

SEVENTH MODIFICATION TO THE
AGREEMENT BETWEEN PASCO COUNTY AND
HCL AMERICA INC. TO
IMPLEMENT & SUPPORT A ENTERPRISE CONTENT MANAGEMENT SYSTEM

THIS Seventh Modification to the Contractual Agreement is made and entered into by and between PASCO COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners (hereinafter referred to as the "COUNTY") and HCL AMERICA INC. (hereinafter referred to as the "VENDOR"), whose business address is 330 Potrero Avenue, Sunnyvale, CA 94085.

W I T N E S S E T H:

WHEREAS, at its regular meeting on June 27, 2006, the Board of County Commissioners approved a Contractual Agreement (hereinafter Agreement) with HCL Enterprises (Mass.) Inc., to implement an Enterprise Content Management (ECM) System over the fourteen (14) month term of the Agreement; and

WHEREAS, the COUNTY subsequently approved a First Modification to the Agreement on July 11, 2006 to provide additional time for the provision of the performance bond required under the Agreement; and

WHEREAS, the Agreement was later ratified on November 21, 2006 retroactive to the original date of the Agreement to allow for the delay services to continue; and

WHEREAS, on December 5, 2006, the COUNTY approved the Second Modification to the Agreement to expand the scope of services and to purchase implementation additional forty-seven (47) Record Management concurrent licenses and twenty (20) BPM expansion concurrent licenses; and

WHEREAS, on April 24, 2007, the COUNTY approved the Third Modification to the Agreement to the scope between the ECM system and the Web Portal System to streamline the process for agenda preparation and to allow additional time for completion of the services involved; and

WHEREAS, the COUNTY approved the Fourth Modification to the Agreement on August 7, 2007 to reflect the merger of HCL Technologies (Mass), Inc. with HCL America,

Inc.; and HCL America Inc's. assumption to make other necessary modifications, milestones and delivery date to the Agreement and to correct an error in Exhibit 7; and

WHEREAS, the COUNTY approved the Fifth Modification to the Agreement on October 9, 2007 to extend the project support period until December 6, 2007 and bring the "Go Live" date to October 16, 2007; to utilize the County's training coordinator rather than the VENDOR for training ECM end users in phase 1B and to modify the "Software Licenses" delivery milestone with a "Soft Deletion" utility; and

WHEREAS, the COUNTY approved the Sixth Modification to the Agreement on December 12, 2007 to enhance the ECM Inboxes functions in the system and to revise Exhibits 6 and 7 to include the new payment milestones associated with the enhancements and to define the costs of the County's software maintenance obligations for years two (2) through five (5); and

WHEREAS, the COUNTY and the VENDOR have agreed to further amend the Support and Maintenance Agreement attached as Exhibit 2 to the Agreement (the SUPPORT AGREEMENT) to provide an enhanced service option in the form of Onsite Application Support, for an additional fee for years two (2) forward.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. WHEREAS Clauses. The WHEREAS clauses set forth above are incorporated herein by reference and made a part of this Seventh Modification.

2. Section 2 (General Description of Company's Responsibilities) of the SUPPORT AGREEMENT is amended to clarify when the date for annual renewal as follows:

delete the phrase "of the COUNTY'S fiscal year (October 1), until September 30, 2012" in the last sentence in section 1 relating to the renewal of the Support Agreement and in its place "on December 8th of each year."

3. Section 2 (Hours and Access to Support) of the SUPPORT AGREEMENT is further amended to insert the following introductory paragraph in Section 2 before Subsection 2a;

“Basic support services include FileNet Maintenance Phone Support and Application Phone Support as described in Subsections 2a. through 2c below. On Site Applications Support is an extended service which includes basic support services and those described in Subsection 2.d.”

4. Section 2 (Hours and Access to Support) of the SUPPORT AGREEMENT is further amended to add a new section 2.d providing for as follows:

d. Onsite Application Support

(1.) PURPOSE:

The purpose of this service is to provide an onsite HCL resource hereunder known as an Onsite Support Representative (“Onsite Support Representative”) to perform application support as directed by the COUNTY on a fee basis.

(2.) STAFFING:

The COUNTY will have the right to review the qualifications and approve HCL’S Onsite Support Representative prior to assignment. HCL will assign a dedicated Onsite Support Representative to the COUNTY.

(3.) PERFORMANCE

The COUNTY shall notify HCL if the Onsite Support Representative is not deemed to be performing adequately or has compromised the ethical standards or violated the policies of the COUNTY. HCL shall have two (2) weeks to address and correct the performance. If the issue is not resolved within this two (2) week period to the COUNTY’S satisfaction, the COUNTY will have the right to immediately remove the Onsite Support Representative. Time without onsite support coverage shall be credited back to the date of COUNTY’S initial notification to HCL and deducted from the next payment(s) due for services. If HCL, at its discretion, elects to replace the Onsite Support Representative, the time during which the COUNTY is without an Onsite Support Representative will be credited back to the COUNTY from the date of the Onsite Support Representative’s departure up to the date of the new Onsite Support Representative arrival at the COUNTY’S worksite. Any Onsite Support Representative removed or replaced either upon the COUNTY’S request or at HCL’s election must be replaced by HCL as soon as practical so as to not impact application support.

(4.) REPORTING AND HOURS OF SERVICE

HCL’S Onsite Support Representative’s normal base of operation shall be at location in the West Pasco Government Center campus located at

8744 Government Drive, Bldg. A New Port Richey Florida unless otherwise assigned by the County. The COUNTY shall assign an oversight manager for the Onsite Support Representative. Normal work hours shall be 8am to 5pm Monday through Friday with an hour for lunch with the exception of COUNTY Holidays. HCL'S Onsite Support Representative shall not leave the duty location without email approval from the oversight manager designated by the COUNTY during normal work hours. The Onsite Support Representative shall submit a weekly time sheet to the oversight manager for approval and record. If onsite support is unavailable, the COUNTY will use the Basic Services described in Subsections 2a, 2b, and 2c herein.

(5.) HOLIDAYS & TIME OFF

The Onsite Support Representative shall be allowed to observe and take the same holidays that are observed by the COUNTY. Further, the Onsite Support Representative shall be permitted to take time off not exceeding 120 hours on an annualized basis as part of the fixed price agreement. Time off in excess of 120 hours shall be credited to the COUNTY and deducted from the next payment due.

(6.) HIRING OF HCL'S Onsite Support Representative

The COUNTY agrees not to solicit, or make offers of employment to or enter into a contractual relationships with HCL'S Onsite Support Representative if such person was involved, directly or indirectly, in the performance of this Change Order, within a one (1) year period of the cessation of such employment or HCL engagement, unless otherwise agreed to by the parties; provided, however, that nothing contained herein shall prevent a party from hiring any such employee or HCL representative who responds to a general hiring program conducted in the ordinary course of business not specifically directed to such employees or HCL representatives or who is approached by the COUNTY on a wholly unsolicited basis.

(7.) WORKSPACE

The COUNTY shall provide adequate office space, telephone, computer and office supplies to the Onsite Support Representative in the performance of his or her duties.

(8.) APPLICATION SUPPORT OPTION

After December 7, 2008, at the COUNTY'S discretion and upon 30 days advanced notice to HCL, the COUNTY may elect to revert to Application Phone Support available in basic services referenced in Subsections 2a, 2b, and 2c above and forgo Onsite Application Support services as described in this Subsection 2d. Any prepaid Onsite Application Support services will be prorated, credited, and deducted from the COUNTY'S next payment(s) due.

5. The SUPPORT AGREEMENT is further amended to include the following new Sections: Section 5 relating to payments and fees; Section 6 relating to force majeure situations; Section 7 relating to termination of the SUPPORT AGREEMENT and Section 8 relating to reconciliation of discrepancies as further set forth below:

5. PAYMENT SCHEDULE AND FEES: FileNet Maintenance Phone Support service will be invoiced in advance of service and paid annually. Application Phone Support (Basic) and Onsite Application Support (Extended) service options will be invoiced in arrears of service and due and payable on a quarterly basis (December, March, June, and September). Estimated annual increases for Application Phone Support (Basic) or Onsite Application Support (Extended) service will be no more than 5% during the term of the Agreement. The following payment table represents anticipated costs of the various options through Year 5 of the SUPPORT AGREEMENT.

Payment Table:

	<u>FileNet Maintenance Phone Support</u>	<u>Basic Application Phone Support</u>	<u>Basic Monthly Cost</u>	<u>Basic Support</u>	<u>Extended Onsite Application Support</u>	<u>Extended Monthly Support</u>	<u>Extended Support</u>
<u>Year 2</u>	<u>\$86,899.00</u>	<u>\$53,426.00</u>	<u>\$4,452.17</u>	<u>\$140,325.00</u>	<u>\$141,000.00</u>	<u>\$11,750.00</u>	<u>\$227,899.00</u>
<u>Year 3</u>	<u>\$91,243.95</u>	<u>\$56,654.73</u>	<u>\$4,683.46</u>	<u>\$147,898.68</u>	<u>\$148,050.00</u>	<u>\$12,337.50</u>	<u>\$239,293.95</u>
<u>Year 4</u>	<u>\$95,806.15</u>	<u>\$59,487.47</u>	<u>\$4,917.63</u>	<u>\$155,293.62</u>	<u>\$155,452.50</u>	<u>\$12,954.38</u>	<u>\$251,258.65</u>
<u>Year 5</u>	<u>\$100,596.46</u>	<u>\$62,461.84</u>	<u>\$5,163.51</u>	<u>\$163,058.30</u>	<u>\$163,225.13</u>	<u>\$13,602.09</u>	<u>\$263,821.59</u>

6. FORCE MAJEURE: Neither party shall be liable for any failure or delay in its performance due to circumstances beyond its reasonable control, provided that it notifies the other party as soon as practicable and uses its best efforts to resume performance. HCL or the COUNTY may suspend its performance on any

assignment as a result of a force majeure without being in default of this SUPPORT AGREEMENT, but the upon the removal of such force majeure, HCL or the COUNTY shall resume its performance as soon as it reasonably possible.

7. TERMINATION: The SUPPORT AGREEMENT may be terminated for any reason by the COUNTY giving fourteen (14) days written notice to HCL of the COUNTY'S intent to terminate. Subsequent to the date of termination, the COUNTY will own and will have the right to use all documentation, information, data, and material (not otherwise protected by HCL'S or other copyright) for its own purposes.

8. DISCREPANCIES: Where inconsistencies exist between the Master Services Agreement and this SUPPORT AGREEMENT, the SUPPORT AGREEMENT shall take precedence.

6. It is the intent of the COUNTY and HCL as part of this Modification to discontinue the current Application Phone Support option being utilized by the COUNTY under Subsection 2a and 2b of the SUPPORT AGREEMENT and to have HCL provide Onsite Application Support under the terms and conditions of the new Section 2d included herein effective on or about June 8, 2008. The parties acknowledge that the COUNTY is in Year 2 of the SUPPORT AGREEMENT, which covers the period from December 8, 2007 through December 7, 2008. The cost of Year 2 support is \$140,325.00, which includes both FileNet Maintenance Phone Support and Application Phone Support services costing \$86,899.00 and \$53,426.00 respectively. The Year 2 cost for Onsite Application Support services is \$141,000.00. On June 8, 2008 the prorated value of six (6) months of prepaid Application Phone Support fees is \$26,713.00. The prorated cost of Onsite Application Support for the remaining six (6) months in Year 2 is \$70,500.00 leaving a remainder due HCL of \$43,787.00. For the period between June 8, 2008 through December 7, 2008, the fees for Onsite Application Support will be billed quarterly in arrears at a cost of \$21,893.49 per quarter, or \$7,297.83 per month. In the event that the start date of Onsite Application Support is other than June 8, 2008, the cost for the initial month of Onsite Application Support service will be prorated from the start date through the next seventh day of the

month. The billing dates during this period shall be through the 7th of June, September, and December.

7. All the provisions of the Agreement dated June 27, 2006, except as previously modified by the First through the Sixth Modifications and not otherwise modified herein, are hereby ratified and confirmed in their entirety and shall remain in full force and effect.

8. This Seventh Modification to the Agreement shall become effective upon execution by the COUNTY.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Seventh Modification Agreement as evidenced their signature below effective as of the date approved by the COUNTY.

(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

ATTEST:

BY: _____
JED PITTMAN, CLERK

BY: _____
THEODORE J. SCHRADER
CHAIRMAN

HCL America, Inc.

WITNESSES:

BY: _____

TITLE: _____

DATE: _____

STATE OF _____
COUNTY OF _____

Sworn and subscribed before me this ____ day of _____, 2008 by
_____ as _____ of _____,
who is personally known to me or who has produced _____ as
identification.

Notary Public
My Commission Expires: