RESOLUTION 2015-___-___R

A RESOLUTION TO DISCONTINUE THE USE OF THE SEECLICKFIX APPLICATION AND SERVICES ON TONTITOWN.COM FOR THE CITY OF TONTITOWN, ARKANSAS.

WHEREAS, the City Council has determined it necessary to discontinue the use of the SeeClickFix application on the city's website; and

WHEREAS, the City Council desires to discontinue any services provided by SeeClickFix and any services provided therewith.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the city of Tontitown, Arkansas:

Section 1:   That the SeeClickFix application and all instances thereof be removed from the city of Tontitown website.

Section 2:   That any services provided by SeeClickFix, or in conjunction therewith, shall be discontinued immediately.

Section 3:   That the Mayor and Recorder are hereby authorized and directed to execute any and all documentation necessary to effectuate this purpose.

PASSED AND APPROVED this 6th day of January, 2015.

_____
PAUL COLVIN, Mayor

ATTEST:

_____
ALICIA COLLINS, City Recorder/Treasurer

SeeClickFix

4 June 2013

Jack Beckford
Town of Tontitown
P.O. Box 305
Tontitown, AR 72770

Dear Mayor Beckford,

Thank you for using SeeClickFix. We value your business and hope to serve you for many years to come.

If you have any questions please call me at 203.752.0777. Again, thank you for your business and we look forward to working with you.

Sincerely,

Ryan Mannion
Regional Account Manager
O: 203.752.0777

SeeClickFix Terms and Conditions

This Contract (together with the Appendix and any attachments hereto, the "Contract") is entered into as of the Effective Date between Tontitown ("the City") and SeeClickFix Inc, a Delaware Corporation located at 746 Chapel Street, New Haven, CT 06510 ("SeeClickFix", and together "the Parties").

WHEREAS, the City desires that SeeClickFix provide certain software services as described herein.

WHEREAS, SeeClickFix desires to deliver such software services under the terms set forth in this Contract.

A. Term and Termination.

1.   SeeClickFix and the City will implement the services described in the Appendix as soon as reasonable. The initial term of this Contract will be through one (1) year following the Effective Date. This Contract will be automatically renewed on an annual basis each succeeding year. Fees for successive renewal periods may increase by up to 10% over each prior period. Should either party decide not to extend the term, such party must notify, in writing, the other party at least 90 days prior to the end of the current term.

2.   Termination for Cause. If either party fails to perform any of its material obligations under this Contract and does not cure such failures within thirty (30) days after being given written notice specifying the nature of the failure, then the non-defaulting party may, by giving written notice to the other party, terminate this Contract as of the date specified in such notice of termination.

3.   Survival. The following Sections of this Contract and any payment obligations hereunder shall survive any expiration or termination of this Contract: A(3), C, D, E and and F (except F.3).

B. Services of SeeClickFix. SeeClickFix will provide on a hosted, software-as-a-service basis, access to the Services described in the Order Form, via mobile applications, internet, and an embeddable interactive widget for public reporting, alerts on discussing non-emergency issues ("the Software"). Users will be able to interact with the Software and post various content including words, photos and videos. While the content of users of the Software is governed by SeeClickFix's published Terms of Use, SeeClickFix may not be able to control the exact nature of this content. SeeClickFix reserve the right to edit User Content, but does not have an obligation to edit the content. Although SeeClickFix may from time to time make enhancements or bug fixes to the Software, it is under no obligation to make any particular modifications, enhancements or bug fixes.

C. Ownership. With the exception of City's trademarks and logos, SeeClickFix shall be the sole and exclusive owner of any and all SeeClickFix Materials, including the Software and all Intellectual Property Rights in and to them and their derivative works and improvements (as each of those terms is defined and applied under Title 17 and Title 35 U.S.C., respectively) by whomever developed or created them. No ownership of any SeeClickFix Materials including the Software or the Intellectual Property Rights in and to them shall be transferred to the City. "Intellectual Property Rights" shall mean any and all proprietary rights or moral rights in any trademarks, copyrights, trade secrets, patents and patent applications, renewals, extensions, continuations, divisions or reissues, in whole or in part, now or hereafter in force, and any foreign counterparts.

D. Exclusions of Warranties and Limitations of Liability. SEECLICKFIX MAKES NO, AND HEREBY DISCLAIMS ALL, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY (INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT) TO CITY, OR TO ANY OTHER PERSON, WITH RESPECT TO THE SERVICES, SEECLICKFIX MATERIALS, OR ANY OTHER SERVICES

OR MATERIALS PROVIDED HEREUNDER. (I) NEITHER SEECLICKFIX NOR THE CITY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, UNDER ANY THEORY OF LIABILITY (WHETHER LEGAL OR EQUITABLE), AND (II) IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EITHER PARTY TO THE OTHER PARTY UNDER THIS CONTRACT EXCEED THE TOTAL AMOUNT OF FEES RECEIVED BY SEECLICKFIX UNDER THIS CONTRACT FOR THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY OR $5,000 WHICHEVER IS LESS.

E. Arbitration, Governing Law and Venue

1.   Arbitration. The Parties agree that except for the right of either party to seek declaratory, injunctive or other equitable relief, or for claims related to a party's Intellectual Property Rights, any dispute or controversy arising out of or in connection with this Contract shall be referred to arbitration for final and binding resolution. Either party to this Contract may initiate arbitration of the dispute by the filing of an application for resolution by one arbitrator appointed by and in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted in the city and state in which the non-filing Party is located. The award in the arbitration shall be final, binding and non-appealable. The award may be entered as a final, non-appealable judgment in any court having jurisdiction. Each party specifically agrees and acknowledges that this Section is a material term of this Contract and acknowledges that it would not enter into this Contract in the absence of this Section. Each party warrants and represents to the other party that this Section is valid and enforceable and the other party will incur damages if such representation is false.

2.   Law. The laws of United States and the State of Connecticut shall govern this Contract, without regard to conflicts of laws principles. Each of the parties hereby submits to the jurisdiction of the State of Connecticut and federal courts located in the State of Connecticut.

F. General

1.   Independent Contractor Relationship. SeeClickFix is acting as an independent contractor under this Contract and nothing in this Contract shall be deemed or construed to create the relationship of partnership, joint venture or employer-employee between the parties. Neither party has, and shall not hold itself out as having, any authority to enter into any contract or create any obligation or liability on behalf of, in the name of, or binding upon the other party.

2.   Notices. Any notice to be given hereunder to any other party, including any notice of a change of address, shall be in writing and shall be deemed validly given if (i) delivered personally or (ii) sent by express delivery service, registered or certified mail, postage prepaid, return receipt requested or (iii) sent by email, as follows: If to SeeClickFix: SeeClickFix Inc., Attn: Contract Administrator to team@seeclickfix.com, with an email response confirming receipt by SeeClickFix. If to City: see City Address on first page of this Contract. All such notices shall be deemed given on the date of actual receipt by the addressee if delivered personally, on the date of deposit with the express delivery service or the postal authorities if sent in either such manner, on the date the facsimile or email is sent if sent in such manner, and on the date of actual receipt by the addressee if delivered in any other manner.

3.   Publicity. The Parties agree that the Parties may reference the other party as a City or vendor, including using the City name, service marks, licenses, trademarks, logos, sales and marketing materials, and website. Any reference to the SeeClickFix Software or its features will be accompanied by a reference that it is provided by SeeClickFix.

4.   Amendment or Waiver. No amendment or modification of this Contract shall be valid unless it is in writing and signed by both parties.

5.   Headings and Captions. The headings and captions of this Contract are included for convenience only and shall not be considered in construction of the provisions hereof.

6.   Severability. If any provision of this Contract shall be determined to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remainder of this Contract,

which shall be construed as if such invalid or unenforceable provision had never been a part of this Contract but in a manner so as to carry out as nearly as possible the parties' original intent.

7.   Counterparts. This Contract may be executed simultaneously in several counterparts, each of which shall be deemed an original but which together shall constitute one and the same Instrument.
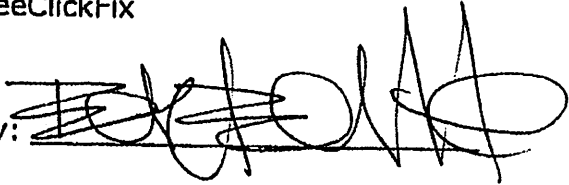
8.   Entire Contract. This Contract constitutes the entire Contract between the parties regarding the subject matter hereof and supersedes any letters of Intent, memorandums of understanding, confidentiality Contracts, and other Contracts and communications, oral or written, between the parties regarding such subject matter.

9.   Assignment. SeeClickFix may assign this Contract, and then notify the City within 30 days thereof.

IN WITNESS WHEREOF SeeClickFix and City have caused this Contract to be executed as of the date signed by the City, which will be the Effective Date.

SeeClickFix   City of Tontitown

By: _____   By: _Norman "Jack" Beckford_

Name: _BEN BERKOWITZ_   Name: _____

Title: _CEO_   Title: _Mayor of Tontitown_

Date: _6/5/13_   Date: _6-4-2013_ (Effective Date)

SERVICES AND PRICING: ORDER FORM   EFFECTIVE DATE: DATE SIGNED

Please **check off** the services you would like to include in your subscription.

☒ Plus CRM Service with <u>Unlimited</u> Admin Dashboard User Accounts

SERVICES	
SeeClickFix Plus CRM – Unlimited Admin Dashboard User Accounts	1 Month(s)
Includes Municipality-branded SeeClickFix mobile applications (iPhone and Android). Service also a mobile web service.	1 Month(s)
Includes option to embed our interactive map and/or text widgets into the City's web site ad free.	1 Month(s)
Includes option to add our Facebook app to the Municipality's Facebook Page.	1 Month(s)
Includes Admin Dashboard Settings Tab: Create custom service request types (and secondary questions), control internal routing, auto-assignment and service-level agreement (SLA) by request type; Create custom automated notifications sent to residents when a request is submitted, acknowledged and closed by the City; Create "canned messages" to quickly update requests and ensure consistent messaging; Upload "geographies" (e.g. council districts, neighborhoods, zone enforcement areas, etc.) to filter results and generate reports.	1 Month(s)
Includes Admin Dashboard Home Page: View recent activity and requests by source, request type and internal assignee.	1 Month(s)
Includes Admin Dashboard Issues Tab: Printable work orders; Filter by assignee, request type, status or geography; Acknowledge and control when an issue's status is closed; Manually assign or reassign requests; Add public updates or internal notes; Expanded map view and photos of submitted requests; Print requests for field staff; Ability export to excel.	1 Month(s)
Includes Admin Dashboard Reports Tab: Create performance reports by date range with breakouts by selected "geographies."	1 Month(s)
Includes 4-hours of web-based training and thereafter customer service from 9 am EST - 5 pm EST. Fees for in-person training will be charged at $150 per hour plus expenses and fees for additional engineering work (e.g. uploading data from internal sources or creating custom impact widgets) will be charged at $250 per hour plus expenses.	1 Month(s)
Includes outreach assistance to the media and local community groups surrounding the launch of your service and ongoing community outreach.	1 Month(s)

PRICING	
MONTHLY ~~ANNUAL / ONE-TIME FEES~~ MONTHLY FM	
Total ~~Annual~~ Fee with Unlimited Admin Dashboard User Accounts*	$400
One-time Implementation Fee*	$0
Total monthly cost*	$400

FM

*Pricing effective until July 1, 2013

Billing

BILLING INFORMATION ON FILE	INDICATE CHANGES TO BILLING INFORMATION
Company: *CITY OF TONTITOWN*	Company:
Billing Address: *PO BOX 305*	Billing Address:
City, State, Zip: *TONTITOWN, AR 72770*	City, State, Zip:
Name: *ALICIA COLLINS*	Name:
Title: *RECORDER TREASURER*	Title:
Phone: *479-361-2700*	Phone:
E-mail: *CLERK@TONTITOWN.com*	E-mail:

☐ Pay via check:

P.O. # (if available): _____

☐ Pay via credit card:

Information can also be given by telephone: please call (203) 752-0777.

CREDIT CARD INFORMATION		
○ VISA	○ MasterCard	○ American Express
Card Number:	CW Code:	Expiration Date (MM/YYYY):
Name as it appears on the credit card:		
Amount (plus applicable sales tax):		
Company:	Name:	
Title:	Signature:	

From: City Clerk
Sent: Thursday, January 15, 2015 4:33 PM
To: 'julie@seeclickfix.com'
Subject: FW: [SeeClickFix Help Desk] Re: From the contact_us form

I never received a reply.

Thanks

Alicia Collins
Recorder/Treasurer
City of Tontitown
(479) 263-9217

From: City Clerk
Sent: Thursday, January 8, 2015 2:13 PM
To: 'SeeClickFix Help Desk'
Subject: RE: [SeeClickFix Help Desk] Re: From the contact_us form

Thank you
Alicia Collins
Recorder/Treasurer
City of Tontitown
(479) 263-9217

From: Isabel Santos-Gonzalez (SeeClickFix Help Desk) [mailto:contact@seeclickfix.com]
Sent: Thursday, January 8, 2015 12:51 PM
To: City Clerk
Subject: [SeeClickFix Help Desk] Re: From the contact_us form

##- Please type your reply above this line -##

Your request (#16919) has been updated. Please reply to this email if you have additional questions or comments.

Isabel Santos-Gonzalez (SeeClickFix Help Desk)

Jan 08 01:50 PM

Hi Alicia,

I've sent our correspondence to Tontitown's account manager, Julie Ramaccia

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(julie@seeclickfix.com). She'll be in touch to schedule a meeting and discuss the contract further.

Regards,
Isabel

City Clerk

Jan 07 05:36 PM

Yes please. if you can tell me what the pay out would be if terminated and if that can even be done. I would appreciate that.

Thanks,

Alicia Collins

Recorder/Treasurer

City of Tontitown

(479) 263-9217

Isabel Santos-Gonzalez (SeeClickFix Help Desk)

Jan 07 05:15 PM

Hi Alicia,

Thanks for getting in touch! Yes, there is a contract. Would you like me to send it to you?

Regards,
Isabel

City Clerk

Jan 05 09:20 AM

Message from the the 'contact us' form (/contact_us):
Name: Alicia Collins
Email: clerk@tontitown.com

Message: Can you tell me if we have a contract for SeeClickFix? Thanks Alicia