



FIRST AMENDMENT TO SOFTWARE AS A SERVICE AGREEMENT

This First Amendment to Software as a Service Agreement (“Amendment”) is made by and between **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, 201 West Colfax, Department 301, Denver CO 80202 (“City”), and Tyler Technologies, Inc. with offices at 4100 Miller-Valentine Court, Moraine, OH 45439 (“Tyler”) and is effective as of the date on which City signs the Amendment.

WHEREAS, Tyler and the City are parties to a Software as a Service Agreement dated May 21, 2015 (“Agreement”); and

WHEREAS, Tyler and City desire to amend the Agreement;

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

1. The final paragraph of section Section B(8) is deleted and paragraphs 8.5 and 8.6 are added as follows:

“8.5 If the City fails to provide Tyler with a notice of deficiency within the fifteen (15) day time periods described above, City will be deemed to have accepted the applicable test point for which no notice of deficiency was provided. If a notice of deficiency is provided by City to Tyler, Tyler will, at its expense, meet the enumerated functional requirements for the Tyler Software based on the Functionality Documents, within fifteen (15) days after receipt of the City’s notice of deficiency as provided in accordance with paragraphs 8.1, 8.2, 8.3 and 8.4 above, or within such other period of time as may be mutually agreed to by the parties, consent to a longer period of time not to be unreasonably conditioned or withheld by City. The foregoing procedure will be repeated for each test point until the City either (i) accepts the Tyler Software (either by providing Tyler a written notice of acceptance, or by failing to provide a notice of deficiency as described above in paragraphs 8.1, 8.2, 8.3 and 8.4), or (ii) rejects the Tyler Software and declares a breach of the Agreement.

8.6 In the event that the Tyler Software does not substantially conform to the functional requirements in the Functionality Documents and Tyler cannot cure such non-conformance or provide a functionally equivalent replacement, the City may pursue its rights and remedies under this Agreement, including (i) those set forth in Section F (Termination); (ii) providing a notice of non-conformance and breach, and calling on the performance bond posted by Tyler and set out in Section H(31); or (iii) other rights and remedies that are available at law, in equity, or otherwise. In the event that (i) the City calls on the performance bond, (ii) the surety is unable to cure the non-conformance which lead to the declaration of a breach within a reasonable period of time, and (iii) the City is not made financially whole by receipt of the funds set out in the bond within 180 days from the City’s notice of non-conformance and breach, the City may bring a legal action against Tyler for the breach; provided that the City’s remedies against Tyler pursuant to such legal action shall be limited to an amount equal to the lesser of (i) actual SaaS fees paid by City to Tyler upon the rejection date, or (ii) two times (2X) the annual SaaS Fees payable by City to Tyler as of the



rejection date, but in no event shall the City's total monetary recovery from the legal action against Tyler and the performance bond exceed either (i) or (ii)."

2. A new Section H(31) shall be inserted as follows:

"31. Performance Bond. Tyler will secure a performance bond (naming City as a beneficiary thereof) within thirty (30) business days of the Effective Date of the Amendment, in the face amount of \$3,535,000. The form of the bond is attached hereto as Schedule 1. The cost of the bond will be paid by Tyler. The bond will have an initial term of thirty-six months. In the event that Tyler has not successfully completed the implementation services and City desires to renew or extend that term we shall negotiate with you in good faith to renew the performance bond. Any renewal will be subject to underwriting or surety approval."

3. Exhibit A Investment Summary shall be deleted in its entirety and replaced with a new Exhibit A, attached hereto.

4. Exhibit B, Invoicing and Payment Policy, shall be deleted in its entirety and replaced with a new Exhibit B, attached hereto.

5. Table 11 Milestone Payment Plan of Exhibit C, Statement of Work, is replaced in its entirety by the following:

Milestone Payments	Percentage of Payment	Hold Back %	Hold Back \$	Fee/Payment Amount	Estimated Invoice Date
Initiation & Planning Phase Complete & Accepted	5%	10%	\$17,675	\$ 176,750	Q1, 2016
Requirements Analysis & Design Phase Complete & Accepted	10%	10%	\$35,350	\$ 353,500	Q2, 2016
Construction Data Extraction Scripts Complete (E&D) & Accepted	1%	10%	\$3,535	\$ 35,350	Q2, 2016
Data Extraction Testing Complete (E&D) & Accepted	1%	10%	\$3,535	\$ 35,350	Q3, 2016
Configuration Complete & Accepted	1%	10%	\$3,535	\$ 35,350	Q4, 2016
Construction Core Product Modifications Complete & Accepted	1%	10%	\$3,535	\$ 35,350	Q2, 2017
Construction Data Conversion Scripts Complete (CAMA, OASIS, Landisc) & Accepted	5%	10%	\$17,675	\$ 176,750	Q2, 2017
Integration Construction Complete & Accepted	5%	10%	\$17,675	\$ 176,750	Q2, 2017

System (e-2-e) Testing Complete & Accepted	10%	10%	\$35,350	\$ 353,500	Q3, 2017
Business UAT Testing Complete & Accepted	10%	10%	\$35,350	\$ 353,500	Q3, 2017
Data Conversion Testing Complete & Accepted	5%	10%	\$17,675	\$ 176,750	Q3, 2017
Implementation Production Delivery Complete & Accepted	10%	10%	\$35,350	\$ 353,500	Q3, 2017
Agency Training Complete & Accepted	10%	10%	\$35,535	\$ 353,500	Q4, 2017
Functional Testing Complete & Accepted	1%	10%	\$3,535	\$ 35,350	Q3, 2017
Report Construction Complete & Accepted	5%	10%	\$17,675	\$ 176,750	Q3, 2017
Hold Back Retainage Payment 30 Day Post Go Live	10%			\$ 282,800	Q1, 2018
90 Day Post Production Warranty Support & Accepted	20%			\$ 707,000	Q1, 2018
Total	100%			\$ 3,535,000	

6. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.

7. All other terms and conditions of the Agreement shall remain in full force and effect.

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ELECTRONIC SIGNATURE PAGE GENERATED BY CLIENT FOLLOWS**





Investment Summary

The following Investment Summary details the software, products, and services to be delivered by Tyler Technologies, Inc. to the City and County of Denver, Colorado under your Software as a Service 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 your Software as a Service Agreement.

Your Data Storage Capacity is 4TB of storage, as set forth on the final page of this Exhibit A. Additional storage may be purchased at the rates set forth on that same page. Tyler will notify Client in a reasonable period after Client exceeds its allowable Data Storage Capacity and provide Client with the then current cost for additional storage. Client shall have a reasonable period of time to either (i) acknowledge additional data storage cost in writing to Tyler or (ii) take such actions (or authorize Tyler to take such actions) as Client deems appropriate in order to maintain its allowable Data Storage Capacity without incurring additional storage costs.

June 2015-Aug 2015	\$203,640.00
Sept 2015-Nov 2015	\$203,640.00
Dec 2015-Feb 2016	\$203,640.00
Mar 2016-May 2016	\$203,640.00
Year 1 SaaS Total	\$814,560.00
Jun 2016-Aug 2016	\$214,357.50
Sept 2016-Nov 2016	\$214,357.50
Dec 2016-Feb 2017	\$214,357.50
Mar 2017-May 2017	\$214,357.50
Year 2 SaaS Total	\$857,430.00
Jun 2017 – Aug 2017	\$214,357.50
Sept 2017-Nov 2017	\$214,357.50
Dec 2017-Feb 2018	\$214,357.50
Mar 2018-May 2018	\$214,357.50
Year 3 SaaS Total	\$857,430.00
Jun 2018-Aug 2018	\$222,931.25
Sept 2018-Nov 2018	\$222,931.25
Dec 2018-Feb 2019	\$222,931.25
Mar 2019 – May 2019	\$222,931.25
Year 4 SaaS Total	\$891,725.00
Jun 2019 – Aug 2019	\$231,847.50
Sept 2019 – Nov 2019	\$231,847.50
Dec 2019 – Feb 2020	\$231,847.50
Mar 2020 – May 2020	\$231,847.50
Year 5 SaaS Total	\$927,390.00
Initial 5 Year SaaS Cost	\$4,348,535.00



This Software as a Service Agreement covers the following Tyler Software:

- iasWorld CAMA/Tax Standard
- iasWorld Inquiry & Appeals Tracking
- iasWorld Personal Property
- iasWorld Delinquent Tax Collection
- iasWorld eFiling

This Software as a Service Agreement covers implementation services, training services, data conversion services and the professional services described in the Statement of Work, **Exhibit C**, at a cost of Three Million Five Hundred Thirty-Five Thousand Dollars (\$3,535,000).

Optional Additional Software

The Client can opt to include the following optional software modules for the listed annual SaaS price for a term up to twelve (12) months after the end of the initial 5 year term of this agreement. Tyler agrees to work with the Client to identify the cost of the implementation services necessary to implement the optional software.

- iasWorld Field Mobile \$15,140
- iasWorld Public Access \$20,595
- iasWorld Analyze \$14,110



Invoicing and Payment Policy

Tyler Technologies, Inc. will provide you with the products and services set forth in the Investment Summary of your Software as a Service Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in your Software as a Service Agreement.

Invoicing: We will invoice you for the applicable products and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in your Software as a Service Agreement.

1. SaaS Fees. SaaS Fees are invoiced on a quarterly basis beginning on the first day of the month immediately following the Effective Date. Your quarterly SaaS Fees for the initial term of your Software as a Service Agreement, as described in Section F(1) are as follows:
 - 1.1 Year One Quarterly SaaS Fees of \$203,640 for an annual SaaS Fee of \$814,560;
 - 1.2 Year Two Quarterly SaaS Fees of \$214,357.50 for an annual SaaS Fee of \$857,430;
 - 1.3 Year Three Quarterly SaaS Fees of \$214,357.50 for an annual SaaS Fee of \$857,430;
 - 1.4 Year Four Quarterly SaaS Fees of \$222,931.25 for an annual SaaS Fee of \$891,725;
 - 1.5 Year Five Quarterly SaaS Fees of \$231,847.50 for an annual SaaS Fee of \$927,390.

Subsequent annual SaaS Fees are invoiced every three (3) months in advance, beginning on the anniversary of the initial invoice date.

2. Other Professional Services.
 - 2.1 *SOW Implementation and Other Professional Services:* Implementation services, training services, data conversion services and all other professional services described in the Statement of Work, **Exhibit C**, are Three Million Five Hundred Thirty-Five Thousand Dollars (\$3,535,000) and are invoiced on a milestone basis as described in **Exhibit C**; provided that Client will retain ten percent (10%) of the fee for each milestone payment (excluding the 90 Day Post Production Warranty Support & Accepted milestone payment) until thirty (30) days following Go-Live, not to exceed a Go-Live date mutually agreed to by the parties in the initial project plan. In the event the Go-Live is delayed for a reason outside of Tyler's exclusive control, the original Go-Live date set forth in the initial project plan will operate as the payment trigger date, and in the event the Go-Live is delayed for any other reason, then the mutually agreeable adjusted Go-Live date will become the payment trigger date.
 - 2.2 *Training Services:* Training services, if any, outside the scope of **Exhibit C** are invoiced in weekly increments as performed.
 - 2.5 *Other Professional Services:* Other professional services (excluding training), if any, outside the scope of **Exhibit C**, are billed as delivered.
3. Third Party Hardware. Third Party Hardware costs are invoiced upon delivery.



Payment. Payment for invoices shall be made pursuant to your Prompt Payment Ordinance. We prefer to receive payments electronically. Our electronic payment information is:

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

ABA: 121000248

Account: 4124302472

Beneficiary: Tyler Technologies, Inc. – Operating

SCHEDULE 1
FORM OF BOND
SEE ATTACHED

PERFORMANCE BOND

**Travelers Casualty and Surety Company of America
Hartford, CT 06183**

Bond No.:

CONTRACTOR:*(Name, legal status and address)*

Tyler Technologies, Inc.
4100 Miller-Valentine Court
Moraine, OH 45439

SURETY:*(Name, legal status and principal place of business)*

Travelers Casualty and Surety Company of America

OWNER:*(Name, legal status and address)*

CITY AND COUNTY OF DENVER
201 West Colfax, Dept. 301
Denver, CO 80202

CONSTRUCTION CONTRACT

Date: May 21, 2015

Amount: \$3,535,000.00

Description:

(Name and location)

City & County of Denver, CO - lasWorld Installment: Contract Number: 201521806

*This bond shall only cover the lasWorld Install as outlined in Exhibit C "Statement of Work Fees" totaling \$3,535,000.

BOND

Date: September 22, 2015

(Not earlier than Construction Contract Date)

Amount: \$3,535,000.00

Modifications to this Bond: None See Section 16**CONTRACTOR AS PRINCIPAL**

Company:

Tyler Technologies, Inc.

*(Corporate Seal)***SURETY**

Company:

Travelers Casualty and Surety Company of America

(Corporate Seal)

Signature: _____

Name and Title:

Signature: _____

Name and Title:

*(Any additional signatures appear on the last page of this Performance Bond.)**(FOR INFORMATION ONLY -- Name, address and telephone)***AGENT or BROKER:**

Wharton Surety Consultants, LLC
992 Old Eagle School Road, Suite 915
Wayne, PA 19087
1-866-428-9420

OWNER'S REPRESENTATIVE:*(Architect, Engineer or other party:)*

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

.1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the

- Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails

to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

*This bond shall only cover the iasWorld Install as outlined in Exhibit C "Statement of Work Fees" totaling \$3,535,000.

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Signature: _____

Name and Title:

Name and Title:

Address:

Address:

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: TECHS-201521806-01

Contractor Name: TYLER TECHNOLOGIES

By: Andrea Fravert

Name: Andrea L. Fravert
(please print)

Title: Corporate Attorney
(please print)

ATTEST: [if required]

By: [Signature]

Name: Lisel Lopez
(please print)

Title: Corporate Attorney
(please print)

