

**TYLER COPY**

System Agreement  
Between

Tyler Technologies, Inc.

5808 4th Street  
Lubbock, Texas 79416  
(800) 646-2633  
(806) 797-4849 Fax

AND

City of Tomball

401 Market Street  
Tomball, Texas 77375  
Phone: 281.351.5484  
Fax: 281.351.6256

**tyler**  
TECHNOLOGIES

AGREEMENT

This agreement is entered into by and between Tyler Technologies, Inc., hereinafter referred to as COMPANY, located at 5808 4th Street, Lubbock, Texas 79416; and; City of Tomball, hereinafter referred to as CLIENT on, \_\_\_\_\_, 2007.

COMPANY and CLIENT agree as follows:

1. COMPANY shall furnish the products and services as described in this Agreement, and CLIENT shall pay the prices set forth in this Agreement.
2. This Agreement consists of this Cover and the following Attachments and Exhibits:  
Section A Investment Summary (A-D)  
Section B COMPANY Agreement Terms and Conditions
3. The License Fees set forth in the Investment Summary are based on defined category levels. Placement within a category is based on the size of the organization serviced and measured by such factors as operating budget, number of employees, number of utility accounts, number of sworn officers, population of the entity, etc.

IN WITNESS WHEREOF, persons having been duly authorized and empowered to enter into this Agreement hereunto executed this Agreement effective as of the date last set forth below.

Client: City of Tomball

By: Monica Kohlenberg  
Signature  
Monica Kohlenberg  
Printed Name  
Director of Finance  
Title  
10/8/07  
Date  
74-6003588-8  
Sales Tax Certificate Number

Tyler Technologies, Inc.:

By: S. Brett Cate  
Signature  
S. Brett Cate  
Printed Name  
President, INCODE Solution  
Title  
9/21/07  
Issue Date

**Investment Summary**

Prepared for:	City of Tomball	Contract ID # :	2007-0287
Contact Person:	Brent Piercey	Issue Date:	9/21/07
Address:	401 Market Street Tomball, Texas 77375	Salesman:	L.Midkiff/ S.Cleveland
Phone:	281.351.5484	Tax Exempt:	Yes / No
Fax:	281.351.6256		
Email:	bpiercey@ci.tomball.tx.us		

	Initial Fees	Monthly Fees**
<b>Total Monthly Services</b> <i>Internet Services and Products</i> <i>**Please note this is not an Annual agreement, the fees listed herein are monthly fees.</i>	1,000	300
<b>Totals</b>	<b>1,000</b>	<b>300</b>

**Online Services and Products**

Service	QTY	Charges	Initial Year	Annual Fee
<b>INCODE Online Component Setup</b>				
One Time Setup Fee - Hardware Configuration - DNS registration	1	1,000	1,000	
Monthly fee to support and host Web site		50 /month	600	600
<b>INCODE Utility Billing On-Line Component</b>				
Utility Billing Online (4 cents per bill, per month) - Data extraction and storage - Display of: • Current status (late, cut off etc) • Action needed to avoid penalty • Current Balance • Deposits on file (optional) • Last payment date • Last payment amount • Payment arrangements on file • Last bill amount • Last bill date • Bill due date • Contracts on file and status • Transaction history	<u>3,750</u>	0.04 /month	1,800	1,800
- Address information including • Mapping • Legal description* • Precinct* • School district* • Services at address * - Subject to data availability - Consumption history by service, including graphs - Request for service (optional) - Information change request (optional) - Security - SSL (Secure Socket Layer)				
Online Payments • Payment packet is created to be imported to Utility System <i>NOTE: Customer pays \$1.25 fee per transaction for payment on-line.</i>				
<b>INCODE Court Online Component</b>				
Monthly support/maintenance fee - Display of citation/citations for payment - Collects plea from defendant - Security -- SSL (Secure Socket Layer) - Payment Processing - Credit Card • Payment packet is created to be imported to Court System <i>NOTE: Defendant pays \$1.50 fee per transaction for payment on-line.</i>		100 /month	1,200	1,200
<b>Total</b>			4,600	3,600

# TYLER TECHNOLOGIES WEB SERVICES - INTERNET BASED PRODUCTS SUBSCRIPTION AGREEMENT TERMS AND CONDITIONS

THIS AGREEMENT is effective as of the date of acceptance set forth at the end hereof, and is by and between Tyler Technologies, Inc., hereinafter referred to as COMPANY and the party signing this agreement as the "SUBSCRIBER".

## DEFINITIONS

**COMPANY Web Services.** COMPANY Web Services are designed to enable SUBSCRIBER to easily establish a presence on the Internet. COMPANY Web Hosting and Design is composed of the COMPANY Web Hosting and Design Publishing Component and other miscellaneous components. These components may be used independently or in conjunction with each other.

**COMPANY Web Hosting and Design Publishing Component.** The COMPANY Web Hosting and Design Publishing Component (IWPC) provides a simple avenue for the SUBSCRIBER to publish a sophisticated Web Site that is easy for them to maintain. The IWPC contains the central Web Site menuing system and smart directories. These smart directories allow the SUBSCRIBER to simply copy or FTP Web compatible documents (HTML) to COMPANY's Web Server for publication. As long as the documents are copied to the proper directories, the IWPC will automatically catalog, organize and publish the documents to the SUBSCRIBER's IWPC Web Site. If the SUBSCRIBER has a unique domain name, COMPANY can seamlessly point it to COMPANY's web server.

**COMPANY Utility Billing On-Line** The COMPANY Utility Billing On-Line Component allows the SUBSCRIBER to make available certain information from their COMPANY Utility Billing System to citizens with Internet access. Information is transferred from SUBSCRIBER to COMPANY daily. This information is posted to SUBSCRIBER's web site, which is hosted on COMPANY's web server. With the proper security clearance, citizens with Internet access have access to the data which can include: Consumption information, service level information, requests for service, accounting information and the opportunity to pay their Utility Bill over the Internet using a credit card.

**COMPANY Court On-Line** The COMPANY Court On-Line Component provides the ability for municipal court fines to be paid by credit card or electronic check via the Internet. Since it was designed by COMPANY, this system interfaces seamlessly with COMPANY's InCourt Municipal Court System.

## AGREEMENTS

- 1) **TERM.** SUBSCRIBER must return an executed copy of this Agreement to COMPANY within 90 days from the issue date. Thereafter, the Agreement will be voided and is subject to change. Subject to the limitations of this Section 1, and unless otherwise provided for in this Agreement, the term of this Agreement shall commence as of the effective date and shall continue for three (3) years. The term shall thereafter be automatically extended in separate consecutive periods of twelve (12) months duration unless either party gives written notice to terminate. Notice to terminate must provide at least sixty (60) days notice of said intent. In the event that the SUBSCRIBER fails to pay any amount payable to COMPANY hereunder, when due, or fails to comply with any other provision of this Agreement, COMPANY may terminate the SUBSCRIBER's rights by written notice to that effect to the SUBSCRIBER. COMPANY may, by written notice to the SUBSCRIBER, terminate its obligations under this Agreement in the event that COMPANY, for whatever reason, ceases to host SUBSCRIBER's Web Site. A termination of the SUBSCRIBER's rights under this Agreement shall not terminate any of the parties' rights under this Agreement to receive or hold amounts rightfully owing to the respective party pursuant to the terms of this agreement or to enforce the intellectual and proprietary rights in the COMPANY concept, web site, software, and technology. Upon termination or non-renewal of this agreement, the parties shall each promptly account for all due but unpaid amounts hereunder. If SUBSCRIBER wishes to terminate before the stated term expires, SUBSCRIBER must give sixty (60) days written notice in order not to incur termination costs of \$900.00 Please also see section entitled "**TERMINATION**" in this Agreement.
- 2) **NATURE OF WEB SITE.** COMPANY shall maintain a web site accessible over the Internet, for SUBSCRIBER. This web site shall contain both static information pages, non-static interactive pages as well as payment function pages. The web site shall allow a citizen with Internet access to view relevant data provided by SUBSCRIBER. This data may include certain data elements from SUBSCRIBER's Utility Billing System and Municipal Court System. This web site shall be equipped to accept payment of amounts owed to SUBSCRIBER, via Secured Socket Layer (SSL) encryption and credit card or debit card charge.

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- 3) **DATA PROCUREMENT.** COMPANY requires the following items for the Publishing Component of InSite. The SUBSCRIBER will need to provide COMPANY the documents to be published in an HTML format. It is the responsibility of the SUBSCRIBER to obtain, install and be familiar with the operation of software capable of producing the HTML documents. Unless specified elsewhere in this Agreement, these pages will be static (no interaction between site and user). The SUBSCRIBER is responsible for the content of the page (COMPANY will only provide the framework for publishing the information). COMPANY must host the components and services listed in the Investment Summary of this Agreement. The SUBSCRIBER will be required to setup a merchant account with Electronic Transaction System Corporation for the sole use of COMPANY Web Service transactions. The merchant account must be setup to fund to the SUBSCRIBER bank account. All fees for the merchant account will be paid by SUBSCRIBER.

COMPANY Utility Billing On-Line and COMPANY Court On-Line require daily updates to and from the SUBSCRIBER's primary software. COMPANY will assume responsibility for transferring the necessary data from the SUBSCRIBER's primary software system, to COMPANY's web server. This transfer will occur on a daily basis. Additionally, certain information, such as payment information, must be conveyed to SUBSCRIBER. COMPANY will assume responsibility for transferring such information back to SUBSCRIBER on a regular basis.

- 4) **LICENSED SOFTWARE OWNERSHIP.** SUBSCRIBER agrees that COMPANY possesses exclusive title to and ownership of the COMPANY Software.
- a) SUBSCRIBER agrees that SUBSCRIBER acquires neither ownership nor any other interest in the COMPANY Software, except for the right to use and possess the COMPANY Software in accordance with the terms and conditions of this Agreement.
  - b) All rights not expressly granted to SUBSCRIBER in this Agreement are retained by COMPANY.
  - c) SUBSCRIBER agrees that COMPANY Software including, but not limited to, systems designs, programs in source and/or object code format, applications, techniques, ideas, and/or know-how utilized and/or developed by COMPANY are and shall remain the exclusive property of COMPANY. SUBSCRIBER agrees that the COMPANY Software consists of COMPANY's trade secrets. COMPANY shall retain all copyrights in the COMPANY Software, whether published or unpublished.
  - d) COMPANY agrees that all data provided to COMPANY for the purposes of generating the web site shall remain the property of SUBSCRIBER. Should SUBSCRIBER terminate the Internet Services in good standing and in accordance with the termination provisions of this Agreement, COMPANY agrees to return to SUBSCRIBER, all graphics, text documents, and data files held by COMPANY.
- 5) **SUBSCRIBER MEMBERSHIP FEES.** For establishing new COMPANY Web Services, the SUBSCRIBER shall pay to COMPANY the following amounts as stated in Initial Fees.
- 6) **NOT ASSIGNABLE.** The rights of the SUBSCRIBER under this Agreement are not assignable without the prior written consent of COMPANY. Any attempt to sublicense, assign, encumber or transfer any of the rights, duties or obligations under this Agreement by the SUBSCRIBER is void. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted assigns and successors.
- 7) **SOFTWARE MAINTENANCE.** This SUBSCRIPTION AGREEMENT includes unlimited telephone support, support by communication modem, and all software upgrades, enhancements and new releases. COMPANY reserves the right to change the functionality of future releases of its software and CLIENT understands that COMPANY is not obligated to include specific functionality in future releases unless provided for herein.
- 8) **PARTIAL INVALIDITY.** Should any provision or clause of this Agreement be held to be invalid, such invalidity shall not affect any other provision or clause hereof, which can be given effect without such invalid provision or clause.
- 9) **RESPONSIBILITY OF DATA.** COMPANY will assume responsibility for all data transfer, but not responsible for data accuracy.

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- 10) **PROPRIETARY INFORMATION.**
- a) Distribution of COMPANY Software. SUBSCRIBER may not sell, assign, transfer, disclose, or otherwise make available, either directly or indirectly, any object code, documentation or other material relating to the Software, in whole or in part, or any copy of the same in any form, to any other person or entity.
  - b) Software as Trade Secret. SUBSCRIBER shall maintain the confidentiality of the Software and unless specifically authorized by COMPANY or except for ordinary and necessary backup purposes, SUBSCRIBER may not make or have made any copies of the Software or any part thereof. SUBSCRIBER shall include COMPANY's proprietary notice or other legend on any copies made by SUBSCRIBER as permitted hereunder.
- 11) **WARRANTY, DISCLAIMER, LIMITATION ON LIABILITY.** COMPANY warrants that the Software will substantially conform to current specifications delivered by COMPANY to SUBSCRIBER pursuant to this Agreement, including COMPANY's response to the Request for Proposal for six (6) months following installation; provided, however, that COMPANY's warranty hereunder shall not cover or apply to any software, or part thereof, that is not developed or designed by COMPANY. In the event that the Software is found to be defective in such respect and SUBSCRIBER notifies COMPANY in writing within six (6) months after its receipt of the Software of any substantial non-conformity of the Software with such specifications, COMPANY's sole obligation under this warranty is to remedy such defect within a reasonable time. THE FOREGOING WARRANTY IS EXCLUSIVE AND IS MADE IN LIEU OF ALL OTHER WARRANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY SHALL IN NO EVENT BE LIABLE FOR DAMAGES THAT EXCEED THE AMOUNT OF THE CHARGES PAID BY SUBSCRIBER HEREUNDER FOR THE DEVELOPMENT AND LICENSE OF THE SOFTWARE. IN NO EVENT SHALL COMPANY BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES OR FOR LOSS OF PROFITS, REVENUES OR DATA, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 12) **HOLD HARMLESS.** SUBSCRIBER agrees that it will hold COMPANY harmless against any claims, damages, liabilities, costs and expenses, including reasonable attorneys' fees, arising out of or relating to
- a) SUBSCRIBER's failure to implement any corrections, improvements and new releases relating to the Software, or any part thereof,
  - b) SUBSCRIBER's unauthorized alterations to or use of the Software, or
  - c) SUBSCRIBER's breach of any of its obligations to maintain the confidentiality of the Software or SUBSCRIBER's unauthorized copying thereof.
- 13) **TERMINATION.** This Agreement or any license referenced hereunder may be terminated by COMPANY upon written notice to SUBSCRIBER if SUBSCRIBER performs any breach of the terms of this Agreement. At the date of termination of this Agreement, SUBSCRIBER shall promptly return to COMPANY any Software, related documentation, materials and other property of COMPANY then in its possession, and any copies thereof wherever located. Notwithstanding the foregoing, all provisions hereof relating to confidentiality of the Software shall survive the termination of this Agreement.
- 14) **GENERAL.**
- a) This Agreement shall be governed by the laws of SUBSCRIBER's state of domicile and constitutes the entire Agreement between the parties hereto with respect to the Software described herein, and shall supersede all previous or contemporaneous negotiations, commitments and writings with respect to the matters set forth herein.
  - b) All acceptances by COMPANY of purchase orders and all sales by COMPANY are expressly limited to and made on the basis of the terms and conditions set forth herein, notwithstanding receipt or acknowledgment of SUBSCRIBER's order forms or specifications containing additional or different provisions, or conflicting oral representations by an agent, representative or employee of COMPANY. Any such additional or different terms are hereby objected to. All acceptances by COMPANY are expressly conditional on SUBSCRIBER's assent to the additional or different terms and conditions set forth in this Agreement. If these terms and conditions are not acceptable, SUBSCRIBER should notify COMPANY at once.