effective Date, Esri will invoice Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Customer to download,

operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee up to thirty (30) calendar days before the annual anniversary date for each year.

- b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri reserves the right to suspend Customer's access to and use of Products if Customer fails to pay any undisputed amount owed on or before its due date. Esri may charge Customer interest at a monthly rate equal to the lesser of one percent (1.0%) per month or the maximum rate permitted by applicable law on any overdue fees plus all expenses of collection for any overdue balance that remains unpaid ten (10) days after Esri has notified Customer of the past-due balance.
 - c. Esri's federal ID number is 95-2775-732.
 - d. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Customer will pay any such sales or use tax associated with the receipt of tangible media.
- 8.2 Order Requirements.** Esri does not require Customer to issue a purchase order. Customer may submit a purchase order in accordance with its own process requirements, provided that if Customer issues a purchase order, Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.
- a. All orders pertaining to this Agreement will be processed through Customer's centralized point of contact.
 - b. The following information will be included in each Ordering Document:
 - (1) Customer name; Esri customer number, if known; and bill-to and ship-to addresses
 - (2) Order number
 - (3) Applicable annual payment due

9.0—MERGERS, ACQUISITIONS, OR DIVESTITURES

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

- 9.1** If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.
- 9.2** If an Ownership Change results in transfer or sale of a portion of Customer's organization, that portion of Customer's organization will transfer the Products to Customer or uninstall, remove, and destroy all copies of the Products.
- 9.3** This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.

10.0—ADDENDUM

See below.