



**Resource Management
Agency
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
EDDIE VALERO
District Four
DENNIS TOWNSEND
District Five

AGENDA DATE: March 26, 2019

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
CONTACT PERSON: Celeste Perez PHONE: 559-624-7010				

SUBJECT: Approval of Contract Amendment to Agreement No. 26041 to add E-Reviews Module

REQUEST(S):
That the Board of Supervisors:

1. Approve a Contract Amendment to Agreement No. 26041, with Tyler Technologies, Inc. in the amount of \$85,649, for the purchase of EnerGov PALMS E-Reviews Module; and
2. Authorize the chairman to sign the Amendment to Agreement.

SUMMARY:

The County processes and issues over 3,800 building permits with an estimated construction value of over 172 million dollars in a typical year.

To assist with the processing of building permits, the County utilizes a permitting and land use management system (EnerGov - PALMS) licensed and maintained by Tyler Technologies under Tulare County Agreement No. 26041 executed by the Board of Supervisors on April 23, 2013 (Attachment 1).

The Resource Management Agency (RMA) is preparing to update EnerGov - PALMS and purchase the e-reviews module which will allow staff to perform electronic reviews for building permits and planning applications. This will also allow for the electronic submittal of building permits in the future. The cost of the e-reviews module has been included in the RMA adopted budget for FY 2018-2019. However, the Amendment to Tulare County Agreement No. 26041 requires Board of Supervisors approval.

SUBJECT: Approval of Contract Amendment to Agreement No. 26041 to add E-Reviews Module
DATE: March 26, 2019

Electronic review and submittal of building permits will help expedite the review and processing of building permits by RMA and other County departments such as Tulare County Fire and Environmental Health.

FISCAL IMPACT/FINANCING:

The E-Review project cost is included in the FY 18-19 Budget. Tyler Technologies has provided Quote No. 2018-54643 (Attachment 2) for the e-reviews module in the total amount of \$85,649 (\$73,649 in one-time fees and \$12,000 in recurring annual fees). These are in addition to yearly recurring maintenance fees (\$92,989.70 for FY 18-19).

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Organizational performance. Provide state-of-the-art technology and infrastructure to support better service delivery.

ADMINISTRATIVE SIGN-OFF:


FOR Aaron Bock, MCRP
Assistant Director - Economic Development and Planning


Michael Washam
Associate Director


Reed Schenke, P.E.
Director

cc: County Administrative Office
County Counsel

Attachment(s) Attachment A – Amendment to Agreement No. 26041
Attachment B – Quote No. 2018-54643
Attachment C – Agreement No. 26041

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF APPROVAL OF) Resolution No. _____
CONTRACT AMENDMENT TO)
AGREEMENT NO. 26041 TO ADD E-)
REVIEWS MODULE)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD MARCH 26, 2019, BY
THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Approved a Contract Amendment to Agreement No. 26041, with Tyler Technologies, Inc. in the amount of \$85,649, for the purchase of EnerGov PALMS E-Reviews Module; and
2. Authorized the chairman to sign the Amendment to Agreement.

ATTACHMENT 1

AMENDMENT



AMENDMENT

This amendment ("Amendment") is made this ____ day of _____, 2019 by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler") and Tulare County with offices at 221 South Mooney Blvd.; Room 124, Visalia, CA 93291 ("Client").

WHEREAS, Tyler and the Client are parties to an agreement dated May 8, 2013 ("Agreement"); and

WHEREAS, Tyler and Client desire to amend the terms of the Agreement as provided herein.

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and the Client agree as follows:

1. The items set forth in the sales quotation attached as Exhibit 1 to this Amendment are hereby added to the Agreement as of the execution date of this Amendment. Payment of fees and costs for such items shall conform to the following terms:
 - a. License Fees. License fees will be invoiced when Tyler makes the software added to the Agreement pursuant to this Amendment available for download (for the purpose of this Amendment, the "Available Download Date").
 - b. Maintenance Fees. Year 1 annual maintenance and support fees, prorated for a time period commencing on the Available Download Date and ending at the same time as the end of the then-current annual maintenance term for the Tyler Software already licensed under the Agreement, are due on the Available Download Date. Subsequent annual maintenance fees will be invoiced in accord with the Agreement.
 - c. Services Fees & Expenses. Services added to the Agreement pursuant to this Amendment, along with applicable expenses, shall be invoiced as provided and/or incurred.
2. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.
3. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

Tyler Technologies, Inc.

Tulare County

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Exhibit 1
Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

In the event a comment in the following sales quotation conflicts with a provision of this Amendment, the provision in this Amendment shall control.

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ATTACHMENT 2
QUOTE 2018-54643

Amendment to Contract ID# 2013-0003



Quoted By: Andrew Meyer
 Date: 9/13/2018
 Quote Expiration: 3/31/2019
 Quote Name: Tulare County-LGD-EG-SA-eReviews
 Quote Number: 2018-54643
 Quote Description: eReviews + Services

Sales Quotation For
 Tulare County
 221 S Mooney Blvd Rm 124
 Visalia, CA 93291-4545
 Phone +1 (559) 636-5005

EnerGov Software

Description	License	Users/Units	Module Total	Year One Maintenance
Extensions:				
EnerGov e-Reviews	\$59,999.00	1	\$59,999.00	\$12,000.00
TOTAL:			\$59,999.00	\$12,000.00

EnerGov Professional Services

Description	Hours/Units	Unit Price	Extended Price	Year One Maintenance
Professional Implementation Services	60	\$175.00	\$10,500.00	\$0.00
Project Management Services	18	\$175.00	\$3,150.00	\$0.00
TOTAL:			\$13,650.00	\$0.00

Summary	One Time Fees	Recurring Fees
Total Tyler Software	\$59,999.00	\$12,000.00
Total Tyler Services	\$13,650.00	\$0.00
Total 3rd Party Hardware, Software and Services	\$0.00	\$0.00
Summary Total	\$73,649.00	\$12,000.00
Contract Total	\$85,649.00	

e-Planning requires Bluebeam Studio Prime pricing is as follows:

- Bluebeam Studio Prime Level 1 (up to 100 users), Subscription - \$2,340
- Bluebeam Studio Prime Level 2 (up to 200 users), Subscription - \$4,140
- Bluebeam Studio Prime Level 3 (up to 500 users), Subscription - \$9,540
- Bluebeam Studio Prime Level 4 (up to 1000 users), Subscription - \$17,940

Software License fees and first year ASM charges are due and payable at Software delivery or Availability for Download. Renewals of ASM are billed annually in advance on the anniversary of delivery and each year thereafter. ASM charges are subject to price adjustments. Invoice terms are Net 30. Professional services are billable and invoiced monthly as consumed.



Quoted By: Andrew Meyer
 Date: 9/13/2018
 Quote Expiration: 3/31/2019
 Quote Name: Tulare County-LGD-EG-SA-eReviews
 Quote Number: 2018-54643
 Quote Description: eReviews + Services

Sales Quotation For

Tulare County
 221 S Mooney Blvd Rm 124
 Visalia, CA 93291-4545
 Phone +1 (559) 636-5005

EnerGov Software

Description	License	Users/Units	Module Total	Year One Maintenance
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Total Tyler Software	\$59,999.00	\$12,000.00
Total Tyler Services	\$13,650.00	\$0.00
Total 3rd Party Hardware, Software and Services	\$0.00	\$0.00
Summary Total	\$73,649.00	\$12,000.00
Contract Total	\$85,649.00	

Unless otherwise indicated in the contract or Amendment thereto, pricing for optional items will be held for Six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: _____ Date: _____
 Print Name: _____ P.O. #: _____

All primary values quoted in US Dollars

Comments

e-Planning requires BlueBeam Studio Prime pricing is as follows:

- Bluebeam Studio Prime Level 1 (up to 100 users), Subscription - \$2,340
- Bluebeam Studio Prime Level 2 (up to 200 users), Subscription - \$4,140
- Bluebeam Studio Prime Level 3 (up to 500 users), Subscription - \$9,540
- Bluebeam Studio Prime Level 4 (up to 1000 users), Subscription - \$17,940

Software License fees and first year ASM charges are due and payable at Software delivery or Availability for Download. Renewals of ASM are billed annually in advance on the anniversary of delivery and each year thereafter. ASM charges are subject to price adjustments. Invoice terms are Net 30. Professional services are billable and invoiced monthly as consumed.

ATTACHMENT 3
AGREEMENT
NO. 26041

AGREEMENT

Contract ID# 2013-0003

This agreement ("Agreement") is made this 23rd day of April 2013 ("Effective Date") by and between Tyler Technologies, Inc., a Delaware corporation with offices at 5519 53rd Street, Lubbock, Texas 79414 ("Tyler") and Tulare County, CA, with offices at 221 South Mooney Blvd, Visalin, California 93291 ("Client").

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth herein, Tyler and Client agree that Tyler shall provide products and services, and Client shall pay prices, as set forth in this Agreement.

SECTION A – SOFTWARE LICENSE AGREEMENT

1. License Grant.

a) Upon the Effective Date, Tyler hereby grants to Client a non-exclusive, non-transferable, royalty-free, revocable license to use the Tyler software products set forth in the investment summary attached hereto as Exhibit 1 ("Investment Summary") and related interfaces (collectively, the "Tyler Software Products") and documentation provided in or with the Tyler Software Products ("Documentation") for Client's internal business purposes only and otherwise subject to the terms and conditions of this Agreement. This license is revocable by Tyler if Client fails to comply with the terms and conditions of this Agreement, including without limitation, Client's failure to timely pay the Software fees in full. Upon Client's payment in full for the Tyler Software Products, this license will become irrevocable, subject to the restrictions on use and other terms set forth in this Agreement.

b) Tyler shall retain ownership of, including all intellectual property rights in and to, the Tyler Software Products and Documentation.

c) The Tyler Software Products are not licensed to perform functions or processing for subdivisions or entities that were not disclosed to Tyler prior to the Effective Date.

d) The right to transfer the Tyler Software Products to a replacement hardware system is included in this Agreement. Client shall pay Tyler for the cost of new media or any required technical assistance to accommodate the transfer. Client shall provide advance written notice to Tyler of any such transfer.

e) Client acknowledges and agrees that the Tyler Software Products and Documentation are proprietary to Tyler and have been developed as trade secrets at Tyler's expense. Client shall use best efforts to keep the Tyler Software Products and Documentation confidential and to prevent any misuse, unauthorized use or unauthorized disclosure of the Tyler Software Products or Documentation by any party.

f) The Tyler Software Products may not be modified by anyone other than Tyler. If Client modifies the Tyler Software Products without Tyler's prior written consent, Tyler's obligations to provide maintenance services on, and the warranty for, the Tyler Software Products will be void. Client shall not perform decompilation, disassembly, translation or other reverse engineering on the Tyler Software Products.

g) Client may make copies of the Tyler Software Products for archive purposes only. Client shall repeat any and all proprietary notices on any copy of the Tyler Software Products. Client may make copies of the Documentation for internal use only.

h) Tyler maintains an escrow agreement with an escrow services company under which Tyler places the source code of each major release of the Tyler Software Products. At Client's request, Tyler will add Client as a beneficiary to such escrow agreement. Client will pay the annual beneficiary fee and is solely responsible for maintaining its status as a beneficiary.

2. Limited Warranty. For the purposes of this Agreement, a "Defect" is defined as a failure of the Tyler Software Products to substantially conform to the then-current specifications and the functional descriptions of the Tyler Software Products in Tyler's written proposal to Client. In the event of conflict between the afore-mentioned documents, the then-current specifications will control. A Tyler Software Product is "Defective" if it contains a Defect. For as long as a current Maintenance Agreement is in place, Tyler warrants that the Tyler Software Products will not contain Defects. If the Tyler Software Products do not perform as warranted, Tyler will use

reasonable efforts, consistent with industry standards, to cure the Defect in accordance with Tyler's then-current support call process.

3. Intellectual Property Infringement Indemnification.

a) Tyler's Obligations. Tyler shall defend and indemnify Client against any claim by an unaffiliated third party of this Agreement that a Tyler Software Product, if used within the scope of this Agreement, directly infringes that party's registered United States patent, copyright or trademark issued and existing as of the Effective Date or as of the distribution date of a release to the Tyler Software Product, and will pay the amount of any resulting adverse final judgment issued by a court of competent jurisdiction or of any settlement made by Tyler in writing.

b) Client's Obligations. Tyler obligations in this section are contingent on the Client performing all of the following in connection with any claim as described herein:

- i. Promptly notifies Tyler in writing of any such claim;
- ii. Gives Tyler reasonable cooperation, information, and assistance in connection with the claim; and
- iii. Consents to Tyler's sole control and authority with respect to the defense, settlement or compromise of the claim.

c) Exceptions to Tyler's Obligations. Tyler will have no liability hereunder if the claim of infringement or an adverse final judgment rendered by a court of competent jurisdiction results from:

- i. Client's use of a previous version of a Tyler Software Product and the claim would have been avoided had Client used the current version of the Tyler Software Product;
- ii. Client's combining the Tyler Software Product with devices or products not provided by Tyler;
- iii. Use of a Tyler Software Product in applications, business environments or processes for which the Tyler Software Product was not designed or contemplated, and where use of the Tyler Software Product outside such application, environment or business process would not have given rise to the claim;
- iv. Corrections, modifications, alterations or enhancements that Client made to the Tyler Software Product and such correction, modification, alteration or enhancement is determined by a court of competent jurisdiction to be a contributing cause of the infringement;
- v. Use of the Tyler Software Product by any person or entity other than Client or Client's employees; or
- vi. Client's willful infringement, including Client's continued use of the infringing Tyler Software Product after Client becomes aware that such infringing Tyler Software Product is or is likely to become the subject of a claim hereunder.

d) Remedy.

i. In the event a Tyler Software Product is, by a court of competent jurisdiction, finally determined to be infringing and its use by Client is enjoined, Tyler will, at its election:

- (a) Procure for Client the right to continue using the infringing Tyler Software Products; or
- (b) Modify or replace the infringing Tyler Software Products so that it becomes non-infringing.

ii. The foregoing states Tyler's entire liability and Client's sole and exclusive remedy with respect to the subject matter hereof.

SECTION B – PROFESSIONAL SERVICES AGREEMENT

1. Expenses. Expenses shall be billed in accordance with the then-current Tyler Business Travel Policy, based on Tyler's usual and customary practices, plus a 10% travel agent processing fee. The current Tyler Business Travel Policy is attached hereto as Exhibit 3. Copies of receipts shall be provided on an exception basis at no charge. Should all receipts for non per diem expenses be requested, an administrative fee shall be incurred. Receipts for mileage and miscellaneous items less than twenty-five dollars (\$25) are not available.

2. Cancellation of Services. In the event Client cancels services less than two (2) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf; and (ii) hourly fees associated with the canceled services if Tyler is unable to re-assign its personnel.

3. Additional Services.

a) The Investment Summary contains a good faith estimate of service fees and travel expenses. Training and/or consulting services utilized in excess of those set forth in the Investment Summary and additional related services

not set forth in the Investment Summary will be billed at Tyler's then-current rates, plus travel expenses incurred in accordance with Section B(1).

b) Programming and/or interface quotes are estimates based on Tyler's understanding of the specifications supplied by Client. In the event Client requires additional work performed above the specifications provided, Tyler will submit to Client an amendment containing an estimate of the charges for the additional work. Client will have thirty (30) calendar days from the date the estimate is provided to approve the amendment.

SECTION C – MAINTENANCE AGREEMENT

1. Maintenance Services.

a) This Maintenance Agreement is effective on the earlier of (i) ninety (90) days after use of a Tyler Software Product in live production, or (ii) one hundred eighty (180) days from the date Tyler made the Tyler Software Products available to Client for downloading; and will remain in force for an initial one (1) year term, which will renew automatically for additional one (1) year terms unless terminated in writing by either party at least fifteen (15) days prior to the end of the then-current term. Fees for subsequent years are subject to change.

b) Maintenance Services Terms, Conditions, Limitations and Exclusions.

i) For as long as a current Maintenance Agreement is in place, Tyler shall, in a professional, good and workmanlike manner, perform its obligations in accordance with Tyler's then current support call process in order to conform the Tyler Software Products to the applicable warranty under this Agreement. If Client modifies the Tyler Software Products without Tyler's prior written consent, Tyler's obligations to provide maintenance services on and warrant the Tyler Software Products shall be void. Tyler reserves the right to suspend maintenance services if Client fails to pay undisputed maintenance fees within sixty (60) calendar days of the due date. Tyler will reinstate maintenance services upon Client's payment of the overdue maintenance fees.

ii) For as long as a current Maintenance Agreement is in place Tyler shall provide Client with all releases Tyler makes to the Tyler Software Products that Tyler makes generally available without additional charge to customers possessing a current Tyler annual Maintenance Agreement. Third Party Products; and installation, consulting and training services related to the new releases will be provided to Client at Tyler's then-current rates. Client acknowledges and agrees that a new release of the Tyler Software Products is for implementation in the Tyler Software Products as they exist without Client customization or modification. Tyler shall support prior releases of the Tyler Software Products in accordance with Tyler's then-current release life cycle policy.

iii) Maintenance fees do not include installation or implementation of the Tyler Software Products, onsite support (unless Tyler cannot remotely correct a defect in a Tyler Software Product), application design, other consulting services, support of an operating system or hardware, and support outside Tyler's normal business hours.

c) Client Responsibilities.

i) Client shall provide, at no charge to Tyler, full and free access to the Tyler Software Products; working space; adequate facilities within a reasonable distance from the equipment; and use of machines, attachments, features, or other equipment necessary to provide maintenance services set forth herein.

ii) Tyler currently utilizes "Go To Assist" as a secure commercial PC to PC remote connectivity tool to provide remote maintenance services. Client shall maintain for the duration of the Agreement a high-speed Internet connection capable of connecting to Client's PC's and server. As a secondary connectivity tool to the Tyler Servers, Tyler will install a third party secure unattended remote connectivity program which is currently Bomgar. Client will need to provide Tyler a login account with local administrative privileges to the Tyler Servers. Tyler requires that Client also maintain an alternate remote connectivity method (including VPN, if necessary) for backup connectivity purposes. Tyler, at its option, will use the connections to assist with problem diagnosis and resolution.

SECTION D – THIRD PARTY PRODUCT AGREEMENT

1. Agreement to License or Sell Third Party Products.

a) For the price set forth in the Investment Summary, Tyler agrees to license or sell and deliver to Client, and Client agrees to accept from Tyler the hardware (“Hardware”) and third party software (“Third Party Software”) set forth in the Investment Summary (collectively, the “Third Party Products”).

b) Third Party Product Warranties. Client acknowledges and agrees that Tyler is not the manufacturer of the Third Party Products. As such, Tyler does not warrant or guarantee the Third Party Products. Tyler hereby grants and passes through to Client any warranty adjustments that Tyler may receive from the developer, manufacturer or supplier of the Third Party Products (“Developer”).

c) Third Party Software Maintenance.

i) In the event Client elects not to purchase through Tyler maintenance services on the Third Party Software, it shall be the responsibility of Client to repair and maintain the Third Party Software and purchase enhancements as necessary after installation.

ii) In the event Client elects to purchase through Tyler maintenance services on the Third Party Software, Tyler will facilitate resolution of a defect in Third Party Software with the Developer.

iii) In the event the Developer charges a fee for future Third Party Software release(s), Client shall be required to pay such fee.

SECTION E – GENERAL TERMS AND CONDITIONS

1. Taxes. The fees set forth in the Investment Summary do not include any taxes, including, without limitation, sales, use or excise tax. All applicable taxes shall be paid by Tyler to the proper authorities and shall be reimbursed by Client to Tyler. In the event Client possesses a valid direct-pay permit, Client will forward such permit to Tyler on the Effective Date, in accordance with Section E(21). In such event, Client will be responsible for remitting all applicable taxes to the proper authorities. If tax-exempt, Client will provide Tyler with Client's tax-exempt certificate.

2. Force Majeure; Client Assistance. “Force Majeure” is defined as an event beyond the reasonable control of a party, including governmental action, war, riot or civil commotion, fire, natural disaster, labor disputes, restraints affecting shipping or credit, delay of carriers, inadequate supply of suitable materials or any other cause which could not with reasonable diligence be foreseen, controlled or prevented by the party. Neither party shall be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure.

Force Majeure will not be allowed unless:

a) Within ten (10) business days of the occurrence of Force Majeure, the party whose performance is delayed thereby provides the other party or parties with written notice explaining the cause and extent thereof, as well as a request for a time extension equal to the estimated duration of the Force Majeure events.

b) Within ten (10) business days after the cessation of the Force Majeure event, the party whose performance was delayed provides the other party written notice of the time at which Force Majeure ceased and a complete explanation of all pertinent events pertaining to the entire Force Majeure situation.

Either party will have the right to terminate this Agreement if Force Majeure suspends performance of scheduled tasks by one or more parties for a period of one hundred-twenty (120) or more days from the scheduled date of the task. This paragraph will not relieve Client of its responsibility to pay for services and goods provided to Client and expenses incurred on behalf of Client prior to the effective date of termination.

In addition, Client acknowledges that the implementation of the Tyler Software Products is a cooperative process requiring the time and resources of Client personnel. Client shall, and shall cause Client personnel to, use all reasonable efforts to cooperate with and assist Tyler as may be reasonably required to meet the project deadlines and other milestones agreed to by the parties for implementation. Tyler shall not be liable for failure to meet such deadlines and milestones when such failure is due to Force Majeure (as defined above) or to the failure by Client personnel to provide such cooperation and assistance (either through action or omission).

3. Indemnification.

a) Tyler shall indemnify and hold harmless Client and its agents, officials and employees from and against any and all direct claims, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and costs) for personal injury or property damage arising from Tyler's negligence or willful misconduct.

b) Client shall indemnify and hold harmless Tyler and its agents, officials and employees from and against any and all direct claims, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and costs) for personal injury or property damage arising from Client's negligence or willful misconduct.

4. Limitation of Liability. In no event shall Tyler be liable for special, indirect, incidental, consequential, or exemplary damages, including, without limitation, any damages resulting from loss of use, loss of data, interruption of business activities, or failure to realize savings arising out of or in connection with the use of the Tyler Software Products, Services, or Third Party Products. Tyler's liability for damages and expenses arising from the Tyler Software Products or Services, whether based on a theory of contract or tort, including negligence and strict liability, shall be limited to the Fees set forth in the Investment Summary related to the defective product or service. Tyler's liability for damages and expenses arising from the Third Party Products, whether based on a theory of contract or tort, including negligence and strict liability, shall be limited to the license fee/purchase price of the Third Party Products. Such fees reflect and are set in reliance upon this limitation of liability.

5. Disclaimer. THE RIGHTS, REMEDIES, AND WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER RIGHTS, REMEDIES, AND WARRANTIES EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SYSTEM INTEGRATION, WHICH ARE HEREBY DISCLAIMED BY TYLER.

6. Dispute Resolution. The parties agree to notify each other within fifteen (15) business days of becoming aware of a dispute under this Agreement ("Dispute Notice Date").

The parties further agree that, before resorting to any formal dispute resolution process, they will first engage in good faith negotiations in an effort to find a solution that serves their respective and mutual interests. Party principals agree to participate directly in these negotiations. Unless otherwise agreed in writing, the parties shall have fifteen (15) business days from the Dispute Notice Date to begin these negotiations, and thirty (30) days from the Dispute Notice Date to complete these negotiations. All such negotiations will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Civil Procedure 408 and/or any similar applicable state rule.

In the event the parties fail to resolve the dispute as set forth above, the dispute will be referred to non-binding mediation. Thereafter, either party may assert its other rights and remedies under this Agreement within a court of competent jurisdiction.

Nothing in this Article will prevent a party from applying to a federal or state court of competent jurisdiction to obtain injunctive relief pending resolution of the dispute through the dispute resolution procedures set forth herein.

7. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of Tyler and Client. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement.

8. Governing Law. This Agreement will be governed by and construed in accordance with the laws of Client's state of domicile.

9. Severability. If any term or provision of this Agreement or the application thereof, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable will not be affected thereby, and each term and provision of this Agreement will be valid and enforced to the fullest extent permitted by law.

10. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by Tyler or Client, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Agreement, nor shall such non-enforcement prevent Tyler or Client from enforcing each and every term of this Agreement thereafter.

11. Amendment. This Agreement may only be modified by written amendment signed by authorized representatives of both parties.

12. Termination.

a) Termination for Cause. Client may terminate this Agreement for cause in the event Tyler does not cure a material breach of this Agreement within thirty (30) days of receiving notice of such breach from Client. Upon such termination, Client shall pay Tyler for all services and expenses not in dispute and non-Defective Tyler Software Products which were delivered or incurred prior to the date Tyler received Client's notice of termination. Payment for services and expenses in dispute will be determined in accordance with the dispute resolution process.

b) Termination for Non-appropriation. If Client should not appropriate or otherwise make available funds sufficient to purchase, lease, operate or maintain the products set forth in this Agreement, or other means of performing the same functions of such products, Client may unilaterally terminate this Agreement only upon thirty (30) days written notice to Tyler. Upon termination, Client shall remit payment for all products and services delivered to Client and all expenses incurred by Tyler prior to Tyler's receipt of the termination notice. Client will not be entitled to a refund or offset of previously paid license and other fees.

13. No Assignment. Client may not assign its rights and responsibilities under this Agreement without Tyler's prior written permission, not to be unreasonably withheld.

14. Successors and Assigns. This Agreement shall inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns.

15. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities. Each party agrees that it shall not disclose any confidential information of the other party and further agrees to take appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement for a period of two (2) years. This obligation of confidentiality will not apply to information that:

a) At the time of the disclosure is in the public domain;

b) After disclosure, becomes part of the public domain by publication or otherwise, except by breach of this Agreement by a party;

c) A party can establish by reasonable proof was in that party's possession at the time of disclosure;

d) A party receives from a third party who has a right to disclose it to that party; or

e) Is subject to Freedom of Information Act requests, only to the extent disclosure is based on the good faith written opinion of the receiving party's legal counsel that disclosure is required by law: provided, however, that that receiving party shall give prompt notice of the service of process or other documentation that underlies such requirement and use its best efforts to assist the disclosing party if the disclosing party wishes to obtain a protective order or otherwise protect the confidentiality of such confidential information. The disclosing party reserves the right to obtain protective order or otherwise protect the confidentiality of its confidential information.

16. Shipping. Delivery shall be F.O.B. shipping point.

17. Payment Terms.

a) All software costs are invoiced and due at contract signing, net thirty (30) days.

b) Tyler shall invoice Client fees for services, plus expenses, if and as provided/incurred.

c) Maintenance fees are invoiced and due at System Acceptance then annually thereafter.

18. Electronic Payment. Tyler prefers to receive payments electronically. Tyler's electronic payment information is as follows:

Bank: Wells Fargo Bank, N.A.
420 Montgomery
San Francisco, CA 94104

ABA: 121000248

Account: 4124302472

Beneficiary: Tyler Technologies Inc. – Operating

19. Entire Agreement. This Agreement represents the entire agreement of Client and Tyler with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Client hereby acknowledges that in entering into this Agreement it did not rely on any information not explicitly set forth in this Agreement.

20. Multiple Originals and Signatures. This Agreement may be executed in multiple originals, any of which shall be independently treated as an original document. Any electronic, faxed, scanned, photocopied or similarly reproduced signature on this Agreement or any amendment hereto shall be deemed an original signature and shall be fully enforceable as if an original signature.

21. Notices.

a) All notices or communications required or permitted as a part of this Agreement will be in writing (unless another verifiable medium is expressly authorized) and will be deemed delivered when:

- i) Actually received,
- ii) Upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the party,
- iii) Upon receipt by sender of proof of email delivery, or
- iv) If not actually received, ten (10) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the respective other party at the address set forth in this Agreement or such other address as the party may have designated by notice or Agreement amendment to the other party.

b) Consequences to be borne due to failure to receive a notice due to improper notification by the intended receiving party of a new address will be borne by the intended receiving party. The addresses of the parties to this Agreement are as follows:

Tulare County, CA
221 South Mooney Blvd
Visalin, California 93291
I. Colin Strachan

Tyler Technologies, Inc.
5519 53rd Street
Lubbock, Texas 79414
Albert Mendoza – Contract Specialist

22. Independent Contractor. This is not an agreement of partnership or employment of Tyler or any of Tyler's employees by Client. Tyler is an independent contractor for all purposes under this Agreement.

23. Tyler Products and Services. Client may purchase additional Tyler products and services at then-current list price, pursuant to the terms of this Agreement, by executing a mutually agreed addendum.

24. Optional Products and Services. Pricing for Optional Products and Services shall be valid for six (6) months from the Effective Date.

IN WITNESS WHEREOF, persons having been duly authorized and empowered enter into this Agreement.

Tulare County, California

By: 

Name: PETE VANDER POEL

Title: CHAIRMAN, BOARD OF SUPERVISORS

Date: 4/23/13

Tyler Technologies, Inc.

By: 

Name: S. Brett Cate

Title: President, Local Government Division

Date: February 18, 2013


By: 

Name: Janet Joiner

Title: Executive VP, Finance Local Gov't Division

Date: February 18, 2013

APPROVED AS TO FORM:
COUNTY COUNCIL

By: 
Deputy 20121725

EnerGov Enterprise Server Pricing

RMA & Fire: Joint Service Implementation Plan

Tulare County, CA



Software License Purchases	Total Costs	Unit Price	Notes
EnerGov Enterprise Server <i>Permit & Land Management</i> Permitting, Plan, Project, Code, Inspections, & Requests	\$170,000	\$2,000	85 Named Users
• EnerGov Enterprise Server "View Only"	\$13,980	\$699	20 Named Users
• EnerGov Citizen Access Web Portal	\$39,999	\$39,999 List	1 Server license
• EnerGov GIS Advanced	\$39,999	\$39,999	1 Server license
• IG Workforce Server	\$19,999	\$19,999 List	1 Server license for up to 20 users
• EnerGov Intelligent Automation Agent	\$19,999	\$19,999	1 Server license
Grand Total Software	\$303,976		

Subscriptions	Unit Price	Annual Subscription Fee	Notes
iG Applications (iG Inspect and iG Enforce)	\$59/user/month	\$12,744	18 Named Users
Grand Total Software		\$12,744	

Professional Services	Year 1 Purchase	Resources	Rate
***"Joint Service" Implementation Plan			
• Implementation Resources	\$300,000	2,000 hours	\$150 / hr
• End User Training- includes Go-Live Support	\$54,000	360 hours	\$150 / hr
• Data Conversion (one data source)	\$43,800	200 hours	\$219 / hr
• Travel	\$51,000	30 weeks on site	\$1,700 / week
• Certifications for Joint Implementation Team Members	\$11,994	8 courses (2 courses offered free of charge)	\$1,999 / course
• Custom Programming / Integrations	TBD	TBD	\$219 / hr
• Grand Total Professional Services	\$460,794		



Total Cost of Ownership (3 years)

Total Software, Services & Support Costs	Year 1	Annual Costs Year 2	Annual Costs Year 3	3 Year TCO	Notes
• EnerGov Enterprise Server	\$303,976			\$303,976	
• 16 iG Inspect/Enforce Apps	(1)	\$12,744	\$12,744	\$25,488	(1) First subscription Fee due at go-live of first iG Application
• Professional Services	\$460,794	-	-	\$460,794	
• Software Maintenance Costs	(2)	\$60,795	\$60,795	\$121,590	(2) First year Maintenance Fees due at completion of System Acceptance Stage, prior to training and go-live, which may occur within the first year
TOTAL PURCHASE PRICE	\$764,770	\$73,539	\$73,539	\$911,848	

Invoicing and Payment Schedule

Software: All software costs are invoiced and due at contract signing, net 30-days.

Subscription Fee: The use of iG Applications require annual subscription fee payments and access is terminated if subscription fees are unpaid.

Professional Services: Professional Services and associated travel costs are invoiced monthly for hours consumed.

Maintenance Fees: Initial Maintenance fees are invoiced and due at System Acceptance then annually thereafter.

EnerGov Enterprise Server Pricing

Business Licensing: Joint Service Implementation Plan

Tulare County, CA



	Total Costs	Unit Price	Notes
EnerGov Enterprise Server <i>License & Regulatory Management Business Licensing</i>	\$59,999	\$2,999	Up to 20 named users
• EnerGov Citizen Access Web Portal- License Renewals	\$39,999	\$39,999 List	1 Server license
Grand Total Software	<u>\$89,999</u>		

Professional Services <i>***"Joint Service" Implementation Plan</i>	Year 1 Purchase	Resources	Rate
• Implementation Resources	\$75,000	500 hours	\$150 / hr
• End User Training- includes Go-Live Support	\$15,000	100 hours	\$150 / hr
• Data Conversion (one data source)	\$21,900	100 hours	\$219 / hr
• Travel	\$11,900	7 weeks on site	\$1,700 / week
• Certifications for Joint Implementation Team Members	\$3,999	2 courses	\$1,999 / course
• Custom Programming / Integrations	TBD	TBD	\$219 / hr
• Grand Total Professional Services	<u>\$127,798</u>		

Total Cost of Ownership (3 Years)

Total Software & Services	Year 1	Annual Costs Year 2	Annual Costs Year 3	3 Year TCO	Notes
• EnerGov Enterprise Server	\$89,999			\$89,999	
• Professional Services	\$127,798			\$127,798	
• Software Maintenance Costs	(1)	\$17,999	\$17,999	\$35,998	(1) First year Maintenance Fees due at completion of System Acceptance Stage, prior to training and go-live, which may occur within the first year
TOTAL PURCHASE PRICE	<u>\$217,797</u>	<u>\$17,999</u>	<u>\$17,999</u>	<u>\$253,795</u>	



Invoicing and Payment Schedule

Software: All software costs are invoiced and due at contract signing, net 30-days.

Professional Services: Professional Services and associated travel costs are invoiced monthly for hours consumed.

Maintenance Fees: Initial Maintenance fees are Invoiced and due at System Acceptance then annually thereafter.

Exhibit 3

Tyler Business Travel Policy

1. Air Travel

A. Reservations and Tickets

The travel coordinator has been directed to provide travelers the lowest available airfare within two hours before or after the requested departure time (a.k.a. two-hour window). Employees are encouraged to make reservations far enough in advance to take full advantage of discount opportunities.

B. Baggage Fees

Fees for checking up to two pieces of baggage will be fully reimbursed, provided they are directly related to Tyler business. Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Business use of an employee's private automobile will be reimbursed at the current IRS rate plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars when cost, convenience and the specific situation require their use. The Company has selected specific providers as its primary rental car firms. Reservations must be made through the travel coordinator or online booking tool to ensure that we take full advantage of the contract. When renting a car for Company business, employees should decline the "collision damage waiver" and "personal accident insurance" on the rental agreement as the Company carries leased vehicle coverage for any employee leasing a vehicle for business purposes. Travelers should also decline the "fuel purchase option" and return the car with a full tank of gas. The Company will not reimburse for non-essential products and services such as GPS devices and Satellite Radio.

C. Public Transportation

Taxi or airport limousine services should be considered when traveling in and around cities or to and from airports. The Company will reimburse the actual fare plus a reasonable tip (15-18%). In the case of a free hotel shuttle to the airport, a \$1 tip per bag is reimbursable.

3. Lodging

The Company has selected specific providers as its preferred hotel vendors. Reservations must be made through the travel coordinator or online booking tool to ensure that we take full advantage of the contracts. Hotel chains that are well established, reasonable in price and conveniently located in relation to the traveler's work assignment should be selected. Typical hotel cost per night

should not exceed \$100 per night before taxes. If the customer has a discount rate with a local hotel, please notify the travel coordinator as soon as possible to ensure that all employees can take advantage of the rate.

4. Meals

Meals while on travel status are reimbursable per the rate published by the IRS at www.gsa.gov/perdiem

The split for the per diem meals is:

15% Breakfast
25% Lunch
60% Dinner

A. Overnight Travel

Employees on overnight travel status are eligible to claim all three meals on their expense report except as follows:

Departure Day

Depart before 12:00 noon	lunch and dinner
Depart after 12:00 noon	dinner

Return Day

Return before 12:00 noon	breakfast
Return between 12:00 noon & 8:00 p.m.	breakfast and lunch
Return after 7:00* p.m.	breakfast, lunch and dinner

*7:00 is defined as direct travel time and does not include time taken to stop for dinner

B. Same Day Travel

Employees traveling at least 2 hours to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 8:00* p.m.

*8:00 is defined as direct travel time and does not include time taken to stop for dinner

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If your hotel charges for internet access it is reimbursable up to \$15.00 per day. Charges for internet access at airports are not reimbursable.

Effective April 1, 2012

Exhibit 4

MyGovPay/VirtualPay and IVR

MyGovPay/VirtualPay

1. MyGovPay/VirtualPay Licensing. Access to MyGovPay and/or Virtual Pay is hereby granted if Customer elects to use MyGovPay or VirtualPay, products of EnerGov (*Powered by BankCard Services Worldwide*), designed for Citizen Users to use for processing online payments.

(a) Special MyGovPay/VirtualPay Definitions.

“BCSW” means BankCard Services Worldwide, a Payment Card Industry (PCI) compliant processing agent through which EnerGov passes credit card transactions.

“Merchant Agreement” means the agreement between Customer and BCSW that provides for the Merchant Fees.

“Merchant Fees” means direct costs levied by Visa/Mastercard/Discover or other payment card companies for Interchange Fees, Dues, Assessments and Occurrence Fees, over which EnerGov has no authority.

“MyGovPay” means the Product of EnerGov that allows members of the public to pay for Customer’s services with a credit or other payment card on the Customer’s citizen-facing web portal.

“Use Fees” means the Technology Fees, Authorization Fees and Program/Convenience Fees as listed in Use Fees Table in Article III, in the section titled *MyGovPay/VirtualPay*.

“VirtualPay” means the Product of EnerGov that allows the Customer to accept and process citizen user’s credit or other payment card using the EnerGov Software.

(b) Conditions of Use. If customer elects to use MyGovPay and/or VirtualPay the following terms apply:

- (1) Customer must apply for and agree to a Merchant Agreement with BCSW.
- (2) Customer agrees that Citizen Users will be subject to Use Fees as listed in Use Fees table in Article III.
- (3) Customer agrees that Use Fees are separate from and independent of Merchant Fees.
- (4) Customer agrees that this Agreement does not represent any modification to Customer’s Merchant Agreement with BCSA.
- (5) Customer agrees that Use Fees are for use on the MyGovPay/VirtualPay online system and will not be deposited or owed to Customer in any way.
- (6) Customer agrees that MyGovPay’s and VirtualPay’s ability to assess Use Fees is dictated by the Card Associations whose rules may change at any time and for any reason. If MyGovPay and/or VirtualPay, for any reason, are unable to process payments using Use Fees, Customer agrees that MyGovPay/VirtualPay reserves the right to negotiate a new pricing model with Customer for the continued use of MyGovPay and/or VirtualPay.

2. MyGovPay/VirtualPay Fees. Customer agrees that the following Fees will apply if Customer elects to use MyGovPay/VirtualPay.

Use Fees

	MyGovPay (Online Payments)	MyGovPay (Online Payments)	VirtualPay
	Option 1- With Convenience Fee	Option 2 Without Convenience Fee	BackOffice Credit Card
Technology Fee	0.30% per Transaction Amount (1)	0.75% per Transaction Amount (1)	0.30% per Transaction Amount (1)
Authorization Fee	\$0.20 per Transaction (1)	\$0.50 per Transaction (1)	\$0.20 per Transaction (1)
Program/Convenience Fee	\$5.00 per Transaction (2)	N/A	N/A

- | |
|--|
| <p>(1) Technology Fee and Authorization Fee reduce total amount received by Customer.</p> <p>(2) Program/Convenience Fee is charged to Citizen User.</p> |
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3. Interactive Voice Response ("IVR"). If IVR is selected by Customer and included in the pricing, the following additional terms and conditions shall apply of this Agreement:

- (a) Network Security. Customer acknowledges that a third-party is used by EnerGov to process IVR data. Customer's content will pass through and be stored on the third-party servers and will not be segregated or in a separate physical location from servers on which other customers' content is or will be transmitted or stored.
- (b) Content. Customer is responsible for the creation, editorial content, control, and all other aspects of content to be used solely in conjunction with the EnerGov Software.
- (c) Lawful Purposes. Customer shall not use the IVR system for any unlawful purpose.
- (d) Critical Application. Customer will not use the IVR system for any life-support application or other critical application where failure or potential failure of the IVR system can cause injury, harm, death, or other grave problems, including, without limitation, loss of aircraft control, hospital life-support system, and delays in getting medicate care or other emergency services.
- (e) No Harmful Code. Customer represents and warrants that no content designed to delete, disable, deactivate, interfere with or otherwise harm any aspect of the IVR system now or in the future, shall be knowingly transmitted by Customer or Users.
- (f) IVR WARRANTY. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ENERGGOV MAKES NO REPRESENTATION AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR IVR.