

**INTERGOVERNMENTAL AGREEMENT FOR THE COLLABORATIVE USE
OF THE LAKE COUNTY ETSB CAD AND MOBILE SYSTEMS**

This Intergovernmental Agreement (“**Agreement**”) arises under the Emergency Telephone System Act (50 ILCS 750/1 *et seq.*) and is between the County of Lake, a county existing under the Counties Code (55 ILCS 5/1-1001 *et seq.*) and acting through its Lake County Emergency Telephone System Board (“**LCETSB**”), and [EMERGENCY TELEPHONE SYSTEM BOARD] an entity formed through an intergovernmental agreement under 50 ILCS 750/15.4 (“**ETSB**”) or [Waukegan] a municipal corporation operating under 65 ILCS 5/1-1-1 *et seq.* (“**Municipality**”). Together, the LCETSB and ETSB or Municipality may be referred to below as “**Party/Parties**.”

Recitals

Whereas:

1. The County and ETSB or Municipality are units of local government authorized to enter into this Agreement under the Constitution of the State of Illinois of 1970, Article VII, Section 10, and the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*
2. As part of a collaborative process through which 21 municipalities and law enforcement entities sought a provider for a variety of law enforcement software solutions, the County, in conjunction with the Lake County ETSB, contracted with Tyler Technologies to license and support Computer Aided Dispatch (CAD) and Mobile systems. The CAD is a law and fire incident processing system that enables entry and tracking of emergency calls for service by a PSAP and Mobile software to provide incident data to first responders.
3. The LCETSB-Tyler contract includes a site license “for the licensed CAD and Mobile software for any agency in the geographic confines of Lake County.” This Agreement relates only to the CAD and Mobile components of the LCETSB-Tyler contract.
4. ETSB or Municipality is located within the geographic confines of Lake County, Illinois.
5. ETSB or Municipality seeks to join the LCETSB in using the CAD and Mobile and is willing to pay its proportionate cost for the maintenance of the system under the terms set forth below.

In light of the foregoing, the Parties agree as follows:

- Article 1. Services Provided; Implementation; Additional Services.**
- 1.1 **Services.** The CAD and Mobile services included in the contract with Tyler, and which ETSB or Municipality can use under this Agreement and the terms of the Tyler license, are listed on **Exhibit A** to this Agreement.
 - 1.2 **Location.** The LCETSB, in cooperation with the Lake County Sheriff’s Office (Sheriff) will be responsible for maintaining the CAD and Mobile systems on its

servers, including providing updates to the servers, CAD, and Mobile. The CAD and Mobile will be hosted in Lake County on servers in two geographically separate locations, such that any one location will enable the service's operation. Access to the CAD will be through a private public safety broadband network and Mobile services will be through encrypted commercial wireless networks. The CAD and Mobile services will be redundantly backed up, including through the use of hardware and software services provided by Rubrik.com, to include malware and ransomware protection. Database backups and server snapshots will occur at regular intervals daily. The LCETSB is a member of the Multi-State Information Sharing & Analysis Center (MS-ISAC), and all municipalities participating in this IGA are encouraged to also participate in MS-ISAC.

1.3 **Technical Support; FOIA.**

1.3.1 The LCETSB's Office maintains 24/7 IT Support and will, to the best of its ability using those resources, support all users in troubleshooting technical issues arising from the CAD or Mobile. Technical issues requiring the expertise of Tyler Technologies shall be coordinated by the LCETSB's IT personnel, provided that any costs that arise because they are outside of the Tyler-LCETSB CAD or Mobile maintenance agreement shall be brought to the CAD Working Group, defined below, for discussion and consensus decision making.

1.3.2 Freedom of Information Act requests directed at the data of any particular municipality or agency shall be the responsibility of that municipality or agency. The LCETSB may provide assistance to access information, when needed.

1.4 **Implementation Costs.** During the LCETSB's initial implementation of the CAD and Mobile, the cost and terms of participating in the system(s) is set forth on **Exhibit B** to this Agreement. Payment of the data conversion fee, as well as any modules selected by ETSB or Municipality, shall be at the prices set forth in Exhibit B and be due upon the effective date of this Agreement. Implementation costs are separate from and in addition to the ongoing cost-sharing payments that shall be regularly due in six-month intervals, once the maintenance and support costs begin, which is scheduled for May 2023.

1.5 **Additional Services.** Any services not set forth on Exhibit A shall be "Additional Services." Additional Services may be added only with (a) the LCETSB's written consent, which shall be made in consultation with the CAD Working Group and, if necessary, (b) a Statement of Work from Tyler, outlining the cost, which ETSB or Municipality shall bear if the Additional Services are for the benefit of ETSB or Municipality (as opposed to for the benefit of all CAD and Mobile Users).

Article 2. **Terms of Use.**

- 2.1 **CAD Working Group.** Collaborative governance of the CAD and Mobile shall occur through CAD and Mobile Working Groups made up of representatives from the participating agencies or PSAPs that are using the CAD or Mobile. Among other tasks, the CAD Working Group shall be tasked with creating policies and procedures related to the use, functionality, and further development of the CAD or Mobile. The CAD Working Group shall also provide input into how future enhancements to the system are funded.
- 2.2 **Conditions of Use.** The LCETSB shall provide the CAD and Mobile services to the ETSB or Municipality by assisting the ETSB or Municipality's staff in setting up a connection through which the ETSB or Municipality can access and otherwise use the CAD or Mobile. Such assistance shall encompass configuring the CAD or Mobile to accommodate the users for which Municipality pays (with each agency or municipality being made up of multiple users), under the payment terms listed further below. Any integration assistance that cannot be performed by the LCETSB may require a statement of work (SOW) from Tyler Technologies, for which the Municipality must separately pay. If such an SOW is necessary, then the LCETSB will assist ETSB or Municipality in obtaining it.

Use of the CAD or Mobile shall be conditioned on the following:

- 2.2.1 **Authority to Control CAD and Mobile.** The CAD and Mobile, its systems, programs, and reports, shall remain solely under the control of the LCETSB, with input from the CAD Working Group. No ETSB or municipality or agency using the CAD or Mobile shall have direct CAD or Mobile programming access, or the right or ability to modify the CAD or Mobile operating system, utilities or vendor software, and no CAD or Mobile system administration authority. No ETSB or municipality or agency shall have the right to install, or have installed, any software, programs (apps), or similar add-on components on the computer hardware operating the CAD or Mobile system.
- 2.2.2 **Authority to Modify CAD or Mobile.** For the benefit of all of the CAD and Mobile users, including ETSB or Municipality, the LCETSB shall retain the exclusive authority to program, modify, upgrade, administer and otherwise alter the CAD, Mobile, and its systems. The LCETSB shall provide reasonable notice of changes to the CAD and Mobile and its systems that will affect the CAD and Mobile users. For more significant changes that may affect ETSB or Municipality's ability to access the CAD and Mobile on a more-than-temporary basis, the LCETSB will provide notice sufficient to allow ETSB or Municipality to mitigate such access issues. Such notice shall be provided no less than 14 days prior to the change.
- 2.2.3 **Additional Agencies.** The LCETSB, with input from the CAD Working Group, retains the exclusive right to approve any additional agencies or units of local government that seek access to the CAD and Mobile and its

systems through ETSB or Municipality or otherwise, under terms consistent with this Agreement. Any entities joining that exist outside of the geographic confines of Lake County may require the additional approval of Tyler Technologies.

- 2.2.4 **Connection; Equipment.** Municipality must at all times provide proper equipment and connections to the CAD and Mobile servers to connect Municipality's users to the CAD or Mobile. ETSB or Municipality shall be responsible for the procurement of all third-party software and a sufficient internet connection (e.g., software for a firewall; a subscription to a business-grade internet connection) including updates, upgrades, service/maintenance packs, and hardware necessary to operate the system on its premises or in its vehicles.
- 2.2.5 **Payment.** Use of the CAD or Mobile shall at all times be conditioned upon timely payment of the invoices issued annually.
- 2.2.6 **Misuse of System.** Municipal or agency users who misuse the CAD or Mobile system may have their access terminated. Misuse shall include without limitation: (a) accessing the system for purposes outside the scope of a user's employment; (b) creating security issues (including without limitation data breaches) that jeopardize the integrity of the system; (c) violating the policies and procedures created by the CAD Working Group. Notice of any such termination shall be provided in advance, where feasible, but may also occur without notification in emergency situations. The CAD Working Group shall assist in adjudicating disputes about access termination, or about the right to reestablish access to the system. Termination of a user's access for misusing the system shall not entitle ETSB or Municipality to a pro rata refund of any invoice that has already been issued.

- 2.3 **Underlying License and Support Agreements; Changes.** The LCETSB shall maintain the CAD and Mobile software license and maintenance and support agreement with Tyler Technologies to ensure the CAD and Mobile services remain available and supported throughout the term (including renewal terms) of this Agreement. Additionally, the LCETSB agrees to notify ETSB or Municipality if the LCETSB issues a request for proposals or begins other procurement processes to change the CAD or Mobile from Tyler Technologies to another vendor. The LCETSB shall make any procurement documents available to ETSB or Municipality at the time they are issued.

Article 3. Cost-Sharing; Payment Terms.

- 3.1 **Licensing Costs.** No license costs shall be due under the terms of this Agreement.
- 3.2 **Cost-Share Calculation; Mobile CAD User Fee.** To provide for the CAD and Mobile maintenance and support, ETSB or Municipality agrees to share the total

such costs with all other users of the CAD or Mobile, pro rata (each ETSB or Municipality or agency will have multiple “users,” which are the individuals who access the CAD or Mobile system). In addition, along with similar funding from the LCETSB, Municipality agrees to pay an annual fixed Mobile CAD User fee, as established by the LCETSB (and currently \$3,000 for law agencies and \$1,500 for fire agencies) to support data storage and infrastructure costs. The Mobile CAD User fee shall be nonrefundable and will be included in the annual maintenance support invoice. The LCETSB shall evaluate the CAD User fee from time to time and notice shall be give if any changes are made.

By way of example, costs shall be calculated and invoiced annually by calculating the number system installs. By way of example, the first year’s maintenance and support fee totals \$90,025 plus the CAD User Fee.

MOBILE COST-SHARE FOR CAD

The system has **738 mobile installs**,

**Lake County ETSB has 329 installs and
Municipality A has 50 installs, and
Municipality B has 50 installs,
[Municipalities C–G totaling and additional 306 installs]**

The annual support cost for to use the Mobile for CAD would be:

$(\$90,025 \div 738) \times [\# \text{ of Municipality installs, e.g. } 50] = \$6,099.25$, plus \$3,000 for law agencies or \$1,500 for fire agencies.

Total annual invoice = \$9,099.25 for a law agency (or \$7,599.25 for a fire agency).

CAD COST-SHARE

The system has **79 CAD installs**,

**Lake County ETSB has 17 installs and
PSAP A has 6 installs, and
PSAP B has 6 installs
[PSAP C–H totaling and additional 50 installs]**

The annual support cost for to use the CAD would be:

$(\$91,656 \div 79) \times [\# \text{ of PSAP installs, e.g. } 6] = \$6,961.22$.

- 3.3 **Invoices; Payment Terms.** Invoices for Municipality’s cost-sharing and CAD Mobile User Fee amount shall be issued in May, starting in May 2023, using the invoicing template set forth in Exhibit C. All payments under this Agreement shall be made under the terms of the Illinois Prompt Payment Act, 50 ILCS 505/1

et seq., which generally requires approval of a bill within 30 days of receiving the invoice for the services contained in it, and payment within an additional 30 days.

Article 4. Designated Representative and Notices.

- 4.1 The LCETSB and ETSB or Municipality shall each provide contact information for Designated Representatives who shall coordinate the services governed by this Agreement.

The LCETSB's Initial Designated Representative is: Steven Winnecke

ETSB or Municipality's Initial Designated Representative is:

- 4.2 **Change in Designated Representative.** The Parties may change their Designated Representative by providing notice of such change with the contact information for the new Designated Representative in accordance with the "Notices" section of this Agreement.

4.3 **Notices.**

Notice may be given by email to the officials listed below, at their then-current email address, but shall not be deemed received unless the recipient acknowledges receipt.

In addition to or in lieu of email, all notices and other communications regarding the terms of this Agreement shall be in writing and shall be deemed received within three business days after being deposited in the U.S. Mail, proper postage prepaid, if properly addressed as follows, respectively:

To the LCETSB:

Attn: Steven Winnecke
1300 S. Gilmer Rd
Volo, IL 60073
Email: SWinnecke@lakecounty911.org

To ETSB or Municipality:

NAME CITY OF WAUKEGAN
ADDRESS 101 N. WEST ST.
WAUKEGAN, IL 60085

Article 5. Acknowledgements and Other Provisions.

- 5.1 **Force majeure.** (a) If a Force Majeure Event occurs, the party that is prevented by that Force Majeure Event from performing any one or more obligations under this agreement (the "Nonperforming Party") will be excused from performing those obligations, on condition that (1) the Nonperforming Party used reasonable efforts to perform those obligations, (2) the Nonperforming Party's inability to perform those obligations is not due to its failure to take reasonable measures to protect itself against the event or circumstance giving rise to the Force Majeure

Event, and (3) the Nonperforming Party complies with its obligations under section 5.1(c).

(b) For purposes of this agreement, “**Force Majeure Event**” means, with respect to a party, any event or circumstance, regardless of whether it was foreseeable, that was not caused by that party and that prevents a party from complying with any of its obligations under this agreement (other than an event or circumstance that results in a party’s not having sufficient funds to comply with an obligation to pay money), except that a Force Majeure Event will not include a strike or other labor unrest that affects only one party, an increase in prices, or a Change in Law.

(c) Upon occurrence of a Force Majeure Event, the Nonperforming Party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long that party expects it to last. Thereafter the Nonperforming Party shall update that information as reasonably necessary. During a Force Majeure Event, the Nonperforming Party shall use reasonable efforts to limit damages to the other party and to resume its performance under this agreement.

- 5.2 **Non-exclusivity.** Nothing in this Agreement shall be interpreted to prevent or limit the right of the LCETSB (or to require the consent of the ETSB or Municipality) to provide any services, including those similar to those at issue in this Agreement, to other governmental or nongovernmental entities.
- 5.3 **Exhibits.** The exhibits to this Agreement are incorporated into and a material part of it.
- 5.4 **Modification; Entire Agreement.** No amendment of this agreement will be effective unless it is in writing and signed by the parties. This agreement constitutes the entire agreement of the parties relating to the subject matter of this agreement and supersedes all other oral or written agreements.
- 5.5 **Severability.** If any provision of this agreement is unenforceable to any extent, the remainder of this agreement (or application of that provision to any persons or circumstances other than those as to which it is held unenforceable) will not be affected by that unenforceability and will be enforceable to the fullest extent permitted by law.
- 5.6 **Governing law; venue.** The laws of Illinois, without giving effect to principles of conflict of laws, govern all matters arising under this agreement, including all tort claims, and all lawsuits shall be brought only in the Nineteenth Judicial Circuit of Lake County, Illinois.
- 5.7 **Term; Termination.** Upon becoming effective, this Agreement shall remain in effect for an initial period of one year, unless terminated sooner in accordance with this agreement.

After the initial year, the Agreement will thereafter continue in force and effect from year to year, but either party may terminate it by giving written notice to the other party 90 days prior to the termination date identified in the notice, unless the agreement is otherwise terminated in accordance with this Agreement.

- 5.7.1 Data Ownership; Data Transfer Upon Termination.** At all times under this Agreement, data entered into the CAD or Mobile by a ETSB or Municipality (or Agency, as the case may be) shall be considered and remain the data of that ETSB or Municipality or Agency. If a ETSB or Municipality or Agency elects to terminate its participation in this Agreement, the LCETSB, in collaboration with Tyler Technologies where necessary, will assist in transferring the ETSB or Municipality's or Agency's data to the entity in a customarily used database format (e.g., MS SQL). Any third-party costs (using resources outside of the LCETSB's Office) will be the responsibility of the ETSB or Municipality or Agency requesting the data.
- 5.8 Waivers.** No term or condition of this Agreement shall be deemed waived by either party unless the term or condition to be waived and the circumstances giving rise to such waiver are set forth specifically in a duly authorized and written waiver of such party. No waiver by any party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition of this Agreement, nor shall waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or a different provision of this Agreement.
- 5.9 No Third-Party Beneficiaries.** Nothing in this Agreement shall create, or be construed or interpreted to create, any third-party beneficiary rights.
- 5.10 Relationship of the Parties.** In providing services under this Agreement, the LCETSB shall act as an independent contractor.
- 5.11 Assignments.** A party may assign this Agreement only with the express written consent of the other party.
- 5.12 Insurance.** Each party agrees that it shall maintain insurance coverage sufficient to cover its operations and employees during the term of this Agreement, including:
- (a) Unemployment and Workers Compensation Coverage.
 - (b) Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence.
 - (c) Automobile Liability Insurance with minimum limits of \$1,000,000 per occurrence covering all owned or leased motor vehicles.

Upon request, each party will provide to the other party a certificate of insurance,

in form reasonably acceptable to the requesting party, evidencing the existence of the insurance required under this paragraph. The Parties expressly intend this provision to be construed as maintaining an independent contractor relationship between them, and to foreclose the creation of "special employer" relationships under Illinois law.

5.13 Indemnification.

5.13.1 The LCETSB agrees to indemnify ETSB or Municipality for all third-party claims, demands, damages, liabilities and costs incurred by Municipality that directly or indirectly result from, or arise in connection with, any negligent act or omission of the LCETSB, its agents, or employees, pertaining to its activities and obligations under this Agreement.

5.13.2 ETSB or Municipality agrees to indemnify the LCETSB for all third-party claims, demands, damages, liabilities and costs that directly or indirectly result from, or arise in connection with, any negligent act or omission of ETSB or Municipality, its agents, or employees, pertaining to its activities and obligations under this Agreement.

5.14 **Counterparts.** The parties may sign this agreement in several counterparts, each of which will be deemed an original but all of which together will constitute one instrument.

5.15 **Recitals.** The recitals above are incorporated into the body of this agreement.

5.16 **Effective Date.** This Agreement will become effective when all of the parties have signed it, and the date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the "Effective Date" of this Agreement. If a party signs but fails to date a signature, the date that the other party receives the signing party's signature will be deemed to be the date that the signing party signed this agreement, and the other party may inscribe that date as the date associated with the signing party's signature.

Signed:

The County of Lake

By its _____

Date: _____

Lake County ETSB

ETSB or Municipality

Ann B Taylor, Mayor of Waukegan
By its _____

Date: June 6, 2022

Ann B. Taylor

None

By its

Chairman

Date:

7/12/22

Exhibit A
CAD and Mobile Services Provided
[Taken from Tyler CAD and Mobile Contract, Exh. A]

Exhibit B
Pricing

[Taken from Tyler CAD and Mobile Contract, Exh. J]

Exhibit C
Invoice Sample

Mobile Invoice Sample	# of installs
LCETSB	
Entity 1	
Entity 2	
Entity 3	
Entity X	
TOTAL USERS:	
Maintenance & Support Cost (Annual):	\$ 90,025
Entity X's # of Installs:	
CAD User Fee:	
Base Amount:	

CAD Invoice Sample	# of installs
LCETSB	
Entity 1	
Entity 2	
Entity 3	
Entity X	
TOTAL USERS:	
Maintenance & Support Cost (Annual):	\$ 91,656
Entity X's # of Installs:	
Base Amount:	

