

**FOURTH AMENDMENT TO THE AGREEMENT BETWEEN THE COUNTY OF  
SANTA CLARA AND BITFOCUS INC. REGARDING THE HOMELESSNESS  
MANAGEMENT INFORMATION SYSTEM**

This is the Fourth Amendment to the Agreement between the County of Santa Clara (“County”) and Bitfocus, Inc. (“Service Provider” or “Contractor”) entered into in May 2016, in order to establish roles, rights, and responsibilities related to the Homeless Management Information System (“HMIS”) services. County and Contractor are collectively referred to herein as the “Parties.”

The Parties agree that the Agreement shall be amended as follows:

1. Section **2.1 TERM** is revised to read:

Unless this Agreement is extended or terminated earlier in accordance with the terms set forth herein, this Agreement shall commence on the Effective Date and continue until June 30, 2021.

2. Section **5. INVOICING AND PAYMENT** is revised to read:

County shall be responsible for and shall pay to Service Provider the fees as further described in Exhibit A, subject to the terms and conditions contained therein. However, the maximum compensation to be paid to the Service Provider under this Amendment shall not exceed \$330,000

3. Revise Section 14.10 **CONFLICT OF INTEREST** to read:

Contractor shall comply, and require its subcontractors to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the County.

In accepting this Agreement, Contractor covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Contractor further covenants that, in the performance of this Agreement, it will not employ any contractor or person having such an interest. Contractor, including but not limited to contractor’s employees and subcontractors, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the “Act”), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, Contractor shall, upon execution of this Agreement, provide the County with the names, description of individual duties to be performed, and email addresses of all individuals, including but not limited to Contractor's employees, agents and subcontractors, who could be substantively involved in "mak[ing] a governmental decision" or "serv[ing] in a staff capacity" and in that capacity participating in making governmental decisions or performing duties that would be performed by an individual in a designated position, (2 CCR 18700.3), as part of Contractor's service to the County under this Agreement. Contractor shall immediately notify the County of the names and email addresses of any additional individuals later assigned to provide such service to the County under this Agreement in such a capacity. Contractor shall immediately notify the County of the names of individuals working in such a capacity who, during the course of the Agreement, end their service to the County.

If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, Contractor shall ensure that all such individuals identified pursuant to this section understand that they are subject to the Act and shall conform to all requirements of the Act and other applicable laws and regulations, including but not limited to those listed in subpart (ii) of the first sentence of this Section VI.C including, as required, filing of Statements of Economic Interests within 30 days of commencing service pursuant to this Agreement, annually by April 1, and within 30 days of their termination of service pursuant to this Agreement.

4. Revise Section 8 **COUNTY DATA** to read:

Definitions: "County Data" shall mean data and information received by Contractor from County. County Data includes any information or data that is transported across a County network, or that resides in a County-owned information system, or on a network or system under the control and management of a contractor for use by County. "County Confidential Information" shall include all material, non-public information (including material, non-public County Data) appearing in any form (including, without limitation, written, oral or displayed), that is disclosed, directly or indirectly, through any means of communication by County, its agents or employees, to Contractor, its agents or employees, or any of its affiliates or representatives.

Contractor shall not acquire any ownership interest in County Data (including County Confidential Information). As between Contractor and County, all County Confidential Information and/or County Data shall remain the property of the County. Contractor shall not, without County's written permission, use or disclose County Data (including County Confidential Information) other than in the performance of its obligations under this Agreement.

Contractor shall be responsible for establishing and maintaining an information security program that is designed to ensure the security and confidentiality of County Data, protect against any anticipated threats or hazards to the security or integrity of County Data, and

protect against unauthorized access to or use of County Data that could result in substantial harm or inconvenience to County or any end users. Upon termination or expiration of this Agreement, Contractor shall seek and follow County’s direction regarding the proper disposition of County Data.

Contractor shall take appropriate action to address any incident of unauthorized access to County Data, including addressing and/or remedying the issue that resulted in such unauthorized access, and notifying County by phone or in writing within 24 hours of any incident of unauthorized access to County Data, or any other breach in Contractor’s security that materially affects County or end users. If the initial notification is by phone, Contractor shall provide a written notice within 5 days of the incident. Contractor shall be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality, privacy, and information security requirements of this Agreement. Should County Confidential Information and/or legally protected County Data be divulged to unauthorized third parties, Contractor shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code sections 1798.29 and 1798.82 at Contractor’s sole expense. Contractor shall not charge County for any expenses associated with Contractor’s compliance with these obligations.

Contractor shall defend, indemnify and hold County harmless against any claim, liability, loss, injury or damage arising out of, or in connection with, the unauthorized use, access, and/or disclosure of information by Contractor and/or its agents, employees or subcontractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County.

5. **EXHIBIT A SERVICE FEES AND RATES** is revised to read:

July 1, 2020-June 30, 2021

Item and Description	Billing Schedule	Maximum Amount
<b>Ongoing Charges</b>		
800 Clarity Enterprise Seats <ul style="list-style-type: none"> <li>• Includes access and operation at the Enterprise level per each seat</li> <li>• \$20.60 per seat per month</li> </ul>	\$16,480 per month	\$197,760
70 Clarity Manager Seats <ul style="list-style-type: none"> <li>• Includes Enterprise level access and operation, with the addition of ability to customize agency preferences, including services and programs of the selected agency.</li> <li>• \$51.50 per seat per month</li> </ul>	\$3,605 per month	\$43,260
18 Clarity Administrator Seats <ul style="list-style-type: none"> <li>• Includes Enterprise and Manager level access and operation with the addition of System Administration management functions.</li> </ul>	\$2,781 per month	\$33,372

<ul style="list-style-type: none"> <li>Includes 30 Hours of Advanced Technical Assistance per year.</li> <li>\$154.50 per seat per month</li> </ul>		
<b>Santa Clara County Training Site License</b> <ul style="list-style-type: none"> <li>Clarity Training Web Site provides a Santa Clara County-specific site for training purposes and is an important part of any Clarity installation. This service provides optional ongoing training site operation, including software updates in concert with the production site.</li> </ul>	\$515 per month	\$6,180
<b>Virtual Private Network Maintenance and Support</b> <ul style="list-style-type: none"> <li>Virtual Private Network (VPN) is a Clarity premium service for clients seeking a secured connection to their database for sophisticated reporting purposes.</li> <li>Includes 4 hours of customer support per year.</li> </ul>	\$34.33 per month	\$412
<b>Replica Database Access and Support</b> <ul style="list-style-type: none"> <li>Includes a unique VPN for direct access, given at direction of the County, to a live-time replica of the SCC HMIS database</li> </ul>	\$618 per month	\$7,416
<b>Additional Clarity Seats</b> <ul style="list-style-type: none"> <li>Enterprise, Manager, and Administrator seating capacity to expand utilization as system utilization expands at Seat rate.</li> </ul>	Invoiced upon activation and monthly forward.	\$41,600
<b>Total (Maximum Amount)</b>		<b>\$330,000</b>


All other terms and conditions of the Agreement remain in full force and effect. In the event of a conflict between the Agreement and this Fourth Amendment, this Fourth Amendment controls.

**IN WITNESS THEREOF**, the parties have caused this Fourth Amendment to be entered into as of the day and year of execution of this Fourth Amendment,

**County of Santa Clara**

**Bitfocus Inc.**

DocuSigned by:  
  
 7/7/2020  
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**JEFFREY V. SMITH** Date  
 County Executive

DocuSigned by:  
  
 7/7/2020  
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**JEFF UGAI** Date  
 Chief Operating Officer

**Approved as to form and legality:**

DocuSigned by:  
  
 7/6/2020  
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**TONY LOPRESTI** Date  
 Assistant County Counsel