

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

THIS SEVENTH AMENDMENT TO THE AGREEMENT, entered into this _____ day of _____, 20_____, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and BITFOCUS, INC., hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, the parties entered into an agreement (the "Agreement") for information technology services for the Clarity Human Services System on April 8, 2014 in an amount not to exceed \$180,000 for the term of April 8, 2014 through July 30, 2016; and

WHEREAS, on August 5, 2014, the parties amended the Agreement to expand services and add funds in the amount of \$302,765; and

WHEREAS, on December 9, 2014, the parties amended the Agreement to allow the Director of the Human Services Agency to execute Amendments for developing revised enrollment and assessment reports in an amount of \$23,000 and to change the approval authorization of the Human Services Agency Director to sign amendments up to \$171,844 for licenses maintenance, data, and cleaning to include all technology services necessary to fulfill the goals of the Agreement; and

WHEREAS, on February 21, 2015, the parties amended the Agreement to add Performance Measurement Report and Modifications for Profile, Assessment, and Program Enrollment Screens and add funds in the amount of \$23,000; and

WHEREAS, on August 4, 2015, the parties amended the Agreement to add Measure A funds in the amount of \$239,202 and extend the term of the Agreement through June 30, 2017; and

WHEREAS, on October 18, 2016, the parties amended the Agreement to expand the scope of services to include implementation of the Clarity Human Services System for the Children and Family Services branch of the Human Services Agency, add funds in the amount of \$255,000, and extend the term of the Agreement through June 30, 2019.

WHEREAS, the parties amended the Agreement to add funds in the amount of \$25,000 and modify the scope of services to separate the Family Resource Center hosted instances from the Center on Homelessness/Core Agencies instances.

WHEREAS, the parties now wish to further amend the Agreement to add funds in the amount of \$379,904 for a new maximum amount not to exceed \$1,404,871 to extend services for the Center on Homelessness/Core Agencies instances for two years through the term of the Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Section 1. Exhibits and Attachments of the Agreement is amended to read as follows:

Exhibit A (revised 6/2017)—Services

Exhibit B (revised 6/2017)—Payments and Rates

Exhibit C (revised 5/2017)—Services (Family Resource Center Database)

Exhibit D (revised 5/2017)—Payments and Rates (Family Resource Center Database)

Exhibit E—Project and Performance Measures (Family Resource Center Database)

Attachment H—HIPAA Business Associate Requirements

Attachment I—504 Compliance

Attachment IP—Intellectual Property

Attachment P—Personally Identifiable Information

2. Section 2. Services to be performed by Contractor of the Agreement is amended to read as follows:

In consideration of the payments set forth herein and in **Exhibits B (revised 6/2017)** and D (revised 5/2017), Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth herein and in **Exhibits A (revised 6/2017)**, C (revised 5/2017), and E and Attachments H, IP, P.

3. Section 3. Payments of the Agreement is amended to read as follows:

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth herein and in **Exhibits A (revised 6/2017)**, C (revised 5/2017), and E and Attachments H, IP, and P, County shall make payment to Contractor based on the rates and in the manner specified in **Exhibits B (revised 6/2017)** and D (revised 5/2017). County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. The Agreement is hereby amended to add \$379,904 for the Center on Homelessness. In no event shall County's total fiscal obligation under this agreement exceed **ONE MILLION FOUR HUNDRED FOUR THOUSAND EIGHT HUNDRED SEVENTY ONE DOLLARS** (\$1,404,871).

4. **Exhibit A (revised 6/2017)** replaces all other versions of Exhibit A in their entirety and is attached hereto.
5. **Exhibit B (revised 6/2017)** replaces all other versions of Exhibit B in their entirety and is attached hereto.
6. All other terms and conditions of the Agreement dated April 8, 2014 between County and Contractor and all subsequent Amendments shall remain in full force and effect.
7. This Amendment constitutes the entire understanding of the parties hereto with respect to matters herein and correctly states the rights, duties, and obligations of each party as of this document's date. Any understandings, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications of this Amendment or the Agreement shall not be effective unless set forth in writing and executed by both parties.

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

For Contractor: BITFOCUS, INC.


Contractor Signature

May 25 2017

Date

Robert Herdzik

Contractor Name (please print)

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

Exhibit A (revised 6/2017) – Services
Bitfocus, Inc.
Center on Homelessness

In consideration of the payments set forth in Exhibit B (revised 6/2017), Contractor shall provide the following services:

Services Description:

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 (revised 6/2017) 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 and issue a County amendment, if applicable. 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 is 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. Reinstall 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 (7) 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.

Enhanced availability standards and guarantees can be arranged for additional cost.

2. **Hosting Facilities.** Hosting will be provided at Contractor maintained facilities. The hosting facility will provide state-of-the-art security that provides 24/7 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:

Measure	FY 17-18 Target	FY 18-19 Target
Customer Satisfaction HSA shall conduct customer satisfaction surveys that will rate the Contractor's performance. Surveys will include system users including Core Services Agencies, Homeless Providers and system administrators.	90% of respondents rate system good or better	90% of respondents rate system good or better
System availability	99.999% availability	99.999% availability

Contractor shall provide 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.

County shall have the option to modify performance measures, goals and targets in writing. County shall notify Contractor in advance of any modifications.

Exhibit B (revised 6/2017) – Payments and Rates
Bitfocus, Inc.
Center on Homelessness

In consideration of the services provided by Contractor in Exhibit A (revised 6/2017) and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms per Fiscal Year:

Core Service Agencies Clarity Component

Item	Quantity	FY 2017-2018	FY 2018-2019
Enterprise Seats (\$42.44/Seat/Month)	72	\$ 36,668.16	\$ 36,668.16
Manager Seats (\$53.05/Seat/Month)	19	\$ 12,095.40	\$ 12,095.40
Administrator Seats (\$79.57/Seat/Month)	6	\$ 5,729.04	\$ 5,729.04
Data Analysis Ad-Hoc Query Tool	1	\$ 6,000.00	\$ 6,000.00
Training Site	1	\$ 2,500.00	\$ 2,500.00
Virtual Private Network Maintenance	1	\$ 750.00	\$ 750.00
SUBTOTAL FOR THE CORE SERVICE AGENCY COMPONENT		\$ 63,742.60	\$ 63,742.60

HMIS Clarity Component

Item	Quantity	FY 2017-2018	FY 2018-2019
Enterprise Seats (\$42.44/Seat/Month)	137	\$ 69,771.36	\$ 69,771.36
Manager Seats (\$53.05/Seat/Month)	18	\$ 11,458.80	\$ 11,458.80
Administrator Seats (\$79.57/Seat/Month)	6	\$ 5,729.04	\$ 5,729.04
Data Analysis Ad-Hoc Query Tool	1	\$ 6,000.00	\$ 6,000.00
Training Site	1	\$ 2,500.00	\$ 2,500.00
Virtual Private Network Maintenance	1	\$ 750.00	\$ 750.00
SUBTOTAL FOR THE CORE SERVICE AGENCY COMPONENT		\$96,209.20	\$96,209.20

Total Annual Cost

Item	FY 2017-2018	FY 2018-2019
Core Service Agencies Clarity Component	\$ 63,742.60	\$ 63,742.60
HMIS Clarity Component	\$ 96,209.20	\$ 96,209.20
Change Requests Allocation 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.	\$ 30,000.00	\$ 30,000.00

Item	FY 2017-2018	FY 2018-2019
TOTAL FOR ALL SYSTEM COMPONENTS	\$ 189,951.80	\$ 189,951.80

Terms of Payment:

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

1. **County's financial obligations for FY 2013-14 through FY 2016-17.** County has made payments to Contractor in full through FY 2016-17 and has fulfilled its obligation for these Fiscal Years.
2. **Services for FY 2017-19. The costs and terms shown in Exhibits A and B represent services for the period of July 1, 2017 through June 30, 2019.**
3. **Monthly Invoice.** Contractor will send an email invoice for costs incurred to County for the previous month no later than the 20th day of the following month. (Example: July invoice will be submitted by August 20th.) Due to year end fiscal processing, the June invoice will be submitted early, by June 21st. County shall pay Contractor monthly for actual costs incurred based on the tables in this Exhibit B (revised 6/2017) for services shown in Exhibit A (revised 6/2017) upon receipt and approval of invoices.
4. **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.
5. **Adjustment of Fees.** Unless agreed in writing by all parties, Contractor will not change the fee structure for County for two years (24 months) following the execution date of this Agreement.
6. **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 this Exhibit B (revised 6/2017) 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.
7. **Change Requests Allocation.** The change request allocation will be spent only as needed as determined by HSA with written request from HSA to Contractor for any change requests or improvement projects. Change request funds will be invoiced separately from monthly invoices and will be submitted within 20 days of completion of the change request.

8. In no event shall all taxes, services, and fees for the Center on Homelessness services exceed **ONE MILLION ONE HUNDRED TWENTY FOUR THOUSAND EIGHT HUNDRED SEVENTY ONE DOLLARS (\$1,124,871)**. It should be noted that this cost is only a portion of the total agreement obligation and that there are other services and fees under the Children and Family Services sections of this agreement.

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

Ali Shirkhani, Human Services Analyst II
ashirkhani@smcgov.org