



CONTRACT #MA-002-16011912

BETWEEN

THE COUNTY OF ORANGE

AND

TYLER TECHNOLOGIES, INC.

FOR

COMMERCIAL VALUATION SOFTWARE, INSTALLATION,

AND SUPPORT

CONTRACT # MA-002-16011912

For

Commercial Valuation Software, Installation, and Support

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Contract # MA-002-16011912
For
Commercial Valuation Software and Support

This Contract is established to license and install commercial valuation software with data repository and Proposition 8 capability, and provide annual support and maintenance, made and entered into as of the date fully executed by and between Tyler Technologies, Inc., with a place of business at 5101 Tennyson Parkway, Plano, TX 78024, (hereinafter referred to as “Contractor”), and the County of Orange, a political subdivision of the State of California, (hereinafter referred to as “County”) which may be referred to individually as “Party” or collectively as “Parties”.

RECITALS

WHEREAS, Contractor agrees to license and install Commercial Valuation Software with data repository and Proposition 8 capability and provide support and maintenance to said software as further set forth herein; and

WHEREAS, the Contractor agrees that its products and services meet or exceed the requirements and specifications set forth herein; and

WHEREAS, the County of Orange Board of Supervisors has authorized the Purchasing Agent or his designee to enter into a Contract to license and install Commercial Valuation Software with data repository and Proposition 8 capability and support and maintenance;

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

CONTRACT PROVISIONS

- 1. Term of Contract:** The Term of the Contract shall be for Three (3) Years, effective upon signatures of Parties.
The Term of this Contract shall be for a three year term effective June 28, 2016. As set forth in Attachment A, Contractor grants to County a perpetual license to use the Tyler Software for its internal business purposes and such license does not expire with expiration or non-renewal of the Term provided County is in compliance with the license terms and restrictions.
- 2. Renewable Term of Contract:** The Maintenance and Support Portion of the Contract may be renewed for two (2) additional consecutive one-year terms, upon concurrence of Parties.
- 3. Compensation:** The Contractor agrees to accept the specified compensation as set forth in Attachment B, Cost/Compensation, as full remuneration for performing all services and furnishing all staffing and materials more particularly described in the Scope of, and for performance by the Contractor of all its duties and obligations hereunder.
- 4. Taxes:** The fees in the Invoicing and Payment Policy do not include any taxes, including, without limitation, sales, use, or excise tax. If County is a tax-exempt entity, County agrees to provide Contractor with a tax-exempt certificate. Otherwise, Contractor will pay all applicable taxes to the proper authorities and County will reimburse Contractor for such taxes. For clarity, Contractor is responsible for paying its income taxes arising from its performance of this Agreement.

5. **Fiscal Appropriations:** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not forthcoming, the Contract shall be terminated without penalty. Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funding by, the state of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty. In the event of termination due to a lack of appropriations, County will pay Contractor for all undisputed fees and expenses related to the software, products, and/or services County has received, or Contractor has incurred or delivered, prior to the effective date of termination. County will not be entitled to a refund or offset of previously paid license and other fees.
6. **Entire Contract:** This Contract, its Attachments, and Exhibits which have been incorporated, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Contract between the Parties with respect to the matters herein and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of equipment, shall not be valid or binding on County unless accepted in writing by the County's Deputy Purchasing Agent or his designee, hereinafter "Purchasing Agent".
7. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
8. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.
9. **Delivery:** Subject to Attachment A, Section A.V, time of delivery of goods or Services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or description, or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments, nor deprive it of the right to return goods already accepted, at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County.
10. **Acceptance of Service/Product:** Unless otherwise agreed to in writing by County, acceptance of the Commercial Valuation Software with data repository and Proposition 8 capability shall not be deemed complete until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, including but not limited to the testing set forth in accordance with contract terms.
11. **Warranty:** Contractor will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event Contractor provides services that do not conform to this warranty, Contractor will re-perform such services at no additional cost to County. .

- 12. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any third party's patented or copyrighted materials in the performance of this Contract. . Contractor agrees that, in accordance with the more specific requirement contained in paragraph 40 below, it shall indemnify, and defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.
- 13. Assignment or Sub-contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by either party without the express written consent of the other party. If Contractor is merged or acquired by another business entity, the business entity shall immediately notify the County and seek the County's consent to its assignment and assumption of the Contract. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- 14. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it shall comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of anti-discrimination law or regulation including but not limited to Section 1720 et seq. of the California Labor Code.
- 15. Termination:** In addition to any other remedies or rights it may have by law and those set forth in the Contract, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of Contract, any misrepresentation or fraud on the part of the Contractor.
- 16. Consent to Breach Not Waiver:** No term or provision of this Contractor shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- 17. Remedies Not Exclusive:** Except as otherwise specifically stated in this Agreement, the remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.
- 18. Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor its employees nor anyone working under Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.
- 19. Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to the County's reasonable satisfaction. Contractor agrees to re-perform services that do not meet Tyler's services warranty or otherwise meet the specifications in this Contract at no charge to the County. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies as described in the Scope of Work; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental

capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.

- 20. Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

All self-insured retentions (SIRs) and deductibles shall be disclosed to the County upon request.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the State of California (California Admitted Carrier). If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings and County may terminate this Contract.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- a. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds. A coverage form providing blanket coverage providing at least as broad coverage as the endorsements indicated will also be accepted.
- b. A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing for claims arising out of this Agreement.

The Commercial General Liability and Automobile policies required by this Contract shall waive all rights of subrogation against the County and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees, except for the negligence or willful misconduct of the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the contract, upon which the County may suspend or terminate this contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to Yvonne Herrell.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification of contract award by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to request Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract which change in insurance shall be mutually agreed upon by Contractor and County. Any request by County to increase or decrease insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of the mutually agreed upon changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and other evidence of such changes in insurance which Contractor has agreed to provide to County, if any, with County incorporating such changes within thirty (30) days of receipt of such notice, or such other time period as mutually agreed upon by the parties, this Contract may be in breach without further notice to Contractor, and the County may suspend or terminate this contract.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

21. **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CONTRACTOR HEREBY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
22. **LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, CONTRACTOR'S LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO THE LESSER OF (A) COUNTY'S ACTUAL DIRECT DAMAGES OR (B) PRIOR TO THE INSTALLATION DATE, THE TOTAL FEES AMOUNT (EXCLUSIVE OF ANY ANNUAL FEES) AS SPECIFIED IN THE INVOICING AND PAYMENT POLICY; AND (B) AFTER THE INSTALLATION DATE, THE TOTAL AMOUNT OF MAINTENANCE FEES, AS APPLICABLE, UP TO THE CURRENT TERM. THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY.
23. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
24. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release.
25. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
26. **Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, Contractor will use commercially reasonable efforts to request that the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.
27. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike, or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within a commercially reasonable period after of the start of the delay and Contractor avails itself of any available remedies.
28. **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, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and 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. This obligation of confidentiality will not apply to information that:

28.1 is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;

28.2 a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;

28.3 a party receives from a third party who has a right to disclose it to the receiving party; or

28.4 is the subject of a public records act request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice of such request and otherwise perform the functions required by applicable law.

- 29. Compliance with Laws:** Contractor represents and warrants that Contractor fully complies with all federal and state standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”) with respect to services provided by Contractor under this Agreement and existing as of the Effective Date, including, but not limited to those applicable laws issued by County in its governmental capacity . Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph “HH” below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- 30. Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- 31. Intentionally Left Blank:**
- 32. Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
- 33. Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- 34. Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- 35. Attorneys Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney’s fees, costs and expenses.
- 36. Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.
- 37. Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

38. Employee Eligibility Verification: The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

39. General Indemnification Provisions: Contractor agrees to indemnify, defend with counsel approved in writing by County, such approval not to be unreasonably withheld, conditioned or delayed, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any third party claims, demands or liability of any kind or nature, for (a) personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract to the extent caused by Contractor's negligence or willful misconduct; or (b) Contractor's violation of a law applicable to Contractor's performance under this Contract. County must notify Contractor promptly in writing of the claim. County agrees to provide Contractor with reasonable assistance, cooperation, and information in defending the claim at Contractor's expense. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability shall be apportioned as determined by the court.

40. Intellectual Property Infringement Indemnification:

1.1 Contractor will defend County against any third party claim(s) that the Tyler Software infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which Contractor consent). County must notify Contractor promptly in writing of the claim. County agrees to provide Contractor with reasonable assistance, cooperation, and information in defending the claim at Contractor's expense.

1.2 Contractor's obligations under this Section 40 will not apply to the extent the claim or adverse final judgment is based on County's: (a) use of a previous version of the Tyler Software and the claim would have been avoided had County installed and used the current version of the Tyler Software; (b) combining the Tyler Software with any product or device not provided, contemplated, or approved by Contractor; (c) altering or modifying the Tyler Software, including any modification by third parties at County's direction or otherwise permitted by County; (d) use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties; or (e) willful infringement, including use of the Tyler Software after Contractor notifies County to discontinue use due to such a claim.

1.3 If Contractor receive information concerning an infringement or misappropriation claim related to the Tyler Software, Contractor may, at Contractor's expense and without obligation to do so either: (a) procure for County the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case County will stop running the allegedly infringing Tyler Software immediately. Alternatively, Contractor may decide to litigate the claim to judgment, in which case County may continue to use the Tyler Software consistent with the terms of this Agreement.

1.4 If, as a result of an infringement or misappropriation claim, County's use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which Contractor consent), Contractor will, at Contractor's option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; (c) replace it with a functional equivalent; or (d) terminate County's license

and refund the license fees paid for the infringing Tyler Software. This section provides County's exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

41. Breach: The failure of the Contractor to comply with any of the material provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a. Afford the Contractor written notice of the breach and thirty calendar days or such shorter time that may be specified in this Contract within which to cure the breach; and
- b. County may terminate the Contract immediately without penalty.

42. Disputes:

- a. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the County's Project Manager, such matter shall be brought to the attention of a senior representative of the Contractor and the County Purchasing Agent by way of the following process:
 1. The Contractor shall submit to the County Agency/Department Project Manager assigned buyer a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
 2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
 3. Senior representatives of each Party shall meet and engage in good faith negotiations. Senior representatives will meet at County's office within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If the Parties fail to resolve the dispute, either Party may assert its respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent a Party from seeking necessary injunctive relief during the dispute resolution procedures.
- b. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of Services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. For clarity, Contractor has the right to appeal any final decision of the County in a court of competent jurisdiction.

- 43. Stop Work:** The County may, at any time, by written stop work order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period of 90 working days after the stop work order is delivered to the Contractor and for any further period to which the Parties may agree. The stop work order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within a period of 90 working days after a stop work order is delivered to the Contractor or within any extension of that period to which the Parties shall have agreed, the County shall either
- a. Cancel the stop work order; or
 - b. Terminate the Contract in whole or in part in writing as soon as feasible. County is not required to provide thirty (30) days notice of the termination of the Contract to Contractor if a stop work has been issued by County.
 - c. Within a period of 90 working days after a stop work order is delivered to the Contractor or within any extension of that period to which the Parties shall have agreed, Contractor shall have the right to terminate the Contract in whole or in part in writing.
- 44. Orderly Termination:** Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party shall assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
- 45. County and Contractor Project Manager:** The County shall appoint a Project Manager to act as liaison between the County and the Contractor during the term of this Contract. Contractor shall appoint a Project Manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. Contractor's Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Project Manager. The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager from providing services to the County under this Contract. The County's Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) calendar days after written notice by the County's Project Manager. The County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of Contractor's Project Manager from providing services to the County under this Contract.
- 46. Contractor Staff:** In addition to the rights set forth in Paragraph 41, County and Contractor Project Manager, above; the County's Project Manager shall have the right to require the removal and replacement of any of Contractor's personnel from providing services to the County under this Contract. The County's Project Manager shall notify the Contractor's Project Manager in writing of such action. The Contractor shall accomplish the removal of the specified personnel within one (1) calendar day after written notice by the County's Project Manager. The County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of any of Contractor's personnel from providing services to the County under this Contract.
- 47. Reports/Meetings:** The Contractor provide reports and any other relevant documents as particularly described in the Scope of Work necessary to complete the services and requirements as set forth in this Contract. The County's Project Manager and the Contractor's Project Manager shall meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.
- 48. Conflict of Interest – (Contractor):** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that result in a conflict with the best interests of the County. This obligation shall apply to the Contractor;

the Contractor's employees and agents. Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of the County.

- 49. Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor which incorporate County data. All documents, reports and other incidental or derivative work or materials containing County data furnished hereunder shall become and remains the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials containing County data shall be used by the Contractor without the express written consent of the County.
- 50. Data – Title to:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract shall at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
- 51. Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the County's authorized representative (including auditors from a private auditing firm hired by the County) access at the Contractor's offices during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, , and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit shall be confined to those matters connected with the performance of the Contract. The County shall provide reasonable notice of such an audit or inspection. Failure to allow the County prompt and full access as stated above may result in a material breach of this Contract. The County reserves the right to audit and verify the Contractor's records before payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of four years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

- 52.** Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.
- 53. Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so shall not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
- 54. Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the

Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

- 55. Authorization Warranty:** The Contractor represents and warrants that the person executing this Contract on behalf of and for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.
- 56. News/Information Release:** The Contractor agrees that it shall not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County's Project Manager.
- 57. County of Orange Child Support Enforcement Requirements (Exhibit I – Blank County of Orange Child Support Enforcement Certification Requirements Form):** In order to comply with the child support enforcement requirements of the County of Orange, within ten days of notification of selection of award of Contract but prior to official award of Contract, the selected Contractor agrees to furnish to the Deputy Purchasing Agent:
- a. In the case of an individual Contractor, his/her name, date of birth, Social Security number, and residence address;
 - b. In the case of a Contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity;
 - c. A certification that the Contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
 - d. A certification that the Contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and shall continue to so comply. The required certification is listed in Exhibit I. A blank Exhibit I is attached hereto.

Failure of the Contractor to timely submit the data and/or certifications required may result in the Contract being awarded to another Contractor. In the event a Contract has been issued, failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

- 58. Publication:** No copies of sketches, schedules, written documents containing County information, computer based County data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.
- 59. Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents shall be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other

written documents submitted by Contractor after County approval thereof, the reports, files or documents shall be returned to Contractor for correction.

60. **Security:** Contractor ensures that its personnel who are delivering services onsite and have access with the County data meet the necessary background checks. Contractor conducts routine background checks during pre-employment screening.
61. **Notices:** Any and all notices permitted or required to be given hereunder shall be deemed duly given (1) upon actual delivery, if delivery is by hand; or (2) upon delivery by the United States mail if delivery is by postage paid registered or certified return receipt requested mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time.

CONTRACTOR: Tyler Technologies, Inc.:

Project Manager

Carmen Guido – until Tyler names Project Manager

Director of California Operations
11956 Bernardo Plaza Dr., Suite 460
San Diego, California 92128

Phone: 858.673.1657

Cell: 858.395.3555

Email: Carmen.Guido@tylertech.com

COUNTY:

Project Management

County of Orange
Assessor Department
625 N. Ross St., Bldg 11
Santa Ana, CA 92701
Attn: **Mike Hannah**
Title: Project Manager
Phone: 714-834-2776
Email: mhannah@asr.ocgov.com

Purchasing

County of Orange
Assessor Department
625 N. Ross St., Bldg 11
Santa Ana, CA 92701
Attn: **Yvonne Herrell**
Title: Deputy Purchasing Agent
Phone: 714- 834-2735
Email: yherrell@asr.ocgov.com

Signature Page

Contract # MA-002-16011912

For

Commercial Valuation Software, Installation, and Support

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below:

TYLER TECHNOLOGIES, INC

Signature One

Print Name

Title

Date

Signature Two

Print Name

Title

Date

* If the contracting party is a corporation, (2) two signatures are required as further set forth in this paragraph. The first signature shall be: (a) the Chairman of the Board; b) the President; or c) any Vice President. The second signature shall be a) the Secretary; or 2) any Assistant Secretary; or 3) the Chief Financial Officer; or d) any Assistant Treasurer.

COUNTY OF ORANGE

**APPROVED AS TO FORM:
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA**

A political subdivision of the State of California

By 
Angelica Dalfary
Senior Deputy County Counsel

By _____
Yvonne Herrell
Deputy Purchasing Agent

Date: 6/2/16

Date _____

ATTACHMENT A

SCOPE OF WORK

CONTRACT # MA-002-16011912

Commercial Valuation Software, Installation, and Support

The following Scope of Work details the services to be delivered by Tyler Technologies, Inc. to the County under the License and Services Agreement.

Project Management

- Tyler to assign a Project Manager by July 13, 2016
- Conduct Project Kick-Off meeting by July 14, 2016
- Provide Project Plan by August 15, 2016 to be reviewed and agreed upon by County

Site Preparation and Setup

- Review VPN and site security
- Assist in configuring county server(s)
- Assist in configuration of Tyler workstation (1)
- Assist in Installation of software Test Application on client server
- Install appropriate cost database

Fit Analysis

- Review source layouts and data files requirements for conversion
- Review business processes
- Review miscellaneous improvements
- Review rate sheet configurations
- Review existing reports
- Identify code table requirements
- Identify named system users
- Review inbound interface requirements
- Review outbound interface requirements
- Review GIS configurations

Implementation

- Create conversion mapping document
- Identify and document gap fit issues
- Implement any/all code tables
- Configure base rate sheets
- Create system users
- Document inbound interface
- Document outbound interface
- Configure GIS integration

Development

- Create conversion routines
- Create inbound interface
- Create outbound interface
- Modify screens based on agreed gaps

Install reports

- Appraisal Summary Report
- Market Grid Report
- Income Details Report
- Cost Report

Prop 8

- Review input process
- Review rate sheet configurations
- Training –see below under training section

Install Production System

Testing – to be done jointly between Contractor and County over a two week period as agreed upon and stated in the Project Plan

- Conversion
- Reports
- Application screens and processes
- Inbound interface
- Outbound interface
- GIS

Training

- Provide application training for target users
- Provide 2 half-day training sessions for an identified group of County “Power Users” with knowledge of existing system

Go Live

- Provide Go Live assistance

REQUIREMENTS

I. DEFINITIONS

- **“Agreement”** means this License and Services Agreement.
- **“Client”** means Orange County, California.
- **“Client Responsibilities”** means the responsibilities of the Client as described in Section V.
- **“County Data”** means Client data and information processed on the Tyler Software or otherwise provided or made available to Tyler by or on behalf of Client in connection with this Agreement.
- **“Defect”** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, if applicable, or in our then-current User Manuals, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current User Manuals.
- **“Effective Date”** means the date on which your authorized representative signs the Agreement.
- **“Force Majeure”** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **“Installation Date”** means the date on which the Tyler Software is successfully installed on a computer at Client’s facilities is tested and successfully operates within the Client Assessor’s office as further defined in the Scope of Work attached as Attachment A.
- **“Internal Business Purposes”** means those non-commercial administrative and operational functions the Client performs in the ordinary course of Client’s business for parcels of land located within the County of Orange, California.
- **“Invoicing and Payment Policy”** means the Cost/Compensation/Milestones attached as Attachment B.
- **“Maintenance and Support Agreement”** means the terms and conditions governing the provision of maintenance and support services to all of our customers. A copy of our current Maintenance and Support Agreement is attached as Attachment - C.
- **“Scope of Work”** means the description of services to be supplied by Tyler through this Agreement, attached as Attachment A.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software and related interfaces identified in the Invoicing and Payment Policy and licensed to you through this Agreement.
- **“US”** means the United States of America.
- **“User Manual”** means the user manuals for the Tyler Software.
- **“Contractor”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

II. SOFTWARE LICENSES

License Grant and Restrictions

- a. County will purchase the license to use the Tyler Software for Internal Business Purposes only. County may make copies of the Tyler Software for backup and testing purposes, so long as such copies are not used in production and the testing is for internal use only. County's rights to use the Tyler Software are perpetual but may be revoked if County does not comply with the terms of this Agreement.
- b. The User Manuals are licensed to County and may be used and copied by County's employees for internal, non-commercial reference purposes only.
- c. County agrees that County will not: (a) transfer or assign the Tyler Software to a third party; (b) reverse engineer, decompile, or disassemble the Tyler Software; (c) sell, rent, lease, lend, or provide commercial hosting services with the Tyler Software; or (d) publish or otherwise disclose the Tyler Software or User Manuals to third parties.
- d. The license terms in this Agreement apply to updates and enhancements Contractor may provide to County or make available to County through County's Maintenance and Support Agreement.
- e. County has the right to transfer the Tyler Software to a replacement hardware system at no additional license fee. County will give advance written notice of any such transfer and will pay Contractor for any required or requested technical assistance associated with such transfer.
- f. Contractor reserves all rights not expressly granted to County in this Agreement. County agrees that Tyler Software and User Manuals are protected by copyright and other intellectual property laws and treaties. Contractor owns the title, copyright, and other intellectual property rights in the Tyler Software and the User Manuals. **The County agrees that Tyler Software is licensed, not sold.**
- g. County retains ownership of all County Data. Except as contemplated or authorized by this Agreement, Tyler will not reproduce, copy, duplicate or disclose County Data in any manner.

Limited Warranty

Contractor warrants that the Tyler Software will be without Defect(s) as long as County has a Maintenance and Support Agreement in effect. If the Tyler Software does not perform as warranted, Contractor will use all reasonable efforts, consistent with industry standards, to cure the Defect as set forth in the Maintenance and Support Agreement.

III. PROFESSIONAL SERVICES

- a. Services. Contractor will provide County the various implementation-related services described in the Scope of Work.
- b. Services Warranty. Contractor will perform the services in a professional manner, consistent with US industry standards. In the event Contractor provides services that do not conform to this warranty, Contractor will re-perform such services at no additional cost to County.
- c. Site Access and Requirements. County agrees to provide Contractor with full and free access to County personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by County and Contractor. County further agrees to provide a reasonably suitable environment, location, and space for the installation of the Tyler Software, including, without limitation, sufficient electrical circuits, cables, and other reasonably necessary items required for the installation and operation of the Tyler Software.

IV. MAINTENANCE AND SUPPORT

Contractor will provide County with maintenance and support services for the Tyler Software under the following terms and conditions: Attachment C - Maintenance and Support Agreement. County agrees to pay Contractor the annual maintenance and support fees in accordance with Invoicing and Payment Policy.

V. COUNTY RESPONSIBILITIES

County acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of County personnel. County agrees to use all reasonable efforts to cooperate with and assist Contractor as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes working together to schedule the implementation-related services outlined in this Agreement. Contractor will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by County’s personnel to provide such cooperation and assistance (either through action or omission).

Tyler Technologies, in performing the Services, will be making recommendations and providing advice, but all decisions as to implementing such advice and recommendations shall be made by and shall be the sole responsibility of the County.

- a. Hardware and Software. County agrees to the following hardware and software requirements as prescribed by Contractor:

1. Database Server

Server Requirements		Minimum	Recommended
Hardware	CPU	Dual Xeon 2.3 GHz	Dual Xeon Quad Core 3.0 GHz
	RAM	8 GB	16 GB
	Hard Drive Size	100 GB – Usable	200 GB - Usable
	Hard Drive RPM	10,000	15,000
Software	Operating System	Windows Server 2012	Windows Server 2012
	Database	SQL Server 2012	SQL Server 2012

DB Server Best Practices

- 1. Isolate the following items on their own physical disks.
 - a. Operating System files
 - b. tempdb
 - c. Application database data files
 - d. Application database log files
- 2. Production and test sites should never share server resources.
- 3. Database and web servers should run on separate hardware in production. They can be combined for test environments.

2. Web Server

Server Requirements		Minimum	Recommended
Hardware	CPU	Dual Xeon 2.3 GHz	Dual Xeon Quad Core 3.0 GHz
	RAM	8 GB	16 GB
	Hard Drive Size	40 GB – Usable	40 GB - Usable
	Hard Drive RPM	10,000	15,000
Software	Operating System	Windows Server 2012	Windows Server 2012
	.NET Framework	4.5	4.5
	IIS	7.5	7.5

a) Additional Web Server Components

1. Cost Valuation requires a license for Marshall & Swift MVP software.
2. GIS components require access to a DMP map server.
3. Active Directory is required for IIS Windows Authentication.

3. Workstations

Workstation Requirements		Minimum	Recommended
Hardware	CPU	Intel Core i5	Intel Core i7
	RAM	4 GB 32 bit	8 GB 64 bit
	Hard Drive Size	60 GB Available	60 GB Available
Software	Operating System	Windows 7 Service Pack 1	Windows 7 Service Pack 1
	Browser	Internet Explorer 11 or Chrome	Internet Explorer 11 or Chrome
Screen Resolution		AES C&I is designed for use on client workstations with a screen resolution of at least 1280x1024. Higher resolutions can be used if desired.	

1.1 County Work Project Responsibilities County shall do or provide the following:

- 1.1.1 Maintain and deliver final design document to Tyler/AES.
- 1.1.2 Establish VPN Remote Connectivity
- 1.1.3 Provide Tyler/AES with Assessor business rules for use in program.
- 1.1.4 Provide access to existing assessor database.
- 1.1.5 Work with Tyler/AES to map existing data fields into Tyler/AES program.
- 1.1.6 Validate data conversion.
- 1.1.7 Define rules for comp sales selection.
- 1.1.8 Establish adjustment schedules for comp selection.
- 1.1.9 Establish project Beta Team and project testing procedures.
- 1.1.10 Conduct software functional testing.
- 1.1.11 Conduct user acceptance testing.
- 1.1.12 Work with AES to establish Disaster Recovery Plan.
- 1.1.13 Coordinate Stress Testing of software.
- 1.1.14 Assist in full deployment of software to users.

1.3 Training

- 1.3.1 County personnel will attend applicable training as part of a mutually agreed to training plan. Contractor will recommend appropriate training for the project team.
- 1.3.2 All training classes or sessions shall be held at the County or online.

1.4 Project Environment Requirements

- 1.4.1 The County will provide a suitable project environment for the project team. This environment will include, but is not limited to: work space, computer hardware, computer access, access to the County network, dial out phone access to Tyler facilities, use of County owned software tools and reasonable access to facilities.

Tyler will not be charged for any project-related expenses incurred on site at County locations except long distance phone charges initiated by Tyler personnel.

- 1.4.2 County systems personnel will be available to work with Tyler personnel for adjustments to operating systems configurations and specifications during the installation and upgrade of application and data base software.
- 1.4.3 County will assign adequate DBA resources and will assist Contractor for normal data administration functions and activities.
- 1.4.4 County will provide Contractor with a mechanism to access data on an as-needed basis and will ensure that all data is reconciled and free of error.
- 1.4.6 County will be responsible for interim and final acceptance testing of applications based on the testing and acceptance plan developed by Tyler pursuant to the Scope of Work, and introduction of those applications to County's production environment. County will be required to provide acceptance of the Tyler Software with a sign-off based on the testing and acceptance procedures determined by Tyler pursuant to Scope of Work.
- 1.4.7 County will make such facilities and properties as are reasonably necessary for the performance of work available and accessible for use by Tyler staff during normal working hours as may reasonably be required for the performance of this contract. This would include access to the infrastructure of the Tyler Software applications including the web server, application server and database server. Further, County will provide Contractor with the means to electronically connect to County's network and to the Tyler Software server(s) to enable software transfers, electronic correspondence, and remote troubleshooting.

1.5 **Management Responsibilities**

County will assign a user executive sponsor/project manager who will be available to review issues and make timely decisions. The executive sponsor/project manager will be able to act on behalf of the County on all issues and will be responsible for the project from the County's perspective. County may also assign an IT sponsor who will coordinate the activities of this project with other County IT initiatives.

1.6 **Operating Requirements**

- 1.6.1 County will make available at no cost to Tyler, appropriate resources, such as operational knowledge of current system and data elements, excluding any confidential information, needed to transfer the current application and system knowledge to the Tyler Project Team.
- 1.6.2 Both parties will determine if other County resources having critical business knowledge need to be available to support the project.
- 1.6.3 County will be responsible for installing and maintaining the hardware and network resources at an acceptable level of performance and readiness so as to minimize disruption to the project environment.

1.7 **Technical Assumptions**

- 1.7.1 Performance goals for the applications are heavily dependent on the technical architecture and hardware. County is responsible for specific tasks relating to network design, hardware capacity planning, network performance testing, etc. Contractor will not warrant the performance of servers, network or other elements not supplied by Tyler under this Agreement.
- 1.7.2 County technical staff non-team members will be assigned as needed to act as liaison to Tyler when and where needed.
- 1.7.3 County will provide adequate functional and technical team members to support the implementation efforts. Both parties will determine the actual staffing.

- 1.7.4 Intended users of this application will have basic knowledge of PC computer usage, including Microsoft Windows and other general knowledge required to perform their job duties within their department.
- 1.7.5 County will assign sufficient resources to the project to ensure timely completion of County's project responsibilities.

ATTACHMENT B

COST/COMPENSATION/MILESTONES

I. COMPENSATION

This is a FIXED PRICE Contract between the County and the Contractor for the Commercial Valuation Software with Data Repository and Proposition 8 capability for the County, as further described in this Contract. The Contractor agrees to supply all goods and services outlined in the Scope of Work to provide and fully implement the Commercial Valuation Software with Data Repository and Proposition 8 capability.

The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required and for performance by the Contractor of all its duties and obligations hereunder. The County shall have no obligation to pay any sum in excess of total Contract amount specified herein unless authorized by amendment.

Contractor's Expense

The Contractor shall be responsible for all costs related to travel, parking, and any and all "out of pocket" expenses incurred by the Contractor, during the performance of work and services under this Contract unless otherwise specified. The County shall not provide free parking for any service in the County.

II. PAYMENT SCHEDULE

Tyler Technologies, Inc. will provide County with the software, products, and services set forth below.

Invoicing: Tyler will invoice County for the applicable license fees, products, and services as set forth below.

1. Tyler Software and Professional Services. The Tyler Software, products and services to be delivered by Tyler as described below shall be payable in the amounts and on the milestones set forth below:

Project Milestones and Payments

Milestone 1

- Project Kick-Off Meeting – to be held by July 14, 2016
- Create Project Plan
- Configure Test Workstation
- Establish VPN Remote Activity
- Install Test System **\$120,000**

To be completed by September, 2016 _____

Milestone 2

To begin by September, 2016

Conduct Fit Analysis	
Review Business Process	
Review Data Requirements	
Review Code Tables	
Review Integration Requirements	
Modifications (To Be Determined)	
Implementation Services	
Develop Conversion	
Develop Integrations	
Implement Code Tables	
Install Reports (Valuation Summary Package)	\$180,000

To be completed by December, 2016

Milestone 3

To begin by December, 2016

Install Production System	
System Testing	
System Training	
Go Live	\$140,000

To be completed by March, 2017

**** Project Complete ****

2. Maintenance and Support Fees. Year one maintenance and support fees for the Tyler Software commence on the Installation Date. Subsequent maintenance and support is optional. If County agrees to opt in for subsequent maintenance and support, fees will be invoiced annually in advance of the anniversary of the Installation Date. Fees for each of years 2-5 will be increased, year over year, by no more than 5% per year. Thereafter maintenance and support fees will be imposed at Tyler's then-current rates.
3. Expenses. All travel expenses are included in this Fixed Price Contract.

III. PAYMENT TERMS

Billing shall cover services and/or goods not previously invoiced. Upon termination of the Contract, Contractor shall reimburse the County for any monies which are pre-paid to Contractor for services which have not been provided by Contractor or delivered to County as of the termination date. If Count terminates the maintenance agreement before the end of its term, Contractor agrees to refund a pro-rated portion of the prepaid annual maintenance fees to the County representing the maintenance fees which have not been delivered as of the termination date.

Contractor shall reference Contract number on invoice. Payment shall be net 45 days after receipt of an invoice in a format acceptable to the County and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

IV. PAYMENT/INVOICING INSTRUCTIONS

The Contractor shall provide an invoice on Contractor's letterhead for services rendered. Each invoice shall have a number and shall include the following information:

1. Contractor's name and address
2. Contractor's remittance address (if different from 1 above)
3. Name of County agency or department
4. Description of Services
5. Timeframe of Services
6. County Contract number
7. Cost
8. Contractor's Federal I. D. number
9. Total

Incomplete or incorrect invoices are not acceptable and shall be returned to the Contractor for correction. The County's project manager, or designee, is responsible for approval of invoices and subsequent submittal of invoices to the Auditor-Controller for processing of payment.

Invoices and support documentation are to be forwarded to:

County of Orange
Assessor Department
625 N. Ross St., Bldg 11
Santa Ana, CA 92701
Attn: **Yvonne Herrell**
Title: Deputy Purchasing Agent
Phone: 714- 834-2735
Email: yherrell@asr.ocgov.com

It is understood that the Contractor prefers to receive payments electronically as noted below:

Wells Fargo Bank, N.A.

San Francisco, CA 94104

ABA: 121000248

Acct Name: Tyler Technologies, Inc. Operating Account

Acct No: 4124302472

Or payment by check remittance to:

Tyler Technologies, Inc.

P.O. Box 203551

Dallas, TX 75320-3551

ATTACHMENT C

MAINTENANCE AND SUPPORT AGREEMENT

This Maintenance and Support Agreement (“Agreement”) is made on the Effective Date between Tyler Technologies, Inc. (“Contractor”) and the County of Orange, a political subdivision of the State of California (“County”). Contractor will provide County with the following maintenance and support services for the Tyler Software licensed to County. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the License and Services Agreement by and between Contractor and County. This Maintenance and Support Agreement operates in conjunction with and does not supersede or replace any part of, the License and Services Agreement.

1. Term. Contractor provides maintenance and support services during the term of this Maintenance and Support Agreement. The term of this Maintenance and Support Agreement commences on the Effective Date and remains in effect for one (1) year following the Installation Date.
2. Maintenance and Support Fees. Year one maintenance and support fees for the Tyler Software are \$110,000 and commence on the Installation Date. Subsequent maintenance and support fees are invoiced annually in advance and are due on the anniversary of the Installation Date. The term is renewable for additional one (1) year terms on the anniversary of the Installation Date per the Maintenance and Support Fees section on Attachment B – Cost/Compensation/Milestones. Contractor reserve the right to suspend maintenance and support services if you fail to pay undisputed maintenance and support fees within thirty (30) days of the due date. Contractor will reinstate maintenance and support services only if you pay all past due maintenance and support fees, including all fees for the periods during which services were suspended.
3. Maintenance and Support Services. As long as maintenance and support fees are paid timely, Tyler will, consistent with our then-current Maintenance and Support Agreement:
 - 3.1 provide customary user support and maintenance of the Tyler Software, such as responding to inquiries regarding installation and feature usage, providing general education and instruction about use of the Tyler Software, and providing maintenance releases of the Tyler Software to fix Defects;
 - 3.2 perform maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards in the United States, to conform the Tyler Software to the warranty set forth in the Agreement; provided, however, that if the County modifies the Tyler Software without Contractor’s consent, Tyler’s obligation to provide maintenance and support services on and warrant the Tyler Software will be void;
 - 3.3 provide telephone support during our normal business hours;
 - 3.4 maintain personnel that are sufficiently trained to be familiar with the Tyler Software in order to provide maintenance and support services; and
 - 3.5 provide County with a copy of all releases to the Tyler Software (including updates and enhancements) that Contractor makes generally available without additional charge to customers who have a current maintenance and support agreement in effect.
4. County’s Responsibilities.
 - 4.1 Contractor will use all reasonable efforts to perform any maintenance and support services remotely. Therefore, County agrees to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). County agrees to provide Contractor with a login account and local administrative privileges as Contractor may reasonably require to perform remote services. Contractor will, at Contractor’s option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonable applicable security protocols. If Contractor can’t resolve a support issue remotely, Contractor may be required to provide onsite services. In such event, County

agrees to provide Contractor with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. Contractor strongly recommends that County also maintains a modem or VPN for backup connectivity purposes. County is responsible to maintain regular and frequent backup copies of County Data and programs. County will provide an experience software technician and Key Users for internal system support. Any inquiries to Contractor shall be coordinated through these personnel.

4.2 It is County's responsibility to perform system (OS) backups.

4.3 Contractor does not take responsibility for any backup process or emergency plans in which County engages.

4.4 Contractor strongly suggests that County has a backup and recovery plan for the system and data. Contractor also recommends a safe storage for your data (i.e., offsite storage of data tapes).

4.5 County is responsible for acquiring and maintaining software licenses and upgrades for all third-party software products including, but not limited to, hardware operating system.

4.6 County is responsible for on-site operational support of the AES application server(s). Tasks will include performing system backups, system restarts, and providing on-site troubleshooting assistance to Contractor's staff.

4.7 County will provide Contractor with the means to electronically connect to your server, to enable software transfers, electronic correspondence, and remote troubleshooting. The preferred remote connection is via a VPN.

5. Excluded Services.

5.1 Maintenance and support fees do not include fees for the following services: (a) initial installation or implementation of the Tyler Software; (b) onsite maintenance and support (unless Tyler cannot remotely correct a Defect in the Tyler Software); (c) application design; (d) other consulting services; (e) maintenance and support of an operating system or hardware; (f) support outside of normal business hours; or (g) installation, training services, or third party product costs related to a new release. Requested maintenance and support services beyond those outlined in this section will be billed to County at Contractor's then current rates.

5.2 The following are examples of items that are **not** included in an ongoing Maintenance and Support Agreement. The Contractor will provide such services as requested by the County. Time and Materials rates will apply for such services. They are:

5.2.1 Resolution of problems that arise out of the County's misuse of the system.

5.2.2 Creating ad hoc reports or new AES reports.

5.2.3 Recovery of software, operating system, or data due to system or hardware failure.

5.2.4 Modification of the AES code, incremental to modifications covered under the License and Services Agreement.

5.2.5 Modification of AES reports, incremental to modifications covered under the License and Services Agreement.

5.2.6 Updates to AES cost tables, tax rate tables, etc.

5.2.7 Onsite training, incremental to training covered under the License and Services Agreement.

5.2.8 Process and procedures that could otherwise be performed by a non-technical AES user during the County's business cycle.

5.2.9 Errors and problems that arise out of the County's modification of the base system code.

5.2.10 Errors and problems related to other 3rd party vendors' software not specifically covered by this agreement.

5.2.11 New products, separately priced modules and additional custom software development.

EXHIBIT I
County of Orange Child Support Enforcement
Certification Requirements

In order to comply with child support enforcement requirements of the County of Orange, within 10 days of award of Contract, the successful Contractor must furnish to the agency/department deputy purchasing agent:

- A. In the case of an individual Contractor, his/her name, date of birth, Social Security number, and residence address;
- B. In the case of a Contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity; A certification that the Contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- C. A certification that the Contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and shall continue to so comply.

The certifications shall be stated as follows:

"I certify that _____ is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and shall continue to be in compliance throughout the term of Contract _____ with the County of Orange. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 10 calendar days of notice from the County shall constitute grounds for termination of the contract.

It is expressly understood that this data shall be transmitted to governmental agencies charged with the establishment and enforcement of child support orders and for no other purposes and shall be held confidential by those agencies.

Failure of the Contractor to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 10 calendar days of notice from the County shall constitute grounds for termination of the Contract.

After notification of award, the successful Contractor may use the forms supplied herein, to furnish required information listed above.

**COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT
CERTIFICATION REQUIREMENTS**

A. In the case of an individual Contractor, his/her name, date of birth, Social Security number, and residence address:

Name: _____

D.O.B: _____

Social Security No: _____

Residence Address: _____

B. In the case of a Contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity:

Name: _____

D.O.B: _____

Social Security No: _____

Residence Address: _____

Name: _____

D.O.B: _____

Social Security No: _____

Residence Address: _____

Name: _____

D.O.B: _____

Social Security No: _____

Residence Address: _____

(Additional sheets may be used if necessary)

- C. A certification that the Contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- D. A certification that the Contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and shall continue to so comply.

"I certify that _____ is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and shall continue to be in compliance throughout the term of Contract _____ with the County of Orange. I understand that failure to comply shall constitute a material breach of the Contract and that failure to cure such breach within 10 calendar days of notice from the County shall constitute grounds for termination of the Contract.

Authorized Signature	Name	Title
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EXHIBIT II

EDD Independent Contractor Reporting Requirements

Effective January 1, 2001, the County of Orange is required to file federal Form 1099-Misc for services received from a "Contractor" to whom the County pays \$600 or more or with whom the County enters into a Contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term "Contractor" is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as "an individual who is not an employee of the Service recipient for California purposes and who received compensation or executes a Contract for services performed for that Service recipient within or without the state." The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as "an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a Contract for services performed for that ... government entity either in or outside of California."

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at www.edd.ca.gov/txicr.htm.

To comply with the reporting requirements, County procedures for contracting with independent Contractors mandate that the following information be completed and forwarded to the contracting agency/department immediately upon request:

- First name, middle initial and last name
- Social Security Number
- Address
- Start and expiration dates of Contract
- Amount of Contract

First Name	Middle Initial	Last Name
SSN _____		
Contract Number _____		Dollar value of Contract _____
Start Date _____		Expiration Date _____