

**Agreement No. 5793**

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND BITFOCUS, INC.**

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and Bitfocus, Inc., hereinafter called "Contractor."

\* \* \*

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of purchasing licenses and implementation of the Clarity Human Services System.

**Now, therefore, it is agreed by the parties to this Agreement as follows:**

**1. Exhibits and Attachments**

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A—Services
- Exhibit B—Payments and Rates
- Attachment I—§ 504 Compliance
- Attachment IP – Intellectual Property

**2. Services to be performed by Contractor**

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

**3. Payments**

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed **SIX HUNDRED SEVENTEEN THOUSAND FORTY-SIX DOLLARS** (\$617,046). In the event that County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this agreement.

**4. Term**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 01, 2019, through June 30, 2022.

**5. Termination**

This Agreement may be terminated by Contractor or by the County at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

County may terminate this Agreement for cause. In order to terminate for cause, County must first give Contractor notice of the alleged breach. Contractor shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged breach. If Contractor fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

**6. Contract Materials**

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

**7. Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

**8. Hold Harmless**

**a. General Hold Harmless**

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or

(D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**b. Intellectual Property**

Contractor hereby certifies that it owns, controls, and/or licenses and retains all right, title, and/or interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and/or other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement.

Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**9. Assignability and Subcontracting**

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent

of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

**10. Insurance**

**a. General Requirements**

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

**b. Workers' Compensation and Employer's Liability Insurance**

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

**c. Liability Insurance**

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- (a) Comprehensive General Liability... \$1,000,000
- (b) Motor Vehicle Liability Insurance... \$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

**11. Compliance With Laws**

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

**12. Non-Discrimination and Other Requirements**

**a. General Non-discrimination**

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

**b. Equal Employment Opportunity**

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

**c. Section 504 of the Rehabilitation Act of 1973**

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

**d. Compliance with County's Equal Benefits Ordinance**

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

**e. Discrimination Against Individuals with Disabilities**

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of

disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

**f. History of Discrimination**

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

**g. Reporting; Violation of Non-discrimination Provisions**

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

**h. Compliance with Living Wage Ordinance**

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor certifies all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

**13. Compliance with County Employee Jury Service Ordinance**

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in the Section titled "Payments", is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

**14. Retention of Records; Right to Monitor and Audit**

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

**15. Merger Clause; Amendments**

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

**16. Controlling Law; Venue**

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

**17. Notices**

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: Selina Toy Lee, Program Director, CCO  
Address: 1 Davis Drive, Belmont, CA 94002  
Telephone: 650-802-5120  
Email: SToy-Lee@smcgov.org

In the case of Contractor, to:

Name/Title: Robert Herdzik  
Address: 9101 W. Sahara Ave, #105-108, Las Vegas, NV 89117  
Telephone: (702) 605-6870  
Email: robh@bitfocus.com

**18. Electronic Signature**

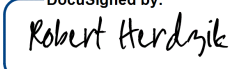
Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

\* \* \*



In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

**For Contractor:** BITFOCUS, INC.

<small>DocuSigned by:</small> 	5/29/2019   6:15 AM PDT	Robert Herdzik
<small>0FBD7417F8A74E6</small> Contractor Signature	Date	Contractor Name (please print)

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COUNTY OF SAN MATEO

By:  
President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:  
Clerk of Said Board

**Exhibit A – Services**  
Center on Homelessness

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

Contractor agrees to provide authorized end users ("Users") access to and use of its Clarity Human Services Client and Service Management System ("System") subject to the following terms and conditions:

1. **Purpose/Term.** This Agreement sets forth the terms and conditions under which Contractor agrees to license certain hosted "Software as a Service" and provide all other services, monitoring, support, backup and recovery, change management, technology upgrades, and training necessary for County's productive use of such software (the "Services").
2. **Number of Users.** Exhibit B includes the specific number of licenses for each license type below:
  - a) Enterprise Seat Licensing
  - b) Manager Seat Licensing
  - c) Administrator Seat Licensing
  - d) Data Analysis Ad-Hoc Query Tool
  - e) Training Site
  - f) Virtual Private Network (VPN) License and Maintenance
3. **Features and Functionality.** County will have full access to and use of all documented features provided in the most recent version of the Services. Contractor will maintain availability and functionality of the Clarity Human Services System. Contractor will securely maintain all data and files, will ensure system compliance with all applicable regulations and laws, will conduct ongoing system maintenance and modifications, will ensure data analysis functionality, and will ensure reporting capabilities to meet all HUD and HMIS reporting requirements. Contractor will also maintain the Core Performance Report. Contractor will notify County of any system change or update at least 4 weeks in advance.
4. **Control of Services.** The method and means of providing the Services shall be under the exclusive control, management, and supervision of Contractor, giving due consideration to the requests of County.

5. **Change Control Procedure.** County may, upon written notice, request increases to the scope of the Services under this Exhibit A. If County determines that there may be a need for a change request to meet a specific local need (above the general Clarity product functionality), County will request a cost and timeline proposal from Contractor, and Contractor will notify County whether or not the change has an associated cost impact and provide a written project description, cost, and time line. If County approves the proposal, County will request in writing that the change is made. Contractor will then complete the change request within the cost and timeline included in the proposal and/or amendment.
  
6. **Product Support.** Phone and e-mail support will be provided to authorized County Technical Liaisons as part of this Agreement. This support provided via the Technical Liaisons for the explicit purpose of assisting County to understand and utilize existing system features and capacities. Contractor will not work directly with end-users. This will be the responsibility of the Technical Liaisons. Unless otherwise specified in other parts of this Agreement, these services do not include custom system adjustments, development of reports, post-setup system configuration, data conversion and migration, on-site services, or the actual use or application of system features and capacities on behalf of the user. (e.g., users will be assisted concerning use of features and capacities, but Contractor will not actually use them on behalf of the end users).
  
7. **Recovery Services.** Contractor will perform data recovery services without charge for data loss or damage resulting only from failures of software and equipment provided by Contractor. Loss due to Customer error will be charged to the Customer. In the event of a disaster related system failure, Contractor will provide the following recovery services:
  - a) **Secure and Assess Data.** Immediate priority will be to secure the most recent version of data, consult to determine guidelines for assessing quality, and running tests to determine the status of data.
  - b) **Restore Data as Necessary.** If necessary, backup data will be used to restore all or part of the most recent data.
  - c) **Reinstate or Setup New Hosting Site.** Pending options and needs, a functioning system will be reinstated at the original or a new host site.

**Service Levels:**

1. **Continuity of Service.** Notwithstanding other provisions in this contract, Contractor will provide continuous service twenty-four (24) hours a day for seven days a week. In accordance with the remedies stated below, there will be no outage time in excess of .0075 consecutive hours or not more than .001 percent total outage time per month. Outage time is defined as the length of time elapsed from when Contractor is notified of the problem to the point of time that the problem is remedied. Remedies for outage time longer than these parameters will be a credit equal to one hundred [100] percent of the cost of the percent of outage time (calculated as percent outage out of total charge for month of outage). These remedies will not be available in cases where:

- a) Outage time is caused by acts of omission by our County or their end- users.
  - b) "Acts of war or god" and other circumstances beyond the control of Contractor.
  - c) Scheduled and/or pre-announced service maintenance.
  - d) Unavailability of Internet Access at the County Facilities or where users are located. This product is a cloud-based model. As such, availability of Internet Access to the users is assumed.
2. **Hosting Facilities.** Hosting will be provided at Contractor maintained facilities. The hosting facility will provide state-of-the-art security that provides 24n physical and electronic security, including on-site security guards, trap-door entry, keycard and biometric access, and electronic surveillance and alarms. Other capacities of the hosting facility will include fire alerts, gaseous fire suppression, sophisticated security and video camera surveillance system; 24x7 secured, and escorted areas. Battery backup, Diesel Generation will be provided to ensure maximum uptime and performance.
3. **Support Response Time.** Contractor will be available during normal business hours for both Operational and Technical support. Normal business hours are 8 AM- 5 PM Pacific Standard Time, Monday- Friday. If specific arrangements are made, after hours and weekend support will be available. These calls may require contacting an on-call representative who will be able to assist or make arrangements to provide needed assistance.

**Backup Requirements:**

1. Backup Schedule. External onsite hard drive backups will be made daily.
2. Backup. Daily data backups will be stored at the hosting site for seven (7) days.
3. Storage of Backup Data. After seven (7) days, external drive backups will be transferred to an encrypted secure off-site location for one (1) year.
4. County will be provided address to download CSV data backups in the form of the standardized HUD HMIS CSV extract annually for purpose of local County archive.

**Service Window:**

1. **System Maintenance and Internet Service Support.** Contractor will install, configure, and test all upgrades and service packs as they become available. Forthcoming upgrades will be announced via e-mail no less than seven (7) calendar days prior to deployment via hosting services. Upgrades and changes due to the HUD HMIS Data Standard updates will be announced via e-mail no less than thirty (30) calendar days prior to deployment via hosting services. Contractor will, upon request, provide County with opportunities to review and test these upgrades.

**County and Users Infrastructure Requirements:**

Contractor's product is a Cloud based hosted and maintained Software as a Service (SaaS) Solution. County will be using this product using a monthly subscription.

**Performance Measures:**

<b>Measure</b>	<b>FY 2019- 20 Target</b>	<b>FY 2020-21 Target</b>	<b>FY 2021-2022 Target</b>
Customer Satisfaction	90% of respondents rate system good or better	90% of respondents rate system good or better	90% of respondents rate system good or better
System availability	99.999% availability	99.999% availability	99.999% availability

1. Contractor shall include with monthly invoice the results of the performance measure on system availability. If a target on either performance measure is missed, Contractor will submit a plan within thirty (30) days to address performance.
2. County shall have the option to modify performance measures, goals and targets in writing. County shall notify Contractor in advance of any modifications.

(End of Exhibit A)

**Exhibit B – Payments and Rates**  
**Center on Homelessness**

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

**B1. Core Service Agencies Clarity Component**

Item	Quantity	FY 2019-2020	FY 2020-2021	FY 2021-2022
Enterprise Seats (\$43.71/Seat/Month)	72	\$37,765.44	\$37,765.44	\$37,765.44
Manager Seats (\$54.64/Seat/Month)	19	\$12,457.92	\$12,457.92	\$12,457.92
Administrator Seats (\$81.96/Seat/Month)	6	\$5,901.12	\$5,901.12	\$5,901.12
Data Analysis Ad-Hoc Query Tool	1	\$6,000.00	\$6,000.00	\$6,000.00
Training Site	1	\$2,500.00	\$2,500.00	\$2,500.00
Virtual Private Network Maintenance	1	\$750.00	\$750.00	\$750.00
Direct Database Abstraction Layer Licensing	1	\$7,200	\$7,200	\$7,200
Open VPN Fee for Direct Database Abstraction Layer	1	\$360.00	\$360.00	\$360.00
<b>SUBTOTAL CORE SERVICE AGENCY</b>	<b>102</b>	<b>\$72,934.48</b>	<b>\$72,934.48</b>	<b>\$72,934.48</b>

**B2. HMIS Clarity Component**

Item	Quantity	FY 2019-2020	FY 2020-2021	FY 2021-2022
Enterprise Seats (\$43.71/Seat/Month)	137	\$71,859.24	\$71,859.24	\$71,859.24
Manager Seats (\$54.64/Seat/Month)	18	\$11,802.24	\$11,802.24	\$11,802.24
Administrator Seats (\$81.96/Seat/Month)	10	\$9,835.12	\$9,835.12	\$9,835.12
Data Analysis Ad-Hoc Query Tool	1	\$6,000.00	\$6,000.00	\$6,000.00
Training Site	1	\$2,500.00	\$2,500.00	\$2,500.00
Virtual Private Network Maintenance	1	\$750.00	\$750.00	\$750.00
<b>SUBTOTAL HMIS SERVICE AGENCY</b>	<b>168</b>	<b>\$102,746.60</b>	<b>\$102,746.60</b>	<b>\$102,746.60</b>

**B3. Total Annual Cost**

Item	FY 2019-2020	FY 2020-2021	FY 2021-2022
Core Service Agencies Clarity Component	\$72,934.48	\$72,934.48	\$72,934.48
HMIS Clarity Component	\$102,746.60	\$102,746.60	\$102,746.60
Change Requests Allocation **	\$30,000.00	\$30,000.00	\$30,000.00
<b>TOTAL ANNUAL COST</b>	<b>\$205,681.08</b>	<b>\$205,681.08</b>	<b>\$205,681.08</b>

\*\*These funds will only be used if HSA requests and approves in writing specific change requests/feature improvements. Contractor will be notified in writing if any portion of these funds will be used.

Terms of Payment:

County will make payments for specified services in accord with the following conditions.

1. **Monthly Invoice.** Contractor will email invoice for costs incurred to County for the previous month no later than the 20th day of the following month. (Example: July invoice to be submitted by August 20th.) Due to year end fiscal processing, the June invoice must be submitted by June 21st. County shall pay Contractor monthly for actual costs incurred based on the tables in Exhibit B for services shown in Exhibit A upon receipt and approval of invoices.

Invoices should be emailed to the following or the designated HSA contact:

- Ali Shirkhani, Human Services Analyst II  
ashirkhani@smcgov.org  
(650-802-7675).

2. **Performance Reports.** With the monthly invoice, Contractor will submit to HSA the results of the performance measure on system availability. At the end of the fiscal year, Contractor will submit annual results on the performance measure on system availability.
3. **Adjustments and Modifications:** County shall have the option to adjust, modify or add related services to meet its project program goals as agreed upon by both parties and adjust costs accordingly as long as it does not exceed the total agreement obligation. County shall have the option to adjust funding across line items in the Budget shown in Exhibit B and across fiscal years as agreed upon by both parties and approved by County in writing as long as it does not exceed the total agreement obligation.
4. **Change Requests Allocation.** The change request allocation will be spent only as needed. Change request or improvement projects will be determined by HSA and submitted in writing. Change request funds will be invoiced separately from monthly invoices and will be submitted within 20 days of completion of the change request.

(End of Exhibit B)