

REPORT TO CITY COUNCIL

DATE: NOVEMBER 8, 2023

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: KIMBERLY M. RODRIGUES, CITY CLERK

SUBJECT: APPROVAL OF A TWO-YEAR AGREEMENT FOR CONSULTANT SERVICES, WITH ECS CONSULTING, INC., FOR LASERFICHE TECH SUPPORT AND MAINTENANCE

The purpose of this item is to seek City Council approval for the City to continue consultant services with ECS Imaging, Inc. (ECS), for tech support and maintenance of the City's Laserfiche software program.

ECS currently serves as the City's Laserfiche consultant and, in addition to the provision of software, user licenses, and product updates through their Laserfiche Software Assurance Program, they also provide on-line or on-site tech support, installations, configurations of workflow and forms, and integration services.

Staff continues to be extremely satisfied with the support and maintenance services provided by ECS and considers them an integral partner in the City's archival records management program.

The proposed agreement has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends the City Council approve the Two-Year Agreement for Consultant Services, with ECS Imaging, Inc., for Laserfiche tech support and maintenance.

Attachment: Agreement for Consultant Services

**AGREEMENT FOR CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS**

NAME OF CONSULTANT:	ECS Imaging, Inc.
RESPONSIBLE PRINCIPAL OF CONSULTANT:	Attn: Debbi Bodewin, Vice President
CONSULTANT'S ADDRESS:	5905 Brockton Ave., Suite C Riverside, CA 92506
CITY'S ADDRESS:	City of Agoura Hills 30001 Ladyface Court Agoura Hills, CA 91301 Attn: City Manager
PREPARED BY:	Kimberly M. Rodrigues
COMMENCEMENT DATE:	December 31, 2023
TERMINATION DATE:	December 30, 2025
CONSIDERATION:	Total Contract Price: \$20,000 Not to Exceed: \$10,000/yr

**AGREEMENT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF AGOURA HILLS AND ECS IMAGING, INC.**

THIS AGREEMENT is made and effective as of December 31, 2023, between the City of Agoura Hills, a municipal corporation ("City") and ECS Imaging, Inc. ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on December 31, 2023 , and shall remain and continue in effect until tasks described herein are completed, but in no event later than December 30, 2025, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

In meeting its obligations under this Agreement, Consultant shall at all times faithfully and competently perform all tasks described herein in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

4. PAYMENT

A. The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B other than the payment rates and schedule of payment are null and void. This amount shall not exceed Twenty Thousand Dollars and Zero Cents (\$20,000) ("Contract Price") for the initial Term of the Agreement unless additional payment is approved as provided in this Agreement.

B. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by the City Council and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

C. Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Consultant shall provide receipts on all reimbursable expenses in excess of Fifty Dollars (\$50) in such form as approved by the Director of Finance.

5. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

A. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

B. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section entitled "**PAYMENT**" herein.

6. DEFAULT OF CONSULTANT

A. The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

B. If the City Manager or his delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement."

7. OWNERSHIP OF DOCUMENTS

A. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files containing data generated for the work, Consultant shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. INDEMNIFICATION

Consultant shall defend, indemnify, and hold the City, its officials, officers, employees, agents and independent Consultants serving in the role of City officials, and volunteers (collectively "Indemnitees") free and harmless from any and all claims, demands, causes of action, proceedings, costs, expenses, liabilities, losses, damages or injuries, in law or equity, to property or persons, including wrongful death (collectively "Claims"), in any manner arising out of or incident to any acts or omissions of Consultant, its officials, officers, employees, agents or sub-consultants in connection with the performance of this Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses, except for such Claims arising out of the sole negligence or willful misconduct of the Indemnitees. With respect to any and all such Claims, Consultant shall defend Indemnitees at Consultant's own cost, expense, and risk and shall pay and satisfy any judgment, award, or decree that may be rendered against Indemnitees. Consultant shall reimburse Indemnitees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant or Indemnitees. All duties of Consultant under this Section shall survive termination of this Agreement.

9. INSURANCE REQUIREMENTS

Prior to commencement of work, Consultant shall procure, provide, and maintain, at Consultant's own expense, for the duration of this Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88, or equivalent.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92, or equivalent, covering Automobile Liability, code 1 (any auto). If the Consultant owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Consultant has no employees while performing under this Agreement, worker's compensation insurance is not required, but Consultant shall execute a declaration that it has no employees.

4) Cyber Security and Privacy Liability shall be written on a policy form providing cyber security and privacy liability.

5) Cyber Technology Errors and Omissions shall be written on a policy providing cyber technology errors and omissions.

B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage for all activities of the Consultant arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rental vehicles.

3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

4) Cyber Security and Privacy Liability coverage: Consultant shall procure and maintain insurance with limits of \$1,000,000 per occurrence/loss, \$2,000,000 general aggregate, which shall include the following coverage:

- a. Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including, but not limited to personally identifiable information (PII), protected health information (PHI), security codes, access codes, passwords, etc.
- b. Network security liability arising from the unauthorized use of, access to, or tampering with computer systems, including hacker or denial of service attacks.
- c. Liability arising from introducing a computer virus into or otherwise causing damage to vendor's (first-party) or customer's (third party) computer, computer system, network, or similarly related property and the data, software, and programs.
- d. Liability arising from professional misconduct or lack of the requisite skill required for performing services defined in the contract or agreement.
- e. Costs associated with restoring, updating, or replacing data.
- f. Costs associated with a privacy breach, including notification costs, customer support, forensics, crises management, public relations consulting, legal services of a privacy attorney, credit monitoring, and identity fraud resolutions services for affected individuals.
- g. If coverage is maintained on a claims-made basis, Consultant shall maintain such coverage for an additional three (3) years following termination of the contract.

5) Cyber Technology Errors and Omissions. Consultant shall procure and maintain insurance with limits of \$1,000,000 per occurrence/loss, \$2,000,000 general aggregate, which shall include the following coverage:

- a. Liability arising from the unauthorized release of information for which an entity has the legal obligation to keep private, such as personally identifiable information (PII) and protected health information (PHI)
- b. Network security liability arising from the unauthorized use of, access to, or tampering with computer systems, including hacker or denial of service attacks.

- c. Liability arising from the failure of technology products (software and hardware) required under the contract for Consultant to properly perform the intended services.
- d. Claims alleging the failure of computer security that result in the transmission of malicious code, deletion, destruction or alteration of data, or the denial of service.
- e. Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.
- f. Liability arising from the rendering, or failure to render, professional services.
- g. Defense costs in regulatory proceedings (state and federal) involving a violation of privacy laws or intellectual property rights.
- h. Crisis management and other expert services.
- i. If coverage is maintained on a claims-made basis, Consultant shall maintain such coverage for an additional three (3) years following termination of the contract.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Vendor maintains higher limits than the minimums shown above, the Agency requires and shall be entitled to coverage for the higher limits maintained by the Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Agency.

E. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- 1) The City, its officers, officials, employees and volunteers are to be covered and named as additional insureds in respect to: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations

of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City. Consultant agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

F. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Self-insurance shall not be considered to comply with these insurance requirements.

G. Verification of Coverage. **Consultant shall furnish the City with original endorsements, specifically naming the City of Agoura Hills, its officers, officials, employees and volunteers as additional insured, effecting coverage required by this clause.** The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms acceptable to the City. Insurance certificates and endorsements must be received and approved by City's Risk Manager prior to commencement of performance. Current insurance certificates and endorsements shall be kept on file with the City at all times during the term of this agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

H. Mailing Instructions. Insurance documents shall be mailed with the signed Agreement to the attention of the staff person indicated on the cover sheet of this Agreement, to the City of Agoura Hills, 30001 Ladyface Court, Agoura Hills, CA 91301. Executed Agreement(s) cannot be released nor may any work commence on a project until the signed Agreement and appropriate insurance documents are on file with the City Clerk.

10. INDEPENDENT CONSULTANT

A. Consultant is and shall at all times remain as to the City a wholly independent Consultant. The personnel performing the services and tasks under this Agreement on behalf of Consultant shall not be City employees and shall at all times be under Consultant's exclusive direction and control. Consultant and all of Consultant's personnel shall possess the qualifications, permits, and licenses required by state and local law to perform the services and tasks under this Agreement, including, without limitation, a City business license as required by the Agoura Hills Municipal Code. Consultant shall determine the means, methods, and details by which Consultant's personnel will perform the services and tasks. Consultant shall be solely responsible for the satisfactory work performance of all personnel engaged in performing the services and tasks, and compliance with the customary professional standards. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents.

B. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of City. Consultant and Consultant's personnel shall not supervise any of City's employees; and City's employees shall not supervise Consultant's personnel. Consultant's personnel shall not wear or display any City uniform, badge, identification number, or other information identifying such individual as a City employee; and Consultant's personnel shall not use any City e-mail address or City telephone number in the performance of any of the services and tasks under this Agreement. Consultant shall acquire and maintain at its sole cost and expense such vehicles, equipment, and supplies as Consultant's personnel require to perform any of the services and tasks required by this Agreement. Consultant shall perform all services and tasks off of City premises at locations of Consultant's choice, except as otherwise may from time to time be necessary in order for Consultant's personnel to receive projects from City, review plans on file at City, pick up or deliver any work product related to Consultant's performance of any services and tasks under this Agreement, or as may be necessary to inspect or visit City locations and/or private property to perform the services and tasks. City may make a computer available to Consultant from time to time for Consultant's personnel to obtain information about, or to check on, the status of projects pertaining to the services and tasks performed under this Agreement. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

C. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services and tasks hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services and tasks hereunder. Consultant shall be responsible for and pay all salaries, wages, benefits and other amounts due to Consultant's personnel in connection with their performance of the services and tasks under this Agreement, and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to, Social Security taxes, other retirement or pension benefits, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance. Notwithstanding any other agency,

state, or federal policy, rule, regulation, statute, or ordinance to the contrary, Consultant and any of its officers, employees, agents, and subcontractors providing any of the services and tasks under this Agreement shall not become entitled to, and hereby waive any claims to, any wages, salaries, compensation, benefit, or any incident of employment by City, including, but not limited to, eligibility to enroll in, or reinstate to membership in, the California Public Employees Retirement System ("PERS") as a City employee, and entitlement to any contribution to be paid by City for employer contributions or employee contributions for PERS benefits.

D. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent consultants in the role of City officials, from any and all liability, damages, claims, costs, and expenses of any nature to the extent arising from, caused by, or relating to Consultant's personnel practices, or to the extent arising from, caused by, or relating to the violation of any of the provisions of this Section. In addition to all other remedies available under law, City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section. This duty of indemnification is in addition to Consultant's duty to defend, indemnify, and hold harmless as set forth in any other provision of this Agreement.

11. PERS COMPLIANCE AND INDEMNIFICATION

A. General Requirements. The parties acknowledge that City is a local agency member of PERS, and as such has certain pension reporting and contribution obligations to PERS on behalf of qualifying employees. Consultant agrees that, in providing its employees and any other personnel to City to perform the services and tasks under this Agreement, Consultant shall assure compliance with the Public Employees' Retirement Law, commencing at Government Code Section 20000, the regulations of PERS, and the Public Employees' Pension Reform Act of 2013, as amended. Without limitation to the foregoing, Consultant shall assure compliance with regard to personnel who have active or inactive membership in PERS and to those who are retired annuitants and in performing this Agreement shall not assign or utilize any of its personnel in a manner that will cause City to be in violation of the applicable retirement laws and regulations.

B. Indemnification. Consultant shall defend (with legal counsel approved by City, whose approval shall not be unreasonably withheld), indemnify, and hold harmless City, and its City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent consultants in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from, caused by, or relating to Consultant's violation of any provisions of this Section. This duty of indemnification is in addition to Consultant's duty to defend, indemnify, and hold harmless as set forth in any other provision of this Agreement.

12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

13. RELEASE OF INFORMATION

A. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents or sub-consultants, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-consultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

14. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by: (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City:

City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301
Attention: City Manager

To Consultant: ECS Imaging, Inc.
Attn: Debbie Bodewin
5905 Brockton Ave., Suite C
Riverside, CA 92506
(951) 787-8768

15. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

16. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

17. GOVERNING LAW

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Agoura Hills. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

18. PROHIBITED INTEREST

No officer, or employee of the City of Agoura Hills shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Consultant, or Consultant's sub-consultants for this project, during his/her tenure or for one year thereafter. The Consultant hereby warrants and represents to the City that no officer or employee of the City of Agoura Hills has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Consultant or Consultant's sub-consultants on this project. Consultant further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

19. EXHIBITS

Exhibits A and B constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, the provisions of this Agreement shall control.

20. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF AGOURA HILLS

Chris Anstead,
Mayor

ATTEST:


Kimberly M. Rodrigues, MMC
City Clerk
Date Approved by City Council: _____


APPROVED AS TO FORM:

Candice K. Lee,
City Attorney

CONSULTANT

ECS Imaging, Inc.
Attn: Debbi Bodewin
5905 Brockton Ave., Suite C
Riverside, CA 92506
(951) 787-8768

By: 
Name: DEBBI BODEWIN
Title: CEO/SECRETARY

By: 
Name: William Wolke
Title: CFO

[Signatures of Two Corporate Officers Required]

EXHIBIT A

TASKS TO BE PERFORMED

The specific elements (scope of work) of this service include:

ECS GOLD PRIORITY SUPPORT AGREEMENT - TERMS AND CONDITIONS

This ECS Gold Priority Support Agreement (the "**Support Agreement**") is incorporated by this reference in the agreement to which it is attached (the "**Master Agreement**"). Products covered by this Support Agreement ("**Products**") are any item or group of items supplied by ECS which are set forth in the Master Agreement or any corresponding ECS invoice for support services (each an "**Invoice**"). Unless specified differently, defined terms herein shall have the same meaning as attributed to them in the Master Agreement. ECS Imaging, Inc. ("**ECS**"), a Value-Added Reseller of Laserfiche, and the Client agree to be governed by this Support Agreement relative to the software and/or hardware maintenance services ("**Service**" or "**Services**") which ECS will provide relative to the Products. The terms and provisions in this Support Agreement shall control over any inconsistent terms or provisions in the Master Agreement.

1) Software Maintenance / Gold Priority Support Services: Based on the software provided as part of the Master Agreement or applicable Invoice, 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 Support 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) Service is available by calling 877-790-1600 or via E-mail at helpdesk@ecsimaging.com during Regular Business Hours, defined as the hours between 7:30 a.m. and 5:00 p.m. PST, Monday through Friday (excluding ECS company holidays). 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 and/or e-mail, 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 and/or e-mail, ECS shall arrange for a system engineer to visit the Client's site during ECS's Regular Business Hours.

(c) The Client has purchased a pre-paid number of Gold Priority Support Hours per year at \$175/hour as defined in the Annual Invoice for support services. Gold Priority Support Hours will be debited when ECS performs remote desktop support, on-site support, on-site and remote upgrades, and on-site training. In addition, most services offered by ECS are included in Gold Priority Support including Laserfiche tech support, installations, configurations of workflow and forms, and integration services are included. When Gold Priority Support Hours are used for on-site activities, ECS will debit a minimum of two to twenty-four hours from the Gold Priority Support Agreement based on the travel time of the support engineer or trainer. Scheduled After-Hours Support, defined as any time-period outside of ECS's Regular Business Hours, is available at the discretion of ECS. The Client will be debited double the total number of Gold Priority Support Hours used for After-Hours Support. Gold Priority Support Hours expire one year from the annual renewal date and do not roll-over to the next year period. Gold Priority Support services cannot be used for Professional Services for the development of brand new Laserfiche implementations, initial data conversions, or major software development services. If insufficient Gold Priority Support hours are available, you will be asked to increase your annual Gold Priority Support Hours or purchase additional Professional Services Hours at a rate of \$225/Hr.

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 warranty and the warranty is maintained through ECS.

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 renewal date indicated. 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 renewal date specified on the Master Agreement or Invoice.

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 Support Agreement.

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

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

- (d) Furnishing consumable supplies or accessories as specified by the manufacturer.
- (e) Hardware with missing or altered serial numbers.
- (f) 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 Support Agreement shall be in effect beginning on the first date of support and continue for one year, unless sooner terminated as provided in Section 7 of this Support Agreement.

7) Termination: Client may terminate this Support Agreement for any reason with sixty (60) days written notice prior to the annual anniversary. Client may also terminate this Support Agreement if any material agreement or obligation contained or referred to in the Support 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 Support Agreement, may terminate this Support Agreement at any time for any reason with sixty (60) days written notice. Upon terminating the Support Agreement, ECS will issue a prorated refund of any remaining prepaid Support Agreement coverage. The refund amount will be for the ECS Gold Priority Support Hours 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 Gold Priority Support rates stated within this Support Agreement will not change for a period of one year. All rates are adjustable for Gold Priority Support coverage periods after one year from the annual renewal 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 Support 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 Support Agreement, understands it and agrees to be bound by the terms and provisions set forth herein. This Support Agreement may not be modified or amended except by written instrument duly executed by the parties. This Support 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 Support Agreements relative to Support Agreement services.

11) Binding Effect: Subject to any prohibition against assignment contained herein, the within Support 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 Support 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 Services: ECS provides additional professional services not defined, or covered under the Gold Priority Support scope of Services. If the client chooses, these services will be provided by ECS at the rate of \$225 per hour and can be billed in milestones.

14) Acceptance: This Support Agreement is deemed accepted by and binding upon Client by virtue of any of the following: (i) Client's execution of the Master Agreement; or (ii) ECS receiving a Client generated purchase order at any time during the period specified for any Services to be performed by ECS; or (iii) Client availing itself of the Services to be provided hereunder.

EXHIBIT B
PAYMENT RATES AND SCHEDULE

ECS Imaging, Inc.
 5905 Brockton Ave. Suite C
 Riverside, CA 92506-2416
 (951)-787-8768
 (951)-787-0831 fax

Estimate

Date	Estimate #
11/27/2023	11153

Name/Address
City of Agoura Hills Accounts Payable 30001 Ladyface Ct Agoura Hills, CA 91301

Ship To
City of Agoura Hills Nathan Hamburger Nhamburger@ci.agoura-hills.ca.us

Due Date	P.O. No.	Terms	Rep	Phone
12/27/2023	Annual Renewal	Net 30	LFav	714-984-4704

Description	Qty	Rate	Total
LF Avante MS SQL with Workflow LSAP	1	1,000.00	1,000.00
LF Avante Standard Audit Trail LSAP	12	15.00	180.00
LF Named Full User with Web Access, Snapshot, and Email LSAP	12	120.00	1,440.00
LF Avante Plus Plug In LSAP	1	1,590.00	1,590.00
LF Starter Public Portal LSAP (10 Retrieval Users)	1	3,000.00	3,000.00
ECS Gold Priority Support consists of 10 hours of on-line or on-site support time, unlimited phone support, and a 4 hour response time for most services offered by ECS including Laserfiche tech support, installations, configurations of workflow and forms, and integration services. Support beginning 12/28/2023 and expiring 12/27/2024. An additional 5 hours of Professional Services for version updates, during normal business hours, is included. Additional on-line or on-site support will be billed at your current hourly support rate. Minimum on-site time is calculated at 2 hours. ECS may allow planned after hours support in rare circumstances. In these circumstances Priority Support will be billed at double the hourly rate.	1	1,750.00	1,750.00
Your organization LSAP's expire on 12/27/2023 - Laserfiche imposes a 10% reinstatement fee for each month of an expired LSAP - support site access will be suspended if payment is not received by your expiration date		0.00	0.00
All Software, Licenses and Updates will be downloaded from the Laserfiche website. LSAP= LaserFiche Software Assurance Plan includes product updates and enhancements for 12 months.		0.00	0.00
Standard Processing Fee Added to all Credit Card Payments*			
Subtotal			\$8,960.00
Sales Tax (9.0%)			\$0.00
Total			\$8,960.00