



ENTERPRISE LICENSE AGREEMENT
(E119G 2/07)

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

Agreement No. 2007ELA5055

This Enterprise License Agreement including the documents listed below (collectively, "Agreement" or "ELA") is between the City of Redlands ("City") and Environmental Systems Research Institute, Inc. ("ESRI") and is effective March 4, 2008 ("Effective Date"). This Agreement entitles City to license ESRI Software, Data, Web Services, and Documentation, and procure maintenance, over a limited, fixed period of time from the Effective Date subject to a payment of fees and the terms of this Agreement as specified herein.

This Agreement is comprised of the following documents which are incorporated herein by reference:

1. Enterprise License Agreement signature page(s), E119G
2. Enterprise License Terms and Conditions, E512, including:
 - Appendix A A, Software and Deployment Schedule
 - Appendix B, Enterprise License Fee Schedule
 - Appendix C, City Annual Deployment Report
 - Appendix D, ELA Points of Contact
 - Appendix E, Tier 1 Help Desk Authorized Individuals
 - [Optional] Appendix E, Eligible Agencies
3. License Agreement—Agreement No. 2007MLA5055
 - General License Terms and Conditions, E200
 - ESRI Exhibit 1, Scope of Use, E300

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

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

ACCEPTED AND AGREED:

CITY OF REDLANDS
(City)

By: Pat Gilbreath
Authorized Signature

Printed Name: Pat Gilbreath

Title: Mayor Pro Tem

Date: March 4, 2008

Attest: Lorrie Poyzer
Lorrie Poyzer, City Clerk

Contact: Chief Information Officer

Address: 35 Cajon Street, Ste 200
(PO BOX 3005 is mailing)

City, State, ZIP: Redlands CA 92373

ENVIRONMENTAL SYSTEMS
RESEARCH INSTITUTE, INC.
(ESRI)

By: Laura Dangermond
Authorized Signature

Printed Name: LAURA DANGERMOND
VICE PRESIDENT

Title: _____

Date: FEB 26 2008

City Contact Information

Telephone: (909) 798-7510

Fax: (909) 798-7503

E-mail: jmccconnell@cityofredlands.org

**ARTICLE 1—DEFINITIONS**

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

- "Deploy" or "Deployment" means to redistribute or the redistribution of the Enterprise License Software by City to a Licensee's hardware.
- "ELA Maintenance" means Tier 2 Technical Support, updates, and patches to the Enterprise License Software and Rolled-In Software provided by ESRI.
- "Eligible Agencies" means all City agencies and the Redevelopment Agency of the City of Redlands.
- "ELA Fee" means the fee set forth in Appendix B.
- "Enterprise License Software" means the Software, Data, Web Services, and Documentation identified in Appendix A.
- "Incident" means a failure of the Software to operate according to the Documentation where such failure substantially impacts operational or functional performance.
- "License Agreement" means the General License Terms and Conditions (E200) and Exhibit 1, Scope of Use (E300).
- "Licensee" means City and Eligible Agencies, inclusive of their internal end users.
- "Rolled-In Software" means Software, Data, Web Services, and Documentation licenses identified in Appendix A that Licensee acquired for use prior to the Effective Date.
- "Technical Support" means a process to attempt to resolve reported Incidents through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Software, Data, or Documentation corrections or modifications.
- "Tier 1 Help Desk" means City point of contact from which all Tier 1 Support will be given to Licensees.
- "Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk as the primary contact to Licensees in attempted resolution of reported Incidents.
- "Tier 2 Support" means the Technical Support provided by ESRI to the Tier 1 Help Desk when the Incident cannot be resolved through the Tier 1 Support.

ARTICLE 2—GRANT OF LICENSE

2.1 Grant of License. Licensee's use of the Enterprise License Software is subject to the License Agreement and any additional terms set forth in this ELA. City shall remain primarily responsible to ESRI for compliance by Licensees with the terms and conditions of this ELA. Rolled-In Software shall be licensed in accordance with the License Agreement.

2.2 Beta License. Beta licenses are not available under this ELA. Therefore, Section 3.2, Beta License in the License Agreement, is deleted in its entirety.

2.3 Consultant Access. Section 3.4, Consultant Access in the License Agreement, is modified such that use of any Enterprise License Software is restricted to use by consultants and contractors who are (i) working on-site at Licensee's facilities, (ii) using Licensee's computers or machines, and (iii) working for the sole benefit of Licensee.

ARTICLE 3—SCOPE OF USE

3.1 Additional Uses Permitted. The following additional Permitted Uses are hereby granted for the Enterprise License Software:

- a. For the term of the ELA, City may copy and Deploy unlimited quantities of the Enterprise License Software to Licensees. No other Licensee has a right to copy (except as permitted in the License Agreement) or Deploy the Enterprise License Software.
- b. Specific quantities of pre-existing licenses may be Rolled-in if current on paid maintenance, provided they are identified in Appendix A by City. Rolled-In Software shall be subject to the terms and conditions of the ELA.

3.2 Uses Not Permitted. In addition to the restrictions set forth in the License Agreement, the following Uses Not Permitted apply to the Enterprise License Software:

- a. City shall not use, transfer, redistribute, or Deploy the Enterprise License Software outside of the United States territories and outlying areas without the prior written permission of ESRI and agreement on additional fees, if any. Any such export shall be subject to U.S. Export Control Regulation requirements of the License Agreement.
- b. Hard-copy Documentation may not be copied.

ARTICLE 4—MAINTENANCE

4.1 ELA Maintenance. ELA Maintenance is included in the ELA Fee. ELA Maintenance includes standard maintenance benefits specified in the most current applicable ESRI maintenance policy (found at www.esri.com/legal) as modified in this Section 4.1. ELA Maintenance does not include Technical Support for Web Services. Rolled-In and Enterprise License Software are eligible to receive ELA Maintenance.

a. Tier 1 Support Provided by City

- (1) City shall provide Tier 1 Support through the Tier 1 Help Desk to all Licensees.
- (2) The Tier 1 Help Desk shall use analysts fully trained in the Software they are supporting.
- (3) At a minimum, Tier 1 Support shall include those activities that assist the user in resolving "how to" and operational questions as well as questions on installation and troubleshooting procedures.
- (4) Tier 1 Support analysts shall be the initial points of contact for all questions and Incidents. Tier 1 Support analysts shall obtain a full description of each reported Incident and the system configuration from the Licensee. This may include obtaining any customizations, code samples, or Data involved, if applicable, to the Incident. The analyst shall also use any other information and databases it may develop to satisfactorily resolve Incidents.
- (5) If the Tier 1 Help Desk can not resolve the Incident, an authorized Tier 1 Help Desk individual may contact ESRI Technical Support. The Tier 1 Help Desk shall provide support in such a way as to minimize repeat calls and make solutions to problems available to Licensees.
- (6) City may assign two (2) named Tier 1 Help Desk individuals identified in Appendix E who are the only individual authorized to contact ESRI directly for Tier 2 Support. Substitutes/changes to Tier 1 help desk authorized individuals may be made by written notice to ESRI.

b. Tier 2 Support Provided by ESRI

- (1) ESRI shall log the calls received from the Tier 1 Help Desk individuals.
- (2) ESRI shall attempt to resolve the Incidents by assisting the Tier 1 Help Desk individuals and not the Licensees.
- (3) When the Incident is resolved, ESRI shall communicate the information to the Tier 1 Help Desk individuals, and the Tier 1 Help Desk shall disseminate the resolution to the Licensee.
- (4) ESRI may, at ESRI's sole discretion, make patches, hot fixes, or updates available for downloading from ESRI's web site or deliver them on media.

ARTICLE 5—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

5.1 Purchase Orders, Delivery, and Deployment

- a. City shall issue a purchase order upon execution of the ELA and annually thereafter in accordance with the fee schedule in Appendix B. These fees shall be due and payable within thirty (30) days of the anniversary date of the ELA, with the initial payment due within thirty (30) days of execution of the ELA.
- b. Upon receipt of a the initial purchase order from City, ESRI shall deliver five (5) sets of media containing the Enterprise License Software to City for Deployment to Licensees. ESRI shall ship the media to the ship-to address identified in Appendix D, FOB Destination with shipping charges prepaid. City may purchase additional media sets at the prices in effect at the time of purchase.
- c. ESRI shall provide City with up to one hundred (100) hardware keys. Additional hardware keys may be ordered at the prices in effect at the time of purchase.
- d. ESRI shall provide registration numbers or keycodes, as applicable, to activate the nondestructive copy protection program that enables the Software to operate.
- e. City shall Deploy, install, configure, and track the Enterprise License Software.

5.2 Purchase Order Requirements

- a. Any purchase orders issued by City shall reference and be subject to the terms and conditions of this ELA. No additional or different term contained in a purchase order or ordering document shall be binding. All orders pertaining to this ELA shall be processed through City's centralized point of contact.
- b. The following information shall be included in each purchase order:
 - (1) City name, ESRI customer number, and the ship-to address as identified in Appendix D.
 - (2) Purchase order number.
 - (3) Applicable annual payment due, or, for Unit-Priced Separately Orderable Items, the quantity, description, price, and name of Licensee.
 - (4) On the face of the purchase order, print the following statement: "Subject to Enterprise License Agreement No. 2007ELA5055."

5.3 Annual Report of Deployments. At each anniversary date and ninety (90) days prior to the expiration date of this ELA, City shall provide a written report, as set forth in Appendix C, to ESRI detailing Deployments to all Licensees. The report shall be subject to audit by an authorized representative of ESRI.

5.4 ESRI International User Conference Registration. City shall receive ESRI International User Conference registrations annually for the term of this ELA in the quantities set forth in Appendix B. City is responsible for distributing the registrations to Licensees. Third parties may not represent City or Eligible Agencies at any ESRI International User Conferences.

ARTICLE 6—POINTS OF CONTACT; NOTICES

6.1 Points of Contact. Each party shall identify points of contact for administrative and technical issues in Appendix D.

6.2 Notices. Except as set forth in Section 6.1, any notice, report, demand, or other communication shall be properly given when made in writing in English and sent by courier; registered or certified airmail; by facsimile or other electronic transmission; and confirmed by courier or by registered or certified airmail, properly addressed to the appropriate party at the address set forth above, until changed by notice in writing by either party hereto to the other party. If sent by courier or airmail, notice shall be effective seven (7) days from the date of deposit with the courier service or post office. If sent by electronic transmission, notice shall be effective upon receipt, provided confirmation is given as specified herein. Notices shall be given at the following addresses:

To: ESRI
380 New York Street
Redlands, CA 92373-8100
Attn: Manager, Contracts and Legal Services

To: City of Redlands
P.O. Box 3005
Redlands, CA 92373-1505
Attn: Chief Information Officer

ARTICLE 7—TERM, TERMINATION, AND EXPIRATION

7.1 Term. The term of the ELA shall be for three (3) years from the Effective Date to _____ unless this ELA is terminated earlier as provided herein.

7.2 Termination for Convenience. This ELA may not be terminated by either party for convenience.

7.3 Termination for a Material Breach. Either party may terminate this ELA for a material breach by the other party. The breaching party shall be given a period of ten (10) days from date of written notice to cure any material breach. Upon termination of this ELA by ESRI for a material breach, all licenses Deployed shall also terminate, and the full amount of unpaid ELA Fees will be due and payable by City within thirty (30) days from the date of termination. City or Licensee shall uninstall, remove, and destroy all Enterprise License Software, training materials, and any whole or partial copies, modifications, or merged portions in any form. City shall execute and deliver evidence of such destruction to ESRI, which evidence shall be in a form acceptable to ESRI. Licensee may continue to use Rolled-In Software, subject to compliance with the License Agreement.

7.4 Termination of a Particular Licensee. ESRI may elect to terminate the license rights of a particular Licensee for material breach without terminating this ELA with City or other Licensees. The breaching Licensee shall be given a period of ten (10) days from date of written notice to cure any material breach. Upon the termination of the Licensee, any licenses for

Deployments provided to Licensee shall also terminate. City shall reasonably cooperate with ESRI in termination of a Licensee in material breach of this ELA, including enforcement of the ELA with respect to such Licensee. There shall be no reduction in the ELA Fee if a Licensee's rights are terminated.

7.5 License Term and Use Upon Expiration. Upon expiration of this ELA, Licensee may continue to use the Deployments, including any updates to Rolled-In Software, in accordance with the terms and conditions set forth in the License Agreement. Licensee shall notify ESRI of the quantity and type of licenses for which Licensee elects to purchase standard maintenance. If maintenance lapses, Licensee must pay back maintenance fees to reinstate maintenance. City shall not Deploy additional copies of the Enterprise License Software beyond the quantities in use upon termination or as of the date of expiration.

ARTICLE 8—CONFIDENTIALITY

8.1 Disclosure of Fees for Unit-Priced Items. If Unit-Priced Items are included in this ELA, ESRI gives permission to City to maintain Unit-Priced Item prices, fees, and discounts on City's Intranet, subject to password protection accessible to Licensees to support potential procurements. City shall use no less than the degree of care to protect this information as it uses to protect its own confidential information or third party information of similar nature. City must include the following notice on information concerning this ELA and its pricing posted on or accessible through City Intranet that is accessible by Licensees and their employees, or on any other Web pages that make reference to this ELA, including order forms:

PRICING INFORMATION, INCLUDING APPLICABLE DISCOUNT RATES, CONTAINED HEREIN IS CONSIDERED CONFIDENTIAL AND PROPRIETARY INFORMATION. EXCEPT TO SUPPORT AUTHORIZED LICENSE ACQUISITIONS, RECIPIENT SHALL NOT COPY, DISCLOSE TO ANY THIRD PARTY, OR USE ANY PRICING INFORMATION FOR ANY OTHER PURPOSE OR PROGRAM.

ARTICLE 9—RELATIONSHIP OF THE PARTIES

The ELA does not constitute a partnership, joint venture, or agency between ESRI and City. Neither ESRI nor City shall hold itself out as such, nor shall ESRI or City be bound or become liable because of any representation, action, or omission of the other.

ARTICLE 10—FORCE MAJEURE

If the performance of any obligation, except for the obligation of making payments, under this ELA is prevented, restricted, or interfered with by reason of fire, flood, earthquake, explosion, or other casualty or accident; strikes or labor disputes; inability to procure or obtain delivery of parts, supplies, or power; war, threat of or actual terrorist act, cyber-attack, or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any government Agency; or any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, restriction, or interference.

ARTICLE 11—GIS STANDARD

City shall officially name ESRI as its GIS standard and act as a reference for other ESRI customers and potential customers as long as the ELA remains in effect. This ELA shall not be construed or interpreted as an exclusive dealings agreement, and City and its Eligible Agencies reserve the right to purchase from third parties any of their requirements for GIS software. City agrees that ESRI may publicize the existence of the ELA.

ARTICLE 12—CITY INDEMNITY

City agrees to assume full responsibility for assuring the Enterprise License Software licensed under this ELA is used by the Licensees only in accordance with the terms and conditions of this ELA. City agrees to indemnify ESRI, its officers, directors, and employees for any and all claims, liabilities, and expenses (including reasonable legal fees) arising out of or based on any breach of the ELA by a Licensee.

ARTICLE 13—ADMINISTRATIVE REQUIREMENTS

13.1 OEM Licenses. If Licensee obtains Software, Data, Web Services, or any component thereof as part of an original equipment manufacturer (OEM) software program or product developed and licensed by an OEM business partner of ESRI, Licensee shall not be entitled to or seek any discount from the OEM business partner or ESRI, directly or indirectly, as a

result of or based upon the availability of such Software, Data, or Web Services, as Enterprise License Software under this ELA. In addition, such Software, Data, Web Services, or any component thereof included in the OEM software program or product will be licensed through the license agreement provided by the OEM business partner and not through this ELA.

13.2 Conversion to Limited Deployment or Unit-Priced Separately Orderable Software. Newer or updated ELA Software may contain or be developed with (i) newly acquired technology obtained through a significant investment or (ii) third-party intellectual property that requires a unit-based royalty fee or prohibits Deployment under a site license. ESRI reserves the right to exclude such newer or updated versions of the ELA Software from the tables in Appendix A. Such items can be made available to City on a limited quantity basis or as Unit-Priced Separately Orderable Items. In such event, Licensee may continue to use the older (previous) version Deployed and ESRI will provide ELA Maintenance in accordance with the Product Life Cycle Policy.

13.3 Product Obsolescence. During the term of this Agreement some of the products listed in Appendix A will become obsolete or will no longer be commercially offered or may no longer be available for Deployment. A Licensee may continue to use a product that has been Deployed but support and upgrades for older products may not be available. ELA Maintenance and maintenance and availability of products identified in Appendix A shall be subject to each item's Product Life Cycle Support Status, which can be found at <http://support.esri.com/index.cfm?fa=software.gateway> by selecting the product type and then clicking on "Product Life Cycle" for specific product plans. ESRI's Life Cycle Support Policy, available at <http://support.esri.com/knowledgebase/relatedDocs/ProductLifeCycle.pdf>, defines the support phases and overall support plans.

ARTICLE 14—GENERAL PROVISIONS

The General Provisions and Limitations of Liability of the License Agreement shall apply to the entire ELA. If there is a conflict among any of the other terms and conditions in the various documents, the order of descending precedence shall be as follows: (1) E119 Signature Page, (2) E512 ELA Terms and Conditions, (3) E300 Scope of Use, and (4) E200 General License Terms and Conditions. In the event City requires Enterprise Advantage Program Services, the terms and conditions of the Enterprise Advantage Program Agreement (E125) are intended to be interpreted independent of the ELA and the aforementioned order of precedence. Except as otherwise expressly provided herein, any amendment or Addendum to this ELA must be in writing and signed by an authorized representative of each party.

APPENDIX A SOFTWARE AND DEPLOYMENT SCHEDULE

City may Deploy the Software, Data, and Documentation and access Web Services up to the total quantity of licenses indicated below to Licensees. The quantities identified are the cumulative quantities available in any given year for the term of this ELA.

Enterprise License Software—Unlimited Quantities

Software	Rolled-In Quantities	Total Qty/Seats
ArcGIS Desktop Software		
ArcInfo		
ArcEditor		Unlimited
ArcView		Unlimited
		Unlimited
ArcGIS Desktop Extensions		
Spatial Analyst		
3D Analyst		
Network Analyst		Unlimited
Geostatistical Analyst		Unlimited
ArcGIS Schematics		Unlimited
ArcGIS Publisher		Unlimited
		Unlimited
ArcGIS Server Software		
ArcGIS Server Enterprise Advanced		
ArcIMS		Unlimited
		Unlimited
ArcGIS Server Extensions		
Spatial Analyst		
3D Analyst		
Network Analyst		Unlimited
		Unlimited
		Unlimited
Developer GIS		
ArcGIS Engine		
		Unlimited
Developer GIS Extensions		
3D Runtime		
Spatial Runtime		
Network Runtime		Unlimited
Schematic Runtime		Unlimited
Maplex runtime		Unlimited
		Unlimited
Toolkit Products		
PLTS Foundation		
		Unlimited

**APPENDIX B
ELA FEE SCHEDULE**

The ELA Fee is \$73,500. The Enterprise License Fee is in consideration for the Enterprise License Software, ELA Maintenance and ESRI International User Conference Registrations.

	Year 1	Year 2	Year 3	Total
Fee	\$24,500	\$24,500	\$24,500	\$73,500

Number of International User Conference Registrations	6
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SAMPLE REPORT—This report shall be provided to ESRI as an Excel spreadsheet or comparable format.

[illegible]

Limited quantity licenses will be counted on an individual basis as the licenses are issued. They may subsequently be transferred after notification to ESRI but may not exceed the total quantity licensed.

**APPENDIX D
ELA POINTS OF CONTACT**

Either party may change its point of contact by written notice to the other party.

1. ESRI Point of Contact for order processing issues:

Name: Customer Service
ESRI Redlands
380 New York Street
Redlands, CA 92373-8100
E-mail: service@esri.com
Phone: 909-793-2853, ext. 2001
Fax: 909-307-3083

2. ESRI Contact for Technical Support issues:

E-mail: support@esri.com
Phone: 909-739-3774 (domestic US only)
Fax: 909-782-0960
Web: support@esri.com

3. City Centralized Point of Contact for order release and administrative issues:

Name: _____
E-mail: _____
Phone: _____
Fax: _____

4. All deliverables to City shall be shipped to the address listed below:

City Office: _____
Name: _____
Address: _____

APPENDIX E
TIER 1 HELP DESK AUTHORIZED INDIVIDUALS

Substitutes/changes to Tier 1 help desk authorized individuals may be made by written notice to ESRI.

1. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____
2. Name: _____
Address: _____
Phone: _____
Fax: _____
E-mail: _____

**APPENDIX F
ELIGIBLE AGENCIES**

Eligible Agency Name:

Contact Name:

Address:

Phone:

Fax:

E-mail: