SFC#2012-C066-PW/TRV

SOFTWARE EVALUATION AGREEMENT

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

For Use in the United States
Esri Agreement No. 2011E6860

The Term of This Agreement Is 60 Days from the Date of Delivery or Keycode Issuance, Whichever Is Later.

This Software Evaluation Agreement (Agreement) is between the licensee printed below (**Licensee**) and **Environmental Systems Research Institute, Inc. (Esri)**. The Agreement includes (i) this signature page and (ii) the Evaluation Agreement Terms and Conditions. The parties acknowledge that they have read and understood this Agreement and agree to be bound by the terms and conditions.

This Agreement may be executed and sent to Esri in hard copy, facsimile, scanned, or other agreed electronic form, so long as the entire Agreement with all attachments is provided.

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

ACCEPTED AND AGREED:

SANTA FE COUNTY
(Licensee)

Signature: Katherine Miller

Printed Name: Katherine Miller

Title: SF County Manager

Date: 9·16·11

Address: _____

City, State, ZIP: _____

E-Mail: _____

Telephone: _____

Fax: _____

Customer No.: _____

Software, Data, and Documentation to Be Evaluated: **ArcLogistics**

Approved as to form
Santa Fe County Attorney
By: [signature]
Date: Sept 14, 2011

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EVALUATION AGREEMENT TERMS AND CONDITIONS

1. DEFINITIONS

The terms used in this Agreement are defined as follows:

a. "Data," except as otherwise provided herein, means any Esri or third party data vendor(s) digital data set(s), including but not limited to geographic, vector data coordinates, raster, reports, or associated tabular attributes.
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7. TERMINATION

This Agreement terminates upon expiration of this Agreement as set forth on the signature page, or earlier by either party upon written notice to the other. Esri reserves the right to immediately terminate this Agreement upon breach of any provision of this Agreement by Licensee.

8. RETURN OF MATERIALS

Upon termination of the sixty day evaluation period of this Agreement or upon receipt by Licensee of Esri's notice of termination prior to the expiration of the sixty (60) day evaluation period, Licensee shall (i) cease access and use of any Web Services and clear Web Services client-side data cache, (ii) uninstall, remove, and return to Esri all Software, Data, and Documentation, and any whole or partial copies, modifications, or merged portions in any form in accordance with the following procedure. Licensee shall contact Esri Customer Service and receive a Return Merchandise Authorization (RMA) number prior to returning the Software, Data, and Documentation to Esri. Licensee shall then return the Software, Data, and Documentation, including all partial and complete copies, along with a written certification that the Software, Data, Documentation, and Web Services have been removed from its computer system or network, affix the RMA number to the shipping carton, and return the shipping carton freight prepaid to Esri Customer Service at the address above

9. RISK OF LOSS AND DAMAGE

Licensee shall bear the risk of loss and damage to the Software, Data, and Documentation media during the license term and during return shipment.

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10. ASSIGNABILITY

Licensee shall not assign, sublicense, or transfer Licensee's rights or delegate its obligations under this Agreement without Esri's prior written consent, and any attempt to do so without consent shall be void.

11. WAIVERS

A failure or delay by Esri in enforcing any right or remedy under this Agreement shall not be construed as a waiver of such right or remedy by Esri.

12. SEVERABILITY

The parties mutually agree that if any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make the intent of the language enforceable.

13. ESRI'S REMEDIES

Licensee understands that in the event Licensee breaches this Agreement Esri may seek any remedy at law in a court of competent jurisdiction as provided in Paragraph 15.

14. EXPORT CONTROL REGULATIONS

Licensee shall not export, reexport, or provide the Software, Data, Web Services, or Documentation, in whole or in part, to (i) any country to which the United States has embargoed goods; (ii) any person on the U.S. Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the U.S. Commerce Department's Table of Denial Orders; or (iv) any person or entity where such export, reexport, or provision violates any U.S. export control laws or regulations, including amendments and supplemental additions as they may occur from time to time. Licensee shall not export the Software, Data, Web Services, and/or Documentation or any underlying information or technology to any facility in violation of these or other applicable laws and regulations, including but not limited to the terms of any export license or licensing provision. Licensee represents and warrants that it or its employees, consultants, or customers who gain access to the Software, Data, Web Services, or Documentation are not a national, resident, located in or under the control of, or acting on behalf of any person, entity, or country subject to such U.S. export controls.

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This Agreement will be governed by and construed in accordance with federal intellectual property law and laws of the State of New Mexico.