

**STANDARD CITY CONTRACT**

**MASTER CONTRACT FOR PRODUCTS AND SERVICES - THE CITY OF KANSAS CITY,  
MISSOURI**

**CONTRACT NO.: EVP2997**

**TITLE/DESCRIPTION: ENTERPRISE PERMITTING SYSTEM**

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THIS Contract is between KANSAS CITY, MISSOURI, a constitutionally chartered municipal corporation ("CITY", "Client"), and Tyler Technologies, Inc. ("CONTRACTOR"), a Delaware corporation.

**Sec. 1. The Contract.** The Contract between CITY and CONTRACTOR consists of the following Contract Documents, as defined, and in the order of priority listed, below:

- (a) this Piggy Back Contract; and
- (b) CONTRACTOR's Contract with Sourcewell Contract # 090320-TTI ("the Primary Contract") that is attached hereto and incorporated into this Contract; and
- (c) any CITY issued Purchase Order to CONTRACTOR; and
- (d) any and all Attachments and Exhibits attached to the Primary Contract. All documents listed in this Section 1 shall be collectively referred to as the "Contract Documents" and are incorporated into this Contract. CITY and CONTRACTOR agree that the terms "Agreement" and "Contract" and "Contract Documents" are used interchangeably in this Contract and the terms "Agreement" and "Contract" and "Contract Documents" each include all "Contract Documents."
- (e) any and all Attachments to the Contract, including:

- Attachment A: Payment Terms
- Attachment B: Contractor Support Priority, Response and Resolution Guidelines
- Attachment C: City Support Escalation Contacts
- Attachment D: Software License Agreement
- Attachment E: Software Maintenance Agreement
- Attachment F: SaaS Services Terms and Conditions
- Attachment G: Sourcewell Contract
- Attachment H: CREO Contract Assurances Addendum

All documents listed in this Section 1 shall be collectively referred to as the "Contract Documents." CITY and CONTRACTOR agree that the terms "Agreement," "Contract" and "Contract Documents" are used interchangeably in this Contract, and the terms "Agreement," "Contract" and "Contract Documents" each include all "Contract Documents."

## Sec. 2. Initial Term of Contract and Additional Periods.

- (a) Initial Term. The initial term of this Contract shall begin on April 26, 2023 and shall end on November 2, 2024. The Manager of Procurement Services is authorized to enter into an amendment of this Contract with CONTRACTOR to extend the initial term of this Contract and time of performance for this Contract.
- (b) Transition Term. Notwithstanding the expiration of the initial term or any subsequent term or all options to renew, CONTRACTOR and CITY shall continue performance under this Contract until CITY has a new contract in place with either CONTRACTOR or another provider, or until the CITY terminates the Contract. The terms and conditions of this Contract shall govern each party's performance during the transition term, and CITY shall compensate CONTRACTOR for any services performed and/or expenses incurred at CONTRACTOR'S then-current rates.

## Sec. 3. Compensation.

- (a) The City currently has rights to use the software it pays an annual subscription for. The City reserves the right to add to, reduce or maintain that software upon each annual renewal.
- (b) The City agrees to pay invoices for gap services to keep subscription going during contract negotiations. These invoices are Net30 and the POs will be issued within the first two weeks of the contract. Additional POs will be issued annually for the initial term subscription and the renewal year subscriptions.
- (c) CONTRACTOR shall bill and CITY shall pay CONTRACTOR on the following basis: per **Attachment A, Payment Terms**. Attachment A may change annually due to changes in software and services purchases.
- (d) CITY shall order all products and services to be provided by CONTRACTOR under this Contract by means of a Purchase Order issued by CITY's Manager of Procurement Services for which funds have been certified and encumbered by CITY'S Director of Finance. CITY shall not have any financial obligations to CONTRACTOR under this Contract until the CITY issues a Purchase Order to CONTRACTOR. CONTRACTOR shall not provide any services in excess of the dollar amount contained in any Purchase Order and CONTRACTOR shall not be entitled to any payment in excess of the dollar amount of the Purchase Orders from CITY.

## Sec. 4. Start Date.

- (a) Notwithstanding Section 2 of this Contract, neither party has any obligation under this Contract until the Manager of Procurement Services issues a Purchase Order which shall be signed by CITY's Director of Finance certifying there is a balance, otherwise unencumbered, to the credit of the appropriation to which the expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment will be made, each sufficient to meet the obligation incurred in the Purchase Order.

- (b) The date of the first Purchase Order issued by CITY is the start date for performance under this Contract.

**Sec. 5. Invoices.**

- (a) CONTRACTOR shall submit to CITY a request for payment (hereinafter "Invoice") in sufficient detail for CITY to determine that the amount CONTRACTOR is requesting is in fact due and payable.
- (b) CITY shall not pay any Invoice from CONTRACTOR unless CONTRACTOR is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Contract, which Invoice dispute shall be addressed according to the procedure set forth in Sections 5(f), below. If damages have been sustained by CITY as a result of breach or default by CONTRACTOR, CITY may withhold payment of those damages to CONTRACTOR from any remaining payments due under the Contract pending the conflict resolution procedure outlined in Section 21.
- (c) CITY shall not process CONTRACTOR's Invoice unless CONTRACTOR's Invoice is in proper form, correctly computed, and is approved by CITY as payable under the terms of this Contract. Payment is due within 45 days of invoice receipt. When a deliverable is being billed for, it must be approved before it can be invoiced. Therefore, the invoice date cannot precede the deliverable approval date. Conditions for approval are set forth in Attachment A, Scope of Work, and such approval shall not be unreasonably withheld.
- (d) CITY is not liable for any obligation incurred by CONTRACTOR except as approved under the provisions of this Contract.
- (e) Reserved.
- (f) In the event CITY believes products or services do not conform to warranties in this Agreement, CITY will provide written notice to CONTRACTOR within fifteen (15) calendar days of receipt of the applicable Invoice. CITY is allowed an additional fifteen (15) calendar days to provide written clarification and details. CONTRACTOR will provide a written response to Client that will include either a justification of the Invoice or an adjustment to the Invoice. CONTRACTOR and CITY will develop a plan to outline the reasonable steps to be taken by CONTRACTOR and CITY to resolve any issues presented in CITY's notice to CONTRACTOR. CITY may only withhold payment of the amount actually in dispute until CONTRACTOR completes its action items outlined in the plan. Notwithstanding the foregoing, if CONTRACTOR is unable to complete its actions outlined in the plan because CITY has not completed its action items outlined in the plan, CITY will remit full payment of the invoice.
- (g) CONTRACTOR reserves the right to suspend delivery of all products and/or services in the event CITY fails to pay an Invoice not disputed as described above within sixty (60) calendar days of receipt of Invoice.

**Sec. 6. Representations and Warranties of CONTRACTOR.** CONTRACTOR hereby represents and warrants to CITY the following:

- (a) CONTRACTOR is in good standing under the laws of the state of Missouri and each state in which it does business, except any such state where the failure to be in good standing would not have a material adverse effect on CONTRACTOR's ability to perform this Contract in accordance with its terms.
- (b) The execution, delivery and performance by CONTRACTOR of this Contract have been duly authorized by all necessary corporate action and do not and will not (i) require any consent or approval of CONTRACTOR's board of directors; (ii) require any authorization, consent or approval by, or registration, declaration or filing with, or notice to, any governmental department, commission, board, bureau, agency or instrumentality, or any third party, except such authorization, consent, approval, registration, declaration, filing or notice as has been obtained prior to the date hereof; (iii) violate any provision of any law, rule or regulation, or of any order, writ, injunction or decree presently in effect having applicability to CONTRACTOR or its articles or by-laws; and (iv) result in a breach of or constitute a default under any material agreement, lease or instrument to which CONTRACTOR is a party or by which it or its properties may be bound or affected.
- (c) CONTRACTOR shall not enter into any contract for the services to CITY that purports to grant a security interest or right of repossession to any person or entity respecting the services, or any portions thereof or chattels placed thereon.
- (d) There is no litigation, proceeding or other investigation pending or, to the knowledge of CONTRACTOR, threatened against CONTRACTOR which would prevent consummation of the transaction contemplated by this Contract or would have a materially adverse effect on CONTRACTOR.
- (e) CONTRACTOR shall perform services in a professional, workmanlike manner, consistent with industry standards. In the event CONTRACTOR provides services that do not conform to this warranty at the request of CITY, CONTRACTOR shall re-perform the services at no additional cost to CITY.

**Sec. 7. Survival of the Representations, Warranties and Covenants.** All representations, warranties and covenants expressed herein shall survive the execution of this Contract for the benefit of the parties hereto.

**Sec. 8. Governing Law.** This Contract shall be construed and governed in accordance with the laws of the State of Missouri without giving effect to Missouri's choice of law provisions. CITY and CONTRACTOR: (1) submit to the jurisdiction of the state and federal courts located in Jackson County, Missouri; (2) waive any and all objections to such jurisdiction and venue; and (3) will not raise forum non conveniens as an objection to the location of any litigation.

**Sec. 9. Termination by CITY.** In addition to the provisions of Section 43, below, CITY may terminate this Agreement under the following conditions:

- (a) For Convenience. CITY may, at any time upon thirty (30) days written notice to CONTRACTOR, and specifying the start date of termination, terminate this Contract, in whole or in part. Upon such termination, CITY shall remit payment for all products and services delivered to CITY and all expenses incurred by

CONTRACTOR prior to CONTRACTOR's receipt of the termination notice. CITY will not be entitled to a refund or offset of previously paid license and other fees.

- (b) Termination for Cause. CITY may terminate this Agreement for cause in the event CONTRACTOR does not cure a material breach of this Agreement within thirty (30) days of receiving notice of such breach from CITY. Upon such termination, CITY shall pay CONTRACTOR for all services and expenses not in dispute and non-Defective Software Products, as defined in Attachment F: Software License Agreement, which were delivered or incurred prior to the date CONTRACTOR received CITY's notice of termination. Payment for products, services and expenses in dispute will be determined in accordance with the conflict resolution process outlined in Section 21.

**Sec. 10. Termination by Contractor.** If CITY shall be in default or breach of any provision of this Contract, CONTRACTOR may terminate this Contract or suspend CONTRACTOR's performance after giving CITY thirty (30) days written notice and opportunity to cure such default or breach.

**Sec. 11. Waiver.** Waiver by either party of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this Contract can be waived except by written consent of the waiving party. Forbearance or indulgence by the waiving party in any regard whatsoever shall not constitute a waiver of same to be performed by the non-waiving party to which the same may apply. Until complete performance by non-waiving party of the term, covenant or condition, the waiving party shall be entitled to invoke any remedy available to it under this Contract or by law, despite any such forbearance or indulgence.

**Sec. 12. Acceptance.** No payment made under this Contract shall be proof of satisfactory performance of the Contract, either wholly or in part, and no payment shall be construed as acceptance of deficient or unsatisfactory services. Similarly, no acceptance by CONTRACTOR shall be construed as a release of any related claim.

**Sec. 13. Records.**

- (a) For purposes of this Section:
  - 1. "CITY" shall mean the City Auditor, the City's Internal Auditor, the City's Director of Human Relations, the City Manager, the City department administering this Contract and their delegates and agents.
  - 2. "Record" shall mean any document, book, paper, photograph, map, sound recordings or other material, regardless of physical form or characteristics, made or received in connection with this Contract and all Contract amendments and renewals.
- (b) CONTRACTOR shall maintain and retain all Records for a term of five (5) years that shall begin after the expiration or termination of this Contract and all Contract amendments. CITY shall have a right to examine or audit all Records once per year, and CONTRACTOR shall provide access to CITY of all Records upon ten (10) days written notice from CITY.

- (c) The books, documents and records of CONTRACTOR in connection with this Contract shall be made available to CITY within ten (10) days after the written request is made.
- (d) Each party shall bear its own costs and expenses incurred in connection with any examination or audit hereunder.

**Sec. 14. Affirmative Action.** If this Contract exceeds \$300,000.00 and CONTRACTOR employs fifty (50) or more people, CONTRACTOR shall comply with CITY'S Affirmative Action requirements in accordance with the provisions of Chapter 38 of CITY'S Code, the rules and regulations relating to those sections, and any additions or amendments thereto; in executing any Contract subject to said provisions, CONTRACTOR warrants that it has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract. CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age in a manner prohibited by Chapter 38 of CITY'S Code. CONTRACTOR shall:

- (a) Submit, in print or electronic format, a copy of CONTRACTOR'S current certificate of compliance to the CITY'S Human Relations Department (HRD) prior to receiving the first payment under the Contract, unless a copy has already been submitted to HRD at any point within the previous two (2) calendar years. If, and only if, CONTRACTOR does not possess a current certification of compliance, CONTRACTOR shall submit, in print or electronic format, a copy of its affirmative action program to HRD prior to receiving the first payment under the Contract, unless a copy has already been submitted to HRD at any point within the previous two (2) calendar years.
- (b) Require any Subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that Subcontractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the subcontract.
- (c) Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or electronic format, to HRD within thirty (30) days from the date the subcontract is executed. If, and only if, Subcontractor does not possess a current certificate of compliance, CONTRACTOR shall obtain a copy of the Subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to HRD within thirty (30) days from the date the subcontract is executed.

CITY has the right to take action, as directed by City's Human Relations Department, to enforce this provision. If CONTRACTOR fails, refuses or neglects to comply with the provisions of Chapter 38 of CITY'S Code, then such failure shall be deemed a breach of this Contract and this Contract may be terminated, canceled or suspended, in whole or in part, and CONTRACTOR may be declared ineligible for any further contracts funded by City for a period of one (1) year. This is a material term of this Contract.

**Sec. 15. Tax Compliance.** If the CITY's payments to CONTRACTOR exceed \$160,000.000 for the period of May 1st through April 30th, CONTRACTOR shall provide proof of compliance with the CITY's tax ordinances administered by the CITY's Commissioner of Revenue as a precondition to the CITY making the first payment under this Contract. CONTRACTOR also shall

submit to the CITY proof of compliance with the CITY's tax ordinances administered by the CITY's Commissioner of Revenue as a condition precedent to the CITY making final payment under the Contract.

**Sec. 16. Buy American Preference.** It is the policy of the CITY that any manufactured goods or commodities used or supplied in the performance of any CITY Contract or any subcontract thereto shall be manufactured or produced in the United States whenever possible.

**Sec. 17. Notices.** All notices to be given hereunder shall be in writing and may be given, served or made by depositing the same in the United States mail, addressed to the party to be notified, postpaid and registered or certified with return receipt requested or by delivering the same in person to such person. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in such notice or in this Contract from and after the second day next following the date postmarked on the envelope containing such notice. Notice given in any other manner shall be effective only if and when received by the party to be notified. All notices shall be sent to the following addresses:

If to the CITY:                      City of Kansas City, Missouri  
Procurement Services Division  
414 East 12th Street, 1st Floor, Room 102 W  
Kansas City, Missouri 64106  
Attention: Darrell Everette, CPSM, MBA, CJP., CPO  
Telephone: (816) 513-1592  
Facsimile: (816) 513-1156

With copies to:                      Matthew Gigliotti, Esq.  
City Attorney  
Law Department of Kansas City, Missouri  
414 East 12th Street, 23rd Floor  
Kansas City, Missouri 64106  
Telephone: (816) 513-3153

If to the CONTRACTOR: Tyler Technologies, Inc.  
1 Tyler Drive  
Yarmouth, ME 04096  
Attention: Chief Legal Officer

**Sec. 18. General Indemnification.**

- (a) For purposes of this Section and Section 19, the following terms shall have the meanings listed:
  - 1. "Claims" means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including reasonable attorneys' fees incurred by the CITY in the enforcement of this indemnity obligation.
  - 2. "CONTRACTOR's Agents" means CONTRACTOR's officers, employees, subcontractors, successors, assigns, invitees, and other agents.

3. CITY means CITY, its Agencies, its agents, officials, officers and employees.
- (b) CONTRACTOR's obligations under this Section with respect to indemnification of CITY for acts or omissions, including negligence, shall be limited to the coverage and limits of insurance that CONTRACTOR is required to procure and maintain under this Contract. CONTRACTOR affirms that it will bear the cost of all insurance required under this Contract.
- (c) CONTRACTOR shall defend, indemnify and hold harmless CITY from and against all third-party claims arising out of or resulting from all acts or omissions in connection with this Contract caused in whole or in part by CONTRACTOR or CONTRACTOR's Agents, regardless of whether or not caused in part by any act or omission, including negligence, of CITY. CONTRACTOR is not obligated under this Section to indemnify CITY for the sole negligence of CITY.
- (c) In no event shall the language in this Section constitute or be construed as a waiver or limitation of the CITY's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

**Sec. 19. Indemnification for Professional Negligence.** CONTRACTOR shall indemnify, and hold harmless CITY from and against all Claims arising out of any negligent acts or omissions of CONTRACTOR or CONTRACTOR'S Agents in the performance of professional services under this Contract. CONTRACTOR is not obligated under this Section to indemnify CITY for the negligent acts of CITY or any of its agencies, officials, officers, or employees.

**Sec. 20. Insurance.**

- (a) CONTRACTOR shall procure and maintain in effect throughout the term of this Contract insurance policies with coverage not less than the types and amounts specified in this Section. CONTRACTOR must have:
  1. Commercial General Liability Insurance Policy: with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:
    - a. Severability of Interests Coverage applying to Additional Insureds
    - b. Contractual Liability
    - c. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000
    - d. No Contractual Liability Limitation Endorsement
    - e. Additional Insured Endorsement, ISO for CG20 10, current edition, or its equivalent
  2. Workers' Compensation Insurance and Employers Liability Policies as required by Missouri law.
  3. Commercial Automobile Liability Insurance Policy: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. The Policy shall provide coverage on an "any auto" basis and on an "occurrence" basis. This insurance policy will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Contract, by CONTRACTOR.

4. If this Contract is for professional services, CONTRACTOR shall obtain Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.
  5. Technology Professional Liability Errors and Omissions Insurance , inclusive of cyber protection, appropriate to the Consultant's profession and work hereunder, with limits not less than \$5,000,000 per occurrence and in the aggregate, with sublimits of \$3,000,000 for cyber protection. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement. Coverage may include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses
- (b) All insurance policies required in this Section shall provide that the policy will not be canceled until after the Insurer provides the CITY ten (10) days written notice of cancellation in the event that the cancellation is for CONTRACTOR's nonpayment of premiums and thirty (30) days written notice of cancellation to CITY for all other reasons of cancellation.
  - (c) The Commercial General and Automobile Liability Insurance Policies specified above shall provide that CITY and its agencies, agents, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Contract. CONTRACTOR shall provide to CITY at execution of this Contract a certificate of insurance showing all required endorsements and additional insureds.
  - (d) All insurance policies must be provided by Insurance Companies that have an A.M. Best's rating of A-, V or better, and are licensed or approved by the State of Missouri to provide insurance in Missouri.
  - (e) Regardless of any approval by CITY, CONTRACTOR shall maintain the required insurance coverage in force at all times during the term of this Contract. CONTRACTOR's failure to maintain the required insurance coverage will not relieve CONTRACTOR of its contractual obligation to indemnify the CITY pursuant to this Section of this Contract. In the event CONTRACTOR fails to maintain the required insurance coverage in effect, CITY may declare CONTRACTOR in default.
  - (f) In no event shall the language in this Section constitute or be construed as a waiver or limitation of the CITY's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

#### **Sec. 21. Interpretation of the Contract.**

The terms and conditions of this Piggy Back Contract take precedence over the terms and conditions of the Primary Contract if there is any conflict between the terms and conditions of the Piggy Back Contract and the Primary Contract. The CITY's Manager of Procurement Services and Tyler shall attempt to resolve all disagreements or any ambiguity in this Agreement amicably. In the event of any conflict between CITY and CONTRACTOR regarding the terms and provisions of this Agreement, CITY and CONTRACTOR shall follow the following conflict resolution procedure: First, CITY's Senior Buyer in its Procurement Services

Division and CONTRACTOR's Implementation Manager shall enter into good faith, non-binding discussions and meet at least once, either in person or over the phone, during a period of not less than fifteen (15) business days to seek to mutually and amicably resolve the conflict. The fifteen (15) business day window shall be triggered on the date the responding party receives written notification of the conflict and the invocation of this Section 21 from the aggrieved party advises. If these two officials are unable to mutually and amicably resolve the conflict during the 15 day (or longer, as mutually agreed) period, the head of CITY's Procurement Services Division and CONTRACTOR's Vice President of EnerGov Operations, shall enter into good faith, non-binding discussions and meet at least once, either in person or over the phone, during an additional period of not less than ten (10) business days to seek to mutually and amicably resolve the conflict. The ten (10) business day window shall be triggered upon receipt of the CITY's Senior Buyer in Procurement Services Division and the CONTRACTOR's Project Manager elevation of the conflict, in writing, for this senior review. If these two officials are further unable to mutually and amicably resolve the conflict during the 10 day (or longer, as mutually agreed) period, the City Manager and/or Assistant City Manager (Project Executive) and CONTRACTOR's President of the Local Government Division shall enter into good faith, non-binding discussions and meet at least once, either in person or over the phone, during an additional period of not less than ten (10) days to seek to mutually and amicably resolve the conflict. The ten (10) business day window shall be triggered upon receipt of the head of CITY's Procurement Services Division and CONTRACTOR's Vice President of EnerGov Operations elevation of the conflict, in writing, for this senior review. If the conflict resolution procedure is unsuccessful and the conflict remains unresolved at the end of the last 10 day (or longer, as mutually agreed) period, either party may then pursue the remedies available to them under the terms of this Contract including, but not limited to, the forums and remedies available under Sections 8-10 of this Contract. Nothing herein prevents either party from seeking equitable or injunctive relief in a court of competent jurisdiction. In every instance herein where a party's representative is identified, it is understood that representative may designate another party employee, or reasonably similar seniority, to act in his or her stead, in the event the identified representative is unavailable.

**Sec. 22. Contract Execution.** This Contract may be executed in one or more counterparts, each of which will be deemed an original copy of this Contract and all of which, when taken together, will be deemed to constitute one and the same Contract. This Contract shall be effective upon the execution of counterparts by both parties, notwithstanding that both parties may not sign the same counterpart. The parties' signatures transmitted by facsimile or by other electronic means shall be proof of the execution of this Contract and shall be acceptable in a court of law.

**Sec. 23. Guaranteed Lowest Pricing.** CONTRACTOR certifies that this Contract contains pricing for all in-scope services supplied by CONTRACTOR equal to current list pricing available to any similarly-situated government, governmental entity, political subdivision, city, state, school district in the United States as of the date of this Contract. For the avoidance of doubt, the parties agree that rates for maintenance or SaaS renewals are determined with reference to the prior year pricing. Additionally, any new purchases will be according to Sourcewell contract requirements.

**Sec. 24. Assignability and Subcontracting.**

- (a) **Assignability.** Neither party shall assign or transfer any part or all of its obligation or interest in this Contract without prior written approval of the non-assigning party. If either party shall assign or transfer any of its obligations or interests under this Contract without the other's prior written approval, it shall constitute a material breach of this Contract. This provision shall not prohibit CONTRACTOR from subcontracting as otherwise provided for herein. Moreover, and notwithstanding the foregoing, CONTRACTOR may, without the prior written consent of CITY, assign the Contract in its entirety to the surviving entity of any merger or consolidation or to any purchaser of substantially all of CONTRACTOR's assets.
- (b) **Subcontracting.** CONTRACTOR shall not subcontract any part or all of CONTRACTOR's obligations or interests in this Contract unless the subcontractor has been identified in a format required by CITY. If CONTRACTOR subcontracts any part of CONTRACTOR's obligations or interests under this Contract without having identified the subcontractor, it shall constitute a material breach of this Contract. The utilization of subcontractors shall not relieve CONTRACTOR of any of its responsibilities under the Contract, and CONTRACTOR shall remain responsible to CITY for the negligent acts, errors, omissions or negligence of any subcontractor and of such subcontractor's officers, agents and employees. CITY shall have the right to reject, at any point during the term of this Contract, any subcontractor identified by CONTRACTOR, and to require that any subcontractor cease working under this Contract. CITY's right shall be exercisable in its sole and subjective discretion. CITY shall not be obligated to pay or be liable for payment of any monies which may be due to any subcontractor. CONTRACTOR shall include in any subcontract a requirement that the subcontractor comply with all requirements of this Contract in performing CONTRACTOR's services hereunder.

**Sec. 25. Professional Services – Conflict of Interest Certification.** CONTRACTOR certifies that CONTRACTOR is not an expert witness for any party in litigation against the CITY at the time of the issuance of this Contract.

**Sec. 26. Intellectual Property Rights.** CONTRACTOR shall retain ownership of, including all intellectual property rights in and to, the Software Products licensed hereunder and all proprietary information contained in all deliverables.

**Sec. 27. INTENTIONALLY REMOVED.**

**Sec. 28. Employee Eligibility Verification.** CONTRACTOR shall execute and submit an affidavit, in a form prescribed by the CITY, affirming that CONTRACTOR does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3). CONTRACTOR shall attach to the affidavit documentation sufficient to establish CONTRACTOR's enrollment and participation in an electronic verification of work program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration and Reform and Control Act of 1986. CONTRACTOR may obtain additional information about E-Verify and enroll at <https://e-verify.uscis.gov/enroll/StartPage.aspx?JS=YES>. For those CONTRACTORs enrolled in E-Verify, the first and last pages of the E-Verify Memorandum of Understanding that CONTRACTOR will obtain upon successfully enrolling in the program shall constitute sufficient documentation for purposes of complying with this section. CONTRACTOR shall submit the affidavit and

attachments to the CITY prior to execution of the contract, or at any point during the term of the contract if requested by the CITY.

**Sec. 29. Emergencies.**

- (a) CITY may annually enroll in CONTRACTOR'S Disaster Recovery Services ("DR Services"). In the event a Disaster occurs when CITY is currently enrolled in, and timely paid for, DR Services, then the provisions of this Section shall apply. For the avoidance of doubt, DR Services are only available for client-hosted applications. Any Tyler Software Products provided via SaaS Services include business continuity as part of the solution.
- (b) For purposes of this Section, a "Disaster" is defined as an unplanned event that prevents the CONTRACTOR Software Products from performing critical processes, as mutually agreed to by the parties, and that cannot be resolved in 24 hours. Examples of a Disaster include fire, hazardous materials incident, flood, hurricane, tornado, winter storm, earthquake, radiological accident, civil disturbance or explosion. A Disaster is not a hardware or network failure covered by a third-party service agreement, or a support incident subject to the Software Maintenance Agreement set forth at Attachment G.
- (c) CITY may declare a Disaster whenever CONTRACTOR support staff is available under the terms of the support call process document provided at Attachment D.
- (d) CONTRACTOR shall remotely coordinate the electronic transfer of CITY data required to run identified critical processes to CONTRACTOR'S data center.
- (e) The parties will work together to establish a mutually agreeable plan for the scope, schedule, and processes of the DR Services.
- (f) CITY agrees to provide CONTRACTOR with remote access to the relevant CITY database(s).

**Sec. 30. RESERVED.**

**Sec. 31. Time and Manner of Delivery.** Delivery of software and services shall be made consistent with Statement of Work set forth in Attachment A, and according to the estimated schedule set forth in Attachment C, except as otherwise mutually agreed to in writing by the parties.

**Sec. 32. Manner of Delivery.** Delivery of software and related documentation shall be made electronically.

**Sec. 33. Quality.** Unless otherwise required by terms of the solicitation, all goods, supplies, and materials furnished shall be new, in current production, and the best of their kind. When applicable, maintenance shall be reasonably available.

**Sec. 34. Price.** Prices quoted are to be firm and final, subject to the mutual agreement of the parties to add software and services as requested and available via contract amendment. All prices quoted shall be net and shall reflect any available discount except for discounts for timely payment.

**Sec. 35. RESERVED.**

**Sec. 36. Commercial Warranty.** The CONTRACTOR agrees that the supplies or services furnished under this Contract shall be covered by the most favorable commercial warranties the CONTRACTOR gives to any customer for such supplies or services, and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the CITY by any other clause of this Contract.

**Sec. 37. RESERVED**

**Sec. 38. Sellers Invoice.** Invoices shall be prepared and submitted in duplicate to address shown on the purchase order. CONTRACTOR shall make commercially reasonable efforts to issue separate Invoices for each purchase order. Invoices shall contain the following information, to the extent applicable: purchase order number, item number, description of supplies or services, sizes, unit of measure, quantity, unit price, and extended totals. CITY agrees that CONTRACTOR'S Invoices shall follow the form set forth in the sample invoice at Attachment K, tailored to the products and services CITY is licensing or purchasing under this Contract.

**Sec. 39. RESERVED.**

**Sec. 40. RESERVED.**

**Sec. 41. RESERVED.**

**Sec. 42. Tax Exemption - Federal and State.**

- (a) The CITY is exempt from Federal Excise and Transportation taxes on purchases under Chapter 32, Internal Revenue Code. The federal tax registration number issued by the St. Louis District Director on November 11, 1974 is No. 43740340K.
- (b) The CITY is exempt from payment of Missouri Sales and Use Tax in Accordance with Section 39(10) Article 3, of the Missouri Constitution and Sections 144.040 and 144.615 RSMo 1969 and supplement thereto. A copy of the exemption from Missouri Sales and Use Tax is available upon request.

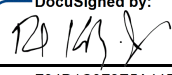
**Sec. 43. Annual Appropriation of Funds.**

- (a) Multi-year term supply and service contracts and leases, and the exercise of options to renew term contracts, are subject to annual appropriation of funds by the City Council. Payments made under term contracts and leases are considered items of current expense. Purchase orders are funded when issued, therefore are current expense items and are not subject to any subsequent appropriation of funds.
- (b) In the event sufficient funds are not appropriated for the payment of lease payments or anticipated term contract payments required to be paid in the next occurring lease or contract term and if no funds are legally available from other sources, the lease or contract may be terminated at the end of the initial term. Upon such termination, CITY shall remit payment for all products and services delivered to CITY, and all expenses incurred by CONTRACTOR, through

CONTRACTOR'S receipt of CITY'S intent to termination for nonappropriation. CITY will not be entitled to a refund or offset of previously paid license and other fees.

**CONTRACTOR**

I hereby certify that I have the authority to execute this document on behalf of CONTRACTOR.

Contractor:  DocuSigned by: Tyler Technologies, Inc.  
F94D1C0F3E5A445...

Kennedy-Jensen, Rob


By: \_\_\_\_\_

Group General Counsel

Title: \_\_\_\_\_

Date: 4/27/2023  
\_\_\_\_\_

**APPROVED AS TO FORM**

 DocuSigned by: \_\_\_\_\_  
E18D9805AB7E44D... Assistant City Attorney (Date)

**KANSAS CITY, MISSOURI**

By:  DocuSigned by: \_\_\_\_\_  
DE6901B73458419...

Manager of Procurement Services

Title: \_\_\_\_\_

Date: 4/28/2023  
\_\_\_\_\_

## ATTACHMENT A PAYMENT TERMS

1. Annual Fees. Annual fees (including, without limitation, SaaS and maintenance and support fees), are payable annually, in advance. The parties acknowledge that invoice for the final year may be prorated.
2. Hourly or Daily Fees. Implementation and other professional services are billed and invoiced as delivered.
3. Fixed Fees. Fixed price services are invoiced as delivered.
4. Expenses. The service rates do not include travel expenses. In the event the CITY requires services to be delivered onsite, Tyler will provide a quote for services that includes any travel related costs as a soft cost. City does not pay for travel separately.
5. Credits. For any annual services included within scope but currently not aligned with the annual term for this Agreement, Tyler shall issue adjusted adjusted invoices including, if and as applicable, application of fees paid for any time following commencement of the annual term.

Group	Item Application	Annual Fee
Data & Insights Neighborhoods	Open Data Platform (150k - 500k) Open Budget (150k - 500k) Open Checkbook (150k - 500k)	<b>\$35,988.00</b>
Enterprise Permitting & Licensing (fka EnerGov) General Services, including City Planning	Assist Advanced	<b>\$159,000.00</b>
MyCivic Neighborhoods	Citizen Engagement 311	<b>\$26,250.00</b>
Enterprise Permitting & Licensing (fka EnerGov) General Services, including City Planning & Water	License & Regulatory Suite eReviews Citizen Access-Permitting & Land Management GIS Citizen Access-Licensing & Reg Management Decision Engine Permitting & Land Management Suite Ilg Workforce Server 27x7 Premium Support Build Integrations	

		<b>\$572,081.44</b>
Fire Prevention Mobile (fka MobileEyes)	Inspector Plus Inspector On-Board Codes-NFPA On-Board Codes-ICC	<b>\$66,322.00</b>
Enterprise Permitting & Licensing (fka EnerGov)	Community Development Feeds Business Management Feeds Citizen Connect	<b>\$34,000.00</b>
<b>Grand Total</b>		<b>\$ 893,641.44</b>

## ATTACHMENT B CONTRACTOR SUPPORT , PRIORITY, RESPONSE AND RESOLUTION GUIDELINES

Solution	Att. D Generally Applicable	Premium Support	CRM Logging	Additional Terms Applicable
Enterprise Permitting & Licensing (fka EnerGov)	Y	Y	Y	Y(EnerGov Assist Advanced)
MobileEyes	Y	N	N	N
Data & Insights (fka Socrata)	Y	N	Y	Y: <a href="https://support.socrata.com/hc/en-us">https://support.socrata.com/hc/en-us</a>
My Civic	Y	N	N	N

### Support Channels

Tyler Technologies, Inc. provides the following channels of software support for authorized users\*:

- (1) On-line submission (portal) – for less urgent and functionality-based questions, users may create support incidents through the Tyler Customer Portal available at the Tyler Technologies website. A built-in Answer Panel provides users with resolutions to most “how-to” and configuration-based questions through a simplified search interface with machine learning, potentially eliminating the need to submit the support case.
- (2) Email – for less urgent situations, users may submit emails directly to the software support group.
- (3) Telephone – for urgent or complex questions, users receive toll-free, telephone software support.

*\* Channel availability may be limited for certain applications.*

### Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – [www.tylertech.com](http://www.tylertech.com) – for accessing client tools, documentation, and other information including support contact information.
- (2) Tyler Search -a knowledge based search engine that lets you search multiple sources simultaneously to find the answers you need, 24x7.
- (3) Tyler Community –provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (4) Tyler University – online training courses on Tyler products.

### Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Tyler’s holiday schedule is

outlined below. There will be no support coverage on these days

New Year's Day	Labor Day
Martin Luther King, Jr. Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

For support teams that provide after-hours service, we will provide you with procedures for contacting support staff after normal business hours for reporting Priority Level 1 Defects only. Upon receipt of such a Defect notification, we will use commercially reasonable efforts to meet the resolution targets set forth below.

We will also make commercially reasonable efforts to be available for one pre-scheduled Saturday of each month to assist your IT staff with applying patches and release upgrades, as well as consulting with them on server maintenance and configuration of the Tyler Software environment.

## **Incident Handling**

### *Incident Tracking*

Every support incident is logged into Tyler's Customer Relationship Management System and given a unique case number. This system tracks the history of each incident. The case number is used to track and reference open issues when clients contact support. Clients may track incidents, using the case number, through Tyler's Customer Portal or by calling software support directly.

### *Incident Priority*

Each incident is assigned a priority level, which corresponds to the Client's needs. Tyler and the Client will reasonably set the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain "characteristics" may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the Client towards clearly understanding and communicating the importance of the issue and to describe generally expected response and resolution targets in the production environment only.

References to a "confirmed support incident" mean that Tyler and the Client have successfully validated the reported Defect/support incident.

Priority Level	Characteristics of Support Incident	Resolution Targets*
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client's remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted data is limited to assisting the Client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack, which shall occur at least quarterly. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

*\*Response and Resolution Targets may differ by product or business need*

### *Incident Escalation*

If Tyler is unable to resolve any priority level 1 or 2 defect as listed above or the priority of an issue has elevated since initiation, you may escalate the incident to the appropriate resource, as outlined by each

product support team. The corresponding resource will meet with you and any Tyler staff to establish a mutually agreeable plan for addressing the defect.

#### *Remote Support Tool*

Some support calls may require further analysis of the Client's database, processes or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Tyler's support team must have the ability to quickly connect to the Client's system and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.

### **ENERGOV ASSIST ADVANCED– Scope Overview**

- EnerGov automation types are covered including the custom queries
- EnerGov Report Automation is included
- CSS admin configuration is included. Including CSS/eReview admin
- EnerGov DBA and GIS Manager access
- Custom Fields (online and back office)
- User Roles/security settings
- Fee Schedule updates
- Workflow
- GeoRules
- Conditions
- Districts
- Code Changes
- Intelligent Objects, including custom query automation and EnerGov owned stored procedures
- Report modifications including report Automation\*
- eReviews implementation and best practices
- CSS Administration
- HTML5 apps and improve processes by taking advantage of new features
- 2 week Onsite Best Practice and Advisory Consultations every 12 months
- Annual Department meetings on improving functionality and efficiency
- One pass to annual Tyler Connect conference
- 16 New Custom Reports
- LTS regression testing in client environment
- Dedicated, 35 hours a week EnerGov Assist Consultant

\* Applies only to Tyler-created reports

### **SUPPORT CALL PROCESS ADDENDUM FOR PREMIUM LEVEL CITY SUPPORT - AFTER-HOURS SUPPORT**

#### **After-Hours Support Calls**

This service is available only to EnerGov CITYs covered by an After-Hour Support Agreement. Additionally, only "emergency" fault issues of Priority level 1 or 2 qualify for after-hour support. EnerGov reserves the right to postpone resolution of non-emergency faults until normal business hours should the resolution require software modifications beyond the scope of the Help Desk.

Premium CITYs are provided the pager number of the "on-call" Help Desk technician. Fault Support is requested by paging the "on-call" person, who will

respond to the page within 30 minutes. Priority 1 or 2 Goal Response times (See Appendix A) is followed.

When reporting an issue to the Help Desk, the CITY should have all basic information and as much of the following data as possible available:

- A business explanation of the issue's severity
- Application and revision (obtained from Help - About)
- Module or screen where problem occurred
- Detailed description of the problem, not generalities
- Whether it is repeatable or random
- Error logs or other data useful in determining resolution

### **Resolution Process**

During after-hours, support will focus on getting you back up and running. (Discussing, analyzing, and providing corrective action/information).

On-Call support personnel are equipped with the appropriate materials to resolve emergency issues and have escalation paths defined for issues that cannot be resolved by the initial analyst. The support analyst may suggest a viable business alternative to relieve the emergency situation, and then he or she will log the issue to be resolved according to the priority response schedule.

### **Wellness Review**

The EnerGov Wellness Review visit, included with Premium and Platinum Support levels, evaluates the current use of the EnerGov Product Suite relative to current business requirements, with the objective of identifying opportunities for the CITY to gain additional value from the software already owned. During this review, a senior consultant will perform the following:

- Review the current setup and implemented functions
- Review the current procedures and workflows
- Discuss business issues and initiatives
- Review usage with each key user
- Discuss functionality not currently used and its application, as appropriate
- Discuss alternative or additional procedures
- Discuss future upgrade issues and requirements
- Provide some direct assistance (tips, did you knows, model suggestions, etc.)

The feedback of this review is a written report outlining opportunities for improvement. Typically the CITY may implement many of these opportunities, without any outside assistance. Where EnerGov can assist, we will offer to provide a separate quote or proposal, if requested.

The terms of this service are as follows:

- EnerGov will schedule two 3-day Wellness Reviews each year.
- The Wellness Review must occur during the EnerGov year and must be at least 6 months after the preceding review – thus Wellness Review days cannot be accumulated.

- Reviews are scheduled on a first-come-first-served basis, on a mutually set date, usually within 1 month of being requested. To schedule your review, call Nathan Borrer at 888-355-1093 or e-mail at [Nathan.Borrer@tylertech.com](mailto:Nathan.Borrer@tylertech.com).
- All services described herein are priced to be provide remotely. In the event any services are to be provided at the CITY, EnerGov will provide adjusted rates to cover applicable travel expenses.
- Wellness Reviews can also be scheduled by existing clientss with the standard support package on an as needed basis. 3-day wellness visits will be charged according to the current EnerGov services rate at time of request. If the wellness visit is to be conducted at the CITY, Tyler will provide an adjusted rate to incorporate any needed travel expenses.

## ATTACHMENT D- CITY SUPPORT ESCALATION CONTACTS

The CONTRACTOR'S day to day point of contact for operational and service/technical related issues is the CONTRACTOR Project Manager.

CONTRACTOR'S senior management points of contact for operations and implementation are:

Peter Stubbs  
Vice President, Professional Services  
888-355-1093 x 3223  
[mark.beverly@tylertech.com](mailto:mark.beverly@tylertech.com)

CONTRACTOR'S day to day point of contact for contract related issues is:

Rob Kennedy-Jensen  
Group General Counsel  
800-772-2260 x 4588  
[rob.kennedy-jensen@tylertech.com](mailto:rob.kennedy-jensen@tylertech.com)

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The City's day to day point of contact for operational/service/technical related issues is:

Rochelle Richeson  
Tyler Product Support/DataKC  
816-513-6615  
[Rochelle.richeson@kcmo.org](mailto:Rochelle.richeson@kcmo.org)

Tracey Roland  
IT Manager  
816-513-6658  
[Tracey.roland@kcmo.org](mailto:Tracey.roland@kcmo.org)

The City's day to day point of contact for contract related issues is:

Keely Golden, CPPB,  
Procurement Manager, Procurement Services Division  
816-513-0812  
[keely.golden@kcmo.org](mailto:keely.golden@kcmo.org)

## ATTACHMENT D- SOFTWARE LICENSE AGREEMENT

### 1. License Grant.

a) Upon the Contract start date, CONTRACTOR hereby grants to CITY a non-exclusive, non-transferable, royalty-free, revocable license to use the CONTRACTOR Software Products set forth in the investment summary attached hereto as Attachment A: Payment Terms and related interfaces (collectively, the "CONTRACTOR Software Products") and documentation provided in or with the CONTRACTOR Software Products ("Documentation") for CITY's internal business purposes only and otherwise subject to the terms and conditions of this Agreement. This license is revocable by CONTRACTOR if CITY fails to comply with the terms and conditions of this Agreement, including without limitation, CITY's failure to timely pay the Software fees in full. Upon CITY's payment in full for the CONTRACTOR Software Products, this license will become irrevocable, subject to the restrictions on use and other terms set forth in this Agreement. The foregoing notwithstanding, any Tyler Software Products provided via a SaaS Solution have a license limited to the SaaS term. Upon expiration, cancellation, on non-renewal of the SaaS term, the Client's right of use the applicable Tyler Software Product terminates.

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

c) The CONTRACTOR Software Products are not licensed to perform functions or processing for subdivisions or entities that were not disclosed to CONTRACTOR prior to the Contract start date.

d) The right to transfer the CONTRACTOR Software Products (excepting those provided via SaaS Services) to a replacement hardware system is included in this Agreement. CITY shall pay CONTRACTOR for the cost of new media or any required technical assistance to accommodate the transfer. CITY shall provide advance written notice to CONTRACTOR of any such transfer.

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

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

g) CITY may make copies of the CONTRACTOR Software Products (excepting those provided via SaaS Services) for archive purposes only. CITY shall repeat any and all proprietary notices on any copy of the CONTRACTOR Software Products. CITY may make copies of the Documentation for internal use only.

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

i) CITY'S purchase of MyGovPay/Virtual Pay and IVR is subject to the additional terms and conditions set forth at Attachment J.

2. Limited Warranty. For the purposes of this Agreement, a "Defect" is defined as a failure of the CONTRACTOR Software Products to substantially conform to the then-current specifications and the functional descriptions of the CONTRACTOR Software Products in CONTRACTOR's written proposal to CITY. In the event of conflict between the afore-mentioned documents, the then-current specifications will control. A CONTRACTOR Software Product is "Defective" if it contains a Defect. For as long as a current Maintenance Agreement is in place, CONTRACTOR warrants that the CONTRACTOR Software Products will not contain Defects. If the CONTRACTOR Software Products do not perform as warranted, CONTRACTOR will use reasonable efforts, consistent with industry standards, to cure the Defect in accordance with CONTRACTOR's then-current support call process. CONTRACTOR'S current support call process is set forth at Attachment D.

### 3. Intellectual Property Infringement Indemnification.

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

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

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

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

- i. CITY's use of a previous version of a CONTRACTOR Software Product and the claim would have been avoided had CITY used the current version of the CONTRACTOR Software Product;
- ii. CITY's combining the CONTRACTOR Software Product with devices or products not provided by CONTRACTOR;

iii. Use of a CONTRACTOR Software Product in applications, business environments or processes for which the CONTRACTOR Software Product was not designed or contemplated, and where use of the CONTRACTOR Software Product outside such application, environment or business process would not have given rise to the claim;

iv. Corrections, modifications, alterations or enhancements that CITY made to the CONTRACTOR Software Product and such correction, modification, alteration or enhancement is determined by a court of competent jurisdiction to be a contributing cause of the infringement;

v. Use of the CONTRACTOR Software Product by any person or entity other than CITY or CITY's employees; or

vi. CITY's willful infringement, including CITY's continued use of the infringing CONTRACTOR Software Product after CITY becomes aware that such infringing CONTRACTOR Software Product is or is likely to become the subject of a claim hereunder.

d) Remedy.

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

(a) Procure for CITY the right to continue using the infringing CONTRACTOR Software Products; or

(b) Modify or replace the infringing CONTRACTOR Software Products so that it becomes non-infringing.

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

## **ATTACHMENT E- SOFTWARE MAINTENANCE AGREEMENT**

### **1. Maintenance Services.**

a) This Maintenance Agreement is effective October 1, 2022 and will remain in force for an initial two (2) years. City will follow normal contract renewal process. Timely Acceptance of annual renewal quote and issuance of City PO will place purchase for this service.

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

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

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

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

### **c) CITY Responsibilities.**

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

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

## ATTACHMENT F- SAAS SERVICES TERMS AND CONDITIONS

*Tyler performance under this Contract, including, without limitation, its delivery of SaaS Services for the Tyler Software Products, and City's right and responsibilities, are subject to the following terms and conditions.*

### SECTION A – DEFINITIONS

- **“Data”** means your data necessary to utilize the Tyler Software.
- **“Data Storage Capacity”** means the contracted amount of storage capacity for your Data identified in the Attachment B.
- **“Defined Users”** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Attachment B. If the Amendment Investment Summary contains Enterprise Permitting & Licensing labeled software, Defined Users mean the maximum number of named users that are authorized to use the Enterprise Permitting & Licensing labeled modules as indicated in the Attachment B.
- **“SaaS Fees”** means the fees for the SaaS Services identified in the Attachment B. Hosting Fees may also be referred to as Hosting Fees.
- **“SaaS Services”** means software as a service consisting of system administration, system management, and system monitoring activities that Tyler performs for the Tyler Software, and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services may also be referred to as Hosting Services. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting or other professional services.
- **“SLA”** means the Service Level Agreement. A copy of our current SLA is attached hereto as Schedule 1.
- **“Third Party SaaS Services”** means software as a service provided by a third party, if any, identified in the Amendment Investment Summary.

### SECTION B – SAAS SERVICES APPLICABLE TO TYLER SOFTWARE

1. Rights Granted. We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in this Agreement.
2. SaaS Fees. You agree to pay us the annual SaaS Fees. Those amounts are payable as set forth in the Amendment attached hereto. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).
3. Ownership.

- 3.1. We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement.
- 3.2. The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
- 3.3. You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. SaaS Services.
  - 5.1. Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 18. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. The scope of audit coverage varies for some Tyler Software solutions. Upon execution of a mutually agreeable Non-Disclosure Agreement ("NDA"), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information. If our SaaS Services are provided using a 3rd party data center, we will provide available compliance reports for that data center.
  - 5.2. You will be hosted on shared hardware in a Tyler data center or in a third-party data center. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
  - 5.3. Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event of a data center failure, we reserve the right to employ our disaster recovery plan for resumption of the SaaS Services. In that event, we commit to a Recovery Point Objective ("RPO") of 24 hours and a Recovery Time Objective ("RTO") of 24 hours. RPO represents the maximum duration of time between the most recent recoverable copy of your hosted Data and subsequent data center failure. RTO represents the maximum duration of time following data center failure within which your access to the Tyler Software must be restored.
  - 5.4. We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any

unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.

- 5.5. We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 5.6. We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 5.7. We provide secure Data transmission paths between each of your workstations and our servers.
- 5.8. Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel. Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.
- 5.9. Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

## **SECTION C – SAAS TERM AND TERMINATION of SAAS SERVICES**

1. Term. See Section 2(a) of the Contract.
2. Failure to Pay SaaS Fees. You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of the SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.

## **SECTION D – ADDITIONAL TERMS APPLICABLE TO CERTAIN SAAS SERVICES**

1. Fire Prevention Mobile Terms. Your use of Tyler's Fire Prevention Mobile solutions (also referred to as MobileEyes) is subject to the terms found here: <https://www.tylertech.com/terms/mobileeyes-third-party-terms>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using the Fire Prevention Mobile solution, you agree that you have read, understood, and agree to such terms.

## SECTION E – GENERAL TERMS AND CONDITIONS

1. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Contract, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities. Each party agrees that it shall not disclose any confidential information of the other party and further agrees to take appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of the Contract for a period of two (2) years. This obligation of confidentiality will not apply to information that:
  - 1.1. At the time of the disclosure is in the public domain;
  - 1.2. After disclosure, becomes part of the public domain by publication or otherwise, except by breach of this Contract by a party;
  - 1.3. A party can establish by reasonable proof was in that party's possession at the time of disclosure;
  - 1.4. A party receives from a third party who has a right to disclose it to that party; or
  - 1.5. Is subject to Freedom of Information Act requests or public records requests under Missouri state law. The receiving party shall give prompt notice of the service of process or other documentation that underlies such request and otherwise protect the confidentiality of such confidential information. The disclosing party reserves the right to obtain protective order or otherwise protect the confidentiality of its confidential information.
2. CITY hereby consents to use of CITY's name in client lists.No Intended Third Party Beneficiaries. This Contract is entered into solely for the benefit of CONTRACTOR and CITY. No third party will be deemed a beneficiary of this Contract , and no third party will have the right to make any claim or assert any right under this Contract .
3. Entire Contract . This Contract represents the entire agreement of CONTRACTOR and CITY with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. This Contract may only be modified by written amendment signed by authorized representatives of both parties.
4. Force Majeure; CITY Assistance. "Force Majeure" is defined as an event beyond the reasonable control of a party, including governmental action, war, riot or civil commotion, fire, natural disaster, restraints affecting shipping or credit, delay of carriers, inadequate supply of suitable materials or any other cause which could not with reasonable diligence be foreseen, controlled or prevented by the party. Neither party shall be liable for delays in performing its obligations under this Contract to the extent that the delay is caused by Force Majeure. Force Majeure will not be allowed unless:
  - 4.1. Within ten (10) business days of the occurrence of Force Majeure, the party whose performance is delayed thereby provides the other party or parties with written notice explaining the cause and extent thereof, as well as a request for a time extension equal to the estimated duration of the Force Majeure events.
  - 4.2. Within ten (10) business days after the cessation of the Force Majeure event, the party whose performance was delayed provides the other party written notice of the time at which Force Majeure ceased and a complete explanation of all pertinent events pertaining to the entire Force Majeure situation.Either party will have the right to terminate this Contract if Force Majeure suspends performance of scheduled tasks by one or more parties for a period of one hundred-twenty (120) or more days from the scheduled date of the task. This paragraph will not relieve CITY of its responsibility to pay for services and goods provided to CITY and expenses incurred on behalf of CITY prior to the contract start date of termination.
5. City Cooperation. CITY acknowledges that the implementation of the CONTRACTOR Software

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

6. LIMITATION OF LIABILITY. IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR EXAMPLARY DAMAGES. CONTRACTOR'S LIABILITY FOR DAMAGES AND EXPENSES ARISING FROM THE CONTRACTOR SOFTWARE PRODUCTS OR SERVICES, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO THE FEES SET FORTH IN ATTACHMENT B RELATED TO THE DEFECTIVE PRODUCT OR SERVICE. SUCH FEES REFLECT AND ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY.
7. DISCLAIMER. THE RIGHTS, REMEDIES, AND WARRANTIES SET FORTH IN THIS CONTRACT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER RIGHTS, REMEDIES, AND WARRANTIES EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SYSTEM INTEGRATION, WHICH ARE HEREBY DISCLAIMED BY CONTRACTOR.

## Schedule 1 SERVICE LEVEL AGREEMENT

### I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. This SLA does not apply to any Third Party SaaS Services. All other support services are documented in the Support Call Process.

II. **Definitions.** Except as defined below, all defined terms have the meaning set forth in the Agreement.

*Actual Attainment:* The percentage of time the Tyler Software is available during a calendar quarter, calculated as follows:  $(\text{Service Availability} - \text{Downtime}) \div \text{Service Availability}$ .

*Client Error Incident:* Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

*Downtime:* Those minutes during Service Availability, as defined below, when all users cannot launch, login, search or save primary data in the Tyler Software. Downtime does not include those instances in which only a Defect is present.

*Emergency Maintenance:* (1) maintenance that is required to patch a critical security vulnerability; (2) maintenance that is required to prevent an imminent outage of Service Availability; or (3) maintenance that is mutually agreed upon in writing by Tyler and the Client.

*Planned Downtime:* Downtime that occurs during a Standard or Emergency Maintenance window.

*Service Availability:* The total number of minutes in a calendar quarter that the Tyler Software is capable of receiving, processing, and responding to requests, excluding Planned Downtime, Client Error Incidents, Denial of Service attacks and Force Majeure.

*Standard Maintenance:* Routine maintenance to the Tyler Software and infrastructure. Standard Maintenance is limited to five (5) hours per week.

### III. **Service Availability**

#### a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support case number.

#### b. Our Responsibilities

When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of Planned Downtime, a Client Error Incident, Denial of Service attack or Force Majeure). We will also work with you to resume normal operations.

#### c. Client Relief

Our targeted Attainment Goal is 100%. You may be entitled to credits as indicated in the Client Relief Schedule found below. Your relief credit is calculated as a percentage of the SaaS fees paid for the calendar quarter.

In order to receive relief credits, you must submit a request through one of the channels listed in our Support Call Process within fifteen days (15) of the end of the applicable quarter. We will respond to your relief request within thirty (30) day(s) of receipt.

The total credits confirmed by us will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

<b>Client Relief Schedule</b>	
<b>Actual Attainment</b>	<b>Client Relief</b>
99.99% - 98.00%	Remedial action will be taken
97.99% - 95.00%	4%
Below 95.00%	5%

#### **IV. Maintenance Notifications**

We perform Standard Maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

Not all maintenance activities will cause application unavailability. However, if Tyler anticipates that activities during a Standard or Emergency Maintenance window may make the Tyler Software unavailable, we will provide advance notice, as reasonably practicable that the Tyler Software will be unavailable during the maintenance window.

## ATTACHMENT G- SOURCEWELL CONTRACT TERMS

Client is a member of Sourcewell (formerly known as National Joint Powers Alliance) (“Sourcewell”).

Tyler participated in the competitive bid process in response to Sourcewell RFP #090320 by submitting a proposal, on which Sourcewell awarded Tyler a Sourcewell contract, numbered 090320-TTI (hereinafter, the “Sourcewell Contract”).

Documentation of the Sourcewell competitive bid process, as well as Tyler’s contract with and pricing information for Sourcewell is available at <https://sourcewell-mn.gov/cooperative-purchasing/>.

Tyler and Client agree that this Agreement incorporates the terms of the Sourcewell Contract into this Agreement.

**ATTACHMENT H- CREO CONTRACT ASSURANCES ADDENDUM**

## **Civil Rights and Equal Opportunity Department Civil Rights and Wage Assurances**

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**Non-discrimination in Employment.** Contractor shall not discriminate against any employee or candidate for employment on the basis of an individual's race, hair texture or hair style associated with an individual's race, color, sex, religion, national origin, or ancestry, disability, sexual orientation, gender identity, age, or in any other manner prohibited by Chapter 38 of the City Code. Contractor shall not engage in any discrimination as prohibited by Chapter 3 of the City Code.

**Ban the Box in Hiring and Promotion.**

(a) Pursuant to Section 38-104, City Code Ordinances, Contractor shall not base a hiring or promotional decision on an applicant's criminal history or sentence related thereto, unless the employer can demonstrate that the employment-related decision was based on all information available including consideration of the frequency, recentness and severity of a criminal record and that the record was reasonably related to the duties and responsibilities of the position.

(b) Notwithstanding subsection (a), Contractor may inquire about an applicant's criminal history after it has been determined that the individual is otherwise qualified for the position, and only after the applicant has been interviewed for the position. Any such inquiry may be made of all applicants who are within the final selection pool of candidates from which a job will be filled.

(c) This provision shall not apply to positions where employers are required to exclude applicants with certain criminal convictions from employment due to local, state or federal law or regulation.

**Title VI of the Civil Rights Act of 1964.** Title VI of the Civil Rights Act of 1964 requires that no person in the United States shall, on the grounds of race, color, or national or origin (including limited English proficient individuals), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The City of Kansas City, Missouri requires compliance with the requirements of Title VI in all of its programs and activities regardless of the funding source.

Contractor shall not discriminate on the grounds of race, color, or national or origin (including limited English proficient individuals).

**Quality Services Assurance Act.** If this Contract exceeds \$160,000.00, Contractor certifies Contractor will pay all employees who will work on this Contract in the city limits of Kansas City, Missouri at least \$15.00 per hour in compliance with the City's Quality Services Assurance Act,



## **Civil Rights and Equal Opportunity Department Civil Rights and Wage Assurances**

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Section 3-66, Code of Ordinances or City has granted Contractor an exemption pursuant to the Quality Services Assurance Act.

**Anti-Discrimination Against Israel.** If this Contract exceeds \$100,000.00 and Contractor employs at least ten employees, pursuant to Section 34.600, RSMo., by executing this Contract, Contractor certifies it is not currently engaged in and shall not, for the duration of this contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

**Affirmative Action.** If this Contract exceeds \$300,000.00 and Contractor employs fifty (50) or more people, Contractor shall comply with City's Affirmative Action requirements in accordance with the provisions of Chapter 3 of City's Code, the rules and regulations relating to those sections, and any additions or amendments thereto; in executing any Contract subject to said provisions, Contractor warrants that it has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract. Contractor shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age in a manner prohibited by Chapter 3 of City's Code. Contractor shall:

- (a) Execute and submit the City of Kansas City, Missouri CREO Affirmative Action Program Affidavit warranting that the Contractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract.
- (b) Submit, in print or electronic format, a copy of Contractor's current certificate of compliance to the City's Civil Rights and Equal Opportunity Department (CREO) prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) calendar years. If, and only if, Contractor does not possess a current certification of compliance, Contractor shall submit, in print or electronic format, a copy of its affirmative action program to CREO prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) calendar years.
- (c) Require any Subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that Subcontractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the subcontract.
- (d) Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or

## **Civil Rights and Equal Opportunity Department Civil Rights and Wage Assurances**

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electronic format, to CREO within thirty (30) days from the date the subcontract is executed. If, and only if, Subcontractor does not possess a current certificate of compliance, Contractor shall obtain a copy of the Subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed.

City has the right to take action as directed by City's Civil Rights and Equal Opportunity Department to enforce this provision. If Contractor fails, refuses or neglects to comply with the provisions of Chapter 3 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, cancelled or suspended, in whole or in part, and Contractor may be declared ineligible for any further contracts funded by City for a period of one (1) year. This is a material term of this Contract.

**Compliance with Laws.** Contractor shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this Agreement. Contractor shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement.

**Prevailing Wage.** If the Agreement exceeds \$75,000.00 and any of the Services performed by Contractor includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair, that is subject to the Missouri Prevailing Wage Law (Section 290.210, RSMo – 290.340, RSMo), Contractor shall immediately notify the City prior to performing Services so the parties can execute an agreement that incorporates, the appropriate Wage Order. Contractor shall comply with all requirements of Section 290.210, RSMo – 290.340, RSMo even if Contractor fails to notify the City.