



ESRI COMMUNITY MAPS PROGRAM
PARTICIPATION AGREEMENT

Esri Agreement No. 314925
COF Contract No. 2016-0297

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

Unless superseded by a signed agreement between you and Esri, your participation in the Program is conditioned on your acceptance of the terms and conditions of this Agreement. By delivering Data to Esri, Contributor signifies its acceptance of this Agreement and the Program description, requirements, and benefits found at the web page listed below. If you do not agree to these terms, do not upload your content to the Program participants' web page.

You, the individual executing this Agreement, and the organization or entity that you represent ("**Contributor**") are entering into this agreement ("**Agreement**") to participate in the **Environmental Systems Research Institute, Inc. ("Esri")** Community Maps Program or any successor or associated program designated by Esri ("**Program**"). By entering into this Agreement, Contributor is confirming its intent to contribute its geographic data, map content, and/or Live Feeds ("**Data**") as part of the Program, in which Contributor will have its Data processed, hosted, and published for use by Esri and its end users and developers. The Program description, requirements, and benefits can be found at <http://www.esri.com/communitymaps>.

- 1. Account Registration.** To provide content through the Program website, Contributor must create an account and identify the organization or other entity on whose behalf the individual registrant intends to contribute Data. Contributor will provide true and accurate information during the account registration process and will update this information from time to time to maintain its accuracy and completeness. Contributor will keep its account password secure and will be responsible for any activity occurring under its account. Account credentials may not be shared with other participants. Esri reserves the right to immediately disable or terminate access to any account that Esri believes to have been used in violation of this Agreement, third-party rights, or applicable law.
- 2. Descriptions of Sources.** Using the content registration form on the program website, Contributor will identify and describe each dataset or layer it is providing to Esri. All such descriptions are considered part of this Agreement. Esri is not required to review datasets for which incorrect or incomplete information has been provided.
- 3. Reservation of Rights.** Contributor retains ownership of its Data and reserves all rights not specifically granted to Esri.
- 4. License.** Contributor hereby grants to Esri, and Esri accepts, a perpetual, royalty-free, worldwide right and license to use, copy, store, print, modify, cache, adapt, create derivative works of, transmit, publish, publicly display, publicly perform, broadcast, host, input, process, reuse, and make available the Data, by any means, system, platform, or device, and in any medium now known or later developed, and to authorize others to do the same.
- 5. Derivative Works.** Any derivative works (as defined under 17 USC sec. 101), resultant data, or other information that Esri creates based on Data will be owned by Esri, provided that Contributor retains ownership over any portions of Data that remain separately identifiable in such works.
- 6. Live Feeds.** If Contributor provides Live Feeds to Esri for use in the Program, Contributor will provide the necessary rights and access to enable ongoing Data updates. "Live Feeds" means Data feeds that are streamed, provided in real time, and/or updated on a continual or frequent basis.
- 7. Security.** Contributor will take reasonable precautions to ensure that its Data does not contain malicious code, programs, data, viruses, spyware, or other components that may be harmful to Esri's computer networks.
- 8. Esri Commitments.** Esri will evaluate the suitability of Data for use in the Program. Esri reserves the right, at its sole discretion, not to use or publish the Data. If Data is published, Esri will provide, in a manner and place that it determines practical, attribution to Contributor as a source for the service or dataset in which the Data is used.
- 9. Term and Termination.** This Agreement is effective until terminated. Each party may terminate this Agreement at any time upon ninety (90) days' notice. Termination will not impair Esri's rights under Sections 4 and 5.
- 10. Representations, Warranties, and Disclaimers.** Contributor represents and warrants that Contributor has the right to enter into this Agreement on behalf of its organization and to license the Data to Esri for the uses provided herein.

Contributor represents and warrants its compliance with all applicable laws pertaining to the Data. Contributor warrants to the best of its knowledge that the Data does not infringe or violate any person's intellectual property rights, right of confidentiality, privacy, or similar rights. Contributor will notify Esri if it becomes aware of any infringements or gross inaccuracies in the Data and accompanying metadata. Data is otherwise provided as is, and all implied warranties are disclaimed.

11. **Limitation of Liability.** In no event will Contributor or Esri be liable to the other party for indirect damages of any kind arising out of this Agreement or use of Data, including lost profits; loss of goodwill; or special, incidental, or consequential damages, however caused, on any theory of liability, whether or not Esri or Contributor has been advised of the possibility of such damage. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. Esri and Contributor agree the liability of each hereunder for damages to the other party, regardless of the form of action, shall not exceed one hundred US dollars (US\$100.00). These limitations shall not apply to damages based on intentional or willful misconduct, violation of the law, fraud, gross negligence, or infringement of intellectual property rights. This section shall survive termination of this Agreement. This section is only applicable to the extent that it does not violate the state and/or local laws to which the Contributor is bound.
12. **Notices.** All notices and communications required or permitted under this Agreement must be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, or by facsimile transmission with confirmed answer. Notices to Contributor will be sent to the current address associated with its account. Esri's address for notices is as follows:

Esri
380 New York Street
Redlands, CA 92373-8100
Attn.: Contracts and Legal Services Manager
Phone: 909-793-2853
Fax: 909-307-3020
13. **Export Regulation.** Data may be subject to export control laws and regulations. Contributor will comply with applicable laws and regulations and will cooperate with Esri and provide reasonable documentation concerning its Data to allow Esri to comply with such laws and regulations.
14. **Successors and Assigns.** This Agreement is binding on the parties and their successors and assigns. Esri may freely assign its rights and interests under this Agreement. There are no third-party beneficiaries to this Agreement.
15. **Independent Contractors.** The parties are independent contractors and not agents, joint venturers, or business partners.
16. **Force Majeure.** Neither party is responsible for any failure due to events beyond its reasonable control.
17. **Agreement, Amendments.** This Agreement, together with any documents incorporated herein by reference, represents the sole and entire agreement of the parties with regard to its specific subject matter and supersedes any previous agreements, understandings, and arrangements between the parties relating to that subject matter. Any amendment(s) and/or addendum(s) to this Agreement must be in writing.

City of Franklin, Tennessee
(Contributor)

Signature: Eric S. Stuckey
Printed Name: Eric S. Stuckey
Title: City Administrator
Date: 12-5-2016