

# FIRST AMENDMENT

## ECS IMAGING, INC SOFTWARE/HARDWARE MAINTENANCE AGREEMENT - TERMS AND CONDITIONS

LASERFICHE RENEWAL START DATE: 12/01/2017

END DATE: 01/01/2020 | 7233

\*SEE INVOICE FOR PRODUCT(S) INCLUDED

IHH

The terms and conditions below shall be the "Agreement" by which ECS Imaging, Inc. ("ECS") and the client ("Client") identified at the signature portion hereof agree to be governed relative to the software and/or hardware maintenance services ("Service" or "Services") which ECS will provide relative to the above-described Products.

**1) Software Maintenance/Support Services:** If applicable based on the above-described Products, ECS will supply the following software maintenance/support services:

(a) ECS shall provide all necessary telephone support for reporting and resolving problems with the software products covered by this Agreement, and shall be available to receive notification by the Client of any software problem. The Client must provide adequate information and documentation to enable ECS to recreate the reported problem. If it is determined that there is no problem with the software products, ECS will so inform the Client and, in such case, ECS reserves the right to charge the Client for the services provided at ECS's then current standard rates plus reasonable associated expenses. Notwithstanding the provisions of this section, ECS makes no warranties that the maintenance/support provided hereunder will be successful in resolving any problems or in diagnosing faults.

(b) All software releases/updates made available by the software manufacturer during the term of this Agreement.

Service is available by calling 877-790-1600 or via the Internet at [helpdesk@ecsimaging.com](mailto:helpdesk@ecsimaging.com). Unless otherwise specified at Paragraph 15 hereof, ECS agrees to use reasonable efforts to respond to the Client's service request within four (4) hours of receipt of notification. ECS shall first attempt to diagnose the reported problem via telephone, e-mail and/or remote access and, if considered appropriate, shall attempt to resolve the reported problem by requesting that the Client perform any required/standard operational maintenance or simple adjustments which the Client can reasonably be expected to conduct. If the reported problem is not resolved via telephone, e-mail and/or remote access, ECS shall arrange for a system engineer to visit the Client's site during ECS's normal business hours, which are defined as the hours between 7:30 a.m. and 5:00 p.m. PST, Monday through Friday (excluding ECS company holidays), such to be charged at the then current ECS site rates.

**2) Hardware Maintenance/Support Services:** If applicable based on the above-described Products, ECS will supply the following hardware maintenance/support services:

(a) Hardware maintenance will be covered if such hardware is covered by the manufacturer's or vendor's warranty.

**3) Charges:** ECS will invoice Client for the total software/hardware maintenance/support services cost, including any applicable taxes. Client agrees to remit complete payment for such invoice in advance of the Start Date set forth above. An interest payment of 1.5% compounded monthly and any applicable software maintenance reinstatement fees imposed by the software manufacturer shall be added to any such invoices not paid by the Start Date set forth above.

**4) Client Responsibility:** Client is responsible for:

(a) Notifying ECS in advance of any material changes to the supported Products components, including, but not limited to, the system's network, server/workstation hardware, operating system or security configuration.

(b) Having a valid backup of data at all times to maintain original operating system, data and application software.

(c) Promptly notifying ECS of any need for service and making product(s) available to ECS engineers.

(d) Running diagnostic tests on all non-supported system components (network, server/workstation hardware, operating system or security configuration) before having a product serviced under this Agreement.

**5) Limitations of Service:** Maintenance/support services provided under this Agreement do not include:

(a) Cost of bringing product(s) to operational status prior to placing them under maintenance.

(b) Costs related to the off or on-site implementation (including, but not limited to installation, configuration and training services) of software updates made available by the software manufacturer during the term of this Agreement.

(c) Costs related to the resolution of software problems caused by unapproved changes to the supported system's network, server/workstation hardware, operating system or security configuration.

(d) Repair of damage caused by; accidents, natural disaster, improper use, damage during transportation/relocation by Client, work performed on software/hardware by personnel other than ECS employees/subcontractors, causes beyond ECS's control.

(e) Furnishing consumable supplies or accessories as specified by the manufacturer.

(f) Hardware with missing or altered serial numbers.

(g) Repair of damage or increase in service time caused by the use of the product for purpose other than for which it was designed or beyond the manufacturer's specifications.

If services are required due to the above causes, ECS will provide services at ECS's then current standard service rates.

**6) Term:** This Agreement shall be in effect beginning on the Start Date set forth above and continue through the End Date set forth above, unless sooner terminated as provided in Section 7 of this Agreement.

**7) Termination:** Client may terminate this Agreement for any reason with sixty (60) days written notice prior to the any anniversary of the Start Date. Client may also terminate this Agreement if any material agreement or obligation contained or referred to in the Agreement has been breached by ECS, provided that Client has given ECS notice of such breach and there has been a failure to cure such breach, if curable, within thirty (30) days after receipt of such notice. Unless such breach has been cured, termination shall be effective thirty (30) days after receipt of such notice, and shall be without prejudice to any other right or remedy to which Client may be

entitled either at law, in equity, or otherwise, including, without limitation, under this Agreement, may terminate this Agreement at any time for any reason with sixty (60) days written notice. Upon terminating the Agreement, ECS will issue a prorated refund of any remaining prepaid Agreement coverage. The refund amount will be for the ECS technical support component only and will not include prepaid, non-refundable maintenance/support fees paid to the software manufacturer(s) or third-party hardware service provider(s).

**8) Rate Changes:** The maintenance/support rates stated within this Agreement will not change during the Start Date and End Date set forth above. All rates are adjustable for maintenance/support coverage periods after the End Date.

**9) Limitation of Liability:** Client must provide ECS with notice of claims of damage, improper service, or lawsuit within thirty (30) days of service. ECS shall not be liable for performance delays or for nonperformance due to causes beyond its reasonable control. For any material breach of this Agreement by ECS, Client's remedy and ECS's liability shall be limited to a refund of related maintenance/support fees paid during the period of breach, up to a maximum of twelve (12) months. The remedies provided herein are Client's sole and exclusive remedies. In no event will ECS be liable for special, punitive, incidental, or consequential damages, whether based in contract, tort, or otherwise, including, without limitation, claims for loss or corruption of data or lost profit.

**10) Entire Agreement:** Client acknowledges that he/she/it has read this Agreement, understands it and agrees to be bound by the terms and provisions set forth herein. This Agreement may not be modified or amended except by written instrument duly executed by the parties. This Agreement, contains the entire agreement and understanding between ECS and the Client respecting the subject matter hereof and it supersedes and replaces any prior or contemporaneous written or oral proposals or agreements relative thereto.

**11) Binding Effect:** Subject to any prohibition against assignment contained herein, the within Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto.

**12) Governing Law - Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of California. It shall be deemed to have been made and entered into in the City of Riverside, State of California, and all legal actions or arbitrations pertaining thereto shall occur with regard to such specification of venue.

**13) Professional Service – ECS** provides professional services for developing workflows, electronic forms, or data conversions and several other services. If the client chooses, these services will be provided by ECS at the rate of \$ 175 per hour, with a two hour minimum, portal-to-portal.

**14) Authorization** -Any person signing the within Agreement as the party hereto or as the representative of a party hereto hereby represents and warrants to all other parties that he/she has authority to bind the party on behalf of whom he/she executes to the within Agreement.

**15) Modifications and Clarifications** The following modify and clarify any term or provisions of the above and foregoing terms and provisions of this Agreement.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

16) Please authorize your acceptance with a signed copy of this maintenance agreement and your Purchase order.

ECS IMAGING, INC.  
5905 Brockton Ave., Suite "C"  
Riverside, CA 92506  
(951) 787-8768 x103

Client: Town of Los Gatos Community Development Department  
Address: 110 E. Main Street  
Los Gatos CA 95030

By: Kristan Stillman Date: 10/6/17  
Print Name: Kristan Stillman  
Title: Accounting Supervisor

~~By: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_~~  
*See attached.*

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement.

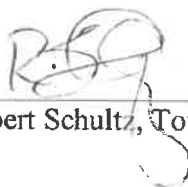
Town of Los Gatos by:

  
\_\_\_\_\_  
Laurel Prevetti, Town Manager

Recommended by:

  
\_\_\_\_\_  
Chris Gjerde, IT Manager

Approved as to Form:

  
\_\_\_\_\_  
Robert Schultz, Town Attorney

**Shannon Lombardo**

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**From:** Chris Gjerde  
**Sent:** Tuesday, February 28, 2017 8:15 AM  
**To:** Melissa Ynegas; Shannon Lombardo; Beca Muniz; Tushar Deshpande; Mary Blekh; Gitta Ungvari; Shelley Neis; Sarah Mosunic  
**Cc:** Robert Schultz  
**Subject:** Laserfiche vendor ECS  
**Attachments:** Company Org Chart\_February 2017.pdf; ECS Client List 7-2016.pdf; User Group-1st Qtr N CA 3-16-17 final.pdf

Hello all,

Our vendor "Peelle" in Campbell is not out of business, but they are discontinuing support on the Laserfiche end of things. ECS in Concord will take over their contract. Rob is OK with them honoring the existing contract. Rates stay the same. Major payments for Laserfiche licensing and software maintenance were made a couple weeks ago, so will not be needed for almost a year. Several notes below, please comment or correct me if I'm wrong:

1. I will ask ECS for a W9. Since I do not plan on having them come onsite, I would like to skip business license and insurance. If we need them onsite, we will deal with that later.
2. Brian Grove from Peelle is moving over to ECS next week. His new contact information is below, if you are working on an existing issue with him and need help, please feel free to call or email him at the new number/email.
3. With Rob approving the contract transfer to ECS, we should be able to pay the next invoice if we get one, right? I do not expect to see any invoice, unless we have Brian tune up or create new workflows (remotely). Will get a PO before that.
4. Note that Peelle will continue to be our scanning service, so they will need to maintain their business license and insurance if they continue to scan building, planning, ppw items.
5. Note also that ECS has quarterly user group meetings, next one is 3/16 near sacto. They also hold annual conferences with training/classroom opportunities.
6. They have a general support line. So if you are experiencing a Laserfiche issue and can't contact us at helpdesk, and you don't think it's something that needs Brian's expertise and history, feel free to contact them. Info below.
7. New sales rep "Al" replaces Jim Detrick. His information is also below.

Thanks!

**From:** Pete Herschelman [mailto:pete@ecsimaging.com]  
**Sent:** Monday, February 27, 2017 11:44 AM  
**To:** Chris Gjerde <cgjerde@losgatosca.gov>  
**Cc:** Al Carrion <al@ecsimaging.com>; Brian Grove <brian@ecsimaging.com>  
**Subject:** RE: Town of Los Gatos

Chris,

Thank you for your time today to discuss your account needs & concerns.  
ECS has retained Brian Grove as a full time employee & *will continue to serve your Laserfiche support needs.*  
He will be accompanied by our existing technical support staff which will give us a greater opportunity to serve you & the Town of Los Gatos.

Your existing contract will be honored with no changes to the terms as listed in your contract and Brian is assigned as your primary tech support contact. His new contact information will be:  
email address; [brian@ecsimaging.com](mailto:brian@ecsimaging.com)  
Phone: 877 790-1600 x 210

ECS Tech Support can also be reached at the following:  
Email; [Support@ecsimaging.com](mailto:Support@ecsimaging.com)  
Phone; 877 790-1600 x 6

ECS Imaging Inc. website: [www.ecsimaging.com](http://www.ecsimaging.com)

As you know Laserfiche sells their product through a VAR Channel (approved, licensed Value Added Resellers). The VAR is responsible to service the accounts that are listed under their VAR License with Laserfiche. Account Service includes; additional sales of software, management of version upgrades ( typically included in your LSAP annual support agreement @ no additional charge), technical support, etc.

According to the agreement between Peelle & ECS Imaging Inc. your account has been transferred to ECS Imaging Inc. as your "Assigned VAR of Record".by Laserfiche. Upon your next renewal date for annual support payment for LSAP will be invoiced directly form ECS Imaging Inc.

Your Local Sales Rep is Al Carrion. He serves the San Jose, Peninsula, & San Francisco area territory. Please expect a phone call from Al to schedule a visit introduce himself & ECS Imaging Inc. to you.  
Al's contact information is;  
Email; [al@ecsimaging.com](mailto:al@ecsimaging.com)  
Phone; 408 771-4916

Our goal is to continue to offer you the level of service you have come to expect and more!  
We look forward to serving you.

Pete

Pete Herschelman  
V.P. Northern Calif.  
ECS Imaging Inc.  
5052 Forni Dr.  
Concord, Ca 94520  
925 586 7549 C

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## PURCHASE AND SERVICE AGREEMENT

THIS AGREEMENT is dated for identification this 22nd of January, 2017 and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and ~~Peelle~~ <sup>ECS</sup> Technologies, ("Supplier"), whose address is 197 E. Hamilton Avenue, Campbell, CA 95008. This Agreement is made with reference to the following facts. This contract will remain in effect from January 22, 2017 to January 1, 2020. <sup>IMAGING</sup>

### I. RECITALS

- 1.1.1 Town sought sole source approval for Peelle Technologies for all software maintenance/support for Laserfiche software products. Peelle is our local area Laserfiche reseller, they have set up all the Laserfiche customization that spans almost every department.
- 1.2 Supplier represents that it is a qualified and competent supplier of the items to be purchased under this Agreement.
- 1.3 The Town desires to engage Supplier to provide Laserfiche Annual Maintenance, additional Laserfiche software licenses, software updates, scanners, scanning services, remote support, setup and troubleshooting of the Laserfiche system, and significant document scanning projects town-wide.
- 1.4 The Supplier represents and affirms that it is qualified and willing to perform the desired work pursuant to this Agreement.

### II. AGREEMENTS

- 2.1 Supplies and Terms. Supplier hereby agrees to deliver to Town at 110 E. Main Street, Los Gatos, CA 95030 the items and materials described in quotes throughout the year. The terms and conditions are as follows:
  - (1) Price. Town shall pay Supplier the amounts defined in Staff approved quotations or purchase orders, which include sales tax and delivery charges. Payment shall be net 30 days from delivery.
  - (2) Delivery. The delivery of additional software licenses and scanners shall be as needed, no later than two weeks from date of request. Delivery shall be made between 8:00 a.m. and 5:00 p.m. on weekdays that are not Town holidays or furlough days.
- 2.2 Time of the Essence. Prompt delivery of the items and materials is essential to this Agreement.
- 2.3 Scope of Services. Supplier shall provide services as described in that certain Software/Hardware Maintenance Agreement Renewal sent to the Town on December 13, 2016 which is hereby incorporated by reference and attached as "Exhibit A." In addition,

supplier shall provide, scanning, on-site support, and additional Laserfiche software licenses/equipment defined in staff approved quotations or purchase orders.

- 2.4 Time of Performance. The services to be performed are as follows: The annual maintenance/support cost for the Laserfiche software products includes all software updates. If required, on-site software support will be billed at the rate of \$175.00 per hour. Document scanning will be performed on an as needed basis, and be preceded by a Town staff approved quotation.
- 2.5 Compliance with Laws. The Supplier shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Supplier represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Supplier to practice its profession. Supplier shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.6 Sole Responsibility. Supplier shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.7 Information/Report Handling. All documents furnished to Supplier by the Town and all reports and supportive data prepared by the Supplier under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Supplier's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Supplier in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Supplier shall not make any of these documents or information available to any individual or organization not employed by the Supplier or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Supplier pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Supplier in connection with other projects shall be solely at Town's risk, unless Supplier expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Supplier which is and has been confirmed in writing by Supplier to be a trade secret of Supplier.
- 2.8 Compensation. Compensation for the supplies and materials delivered and for supplier's professional services **not to exceed \$70,000.00 annually**, inclusive of all costs, for a total amount not to exceed \$210,000.00. Payment shall be based upon Town approval of each task.
- Annual Software/Hardware Maintenance Agreement Renewal (Exhibit A)
  - On-site software support \$175.00 per hour (two hour minimum)
  - Document Scanning Services and additional Laserfiche software licenses/equipment defined in staff approved quotations or purchase orders
- 2.9 Billing. Billing shall be by invoice within thirty (30) days of the rendering of the services and shall be accompanied by a detailed explanation of the work performed by whom at

what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall be addressed as follows:

Invoices:  
Town of Los Gatos  
Attn: Accounts Payable  
P.O. Box 655  
Los Gatos, CA 95031-0655

- 2.10 Availability of Records. Supplier shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Supplier shall make these records available to authorized personnel of the Town at the Supplier's offices during business hours upon written request of the Town.
- 2.11 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Supplier. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.12 Independent Contractor. It is understood that the Supplier, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Supplier may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Supplier agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Supplier shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Supplier or is based on allegations of Supplier's negligent performance or wrongdoing.
- 2.13 Conflict of Interest. Supplier understands that its professional responsibilities are solely to the Town. The Supplier has and shall not obtain any holding or interest within the Town of Los Gatos. Supplier has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Supplier warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Supplier shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person, Supplier discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Supplier shall



promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.

- 2.14 **Equal Employment Opportunity.** Supplier warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Supplier nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

### **III. INSURANCE AND INDEMNIFICATION**

#### **3.1 Minimum Scope of Insurance:**

- i. Supplier agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
- ii. Supplier agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iii. Supplier shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Supplier agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Supplier agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Supplier for professional errors or omissions in the performance of the particular scope of work under this agreement.

#### **General Liability:**

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Supplier; products and completed operations of Supplier, premises owned or used by the Supplier. This requirement does not apply to the professional liability insurance required for professional errors and omissions.

- ii. The Supplier's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Supplier's insurance and shall not contribute with it.
  - iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
  - iv. The Supplier's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 3.2 All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk Administrator.
- 3.3 Workers' Compensation. In addition to these policies, Supplier shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Supplier shall ensure that all subcontractors employed by Supplier provide the required Workers' Compensation insurance for their respective employees.
- 3.4 Indemnification. The Supplier shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Supplier, or any of the Supplier's officers, employees, or agents or any sub-contractor.

#### IV. GENERAL TERMS

- 4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- 4.2 Severability. If any term of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in effect.

- 4.3 **Warranty.** Supplier shall remedy any defects due to faulty materials and/or workmanship and pay for any damages to other work and/or existing facilities resulting therefrom which shall appear within a period of one year from the date of recording of final acceptance.
- 4.4 **Governing Law.** This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.5 **Termination of Agreement.** The Town and the Supplier shall have the right to terminate this agreement with or without cause by giving not less than sixty days (60) written notice of termination. In the event of termination, the Supplier shall deliver to the Town all supplies and services scheduled to be delivered to Town within that sixty (60) day period.
- 4.6 **Amendment.** No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Supplier.
- 4.7 **Disputes.** In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
- 4.8 **Notices.** Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos  
Attn: Town Clerk  
110 E. Main Street  
Los Gatos, CA 95030

Peelle Technologies  
Attn: Donna Braxton, Contract Administrator  
117 East Hamilton Avenue  
Campbell, CA 95008

OR personally delivered to Supplier to such address or such other address as Supplier designates in writing to Town.

- 4.9 **Order of Precedence.** In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.

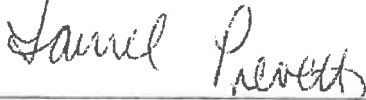
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4.10 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Supplier. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Supplier have executed this Agreement.

Town of Los Gatos by:



Laurel Prevetti, Town Manager

~~Pecelle Technologies~~ by:

ECS  
IMAGING

see attached  
signature page.

Recommended by:

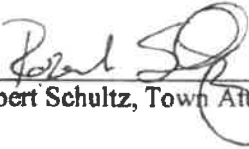


Chris Gjerde, Information Systems Manager

Contract Administrator

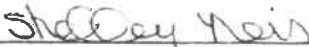
Title

Approved as to Form:



Robert Schultz, Town Attorney

Attest:



Shelley Neis, CMC, Clerk Administrator

4.10 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Supplier. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Supplier have executed this Agreement.

Town of Los Gatos by:

Peelle Technologies by:

\_\_\_\_\_  
Laurel Prevetti, Town Manager

  
\_\_\_\_\_  
Donna Braxton

01/18/2017

Recommended by:

Contract Administrator

\_\_\_\_\_  
Chris Gjerde, Information Systems Manager

\_\_\_\_\_  
Title

Approved as to Form:

\_\_\_\_\_  
Robert Schultz, Town Attorney

Attest:

\_\_\_\_\_  
Shelley Neis, CMC, Clerk Administrator



**Software / Hardware  
Maintenance Agreement  
RENEWAL**

*Document and Data Management Solutions*

197 East Hamilton Avenue  
Campbell, CA 95008  
Phone: 800.233.5006 Fax: 408.866.4803

**Send Invoices To:**

Client: Town of Los Gatos  
Attn: Chris Gjerde  
Address: 110 East Main Street  
City, State, Zip: Los Gatos, CA 95030  
Phone: (408) 354-6814

**Software / Hardware Location:**

Client: Town of Los Gatos  
Attn: Chris Gjerde  
Address: 110 East Main Street  
City, State, Zip: Los Gatos, CA 95030  
Phone: (408) 354-6814

Client ID	Account Manger	Client P.O. #	Peelle Invoice #
TOLG1102	Jim Detrick		

Qty.	Product Description	Service Level	Start Date	End Date	Unit Cost	Ext. Cost
1	Laserfiche Standard Server	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$1,450.00	\$1,450.00
1	Laserfiche Standard Server - Addnl. Database	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$600.00	\$600.00
1	Laserfiche Web Access	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$1,590.00	\$1,590.00
1	Laserfiche Web Access - Addnl. Database	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$250.00	\$250.00
1	Laserfiche Weblink	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$1,590.00	\$1,590.00
15	Laserfiche Full User	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$150.00	\$2,250.00
50	Laserfiche Retrieval User	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$60.00	\$3,000.00
1	Laserfiche Import Agent	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$390.00	\$390.00
9	Laserfiche Quick Fields	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$120.00	\$1,080.00
4	Laserfiche Real Time Lookup	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$100.00	\$400.00

Continued



# Software / Hardware Maintenance Agreement RENEWAL

**Document and Data Management Solutions**

197 East Hamilton Avenue  
Campbell, CA 95008  
Phone: 800.233.5006 Fax: 408.866.4803

**Send Invoices To:**

Client: Town of Los Gatos  
Attn: Chris Gjerde  
Address: 110 East Main Street  
City, State, Zip: Los Gatos, CA 95030  
Phone: (408) 354-6814

**Software / Hardware Location:**

Client: Town of Los Gatos  
Attn: Chris Gjerde  
Address: 110 East Main Street  
City, State, Zip: Los Gatos, CA 95030  
Phone: (408) 354-6814

<b>Client ID</b>	<b>Account Manger</b>	<b>Client P.O. #</b>	<b>Peelle Invoice #</b>
TOLG1102	Jim Detrick		

Qty.	Product Description	Service Level	Start Date	End Date	Unit Cost	Ext. Cost
3	Laserfiche Zone OCR and Validation Package	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$560.00	\$1,680.00
5	Laserfiche Real Time Lookup and Validation Pkg.	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$120.00	\$600.00
1	Laserfiche Advanced Audit Trail	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$1,600.00	\$1,600.00
1	Laserfiche ScanConnect	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$34.00	\$34.00
5	Laserfiche Workflow Additional User	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$60.00	\$300.00
1	Laserfiche Workflow (10 User)	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$3000.00	\$3000.00
2	Fujitsu fi-6140 Document Scanner S/N: 033937 and 01949	Monday - Friday 8:00am - 5:00pm PST	1/23/2017	1/22/2018	\$125.00	\$250.00
<b>Notes:</b> The annual maintenance/support cost for the Laserfiche software products includes all software updates. If required, on-site software support will be billed at the rate of \$175.00 per hour, portal to portal, with a two-hour minimum charge.					<b>Total:</b>	<b>\$20,064.00</b>

Please acknowledge your acceptance with a signed copy of the Maintenance Agreement and your purchase order. Faxed copies are acceptable and can be faxed directly to the Contract Administration Department at 408.866.4803

Donna Braxton / Contract Administrator      12/12/16  
Authorized Peelle Representative / Title      Date

\_\_\_\_\_  
Authorized Client Representative / Title      Date

JD      01/12/2017

## AGREEMENT TERMS AND CONDITIONS

Included are the Terms and Conditions under which Peelle Technologies, Inc. (hereafter referred to as Peelle) will provide software and/or hardware maintenance/support services for the products listed within this Software/Hardware Maintenance Agreement (hereafter referred to as Agreement).

**1) Software Maintenance/Support Services:** Peelle will supply the following software maintenance/support services:

(a) Peelle shall provide all necessary telephone support for reporting and resolving problems with the software products covered by this Agreement, and shall be available to receive notification by the Client of any software problem. The Client must provide adequate information and documentation to enable Peelle to recreate the reported problem. If it is determined that there is no problem with the software products, Peelle will so inform the Client and, in such case, Peelle reserves the right to charge the Client for the services provided at Peelle's then current standard rates plus reasonable associated expenses. Notwithstanding the provisions of this section, Peelle makes no warranties that the maintenance/support provided hereunder will be successful in resolving any problems or in diagnosing faults.

(b) All software releases/updates made available by the software manufacturer during the term of this Agreement.

Service is available by calling 800-233-5006 or via the Internet at support@peelletech.com. Unless otherwise specified on page one (1) of this Agreement, Peelle agrees to use reasonable efforts to respond to the Client's service request within four (4) hours of receipt of notification. In the first instance, Peelle shall attempt to diagnose the reported problem via telephone, e-mail and/or remote access and, if considered appropriate, shall attempt to resolve the reported problem by requesting that the Client perform any required/standard operational maintenance or simple adjustments which the Client can reasonably be expected to conduct. If the reported problem is not resolved via telephone, e-mail and/or remote access, Peelle shall arrange for a system engineer to visit the Client's site during Peelle's normal business hours, which are defined as the hours between 8:00 a.m. and 5:00 p.m. PST, Monday through Friday (excluding Peelle company holidays).

**2) Hardware Maintenance/Support Services:** Peelle will supply the following hardware maintenance/support services:

(a) All parts, labor and materials necessary to maintain products covered by this Agreement.

Service is available by calling 800-233-5006 or via the Internet at support@peelletech.com. Unless otherwise specified on page one (1) of this Agreement, Peelle agrees to use reasonable efforts to respond to the Client's service request within twenty-four (24) hours of receipt of notification and services will be performed during Peelle's normal business hours. Normal business hours are defined as the hours between 8:00 a.m. and 5:00 p.m. PST, Monday through Friday (excluding Peelle company holidays).

**3) Charges:** Peelle will invoice Client for the total software/hardware maintenance/support services cost, including any applicable taxes. Client agrees to remit complete payment for the invoice in advance of the stated Agreement Start Date. An interest payment of 1.5% compounded monthly and any applicable software maintenance reinstatement fees imposed by the software manufacturer shall be added to those invoices not paid by the stated software maintenance Start Date.

**4) Client Responsibility:** Client is responsible for:

(a) Notifying Peelle in advance of any material changes to the supported system's components, including, but not limited to, the system's network, server/workstation hardware, operating system or security configuration.

(b) Having a valid backup of data at all times to maintain original operating system, data and application software.

(c) Promptly notifying Peelle of any need for service and making product(s) available to Peelle engineers.

(d) Running diagnostic tests on all non-supported system components (network, server/workstation hardware, operating system or security configuration) before having a product serviced under this Agreement.

**5) Limitations of Service:** Maintenance/support services provided under this Agreement do not include:

(a) Cost of bringing product(s) to operational status prior to placing them under maintenance.

(b) Costs related to the off or on-site implementation (including, but not limited to installation, configuration and training services) of software updates made available by the software manufacturer during the term of this Agreement.

(c) Costs related to the resolution of software problems caused by unapproved changes to the supported system's network, server/workstation hardware, operating system or security configuration.

(d) Repair of damage caused by; accidents, natural disaster, improper use, damage during transportation/relocation by Client, work performed on software/hardware by personnel other than Peelle employees/subcontractors, causes beyond Peelle's control.

(e) Furnishing consumable supplies or accessories as specified by the manufacturer.

(f) Hardware with missing or altered serial numbers.

(g) Repair of damage or increase in service time caused by the use of the product for purpose other than for which it was designed or beyond the manufacturer's specifications.

If services are required due to the above causes, Peelle will provide services at Peelle's then current standard service rates.

**6) Term:** This Agreement shall be in effect beginning on the Start Date as noted on page one (1) of this Agreement and continue through the End Date as noted on page two (2) of this Agreement and unless sooner terminated as provided in Section 7 of this Agreement.

*as set forth in the Agreement*

*Re: [unclear]*



7) **Termination:** Client may terminate this Agreement for any reason with sixty (60) days written notice ~~prior to the renewal anniversary date~~. Client may also terminate this Agreement if any material agreement or obligation contained or referred to in the Agreement has been breached by Peelle, provided that Client has given Peelle notice of such breach and there has been a failure to cure such breach, if curable, within thirty (30) days after receipt of such notice. Unless such breach has been cured, termination shall be effective thirty (30) days after receipt of such notice, and shall be without prejudice to any other right or remedy to which Client may be entitled at law, in equity, or otherwise, including, without limitation, under this Agreement. Peelle may terminate this Agreement at any time for any reason with sixty (60) days written notice. Upon terminating the Agreement, Peelle will issue a prorated refund of any remaining prepaid Agreement coverage. The refund amount will be for the Peelle technical support component only and will not include prepaid, non-refundable maintenance/support fees paid to the software manufacturer(s) or third-party hardware service provider(s). RUS

8) **Rate Changes:** The maintenance/support rates stated within this Agreement will not change during the effective dates specified for this Agreement. All rates are adjustable for maintenance/support coverage periods after the contract expiration date.

9) **Limitation of Liability:** ~~Client must provide Peelle with notice of claims of damages, improper service, or lawsuit within thirty (30) days of service. Peelle shall not be liable for performance delays or for nonperformance due to causes beyond its reasonable control. For any material breach of this Agreement by Peelle, Client's remedy and Peelle's liability shall be limited to a refund of related maintenance/support fees paid during the period of breach, up to a maximum of twelve (12) months. The remedies provided herein are Client's sole and exclusive remedies. In no event will Peelle be liable for special, punitive, incidental or consequential damages, whether based in contract, tort, or otherwise, including, without limitation, claims for loss or corruption of data or lost profit.~~ RUS

10) **Entire Agreement:** Client acknowledges that he/she has read this Agreement, understands it and agrees to be bound by Peelle's terms and conditions. Further, Client acknowledges that this Agreement is the complete and exclusive statement of the agreement between the parties, which supersedes all proposals or prior agreements, oral or written. This Agreement may not be modified or amended except by written instrument duly executed by the parties. *This Agreement is an Exhibit to the Agreement* RUS

11) **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors.

12) **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of California.



# MEMORANDUM

CLERK DEPARTMENT  
 APR 16 11 30  
 REC  
 RESO

To: Robert Schultz, Town Attorney

From: Chris Gjerde, Management Information Systems Manager *CG*

Subject: Sole Source Approval for Peelle Technologies

Date: July 13, 2016

The information Systems Management would like to request sole source approval for Peelle Technologies for all software maintenance/support for Laserfiche software products. This includes all software updates and significant remote support, setup and troubleshooting of the Laserfiche system. Peelle is our local area Laserfiche reseller, they have set up all the Laserfiche customization that spans almost every department, they typically do not charge for remote support, and their hourly rate is competitive for consultants of this expertise when needed. This sole source approval request is for January 23, 2016 to January 22, 2017.

Recommended by:

*CG*  
 \_\_\_\_\_  
 Chris Gjerde  
 Management Information Systems

Date: 7.13.16

Approved as to form:

*RS*  
 \_\_\_\_\_  
 Robert Schultz  
 Town Attorney

Date: 7.27.16

Exhibit B



**Software / Hardware  
Maintenance Agreement  
RENEWAL**

*Document and Data Management Solutions*

**197 East Hamilton Avenue  
Campbell, CA 95008  
Phone: 800.233.5006 Fax: 408.866.4803**

**Send Invoices To:**

**Client:** Town of Los Gatos  
**Attn:** Chris Gjerde  
**Address:** 110 East Main Street  
**City, State, Zip:** Los Gatos, CA 95030  
**Phone:** (408) 354-6814

**Software / Hardware Location:**

**Client:** Town of Los Gatos  
**Attn:** Chris Gjerde  
**Address:** 110 East Main Street  
**City, State, Zip:** Los Gatos, CA 95030  
**Phone:** (408) 354-6814

Client ID	Account Manger	Client P.O. #	Peelle Invoice #
TOLG1102	Jim Detrick		

Qty.	Product Description	Service Level	Start Date	End Date	Unit Cost	Ext. Cost
1	Laserfiche Standard Server	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$1,450.00	\$1,450.00
1	Laserfiche Standard Server - Addnl. Database	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$600.00	\$600.00
1	Laserfiche Web Access	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$1,590.00	\$1,590.00
1	Laserfiche Web Access – Addnl. Database	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$250.00	\$250.00
13	Laserfiche Full User	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$150.00	\$1,950.00
20	Laserfiche Retrieval User	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$60.00	\$1,200.00
1	Laserfiche Import Agent	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$390.00	\$390.00
7	Laserfiche Quick Fields	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$120.00	\$840.00
4	Laserfiche Real Time Lookup	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$100.00	\$400.00

**Continued**



**Software / Hardware  
Maintenance Agreement  
RENEWAL**

**Document and Data Management Solutions**

197 East Hamilton Avenue  
Campbell, CA 95008  
Phone: 800.233.5006 Fax: 408.866.4803

**Send Invoices To:**

Client: Town of Los Gatos  
Attn: Chris Gjerde  
Address: 110 East Main Street  
City, State, Zip: Los Gatos, CA 95030  
Phone: (408) 354-6814

**Software / Hardware Location:**

Client: Town of Los Gatos  
Attn: Chris Gjerde  
Address: 110 East Main Street  
City, State, Zip: Los Gatos, CA 95030  
Phone: (408) 354-6814

<b>Client ID</b>	<b>Account Manger</b>	<b>Client P.O. #</b>	<b>Peelle Invoice #</b>
TOLG1102	Jim Detrick		

Qty.	Product Description	Service Level	Start Date	End Date	Unit Cost	Ext. Cost
2	Laserfiche Zone OCR and Validation Package	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$560.00	\$1,120.00
3	Laserfiche Real Time Lookup and Validation Pkg.	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$120.00	\$360.00
1	Laserfiche Advanced Audit Trail	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$1,600.00	\$1,600.00
1	Laserfiche ScanConnect	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$34.00	\$34.00
3	Laserfiche Workflow Additional User	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$60.00	\$180.00
1	Laserfiche Workflow (10 User)	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$3000.00	\$3000.00
2	Fujitsu fi-6140 Document Scanner S/N: 033937 and 01949	Monday – Friday 8:00am - 5:00pm PST	1/23/2016	1/22/2017	\$125.00	\$250.00
<b>Notes:</b> The annual maintenance/support cost for the Laserfiche software products includes all software updates. If required, on-site software support will be billed at the rate of \$175.00 per hour, portal to portal, with a two-hour minimum charge.					<b>Total:</b>	<b>\$15,214.00</b>

Please acknowledge your acceptance with a signed copy of the Maintenance Agreement and your purchase order. Faxed copies are acceptable and can be faxed directly to the Contract Administration Department at 408.866.4803.

Donna Braxton / Contract Administrator      12/01/15  
Authorized Peelle Representative / Title      Date

*Janet Perotti*  
Authorized Client Representative / Title      8-3-16  
Date

Approved as to form:  
*Robert Scholtz*  
Robert Scholtz, Town Attorney      Date: 7-24-15

## AGREEMENT TERMS AND CONDITIONS

Included are the Terms and Conditions under which Peelle Technologies, Inc. (hereafter referred to as Peelle) will provide software and/or hardware maintenance/support services for the products listed within this Software/Hardware Maintenance Agreement (hereafter referred to as Agreement).

**1) Software Maintenance/Support Services:** Peelle will supply the following software maintenance/support services:

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(b) All software releases/updates made available by the software manufacturer during the term of this Agreement.

Service is available by calling 800-233-5006 or via the Internet at support@peelletech.com. Unless otherwise specified on page one (1) of this Agreement, Peelle agrees to use reasonable efforts to respond to the Client's service request within four (4) hours of receipt of notification. In the first instance, Peelle shall attempt to diagnose the reported problem via telephone, e-mail and/or remote access and, if considered appropriate, shall attempt to resolve the reported problem by requesting that the Client perform any required/standard operational maintenance or simple adjustments which the Client can reasonably be expected to conduct. If the reported problem is not resolved via telephone, e-mail and/or remote access, Peelle shall arrange for a system engineer to visit the Client's site during Peelle's normal business hours, which are defined as the hours between 8:00 a.m. and 5:00 p.m. PST, Monday through Friday (excluding Peelle company holidays).

**2) Hardware Maintenance/Support Services:** Peelle will supply the following hardware maintenance/support services:

(a) All parts, labor and materials necessary to maintain products covered by this Agreement.

Service is available by calling 800-233-5006 or via the Internet at support@peelletech.com. Unless otherwise specified on page one (1) of this Agreement, Peelle agrees to use reasonable efforts to respond to the Client's service request within twenty-four (24) hours of receipt of notification and services will be performed during Peelle's normal business hours. Normal business hours are defined as the hours between 8:00 a.m. and 5:00 p.m. PST, Monday through Friday (excluding Peelle company holidays).

**3) Charges:** Peelle will invoice Client for the total software/hardware maintenance/support services cost, including any applicable taxes. Client agrees to remit complete payment for the invoice in advance of the stated Agreement Start Date. An interest payment of 1.5% compounded monthly and any applicable software maintenance reinstatement fees imposed by the software manufacturer shall be added to those invoices not paid by the stated software maintenance Start Date.

**4) Client Responsibility:** Client is responsible for:

(a) Notifying Peelle in advance of any material changes to the supported system's components, including, but not limited to, the system's network, server/workstation hardware, operating system or security configuration.

(b) Having a valid backup of data at all times to maintain original operating system, data and application software.

(c) Promptly notifying Peelle of any need for service and making product(s) available to Peelle engineers.

(d) Running diagnostic tests on all non-supported system components (network, server/workstation hardware, operating system or security configuration) before having a product serviced under this Agreement.

**5) Limitations of Service:** Maintenance/support services provided under this Agreement do not include:

(a) Cost of bringing product(s) to operational status prior to placing them under maintenance.

(b) Costs related to the off or on-site implementation (including, but not limited to installation, configuration and training services) of software updates made available by the software manufacturer during the term of this Agreement.

(c) Costs related to the resolution of software problems caused by unapproved changes to the supported system's network, server/workstation hardware, operating system or security configuration.

(d) Repair of damage caused by; accidents, natural disaster, improper use, damage during transportation/relocation by Client, work performed on software/hardware by personnel other than Peelle employees/subcontractors, causes beyond Peelle's control.

(e) Furnishing consumable supplies or accessories as specified by the manufacturer.

(f) Hardware with missing or altered serial numbers.

(g) Repair of damage or increase in service time caused by the use of the product for purpose other than for which it was designed or beyond the manufacturer's specifications.

If services are required due to the above causes, Peelle will provide services at Peelle's then current standard service rates.

**6) Term:** This Agreement shall be in effect beginning on the Start Date as noted on page one (1) of this Agreement and continue through the End Date as noted on page two (2), unless sooner terminated as provided in Section 7 of this Agreement.

**7) Termination:** Client may terminate this Agreement for any reason with sixty (60) days written notice prior to the renewal anniversary date. Client may also terminate this Agreement if any material agreement or obligation contained or referred to in the Agreement has been breached by Peelle, provided that Client has given Peelle notice of such breach and there has been a failure to cure such breach, if curable, within thirty (30) days after receipt of such notice. Unless such breach has been cured, termination shall be effective thirty (30) days after receipt of such notice, and shall be without prejudice to any other right or remedy to which Client may be entitled either at law, in equity, or otherwise, including, without limitation, under this Agreement. Peelle may terminate this Agreement at any time for any reason with sixty (60) days written notice. Upon terminating the Agreement, Peelle will issue a prorated refund of any remaining prepaid Agreement coverage. The refund amount will be for the Peelle technical support component only and will not include prepaid, non-refundable maintenance/support fees paid to the software manufacturer(s) or third-party hardware service provider(s).

**8) Rate Changes:** The maintenance/support rates stated within this Agreement will not change during the effective dates specified for this Agreement. All rates are adjustable for maintenance/support coverage periods after the contract expiration date.

**9) Limitation of Liability:** Client must provide Peelle with notice of claims of damage, improper service, or lawsuit within thirty (30) days of service. Peelle shall not be liable for performance delays or for nonperformance due to causes beyond its reasonable control. For any material breach of this Agreement by Peelle, Client's remedy and Peelle's liability shall be limited to a refund of related maintenance/support fees paid during the period of breach, up to a maximum of twelve (12) months. The remedies provided herein are Client's sole and exclusive remedies. In no event will Peelle be liable for special, punitive, incidental, or consequential damages, whether based in contract, tort, or otherwise, including, without limitation, claims for loss or corruption of data or lost profit.

**10) Entire Agreement:** Client acknowledges that he/she has read this Agreement, understands it and agrees to be bound by Peelle's terms and conditions. Further, Client acknowledges that this Agreement is the complete and exclusive statement of the agreement between the parties, which supersedes all proposals or prior agreements, oral or written. This Agreement may not be modified or amended except by written instrument duly executed by the parties.


**11) Binding Effect:** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors.

**12) Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of California.



# MEMORANDUM

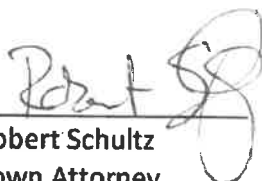
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**To:** Robert Schultz, Town Attorney  
**From:** Chris Gjerde, IT Manager   
**Subject:** Sole Source for Approval by Town Attorney  
**Date:** November 22, 2017

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The Information Technology Department would like to request sole source approval for ECS Imaging for all software maintenance/support for Laserfiche software products. This includes all software updates and significant remote support, setup and troubleshooting of the Laserfiche system. ECS has taken over the duties of Peelle Technologies (our previous sole source) when they went out of business.

Approved as to Form:

  
Robert Schultz  
Town Attorney