

INTERGOVERNMENTAL AGREEMENT
For Inclusion of an Additional Eligible Entity to the
Geographic Information System Software: ESRI Enterprise License Agreement

This Intergovernmental Agreement is made and effective on July 31, 2018, between the TOWN OF ESTES PARK, a Colorado municipal corporation ("Town") and the BOARD OF COUNTY COMMISSIONERS OF LARIMER COUNTY, COLORADO, a body politic organized under the laws of the State of Colorado ("County").

RECITALS

WHEREAS, County has an active Enterprise Agreement (EA) with Environmental Systems Research Institute, Inc. (ERSI) for Geographic Information System (GIS) Software; and

WHEREAS, THE EA expires March 14, 2021, but may be extended for subsequent three-year terms if Esri and County mutually agree; and

WHEREAS, Town desires to be included as an Eligible Entity under the EA to acquire its own GIS Software; and

WHEREAS, Town has approved and will fund the additional amount of the annual maintenance fee as set out in appendix B EA Fee Schedule of the Enterprise Agreement No. 322300.

WHEREAS, County and Town both have the authority to enter into and perform this Intergovernmental Agreement.

CONSIDERATION

NOW, THEREFORE, in consideration of the parties' mutual covenants and other good and valuable consideration, the parties agree as follows.

TERMS

1. Term and Effective Date
 - a. This Agreement is effective on July 31, 2018.
 - b. The Town's license for use of the GIS Software shall begin on July 31, 2018 in accordance with Amendment No. 1 to Enterprise Agreement No. 322300 (EA) between Larimer county and Environmental Systems Research Institute, Inc.

- c. Provided ESRI and County agree to extend the EA for additional three-year terms after expiration of the initial term County and Town may extend the term of this Intergovernmental Agreement for additional three-year terms on such terms and conditions (included but not limited to pricing) as County and Town may agree in writing.
- d. Notwithstanding any provision to the contrary herein, in the even the EA between County and ESRI terminates, this Intergovernmental Agreement shall also terminate.

2. Duties

- a. County shall authorize ESRI to include Town as an Eligible Agency under the EA from March 15, 2018 through March 14, 2021 for the amount set out in Section 3 below.
- b. County shall act as an agent to provide the specified GIS Software products on behalf of Town.
- c. Town shall acquire its own technical support directly through ESRI, as specified in Attachment 1 to this Intergovernmental Agreement.
- d. Town shall provide to County a list the first week of each April outlining all ESRI GIS Software that Town has deployed.
- e. Town shall abide by the following Scope of Use as described in article 3 of the Enterprise Agreement No. 322300.

ARTICLE 3—SCOPE OF USE

3.1 Additional Permitted Uses. For the term of the EA, County may copy and Deploy the EA Products to Customers up to the quantities of licenses granted in Appendix A. No other Customer has a right to copy (except as permitted in the License Agreement) or Deploy the EA Products. County may transfer, redistribute, or Deploy the EA Products within the continental United States; Hawaii; Alaska; and US territories, excluding Puerto Rico and the US Virgin Islands.

3.2 Uses Not Permitted

- a. Customer shall not use the EA Products outside the United States or its territories or possessions without the prior written permission of Esri and agreement on additional fees, if any. Any such export will be subject to US Export Control Regulation requirements of the License Agreement,
- b. Customer shall not transfer, redistribute, or assign EA Products to any third party without the prior written permission of Esri.

3. Cost

- a. No later than June 1st of each year, Town shall pay the appropriated amount for use of Esri EA licenses. Appropriated amount is based on overall County-wide usage and Esri's EA fee schedule set forth in appendix B – fee schedule of the Enterprise Agreement No. 322300. County will communicate the cost basis and amount in advance of any payment schedule.

- b. Date of payment and cost for Town's use of the GIS Software for any subsequent three-year term shall be mutually agreed on in writing by Town and County and shall be in the form of an amendment to this Intergovernmental Agreement.

4. Renewal

- a. County shall provide Town written notice of County's intent not to extend this Intergovernmental Agreement for any subsequent three-year term at least thirty (30) days prior to the expiration of the then current term.
- b. Town shall provide to County written notice of Town's intent not to extend this Intergovernmental Agreement for any subsequent three-year term at least thirty (30) days prior to the expiration of the then current term.

5. Liability

- a. Each party agrees to be responsible and assume liability for its own wrongful or negligent acts and omissions, and those of its officers, agents and employees to the extent required by law.
- b. No term or condition of this Intergovernmental Agreement shall be construed or interpreted as a waiver, either express or implied, of the notice requirements, immunities, rights, benefits, defenses, limitations and protections available to County or Town under the Colorado Governmental Immunity Act as currently written or hereafter amended.

6. Modifications

Any modifications to this Intergovernmental Agreement must be in writing and signed by both Parties.

7. Third Party Beneficiaries

This Intergovernmental Agreement is made for the sole and exclusive benefit of the parties hereto and shall not be construed to be an agreement for the benefit of any third party and no third party shall have a right of action hereunder for any cause whatsoever.

8. Contingencies

This Intergovernmental Agreement and obligations of the parties are expressly contingent on the respective governmental party's annual budgeting and appropriation of the funds necessary to fulfill such party's obligations hereunder.

9. Assignment

Neither party may assign this Intergovernmental Agreement without the written consent of the other party.

10. Notice

Notice will be deemed served on the other party on the date notice was hand delivered or three (3) days after being deposited postage prepaid in the United States Mail to the following person/address:

TOWN:

Estes park Town Administrator
P.O. Box 1200
Estes Park, CO 80517

COUNTY:

Larimer County Manager
200 West Oak
Fort Collins, CO 80521

IN WITNESS WHEREOF, the parties have signed this Intergovernmental effective the day and year first above written.

TOWN OF ESTES PARK, COLORADO
A Municipal Corporation

By: 
Reuben Bergsten, Estes Park Utilities Director

LARIMER COUNTY, COLORADO
A Body Politic

By: 
Linda Hoffmann, County Manager

APPROVED AS TO FORM:


County Attorney